European Institute for
Crime Prevention and Control,
affiliated with the United Nations
(HEUNI)
P.O.Box 444
FIN-00531 Helsinki
Finland

Publication Series No. 75

Exploitation of migrant workers in Finland, Sweden, Estonia and Lithuania: Uncovering the links between recruitment, irregular employment practices and labour trafficking

Natalia Ollus, Anniina Jokinen and Matti Joutsen (eds.)

Helsinki 2013



With the financial support of the Prevention of and Fight against Crime Programme
European Commission – Directorate-General Home Affairs

This project has been funded with the support from the European Commission. This publication reflects the views only of the author, and the European Commission cannot be held responsible for any use which may be made of the information contained therein.

Copies can be purchased from:

Academic Bookstore
P.O. Box 128
FIN-00101 Helsinki
Finland
Website: http://www.akateeminen.com

ISBN 978-952-5333-89-3
ISSN 1799-5590
ISSN-L 1237-4741

Printed by Hakapaino Oy, Helsinki, Finland

Contents

RECRUITMENT, EXPLOITATION OF MIGRANT WORKERS AND LABOUR TRAFFICKING IN FINLAND, SWEDEN, ESTONIA AND LITHUANIA: INTRODUCTION AND RESEARCH FINDINGS 9
Anniina Jokinen and Natalia Ollus

Introduction and research objectives 9
Research framework 11
Indicators on trafficking for forced labour 12
Relevant international treaties on trafficking in persons 14
Main findings 17
Irregular recruitment practices in Estonia and Lithuania 17
Irregular recruitment practices in Finland and Sweden 19
Exploitation of migrant labour 20
Victim identification and assistance 22
Prevention of exploitation 23
Conclusions and recommendations 24
Recruitment practices 25
Victim assistance and support 26
Prevention measures 26
References 28

"WE'VE GOT PEOPLE LINED UP BEHIND THE DOOR": PLACING THE TRAFFICKING AND EXPLOITATION OF MIGRANT WORKERS IN CONTEXT IN THE RESTAURANT AND CLEANING SECTORS IN FINLAND 31
Natalia Ollus and Anniina Jokinen

1. Introduction 31
1.1 Aims of this report 32
1.2 The Finnish context concerning trafficking in human beings 35
1.2.1 Legislation concerning trafficking 35
1.2.2 Statistics on trafficking cases in Finland 37
1.2.3 National efforts to counteract trafficking 39
1.3 Migrants in Finland 41
1.4 Labour market policies in the cleaning and restaurant sectors 43
1.4.1 The cleaning sector 44
1.4.2 The restaurant sector 45
2. Data and methods 47
2.1 Data and materials 47
2.1.1 Expert interviews 47

2.1.2 Migrant worker interviews 49
2.1.3 Court data and pre-trial investigation material 52
2.1.4 Media materials 53
2.1.5 Expert meeting....54
2.2 Analysis 54
3. Migration and employment policies in Finland 56
3.1 The perceived shortage of labour and assessment of available labour....57
3.1.2 The debate concerning assessment of available labour in the cleaning and restaurant sectors 59
3.2 Exploitation leading to trafficking?....62
4. Recruitment of migrant workers and work permits 64
4.1 Recruitment mechanisms....65
4.1.2 Rationale for coming to Finland....65
4.1.3 Recruitment through recruitment and employment service companies 66
4.1.4 Recruitment by relatives, acquaintances and word-of-mouth 69
4.1.5 Recruitment fees and other fees....72
4.2 Work permits 76
4.2.1 Recruitment and work permits....77
4.2.2 Exploitation with work permits 78
4.2.3 Disclosing exploitation when applying for an extension permit 81
5. The grey economy and exploitative practices in the cleaning and restaurant sectors 84
5.1 The cleaning sector....84
5.1.1 Extreme competition....84
5.1.2 Subcontracts and long chains....86
5.1.3 Zero contracts and part-time work....89
5.1.4 Not receiving enough hours or having too much work – the problem of scaling the work 94
5.2 The restaurant sector....99
5.2.1 Sales without taxes 101
5.2.2 Ethnic restaurants – signs of systematic exploitation? 103
5.3 Flexibility and dependency: the context for exploitation 110
6. Prevention of exploitation of migrant workers and trafficking for forced labour 113
6.1 Seeking help and disclosing labour exploitation 113
6.1.1 Migrants at risk 113
6.1.2 Where to seek help?....115
6.1.3 Migrant workers' experiences of trade unions 121
6.1.4 Raising the awareness of migrant workers on their rights and available services 123
6.2 Prevention of exploitation and the role of the authorities and employers ..127
6.2.1 Intentional exploitation....127
6.2.2 Lack of sanctions 129
6.2.3 Bankruptcies and the ban on business operations....132
6.2.4 The responsibility of contractors 134

6.2.5 The role of oversight and inspections 136
7. Discussion and recommendations 139
7.1 Summary of main results 139
7.2 Discussion on the findings 142
7.3 Recommendations 146
References 153
Annex 1: Infopaper for expert interviews 164
Annex 2: Thematic interview template for expert interviews 165
Annex 3: Infopaper for migrant worker interviews 167
Annex 4: Thematic interview template for migrant worker interviews 168
Box 1: Estonian workers 72
Box 2: HOK-Elanto 88
Box 3: Internships for free 93
Box 4: Hotel cleaning 95
Box 5: Undocumented migrants 97
Box 6: Agency workers 101
Box 7: Asylum seekers 107
Box 8: In To Finland 116
Box 9: Virka Info 116
Box 10: Disregard for occupational safety and health 128

TRAFFICKING FOR FORCED LABOUR AND LABOUR EXPLOITATION IN SWEDEN: EXAMPLES FROM THE RESTAURANT AND THE BERRY INDUSTRIES 171
Louisa Vogiazides and Charlotta Hedberg

Summary 171
1. Introduction 172
1.1 Aim and approach of the report 172
2. Methodology 175
3. Context and legislation 177
3.1 Human trafficking for forced labour in the Swedish context 177
3.1.1 Definition and legal framework 177
3.1.2 Policy and background 178
3.2 Swedish labour immigration policy 181
3.2.1 The 2008 labour immigration policy reform 181
3.2.2 Stricter requirements in certain sectors 184
3.3 Restaurant and berry sectors in Sweden 185
3.3.1 The restaurant sector 185
3.3.2 The berry industry 186
4. Recruitment of migrant workers 191
4.1 Recruitment through social networks 191
4.2 Use of recruitment agencies 193

4.3 Recruitment through middlemen: trade in work permits....194
4.4 Deceptive recruitment practices....198
5. Coercive recruitment and employment practices....202
6. Exploitative working conditions....206
6.1 Earnings....206
6.2 Working hours....210
6.3 Living conditions....211
7. Arrangements of indebtedness....213
8. Abuse of the vulnerability of migrants....215
9. Challenges in the prevention of migrant labour exploitation....217
9.1 Lack of complaints from the migrants....217
9.2 Acceptance by migrants of exploitative situations....218
9.3 Difficulties in detecting and proving human trafficking for forced labour....220
9.4 Lack of accountability in the berry industry....222
10. Summary and recommendations....224
10.1 Summary....224
Legislative and policy background....224
Recruitment practices and working conditions....225
Challenges....226
10.2 Recommendations....227
Recommendations for policymakers....227
Recommendations for employers and other economic actors....230
Recommendations for consumers and the civil society....231
Policy considerations regarding the berry-picking sector....231
References....233
Box 1: A lawyer brokering work permits in southern Stockholm....195
Box 2: Trade in work permits by McDonald's managers....197
Box 3: Human trafficking for forced labour in the berry industry....202
Box 4: Thai berry-pickers left without salary by berry company Lomsjö Bär....209

ESTONIAN MIGRANT WORKERS AS TARGETS OF TRAFFICKING FOR FORCED LABOUR AND LABOUR EXPLOITATION....238
Kadri Soo and Anna Markina
1. Introduction....238
1.1 Aims of this report....239
1.2 Existing laws and actors dealing with labour trafficking in Estonia....240
1.3 Definition of human trafficking for forced labour....244
2. Data and methods....247
2.1 The interviews....247
2.1.1 Interviews with migrant workers....247

2.1.2 Interviews with agencies and employers 249
2.1.3 Interviews with experts 250
2.2 Administrative documents 250
2.3 Media materials 252
3. The target countries and sectors of labour migration 253
3.1 The reasons for going to work abroad 253
4. Recruitment 255
4.1 Getting a job via agencies 256
4.1.1 Description of the activities of law-abiding agencies 256
4.1.2 Examples of illegal recruitment practices using agencies 257
4.2 Problems concerning posted workers 262
4.3 Connection with the companies exploiting foreign labour 264
5. Forms of labour exploitation 267
5.1 Problems related to concluding employment contracts 267
5.2 Problems related to payment of wages and extra pay 270
5.3 Problems related to working hours and leisure time 275
5.4 Living conditions 278
5.5 Violence 280
5.5.1 Psychological control and threats 280
5.5.2 Physical violence 281
5.5.3 Sexual violence 281
5.6 Other features of labour exploitation 282
5.6.1 Controlling by providing or not providing work 282
5.6.2 Fines and creating debts 283
5.6.3 Social isolation 283
6. Description of labour exploiters and mechanisms of fraud 285
6.1 Hierarchical sub-contracting schemes related to labour exploitation 285
6.2 Patterns in concealing the illegal and exploitive activities 288
6.3 Setting up companies in the worker's name 291
7. Risk factors of forced labour and labour exploitation 293
7.1 Vulnerability 293
7.2 Poor awareness of rights and labour regulations 295
7.3 Trustfulness and lack of language skills 295
8. Summary 297
9. Conclusions and recommendations 300
References 302

LITHUANIAN MIGRANTS AS VICTIMS OF HUMAN TRAFFICKING FOR FORCED LABOUR AND LABOUR EXPLOITATION ABROAD.....305
Diana Janušauskiene

1. Introduction 305
2. The concept and legal regulation of human trafficking and forced labour in Lithuania.....313
3. The scope of the problem and problems of victims identification.....317
3.1 Why victims do not apply for help? 322
4. Prevention and victim assistance 325
5. The mechanisms of employment of Lithuanian nationals 332
5.1 The legal framework of the employment of Lithuanian nationals abroad..332
5.2 The channels of Lithuanian nationals' entry to foreign labour market 335
5.3 Search for work abroad via ads 337
5.4. The role of labour exchanges and employment agencies 340
6. Labour exploitation and human trafficking for forced labour 343
6.1 The characteristics of labour exploitation of Lithuanian nationals abroad.343
6.2 Human trafficking for forced labour abroad.....344
7. Conclusions 350
8. Recommendations.....352
References 354
Annex 1: Interview questionnaire.....357
Annex 2: Expert interview questionnaire 359

RECRUITMENT, EXPLOITATION OF MIGRANT WORKERS AND LABOUR TRAFFICKING IN FINLAND, SWEDEN, ESTONIA AND LITHUANIA: Introduction and Research Findings

Anniina Jokinen and Natalia Ollus

Introduction and research objectives

Labour trafficking – or trafficking for the purposes of forced labour – seems to be on the increase globally, at least when measured by the number of victims identified by the authorities and other organisations (UNODC 2012; IOM 2012). According to a study by Eurostat, the majority of victims of trafficking (around 62 %) in Europe had encountered trafficking for sexual exploitation, while labour trafficking accounted for about one quarter and other forms of exploitation for about 14 % of identified victims. The Eurostat report notes that the percentage of labour trafficking cases is surprisingly low when taking into account the increased attention given to identification and investigation of trafficking for forced labour in the EU Member States. (Eurostat 2013, 32−41.) It may, however, be that the statistics on labour trafficking reflect the particularly difficult problems of defining trafficking for forced labour and the particular problems of identification and investigation of such cases (e.g. Jokinen et al. 2011a; Ollus & Jokinen 2011).

Previous research shows that labour trafficking takes place in the context of exploitation of migrant labour (Andrees 2008; Jokinen et al. 2011a; David 2010). The increasingly mobile work force, freedom of movement within the European Union and the global economic disparities, act as driving factors for high levels of migrants who, without adequate protection from illegal recruitment practices and the abuse by unscrupulous employers, risk becoming victims of trafficking. In many labour intensive sectors, migrant labour is considered a cheap alternative to domestic labour. Employers may look for cost-saving measures by re-organising the division of labour, e.g. through increasing the use of temporary and part-time contracts, and by demanding increased flexibility from the workers. Problems occur when this creates an unequal labour market, where those most vulnerable have to accept work on any terms. At worst, migrant workers may become victims of trafficking for forced labour.

Labour trafficking is best addressed through preventative measures that tackle victimisation before it occurs (OSCE 2011; ILO 2008). Understanding the risk factors and vulnerabilities that facilitate labour trafficking is a prerequisite for

developing targeted prevention measures. This is the rationale for the ADSTRINGO project, within the framework of which this research report has been prepared. This project builds upon our earlier work on trafficking for forced labour and exploitation of migrant labour in Estonia, Finland and Poland (see Jokinen et al. 2011b). Our previous research project described the national situation vis-à-vis trafficking for forced labour in the three countries, and collected basic information on cases of labour trafficking and the exploitation of migrant labour and their manifestations in the countries studied.

"ADSTRINGO – Addressing trafficking in human beings for labour exploitation through improved partnerships, enhanced diagnostics and intensified organisational approaches"[1] is a transnational project that focuses on trafficking for forced labour and labour exploitation in 11 countries in the Baltic Sea region. The project is being carried out from July 2012 to June 2014 with the financial support of the Prevention of and Fight against Crime Programme European Commission – Directorate-General Home Affairs. The participating countries are Estonia, Finland, Denmark, Germany, Iceland, Latvia, Lithuania, Norway, Sweden as well as Poland and the Russian Federation.[2] The project is coordinated by the European Institute for Crime Prevention and Control, affiliated with the United Nations (HEUNI), and the project partners are the Ministry of the Interior of the Republic of Lithuania, the University of Tartu in Estonia and the Council of the Baltic Sea States, Task Force against Trafficking in Human Beings.

The main objective of ADSTRINGO is to prevent trafficking for forced labour through enhanced national and regional partnerships and through improved understanding of the mechanisms that facilitate exploitation of migrant labour within the region. This is being done through several project activities, with this joint research being one of the main activities. In addition, the project involves the organisation of national meetings in each of the participating countries in order to establish a dialogue between key labour actors at the national level, the development of a set of concrete guidelines for employers and recruitment agencies and other actors for the prevention of trafficking for forced labour and labour exploitation, and the organisation of an international high-level conference during the Lithuanian EU Presidency in October 2013.

While the identification of victims of trafficking for forced labour is improving and the problem has received more attention in recent years (e.g. UNODC 2012; IOM 2012; Eurostat 2013; OSCE 2011), still little is known about the recruitment of workers and how they end up in situations of exploitation and trafficking. An increasing amount of research on labour trafficking has, however, been carried out in recent years in Europe (e.g. Allamby et al. 2011;

[1] ADSTRINGO is a flagship project of the European Union Strategy for the Baltic Sea Region (EUSBSR) in line with the priority area focusing on the prevention of trafficking in human beings in the region.

[2] Project activities in Poland and Russia are funded and coordinated through the Council of the Baltic Sea States.

Scott et al. 2012; Clark 2013; Geddes et al. 2013; Smit 2011; Mygind Korsby 2011; Lisborg 2011). Nonetheless, the role of employers and recruitment agencies in relation to the prevention of trafficking has not been addressed sufficiently and there is a lack of guidelines regarding this. Furthermore, most labour actors are not adequately aware of how to identify and assist victims. Our previous research (Jokinen et al. 2011a; Jokinen et al. 2011b) showed that little is known about the recruitment practices that place migrants at risk. It is also evident that employers and employers' organisations are key actors that should be engaged in dialogue on how to prevent labour exploitation and trafficking for forced labour, yet more has to be done to involve these groups in anti-trafficking efforts (see e.g. OSCE 2011, 27–29; UN.GIFT 2009).

The research component of ADSTRINGO aims at improving the current level of knowledge in the Baltic Sea region regarding exploitative recruitment practices that may lead to trafficking as well as the roles and responsibilities of employers in preventing such exploitation. The research aims at answering the following questions: Which methods are used by recruitment agencies in countries of origin and destination to recruit migrant workers? Can certain practices be identified that increase a migrant's risk of ending up in a situation of trafficking for forced labour? What can be done to prevent labour migrants from ending up in situations of exploitation? What are the roles of employers in preventing trafficking for forced labour?

Research framework

The research has been implemented in four countries: Finland, Sweden, Estonia and Lithuania. This publication contains the country reports of Finland, Sweden and Estonia. In this introduction, however, we present some main findings from all four country reports. The research in Finland was carried out by Natalia Ollus and Anniina Jokinen at the European Institute for Crime Prevention and Control, affiliated with the United Nations (HEUNI). The research in Sweden was implemented by Louisa Vogiazides and Charlotta Hedberg at the Department of Human Geography, Stockholm University. The research in Estonia was carried out by Kadri Soo and Anna Markina at the Faculty of Law at Tartu University. The research in Lithuania was implemented by Diana Janušauskienė from the Centre for Social Studies at Vytautas Magnus University.

The researchers in each country were given a common, loose research framework for the conduct of the research. Within this framework, each country was at liberty to select the specific focus areas and methodology as long as the research looked into recruitment and exploitation of migrant workers. Estonia and Lithuania can be regarded primarily as countries of origin, while Finland and Sweden are primarily countries of destination. The research in Estonia and Lithuania focused on recruitment practices and exploitation in a broader sense, while the research in Finland and Sweden focused on specific sectors of work: the restaurant and cleaning sectors in

Finland, and the restaurant sector and the berry picking industry in Sweden. The findings in the country reports reflect the fact that practices of recruitment and exploitation differ in the four countries, as does the level of awareness of the phenomenon. Although the country reports have been written under the auspices of the joint ADSTRINGO project, each report should be treated as its own entity and the authors of each country report are alone responsible for the findings presented.

Since there is usually only limited information available on trafficking for forced labour, the ADSTRINGO research started from the premise that it is important to use as many different data sources as possible, and to be as innovative as possible with regard to information collection (for a similar method, see Jokinen et al. 2011a). The sources of information included interviews with experts, migrant workers, known victims of labour trafficking, employers, recruitment agencies and other relevant actors. The information also included relevant court judgments as well as pre-trial investigation materials (if access could be gained) and other administrative documents. Other important sources of information included media accounts of exploitation, as well as online information on recruitment (such as discussion forums, social media and workplace ads and recruitment ads).

In each of the countries, the research utilised contacts created during a national meeting of the relevant labour actors. The national meeting provided a possibility to collect information on recent, specific cases of exploitation of migrant labour and trafficking for forced labour. The meeting also served as a venue for identifying experts and others to be interviewed in the research. In addition to experts, the research aimed at interviewing also migrant workers and/or victims of trafficking or labour exploitation. This was done in all four countries. The interviewees included migrant workers as well as persons identified as victims of trafficking. In interviewing persons with first-hand experience of exploitation, ethical measures should be taken into consideration. In the ADSTRINGO research, each country researcher was asked to familiarise themselves with certain standards, so as not to further victimise or traumatise the respondents (see Zimmerman & Watts 2003; Andrees & van der Linden 2005; Andrees 2009).

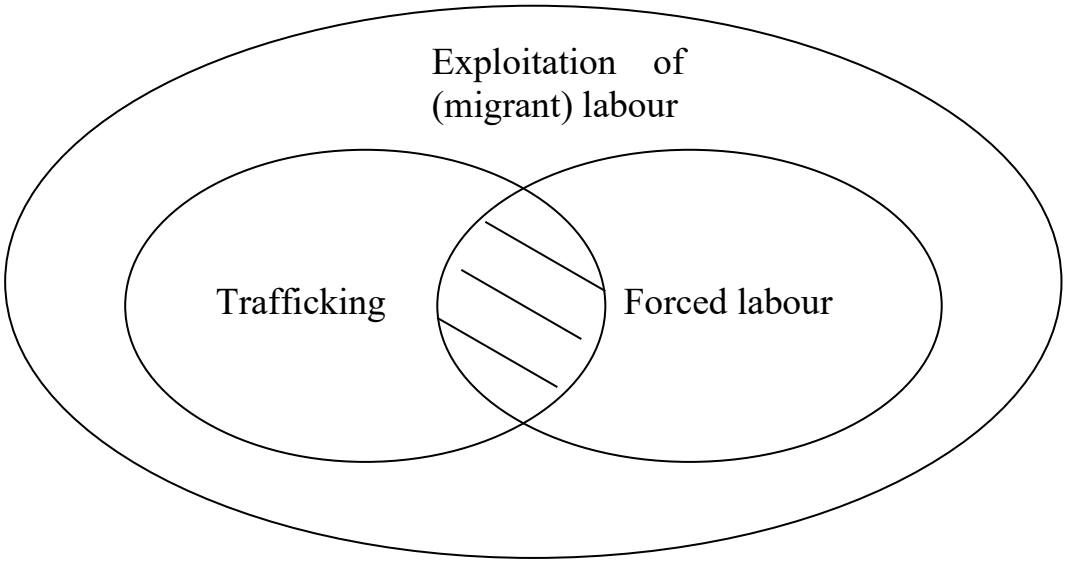
Indicators on trafficking for forced labour

In this research, we have approached exploitation of migrant labour from the perspective of a continuum of situations and acts, which range from less severe to more severe forms of exploitation (Andrees 2008). Trafficking for forced labour can be regarded as the most severe form of exploitation, while more subtle forms of coercion represent less serious forms of exploitation. These less serious forms of exploitation can lead up to more serious acts and create conditions where trafficking for forced labour may take place (e.g. David 2010). We argue that trafficking for forced labour takes place precisely in this context of exploitation of migrant labour in general. Therefore, in order for us

to uncover and understand labour trafficking, we must scrutinize the broader context of exploitation of migrant workers. We recognise, however, that migrant workers are a heterogeneous group within the four countries studied, including both EU/EEA-citizens and third country nationals, as well as asylum-seekers and undocumented migrants. Despite this, we use the term migrant worker to denote the broad group of people who seek employment outside their own country. Furthermore, in the research, the terms trafficking for forced labour, trafficking for labour exploitation and labour trafficking are used interchangeably.

Forced labour does not necessarily entail trafficking. Forced labour may exist without trafficking, but many jurisdictions require that for the crime of labour trafficking to be fulfilled, there must be exploitation that amounts to forced labour (or equivalent exploitation). Trafficking for forced labour hence exists where trafficking in human beings and forced labour overlap. Overall, both crimes can be seen to take place in the context of exploitation of (mainly migrant) labour (see Figure 1).

Figure 1. Trafficking in human beings, forced labour and the exploitation of (migrant) labour (building upon Hauchère 2010).



There is nowadays an increasing body of case law emerging on trafficking for forced labour. One of the difficulties identified also in our previous research is that the definition of forced labour and its interpretation is challenging to criminal justice and other actors. Trafficking for forced labour is often seen through stereotypes, or only very serious cases are recognised (see Jokinen et al. 2011a). It is therefore important to see the totality of the situation of the exploited person and to identify also the subtle forms of control of movement and those indicators that show that the employee is dependent on the employer.

In this research we have utilised the ILO indicators on forced labour and trafficking in helping us conceptualise exploitative forms of recruitment and practices of employers (ILO 2005; ILO 2009). Indicators of forced labour include physical or sexual violence or the threat of such violence, restriction of movement of the worker, debt bondage or bonded labour, withholding wages or refusing to pay the worker at all, retention of passports and identity documents, and the threat of denunciation to the authorities (ILO 2005, 20–21). In addition, trafficking in human beings can be analysed also based on whether forms of deception or coercion were used during recruitment or transportation, whether the recruitment took place by abusing the person's vulnerability, whether exploitative conditions prevailed at work, and whether coercion or abuse of the vulnerability of the migrant worker occurred at destination. (ILO 2009.) In this research, the indicators were used loosely in conceptualising exploitative recruitment practices as well as the practices of employers and their role in exploitation of migrant workers.

Relevant international treaties on trafficking in persons

This section briefly outlines the existing international framework on the regulation of trafficking in persons.[3] The international treaties outline firstly a common definition of trafficking in persons, and secondly, the obligations of states to prevent trafficking, punish offenders and protect victims. The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime provides the first overarching, international definition of trafficking in human beings. According to the Trafficking Protocol (Art. 3a):

> "Trafficking in persons" shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;

Trafficking in persons consists of three elements: the act, the means and the purpose. Forced labour is defined as one of the forms of exploitation in trafficking. However, the Protocol does not provide a definition of forced labour. The consent of the victim to the intended exploitation is considered

[3] This section is based on a similar chapter published in Ollus & Jokinen 2011.

irrelevant when any of the listed means have been used (Art. 3b). The Protocol applies to offences that are transnational in nature and involve an organized criminal group (Art. 4). The Protocol obliges its Parties to prevent and combat trafficking in persons (Art. 9), assist and protect victims (Art. 6) and promote cooperation and information exchange (Art. 10). Estonia, Finland, Lithuania and Sweden have all ratified the Trafficking Protocol.[4]

ILO Convention No. 29 of 1930 is the key international instrument concerning forced labour. It prohibits the illegal exaction of forced or compulsory labour. According to the ILO Forced Labour Convention "forced or compulsory labour" (Art. 2):

> shall mean all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.

According to the Convention, forced or compulsory labour shall not include work under compulsory military service laws for work of a purely military character, work or service which forms part of the normal civic obligations of the citizens of a fully self-governing country, any work or service exacted from any person as a consequence of a conviction in a court of law, any work or service exacted in cases of emergency and minor communal services (Art. 2). ILO Convention No. 105 concerning the Abolition of Forced Labour of 1957 complements the earlier instrument. It obliges parties to suppress any form of forced or compulsory labour, for instance, as a means of political coercion or a means of racial discrimination (Art. 1). Estonia, Finland. Lithuania and Sweden have ratified both Conventions.[5]

The new EC Directive on trafficking in human beings was adopted on 21 March 2011. It repealed the 2002 Framework Decision and introduced amendments to criminal law provisions, the enhancement of victim assistance and support, and improved protection of victims in criminal proceedings. As regards prevention efforts, the Directive suggests the criminalisation of users of services exacted from a person, when the user knows that the person has been trafficked. The Directive also suggests the establishment of a National Rapporteur or equivalent mechanism in all Member States. The Directive defines trafficking in persons as follows (Art. 2.1):

> The recruitment, transportation, transfer, harbouring or receipt of persons, including exchange or transfer of control over that person, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.

---

[4] http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-12-a&chapter=18&lang=en (accessed on 21 August 2013)

[5] http://www.ilo.org/dyn/normlex/en/f?p=1000:11001:0::NO::: (accessed on 21 August 2013)

The Directive clarifies the meaning of a position of vulnerability, which "occurs when the person has no real or acceptable alternative but to submit to the abuse involved" (Art. 2.2). The definition of exploitation includes "as a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, including begging, slavery or practices similar to slavery, servitude, or the exploitation of criminal activities, or the removal of organs" (Art. 2.3).

The Council of Europe Convention on Action against Trafficking in Human Beings of 2005 provides a broad approach to trafficking. The Convention entered into force on 1 February 2008. It highlights specifically the protection of victims of trafficking and the safeguarding of their rights. The Convention aims at preventing trafficking, protecting the victims of trafficking, and promoting international cooperation on action against trafficking in human beings (Art. 1). A special monitoring body, GRETA, has been set up to monitor the implementation of the Convention. The Convention defines trafficking in a largely similar manner to the UN Protocol. Finland, Lithuania and Sweden have ratified the Convention, while Estonia has signed it, but not yet ratified it[6]

The four country reports show that the national legislation on trafficking in the researched countries currently follows the obligations of these international treaties. The offence of trafficking was introduced into the Finnish Criminal Code in 2004 and includes trafficking for sexual abuse, forced labour, other demeaning circumstances or removal of bodily organs or tissues for financial gain.[7] Finnish courts have so far handed down five convictions relating to cases of labour trafficking. Sweden criminalised trafficking for the purpose of sexual exploitation in 2002. The law was amended in 2004 to include all forms of trafficking in persons, including trafficking for forced labour and trafficking within national borders. Very few cases of trafficking for labour exploitation have so far reached the Swedish courts, with only one case leading to a conviction.

Estonia introduced a specific law on trafficking in human beings in 2012, when the enslavement provision of the Estonian Penal Code was amended by adding new paragraphs criminalizing trafficking in human beings. Until then, existing laws did not cover all forms of human trafficking, although elements of the crime were included under other provisions. Trafficking is defined as forcing a person to work under unusual conditions, engage in prostitution, beg, commit a criminal offence or perform other disagreeable duties. So far there have not been any convictions for labour trafficking in Estonia. Lithuania criminalized trafficking in persons already in 1998, and trafficking-related crimes were also

---

[6] Ratification status as of 21 August 2013, see http://www.conventions.coe.int/Treaty/Commun/ChercheSig.asp?CL=ENG&CM=&NT=197&DF=&VL= (accessed on 21 August 2013).

[7] However, an amendment of the definition of sexual abuse and forced labour in the law is currently under preparation.

included in the new Criminal Code that entered into force in 2003. The Criminal Code was amended in 2012 and the crime of human trafficking now includes also exploitation for the purposes of forced labour or services. No convictions for labour trafficking have so far been handed down in Lithuania.

Main findings

Next we present the main findings from the four country reports. We focus especially on the exploitative recruitment practices that were uncovered in the research. We also aim to present some indicators of irregularities in recruitment, which risk placing a migrant worker in a position where s/he is vulnerable to exploitation and ultimately, trafficking. We commence with the findings from the two countries of origin, Estonia and Lithuania, and then present findings from the two countries of destination, Finland and Sweden. We then present examples of exploitation at work uncovered in the four country reports, as well as problems in victim identification and assistance. Finally we discuss prevention of labour exploitation and trafficking for forced labour.

Irregular recruitment practices in Estonia and Lithuania

Recruitment of workers and identification of exploitative recruitment practises were the main focus of both the Estonian and Lithuanian reports, since both of these countries are primarily countries of origin. Both country reports identified risky practices and recruitment channels which may result in exploitative terms of employment in the country of destination.

The Estonian research found that migrant workers who had encountered labour exploitation often lacked knowledge about their labour rights and about the assistance options available to them. The identified countries of destination were Finland, as well as Norway, Sweden, Germany, the UK and the Russian Federation. Construction, cleaning and agricultural jobs were particularly common among the sectors in which Estonians have encountered exploitation. The research noted that agencies and employers may take advantage of the vulnerable situation of job seekers and workers due to their poor social-economic conditions, lack of (local) language skills and lack of awareness.

Similar findings were made in the Lithuanian report. Most of the victims of exploitation uncovered in the research were men, both young and older men, and those who are socially vulnerable. Countries where exploitation had taken place include EU Member States, such as Ireland, the UK, Spain, the Netherlands, Sweden, Germany, and the Czech Republic, as well as Norway. The Lithuanian research found that the majority of identified victims worked in agriculture, construction and factories.

When the recruitment methods were examined, the Estonian research found that it was common that the persons who had experienced labour exploitation

were recruited already in Estonia. Very often the job was found using personal relationships and social networks. This did not, however, guarantee that exploitation would not happen, as the research found that many migrant workers had had bad experiences with employers who had been recommended to them by relatives or friends. Despite the job having been recommended to them by people they knew, they had encountered, for example, non-payment of wages, manipulation of agreements on wages, and poor work conditions, including mandatory overtime work without any additional compensation. In addition to using acquaintances, the Estonian research found that migrant workers had sought jobs also on the internet by using certain keywords (i.e. "cleaning company in Finland"), sending one's CV to labour exchange portals or just browsing job advertisements online. A few employees had also had experiences with finding work abroad via agencies. However, those who had such experiences stated that their contact with those companies were not without problems. They had for example had to pay illegal service fees in order to secure a job abroad.

According to the Lithuanian research, the major channels of seeking employment abroad are on-line advertisements (either Lithuanian or foreign websites) or the use of employment agencies and labour exchange services. Migrant workers had also sought work through friends, acquaintances, or relatives, and they often deemed this one of the safest ways. Sometimes workers had simply tried to find a job upon arrival in the country of destination. The traditional method of placing ads in newspapers had also been used, but this was rather rare. The research also showed that elements of deceit and trafficking had been involved in situations where workers had been recruited directly from villages in Lithuania.

Based on an analysis of decisions to delete agencies from the Estonian Register of Economic Activities, the Estonian research found that unscrupulous agencies had at times asked job seekers for an illegal fee for their services, ranging from 190 to almost 400 EUR. In charging a fee the agencies had taken advantage of the workers' poor knowledge of the law and their helpless situation.

Charging a fee for such services is prohibited also in Lithuania. Since 2010 all agencies that mediate labour should be licensed by the Lithuanian Ministry of Social Security and Labour. The research found, however, that finding a job via an employment agency does not eliminate the risk of exploitation or forced labour. Many agencies still charge a fee for their services, or they do not guarantee employment, or they take a part of the employee's wages.

The Estonian research maintained that especially persons who had been unemployed or working for low wages are in such a helpless economic situation that they may be willing to pay a relatively large service fee in order to obtain a steady and well-paid job abroad. It is noteworthy that the agencies charging such fees did not call the contract and their services "labour exchange services". Instead the contract was called an agreement on the provision of information and/or consultancy services such as giving information about job

possibilities, legislation and conditions in the target country; help in writing a CV and filling out visa applications; and arranging job interviews with potential employers.

The Lithuanian research showed that job ads by labour exchange agencies also include potentially risky ads. The research pointed to certain key indicators which show that a job ad may be unreliable. This often includes a promise of very high wages for a relatively simple job. Free housing and transportation from Lithuania to the country where the job is offered or housing without detailed rent/bill descriptions are also indicators of potential problems upon arrival. Also a job ad where the work is not specified or detailed, where there is no indication of the size of the wages, or where no requirements are needed in respect of the employee point to a dubious job offer. Finally, risky ads also include those where the job is posted by an individual whose identity is impossible to verify.

Moreover, the Estonian research found additional risk factors in the recruitment phase which may indicate future labour exploitation situations or other clandestine outcomes of recruitment. The risk factors include recruitment done in a hurry, including situations where the person is not provided an opportunity to see the work contract, or where the legislation of the target country or the work responsibilities and obligations are not specified in the contract in any way.

Irregular recruitment practices in Finland and Sweden

Recruitment of migrant workers covers two different groups of migrants in Finland and Sweden: those already residing in the destination countries on the basis of various residence statuses, and those residing in another country. In most cases a migrant worker from a non-EU/EEA country must apply for a work permit in order to be able to work in Finland or Sweden. In Finland, before the work permit is issued, an assessment of available labour is made. This means that an assessment is made of whether there are already available workers residing in Finland, before a foreign person can be granted a work permit. In Sweden, the assessment of available labour was abolished in 2008, resulting in a large influx of labour into low-skilled and low-paid sectors.

The Finnish study found that most migrant workers coming to Finland seek work due to economic reasons and many are willing to compromise regarding the employment and the working conditions, as long as they can earn more than at home. Similarly, the Swedish research found that migrants are particularly vulnerable to exploitation because they come from a very poor economic background, they have a low level of education or they are members of a minority group that is discriminated against in the home country.

The Finnish study focused on the restaurant and cleaning sectors. Recruitment of migrants in these sectors is carried out either via recruitment and employment service companies or via relatives, acquaintances and word-of-

mouth. In the serious cases of exploitation and trafficking identified in Finland, the latter method has been used more often.

The Swedish report focused on the restaurant and berry picking industries. The research shows that migrants in these branches of industry have paid high fees to recruitment agencies and middlemen, which in some cases resulted in the migrants becoming indebted. In the restaurant industry, employers sometimes requested a payment in exchange for an offer of employment, which is the basis for obtaining a work permit. The research also shows that there exists a trade in work permits. Sometimes migrants fall victims to unscrupulous employers or middlemen, who charge them fees for fictitious jobs. These workers arrive in Sweden only to find out that the company that had supposedly hired them does not exist. One existing practice is the creation of "shell companies" for the purpose of applying for work permits, and these companies are then declared bankrupt.

Also the Finnish research uncovered several cases where migrant workers had to pay unreasonably high recruitment and placement fees in order to secure a job in Finland. Such practices make the migrant workers particularly vulnerable to exploitation, since they are often in debt to their employer. Further deceptive recruitment practices were uncovered, for example in relation to the terms of employment, working hours and the wages. Examples from the research also showed that migrant workers are exploited in different ways when it comes to work permits. Because their residence in Finland is dependent on having a job, migrant workers are reluctant to disclose to the authorities exploitative practices that they had encountered. Unscrupulous employers may give misleading information about the contents of the work permits to migrant workers and give them the impression that they cannot change jobs or that their work contract will not be renewed if they complain about the terms of employment.

The Swedish study found that migrant workers were also subjected to various coercive practices in the context of their recruitment and/or at the workplace. Coercion does not necessarily involve the use of physical force but instead include threats, isolation, surveillance and the confiscation of documents. The research also showed that coercion does not generally mean that employees were forced into an employment arrangement, but rather that they were prevented from leaving the job.

Next we present some findings regarding the exploitation that migrant workers have experienced after securing a job abroad.

Exploitation of migrant labour

The four country reports show that the exploitative practices that migrant workers have encountered are more of less similar in all four countries and in line with the findings from our previous research (Jokinen et al. 2011b). Different forms of underpayment of wages are very common, often in connection with poor terms of employment, irregular or excessive working

hours, and hard working conditions. In the most serious cases of labour trafficking and exploitation, also psychological means of control and even physical threats and violence have been used to force victims to work. The migrant workers may not be compensated for "mandatory" overtime work at all, they may have to pay high rent for poor accommodation organised by the employer, and they are isolated from the surrounding society by their lack of language skills, long working hours and financial difficulties.

The Swedish research showed that certain migrants were deceived by unscrupulous employers or middlemen regarding the earnings, work and living conditions. In many cases, however, the migrants were aware that the conditions stated in the offer of employment were only intended to help the work permit application succeed and would not be met in reality. Migrants often enter into debt in order to work in Sweden, which sets them in a situation of dependency towards their employer. Similar findings were made also in the Estonian, Finnish and Lithuanian studies.

The Finnish research found that migrant workers struggle with different zero[8] or part-time contracts and many have experienced having either too little or too much work. Both the Finnish and Estonian studies showed that for many migrant workers, complaining about such issues had lead to situations where the number of working hours offered was cut, resulting in financial problems. Also the Lithuanian report identified part-time, hourly and temporary work as risk factors of labour exploitation.

Also the sizing of the work often causes problems, as was found in the Finnish report. In many instances the amount of work for which the workers were responsible was so large that they were not able to finish the work in the time they were paid for. In addition, the interviewed migrant workers had encountered practices where they had to "intern" or work for free for some days in order to show that they were "good workers" before securing a job. Also the Lithuanian research found that migrant workers may be subjected to a probationary period where the employee receives very low wages or is not paid at all.

The Swedish research found that many migrant workers were paid significantly less and worked longer hours than they should. Many workers were required to repay part of their wages to their employer in order to cover potential recruitment fees. Some were even requested to themselves pay the social contributions and insurance, which are normally paid by the employer. Such findings were also made in the other country studies.

Both the Estonian and Lithuanian reports found that migrant workers may have to work without a written contract, and may also have to work in conditions

[8] A 'zero contract' (for example a 'zero to 37,5 hours contract') is a contract that does not guarantee any hours of work for the employees, but requires them to be on standby, prepared to come to work at very short notice. The length of individual working days may vary considerably, with days or even weeks without work, followed by days or weeks with full hours.

which may be harmful for their health. The Estonian research identified cases where the workers did not know who their employer was in the first place, and cases where workers had to sign contracts in languages that they did not understand or without having time to examine the contract. Later, the employee could not verify that the type of contract and the agreed conditions were different from what they had thought they had agreed to, e.g. the contract was for agreeing to provide services instead of an employment contract as agreed.

According to the Estonian research, the easiest workers to exploit were those who owed money to the employer and who did not have money and social networks that would help them leave the employer. Migrant workers who cannot find a new job and accommodation were forced to stay longer in the exploitative work relationship. Many migrant workers also had little awareness about where they could look for help in the country of destination. This topic is discussed in more detail in the next section.

Victim identification and assistance

The four country reports all found that migrant workers were often unaware of their basic rights and obligations: they did not know their rights as employees in the countries of destination, nor did they know where they could find help or seek assistance. Furthermore, the Finnish report concluded that many migrant workers seemed to be weighing the pros and the cons of disclosing their experiences of exploitation to the authorities versus the risk of losing their job, their means of income and perhaps even the right to reside in the country of destination as a result of disclosing their experiences of exploitation. Similarly, the Estonian report found that workers were wary of complaining about irregular working hours and poor living conditions, as it was their experience that employers punished them by decreasing the amount of work and wages or by terminating their contract. Such factors seriously hinder the identification of cases of exploitation and trafficking, as it is not necessarily in the best interest of the exploited migrant worker to come forward and seek help or complain in the first place.

Also according to the Lithuanian report, migrant workers who were frightened or convinced that they were indebted did not dare to seek help. Victims often did not seek help themselves, they did not consider themselves to be victims, or they did not know where to complain, and did not believe that they could be helped. In fact many cases came to the attention of the authorities and NGOs indirectly when workers' families sought assistance or workers came to NGOs in conjunction with other problems. According to the Lithuanian research, victim identification in Lithuania does not function properly as assistance to victims is not coordinated, there are not enough specialised police officers working with trafficking, and there is no proper cooperation between different organisations that provide assistance to victims and exploited workers.

Moreover, the Swedish research found that many migrants who were subject to exploitation did not always consider themselves to be victims. Similar findings

were made also in the Finnish study. Working in Sweden and Finland often represents an opportunity to escape poor economic circumstances and improve the living standard of themselves and their families. Therefore, many labour migrants are willing to accept poorer working conditions than those enjoyed by the local population at least on a temporary basis. Workers who are exploited by unscrupulous employers may be reluctant to complain for fear of losing their employment and thereby their right of residence in Sweden.

Next we focus on the prevention of labour exploitation and ultimately labour trafficking.

Prevention of exploitation

One key aspect related to the prevention of labour exploitation is the level of awareness among migrants, authorities and various other actors involved in the phenomenon of trafficking for forced labour and misuse of migrant workers. The Finnish research argued that raising awareness among the networks of the migrants themselves is very important, since information on the existence of i.a. trade unions or the labour inspectorate is disseminated via such networks and ethnic communities. Such methods play a key role in the prevention of labour exploitation and also help improve the awareness of migrant workers on what terms of employment are acceptable and where they can ask for assistance when problems occur.

Raising awareness among the authorities and other key actors is also crucial. Both the Lithuanian and Swedish reports found that a lack of competence and a lack of awareness of labour trafficking among key authorities such as the police, judges and staff of the consulates hinders the identification and processing of relevant cases. According to the Lithuanian study, cases that do come to the attention of the police may be reclassified under other crime labels, as a result of which official police, prosecution and court statistics do not show cases of trafficking. Similarly, the police, prosecutors and judges in Sweden may fail to detect cases of forced labour due to a lack of knowledge about the crime, according to the Swedish country report. The low number of convictions for trafficking for forced labour in Sweden may also be a result of the courts' tendency to compare the working conditions of the victims with the prevailing conditions in the home country, considering that they do not experience worse conditions in Sweden than those they had at home. Such findings were also made in the previous studies in Finland (Jokinen et al. 2011a) and Estonia (Kask & Markina 2011).

The four country reports established that in many cases the exploitation of migrant labour is intentional and systematic in nature. The motivation of exploitative employers seems to be primarily economic and based on profit making. Ultimately, the exploitation takes place in the context of wider exploitative practices and grey economy, as the Finnish report shows.

The Estonian report maintained that employment and labour mediation firms create non-transparent relationships and subcontracting chains making it

possible to abuse migrant labour. When the dishonest activity of these companies comes to light or they receive a ban on their activity, they declare bankruptcy, and immediately register a new firm and are thus able to continue their dishonest and exploitive activities. Thus there is a strong need to prevent such systematic recurrence of unlawful activities by the same entrepreneurs. Similarly, the Lithuanian research found that there is a lack of control mechanisms monitoring the practices of employment agencies and employment ads posted online and in different other fora. This lack of oversight enables the continued misuse and exploitation of persons seeking work abroad.

According to Swedish labour immigration policy, work permits for non-EU citizens are tied to the employers. That is, migrant workers must remain with the same employer during the first two years of their stay in Sweden, or find a new employer within three months, and in the same occupation during the first four years, or else they can be deported from the country. The Swedish report argues that this requirement places migrant workers in a situation of dependency towards their employer.

The Swedish report further highlighted the lack of accountability of the various economic actors involved in the berry industry in Sweden. Unregulated workers from Europe are considered to be self-employed and 'free movers', while regulated workers from Asia are formally employed by Asian recruitment agencies, leading to a situation where the actors in Sweden – berry buyers and merchants – do not need to assume the full responsibility for the pickers' labour conditions.

The Finnish report emphasised that the lack of adequate sanctions further undermines the ways in which the authorities can intervene in the practices of unscrupulous employers. Such findings were also made in the Estonian report. According to the Finnish research, the authorities need more tools to tackle exploitative practices occurring in the labour market. Such tools include a variety of financial sanctions and the right of labour inspectors to impose immediate fines on unscrupulous employers, and placing more emphasis on the responsibility of the contractor in monitoring its sub-contractors or companies offering services. Suggestions were also made by experts interviewed in the Finnish research regarding the criminalisation of the underpayment of wages as a potential way of combating labour exploitation, as well as more effective use of business bans in cases where the employer has been found guilty of exploitation of migrant workers. In addition, more oversight activities would be needed in order to prevent the exploitation of migrant workers.

Conclusions and recommendations

The four country reports showed that exploitation of migrant labour exists in all four countries, and the forms of exploitation are largely the same. The research findings are in line with previous studies on labour exploitation and trafficking, but show that there has been an increase in the awareness of the

phenomenon as more cases of exploitation are detected in all four countries. The changes in the global economy and the free movement of labour within the European Union are clearly reflected also in the labour markets in the Baltic Sea region. Especially low-skilled and low-paid jobs are built on an increasingly flexible work force. This work force consists to a large extent of migrant workers, who undertake work that no-one else wants to do. Such work is often characterised by uncertain terms and conditions and at worst, by exploitative practices that may amount to trafficking in persons.

It may be unrealistic to change the realities of the labour market, but it is important to initiate a public discussion about what are considered acceptable terms and standards of employment and services, and how migrant workers are regarded and treated in the labour market. Migrant workers should be extended the same rights as other workers. This would improve also the overall terms and conditions of the labour markets in general.

Next we present some recommendations, based on the research findings from the four countries. We recognise that migrant workers are a heterogeneous group and that Estonia and Lithuania are primarily countries of origin, while Finland and Sweden are primarily countries of destination. The same solutions do not necessarily fit all of the four countries. The recommendations are therefore rather general in nature.

Recruitment practices

It is evident that already at the recruitment stage there is the potential for exploitation and deceit. Especially the most vulnerable migrant workers are at risk of agreeing to any irregular employment offers and contracts, which may ultimately place them in a situation of exploitation and trafficking in the country of destination.

- It would be important to target irregular recruitment practices in both countries of origin and destination. This requires enhanced monitoring of recruitment agencies, as well as of less formal channels of recruitment. Also cooperation between authorities, as well as between countries, is crucial.
- Those agencies and persons who charge illegal recruitment fees should be properly sanctioned and, in the case of recruitment companies, their licence should be revoked.
- One main challenge is how to intervene in irregular and exploitative recruitment practices by relatives, friends and acquaintances, since the research shows that many migrant workers took jobs based on recommendations by people they knew, and still end up in situations of exploitation. Awareness-raising among migrant workers seems the most effective way of preventing such exploitation. Potential labour migrants should avoid job offers that do not include sufficient

information on the conditions and terms of work, the name and legitimacy of the employer, and the wages as well as other benefits.

- It is the responsibility of both recruitment agencies and employers to ensure that migrant workers understand the terms of their employment and the contents of their work contracts, so that no misunderstandings arise and no false information is given about the wages, the working hours or the contents of the work, for example.

Victim assistance and support

The four country reports confirmed that many migrant workers lack adequate information on their rights and obligations at work, as well as on what are generally accepted terms of employment.

- Migrant workers generally have a weaker bargaining position compared to nationals of the country. This places them in a more vulnerable position and contributes to them agreeing to irregular terms and conditions of employment. Increased awareness-raising about the generally accepted terms and conditions of employment already at an early stage would be important as a means of prevention.
- Migrant workers should also receive information on where to seek help and which organisations provide such support. In this regard, trade unions have an important role to play and should increasingly include migrant workers in their activities, regardless of whether the workers are union members or not.
- It would be important to offer low threshold services to migrant workers in the destination and origin countries. In order to best respond to the needs of the most vulnerable groups of migrants (such as undocumented migrants), such services could be offered by non-governmental organisations or trade unions who can gain the trust of different migrant groups. Ideally services could be provided in multiple languages, in person, on the phone and online.

Prevention measures

In order to prevent trafficking for forced labour, a wider perspective of prevention of exploitation of (migrant) workers must be taken into account. Effective prevention should not only target the most serious cases of exploitation. Instead, promoting equality and labour rights for all workers is the most efficient way of improving the general standards of employment, and in this way will also enhance the situation of the most vulnerable workers.

- Many migrant workers (especially third-country nationals) do not seek help because their right of residence may be tied to their

employment. There should be ways for these workers to seek new employment without risking their residence permit.

- Many migrant workers try to complain about their terms of employment, but the result is that their contract is terminated or the employer "punishes" them in some other way, e.g. by cutting the number of their work hours. The role of labour inspectors, trade unions and employers' associations is important in mediating such situations and disseminating information on acceptable terms of employment.
- The four country reports found that unscrupulous employers misuse the vulnerable position of migrant workers mainly for financial reasons to maximise their profits. Authorities seem to lack effective mechanisms to intervene in such exploitative practices without delay. More tools are needed to tackle exploitative practices occurring in the labour market. These could include different "on the spot" financial sanctions, such as fines, as well as intensified oversight and monitoring by authorities.
- Also the role and responsibility of contractors buying services from companies that engage in irregular practises must be emphasised. They should terminate contracts with such service providers and monitor the activities of sub-contracting companies carefully.
- Self-regulation of businesses, e.g. through adherence to various codes of conduct and ethical guidelines, is an important method of addressing labour exploitation, and ultimately, trafficking for forced labour.

References

Allamby, Les, Bell, John, Hamilton, Jennifer, Hansson, Ulf, Jarman, Neil, Potter, Michael, Toma, Sorina (2011): Forced labour in Northern Ireland: exploiting vulnerability. York: Joseph Rowntree Foundation.

Andrees, Beate & van der Linden, Mariska (2005): Designing Trafficking Research from a Labour Market Perspective: The ILO Experience. International Migration 43 (1/2) 2005. Special Issue. Data and Research on Human Trafficking: A Global Survey. IOM.

Andrees, Beate (2008): Forced Labour and Trafficking in Europe: How people are trapped in, live through and come out. Working Paper. Special Action Programme to Combat Forced Labour. Geneva: ILO.

Andrees, Beate (2009): Trafficking for Forced Labour in Europe. In Andrees, Beate & Belser, Patrick (eds.): Forced labour. Coercion and exploitation in the private economy. Geneva: ILO and Lynne Rienner, 89–109.

Clark, Nick (2013): Detecting and Tackling Forced Labour in Europe. York: Joseph Rowntree Foundation.

David, Fiona (2010): Labour Trafficking. AIC Reports Research and Public Policy Series 108. Canberra: Australian Institute of Criminology.

Eurostat (2013): Trafficking in human beings. 2013 edition. Eurostat Methodologies and Working papers. Luxembourg: Eurostat.

Geddes, Alistair, Craig, Gary & Scott, Sam with Ackers, Louise, Robinson, Olivia & Scullion, Dianne (2013): Forced Labour in the UK. York: Joseph Rowntree Foundation.

Hauchère, Aurelie (2010): Definition of forced labour and operational indicators. ILO's perspective. International working-level expert meeting on trafficking for forced labour and labour exploitation. HEUNI Helsinki 1.12.2010.

ILO (2005): Human trafficking and forced labour exploitation. Guidance for legislation and law enforcement. Special action programme to combat forced labour. Geneva: ILO.

ILO (2008): Forced Labour and Human Trafficking. A Handbook for Labour Inspectors. Geneva: International Labour Office.

ILO (2009): Operational indicators of trafficking in human beings. Results from a Delphi survey implemented by the ILO and the European Commission. Revised version of September 2009. Geneva: ILO. http://www.ilo.org/sapfl/Informationresources/Factsheetsandbrochures/lang--en/docName--WCMS_105884/index.htm

IOM (2012): Counter Trafficking and Assistance to Vulnerable Migrants. Annual Report of Activities 2011. Geneva: IOM.

Available online: http://www.iom.int/files/live/sites/iom/files/What-We Do/docs/Annual_Report_2011_Counter_Trafficking.pdf (accessed 22 May 2013)

Jokinen, Anniina, Ollus, Natalia & Viuhko, Minna (2011a): Work on Any Terms: Trafficking for Forced Labour and Exploitation of Migrant Workers in Finland. In Jokinen, Anniina, Ollus, Natalia & Aromaa, Kauko (eds.) Trafficking for Forced Labour and Labour Exploitation in Finland, Poland and Estonia. HEUNI Report Series No. 68. Helsinki: HEUNI, 31−164.

Jokinen, Anniina, Ollus, Natalia & Aromaa, Kauko (2011b) (eds.) Trafficking for Forced Labour and Labour Exploitation in Finland, Poland and Estonia. HEUNI Report Series No. 68. Helsinki: HEUNI.

Kask, Maris & Markina, Anna (2011): Trafficking for Forced Labour and Labour Exploitation in Estonia. In Jokinen, Anniina, Ollus, Natalia & Aromaa, Kauko (eds.) Trafficking for Forced Labour and Labour Exploitation in Finland, Poland and Estonia. HEUNI Report Series No. 68. Helsinki: HEUNI, 246−311.

Lisborg, Anders (2011): Menneskehandel i den grønne sektor? En undersøgelse af migrations- og arbejdsvilkårene for migrantarbejdere i landbrug og gartneri i Danmark. Odense: Servicestyrelsen 2011.

Mygind Korsby, Trine (2011): Menneskehandel i rengøringsbranchen? En kvalitativ undersøgelse af migrations- og arbejdsvilkårene for en gruppe migrantarbejdere i Danmark. Odense: Servicestyrelsen 2011.

Ollus & Jokinen (2011): Trafficking for Forced Labour and Labour Exploitation – Setting the Scene. In Jokinen, Anniina, Ollus, Natalia & Aromaa, Kauko (eds.) Trafficking for Forced Labour and Labour Exploitation in Finland, Poland and Estonia. HEUNI Report Series No. 68. Helsinki: HEUNI, 11−30.

OSCE (2011): An Agenda for Prevention: Trafficking for Labour Exploitation. Office for the Special Representative and Co-ordinator for Combating Trafficking in Human Beings. Vienna: OSCE.

Scott, Sam, Craig, Gary & Geddes, Alistair (2012): Experiences of Forced Labour in the UK Food Industry. York: Joseph Rowntree Foundation.

Smit, Monika (2011): Trafficking in human beings for labour exploitation. The case of the Netherlands. Trends in Organised Crime, 2011:14, 184–197.

UN.GIFT (2009): Human Trafficking: Everybody's Business. Vienna: UNODC. Available online: http://www.ungift.org/docs/ungift/pdf/stories/Survey.pdf (accessed on 21 August 2013).

UNODC (2012): Global Report on Trafficking in Persons. December 2012. Vienna: UNODC.

Zimmerman, Cathy & Watts, Charlotte (2003): WHO ethical and safety recommendations for interviewing trafficked women. Geneva: World Health Organization.

“WE’VE GOT PEOPLE LINED UP BEHIND THE DOOR”:
Placing the Trafficking and Exploitation of Migrant Workers in Context in the Restaurant and Cleaning Sectors in Finland

Natalia Ollus and Anniina Jokinen

1. Introduction

In recent decades, the forces of globalization have restructured the labour markets and economies in both industrialized and developed countries. Along with the movement of industries and production from West to East in response to economic incentives, there has been a parallel movement of labour from East to West and North to South. In the European Union, the promotion of free movement has further facilitated labour migration within the EU. At the same time, national and regional efforts have strengthened in order to control migration and to allow only certain “desirable” migrants entry into societies as well as labour markets.

This development has been evident also in Finland. Since 2006, Finnish government policies have actively promoted an increase in labour migration. While the focus has been on attracting and acquiring skilled migrant workers, there has simultaneously been an increase in the arrival of unskilled migrants in Finland. In 2007, most labour migrants who came from third countries to Finland were unskilled (Asa & Muurinen 2010, 47). Migrant workers are portrayed as supplementing the Finnish workforce, with a focus on highly educated workers, experts and entrepreneurs (Valtioneuvosto 2013). At the same time there are signs that the number of migrant workers in low-paid service sector positions has increased (Asa & Muurinen 2010). Domestic labour is often unwilling to work if the terms of employment are based on part-time and low-paid contracts, and require highly flexible and uncertain working hours and conditions.

Most migrants in Finland are employed in the labour-intensive, low-paid service sector. Some sources estimate e.g. that every second person working in the cleaning sector in the Helsinki area has a migrant background (HS 10 March 2013). Also the restaurant sector employs a lot of migrant workers (e.g. YLE 10 December 2012). The labour costs in both sectors form a large part of the overall costs. At times of austerity and in a situation where costs must be cut, savings are sought in labour costs, i.e. the wages of the workers. This creates at worst a dualisation or bifurcation of the labour market, where the working conditions of migrant workers are fundamentally different from those of domestic labour. These developments form the backdrop for the structures

and forces which make possible the exploitation of migrant labour – and ultimately trafficking for forced labour – in the Finnish labour market.

On an international level, it seems that trafficking for labour exploitation has increased in recent years, or at least this phenomenon has been identified more often than before (IOM 2012; UNODC 2012; ILO 2012). This seems to be particularly true for Finland, where the majority of identified cases of trafficking are related to labour exploitation rather than sexual exploitation (see further below). In many other EU countries, trafficking for sexual exploitation is identified more often than trafficking for labour exploitation, and in this regard Finland differs from other EU countries (Eurostat 2013). This may be related to an increased awareness of labour exploitation and labour trafficking among Finnish authorities and organisations, and not necessarily to the scale of the problem. As this study will show, however, exploitation of migrant labour is relatively common in Finland, and additional measures to prevent it are needed.

1.1 Aims of this report

This report was prepared under the auspices of the ADSTRINGO project, "Addressing trafficking for labour exploitation through improved partnerships, enhanced diagnostics and intensified organisational approaches". The project is managed by the European Institute for Crime Prevention and Control, affiliated with the United Nations (HEUNI) in collaboration with the Ministry of Interior of Lithuania, the University of Tartu, and the Council of the Baltic Sea States, Task Force against Trafficking in Human Beings. It is being implemented over the years 2012–2014 with the financial support of the Prevention of and Fight against Crime Programme European Commission – Directorate-General Home Affairs.

Following Andrees (2008) we see exploitation of migrant labour as a continuum of situations and acts, which range from less severe to more severe forms of exploitation. Trafficking for forced labour can be regarded as the most severe form of exploitation, while more subtle forms of coercion represent less serious forms of exploitation. Less serious forms of exploitation can lead up to more serious acts and create conditions where trafficking for forced labour may take place (e.g. David 2010). We argue that trafficking for forced labour takes place precisely in this context of exploitation of migrant labour in general. Therefore, in order for us to uncover and understand labour trafficking, we must scrutinize the broader context of exploitation of migrant labour.

In this report, we use the terms trafficking for (the purpose of) forced labour, trafficking for labour exploitation and labour trafficking as synonyms. We also use the term migrant worker to describe all foreign citizens working in Finland. We recognise that this is a heterogeneous group and comprises of people with very different backgrounds and residence statuses.

In our previous report (Jokinen et al. 2011a; Jokinen et al. 2011b)[1] we analysed the exploitation of migrant labour and trafficking for forced labour in Finland in a wide context. We used the ILO indicators of forced labour as a framework for analysing cases of exploitation in different sectors (ILO 2005). These manifestations of exploitation include physical or sexual violence or the threat of such violence; restriction of movement of the worker e.g. through confinement or through preventing contact with the host community; debt bondage or bonded labour e.g. stemming from the process of recruitment and transportation; withholding wages or refusing to pay the worker at all; retention of passports and identity documents, and threat of denunciation to the authorities. Our report showed that migrant workers in Finland have experienced variations of all these forms of exploitation. Most commonly they had encountered different forms of discrimination in wages. In addition, migrant workers had experienced threats, psychological pressure, isolation, long working hours, control of their use of their own money, retention of passports, and other forms of control. Debt due to high recruitment and travel costs were also reported. Our report also showed that poor working conditions are linked to poor level of accommodation, often organised by the employer. Through these means, the workers are kept in a position of vulnerability and dependency on the employer, thus preventing them from leaving their employment and seeking help. In our report we argued that if a worker's insecure status and dependent state have been exploited, both their work and free time have been controlled and they have not had a de facto chance to quit the job and leave, the case may amount to a situation of trafficking for forced labour (Jokinen et al. 2011a, 140).

Since the publication of our earlier report, many cases of exploitation of migrant workers and trafficking for labour exploitation have been detected by the authorities. Efforts in Finland have been intensified since the publication of our report, as is further detailed below. Different actors, such as labour inspectors, trade unions and the police have increased their efforts to address the exploitation of migrant workers, as well as trafficking for forced labour. The input of the National Rapporteur on Trafficking in Human Beings has also been very important in raising awareness and promoting change in existing practices. We also know that our previous report has been widely read and seems to have had at least some impact on increased awareness of labour trafficking and actions taken to prevent and counteract it.

Our previous report provided a broad picture of the exploitation of migrant workers and of trafficking for forced labour in Finland. Our aim at the time was to show that labour trafficking indeed exists in Finland, and that efforts to prevent it must be taken. Considering the increased awareness and developments since 2011, our current report approaches the issues from a different perspective. Our aim is to provide new information on the

[1] The previous report was published in both English (Jokinen et al. 2011a) and Finnish (Jokinen et al. 2011b). The Finnish report was longer and more comprehensive than the English one. In this report, we primarily refer to the English version.

vulnerabilities, factors, methods and channels that facilitate exploitation of migrant labour, ultimately resulting in trafficking for forced labour. On one hand we are seeking a more structural view of the phenomenon by attempting to understand the factors and structures that make it possible for exploitation to exist and continue. On the other hand, we are focusing on two selected sectors which employ a number of migrant workers and where migrant workers seem to be particularly vulnerable to exploitation. In order to provide a truly balanced account, we have attempted to give voice to both migrant workers and employers in both sectors.

The aim of this study is to analyse the overall practices and mechanisms that facilitate situations of exploitation of migrant labour and trafficking for forced labour. We are particularly interested in whether certain practices that increase a migrant's risk of ending up in a situation of exploitation and trafficking can be identified. Our overarching goal is also to analyse what could be done to prevent migrant workers from ending up in situations of exploitation and how to assist those who are exploited.

This report is aimed at grass-root level actors, who come in contact with exploitation of migrant workers in their daily work, as well as policy-makers who deal with migration, labour and crime prevention issues. It is not theoretical, but provides a descriptive and hopefully easily accessible account of the situation and the context of exploitation of migrant workers in the cleaning and restaurant sectors in Finland. We have aimed at combining a human trafficking perspective with the discussion on labour migration and the overall discussion on the terms of employment and the existence of uncertain, irregular and precarious work. In this respect we hope that the report provides grass-roots actors and policy makers with new insights into how labour migration, labour exploitation and human trafficking meet and merge, and how various types of exploitation could be prevented.

Through this study we also want to present suggestions and recommendations for the prevention of the exploitation of migrant workers and ultimately trafficking for forced labour. This report attempts to both uncover structural mechanisms that facilitate exploitation and show concrete examples of situations of exploitation, in which migrant workers find themselves in Finland. The aim of the research is to provide new information on the specific vulnerabilities of migrant workers, and on the factors, methods and structures that facilitate their exploitation.

This report combines empirical findings with other sources of information. The findings are presented in dialogue with findings from other research, documents and reports. First we present the Finnish context with regard to trafficking for forced labour and exploitation of migrant workers. We briefly outline the legislative context, statistics of the phenomena, and present various actors involved in efforts to counteract trafficking. Next we describe the number of migrants in Finland, followed by an outline of the Finnish labour market policies and practices concerning the cleaning and restaurant sectors.

Chapter 2 presents our data and methods. This is followed by four empirical chapters. Our approach is to combine findings from our data with other sources of information and contrast them with one another. Chapter 3 outlines existing migration and employment policies in Finland, contextualising the societal situation in which exploitation of migrant workers, and ultimately trafficking for forced labour, takes place. Chapter 4 discusses issues relating to recruitment of migrant workers, including the channels and methods of recruitment, as well as exploitation taking place during recruitment. This chapter also includes information on work permits and how they relate to exploitative practices. Chapter 5 further contextualises the exploitation of migrant workers as taking place within the broader context of the grey economy and clandestine practices. In this chapter we outline forms of exploitation that take place in the cleaning and restaurant sectors. Chapter 6 focuses on prevention of exploitation. It first describes the problems migrant workers face when seeking help. Secondly the chapter outlines how employers intentionally exploit migrant workers, and how such practices could be prevented. The final chapter presents a summary of the results, as well as a discussion on the findings and some recommendations for further action.

1.2 The Finnish context concerning trafficking in human beings

1.2.1 Legislation concerning trafficking

Trafficking in human beings was criminalised in Finland in 2004 (Criminal Code Chapter 25, sections 3 and 3(a), 650/2004)). The provision largely follows the requirements of international treaties and their obligations.[2]

> A person who
>
> (1) by abusing the dependent status or insecure state of another person,
>
> (2) by deceiving another person or by abusing the error of that person,
>
> (3) by paying remuneration to a person who has control over another person or
>
> (4) by accepting such remuneration takes control over another person, recruits, transfers, transports, receives or harbours another person for purposes of sexual abuse referred to in Chapter 20(9)(1)(1) or comparable sexual abuse, forced labour or other demeaning circumstances or removal of bodily organs or tissues for financial gain shall be sentenced for trafficking in human beings to imprisonment for a minimum of four months and a maximum of six years.

[2] Most notably the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.

> A person who takes control over another person under 18 years of age or recruits, transfers, transports, receives or harbours that person for the purposes mentioned in subsection 1 shall be sentenced for trafficking in human beings even if none of the means referred to in subsection 1(1–4) have been used.
>
> An attempt shall be punished.

In line with international obligations, the offence of human trafficking requires that three essential elements are fulfilled: the means, the act and the purpose. The offence of aggravated trafficking in human beings includes the use of violence, threats or deceit as a means of trafficking; the deliberate infliction of grievous bodily harm, a serious illness or a state of mortal danger or comparable particularly grave suffering; that the offence is committed against a child younger than 18 years of age or against a person whose capacity to defend himself/herself has been substantially diminished, or that the offence has been committed within the framework of a criminal organisation. Enslaving, keeping another person in servitude, or engaging in transporting or trading in slaves is also considered aggravated trafficking. The sentence for aggravated trafficking in human beings is imprisonment for a minimum of two years and a maximum of ten years.

The Finnish Criminal Code also includes definitions of offences that resemble trafficking. These are aggravated pandering (Criminal Code Chapter 20, section 9(a)), aggravated arrangement of illegal entry (Criminal Code Chapter 17, section 8(a)), and extortionate work discrimination (Criminal Code Chapter 47, section 3(a)). The provision of extortionate work discrimination is commonly used in situations where migrant workers have been exploited at work. The provision was introduced in 2004 and is a labour offence under the Criminal Code. The offences of work discrimination (Criminal Code Chapter 47, section 3), employment agency offence (Criminal Code Chapter 47, section 6), unauthorised use of foreign labour (Criminal Code Chapter 47, section 6(a)), exploitation (Criminal Code Chapter 36, section 6) and aggravated extortion (Criminal Code Chapter 36, section 7)[3] are also sometimes used in situations of exploitation of migrant labour.

In a hierarchy of criminal provisions, aggravated extortion falls between the offences of trafficking in human beings and extortionate work discrimination, with trafficking being the most serious offence. This hierarchy is evident in recent court rulings on cases of exploitation of migrant labour (Vantaa district court 28 September 2012; Varsinais-Suomi district court 22 March 2013). As we showed in our previous report (Jokinen et al. 2011a, 130−137), the distinction between trafficking in human beings and extortionate work discrimination is not simple, and cases with elements of trafficking have in the past been dealt with as extortionate work discrimination. This has been a

[3] The offence can also been translated into English as aggravated usury or aggravated exploitation, however, in this report we use the term aggravated extortion.

notable problem, since trafficking is a violent offence against the person, whereas extortionate work discrimination is a labour offence. The sanctions in both offences also differ significantly: the penalty for trafficking is always imprisonment, whereas the penalty for extortionate work discrimination is usually a (relatively small) fine.[4]

To resolve some of these difficulties of definition and overlap, a working group under the Ministry of Justice presented in October 2012 a proposal for amending certain elements of the current trafficking provision. One of the goals of the working group was to come up with a clearer distinction between trafficking and extortionate work discrimination. The law proposal suggests amending the current wording so that forced labour would be considered as one form of demeaning circumstances ("demeaning circumstances, such as forced labour"). The elements of forced labour would also be further elaborated upon in the background texts to the law. Simultaneously, corporate criminal liability and the ban on business operations would be extended to cover also the offence of extortionate work discrimination. (Ministry of Justice 2012.)

1.2.2 Statistics on trafficking cases in Finland

When the offence of trafficking was introduced into the Finnish Criminal Code in 2004, the awareness of the offence was very limited and only very few cases had come to the attention of the authorities. Most of the identified cases in 2004−2007 concerned serious forms of sexual exploitation.[5]

The number of cases investigated as trafficking by the police has increased significantly since 2007 (Table 1). The statistics unfortunately do not differentiate between trafficking for sexual exploitation and trafficking for forced labour, but information from victim support providers show that most of the identified cases are related to labour trafficking (Joutseno reception centre 2012b; Joutseno reception centre 2010, see further statistics below). Finland differs from many other European countries in the sense that the majority of identified cases of trafficking concern labour exploitation rather than sexual exploitation. At the EU-level in 2008−2010, some 85 % of suspected trafficking offenders were suspected of trafficking for sexual exploitation (Eurostat 2013, 70−72).

[4] According to justice statistics, the average fine for extortionate work discrimination was 220 EUR in 2012 (Statistics Finland StatFin database 2013).

[5] For a discussion on the evolution of the Finnish legislative basis and awareness of the phenomenon, especially as it relates to trafficking for sexual exploitation, see Roth 2010.

Table 1. Preliminary police investigations into human trafficking 2007–2012.

	2007	2008	2009	2010	2011	2012
Human trafficking	2	6	2	11	26	21
Aggravated human trafficking	1	2	2	2	6	4

Source: Ombudsman for Minorities 2013, 25.

While the number of cases reported to the police has increased in recent years, the number of cases prosecuted and eventually convicted has remained low (Tables 2 and 3). As discussed in our previous report, there are various challenges in investigating cases of trafficking, and thus of securing sufficient evidence for prosecuting these offences (Jokinen et al. 2011a, 114−125).

Table 2. Persons prosecuted in Finland for offences related to trafficking in 2006−2011.

	2006	2007	2008	2009	2010	2011
Human trafficking	0	0	1	1	0	3
Aggravated human trafficking	2	1	1	0	0	2
Extortionate work discrimination	3	1	10	6	23	8

Source: Ministry of Justice 2012, 38.

Table 3. Trafficking convictions in Finland in first and second level courts 2006−2010.

	2006	2007	2008	2009	2010
Human trafficking	0	0	0	2	0
Aggravated human trafficking	0	5	0	5	0
Extortionate work discrimination	2	0	4	7	4

Source: Ministry of Justice 2012, 40.

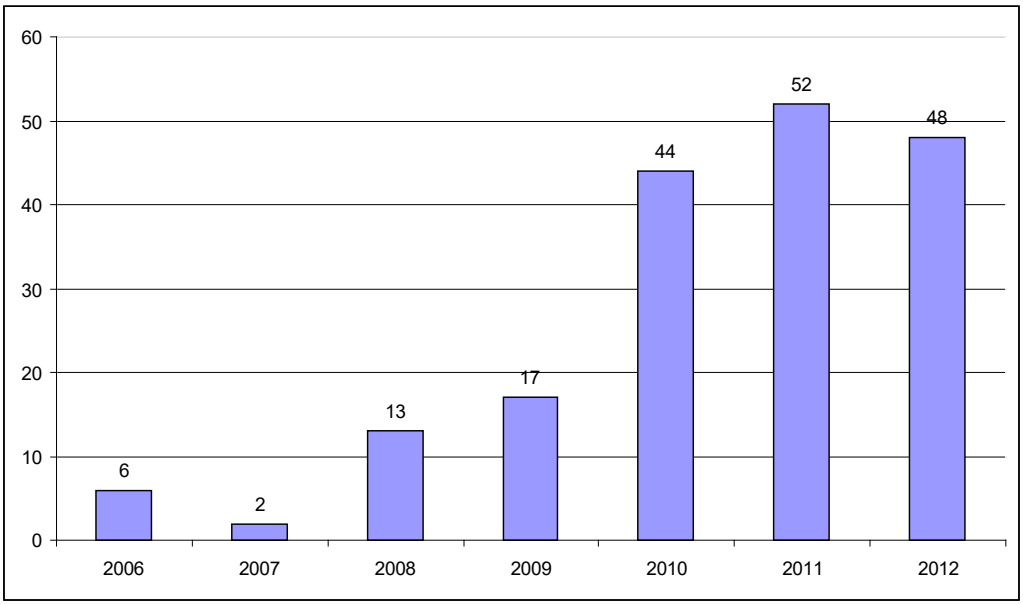
Until 2012, all convictions for trafficking were for cases of sexual exploitation. The first conviction for trafficking for forced labour was in 2012 in relation to a case concerning the exploitation of a Vietnamese woman in a manicure salon and in domestic work in Helsinki (Helsinki district court 30 March 2012). As of June 2013, there have been five convictions for trafficking for forced labour.[6]

Since 2006, victims of trafficking have been entitled to assistance by the state-run system of assistance, which is managed by Joutseno reception centre. The

[6] All of these convictions, however, are not legally valid, since some have been appealed. (Helsinki district court 31 March 2012; Pirkanmaa district court 29 June 2012; Pirkanmaa district court 28 December 2012; Pohjanmaa district court 28 January 2013; Pohjanmaa district court 15 May 2013.

number of victims assisted by the centre has increased many times in recent years (Figure 1). At the end of 2012 there were a total of 94 victims who had been accepted into the system of assistance (Joutseno reception centre 2012b).

Figure 1. Victims accepted into the system of assistance for victims of trafficking in 2006−2012.



Source: Joutseno reception centre 2012a; 2012b.

The majority (65.5 %) of the victims assisted by Joutseno are victims of labour trafficking, while 31 % are victims of trafficking for sexual exploitation. The rest (3.5 %) are victims of some other form of trafficking. (Joutseno reception centre 2012b, 2.)

1.2.3 National efforts to counteract trafficking

Finland has so far had two **national plans of action against trafficking**, the first in 2005 and a revised plan in 2008 (Ulkoasiainministeriö 2005; Sisäasiainministeriö 2008). An evaluation of the latter plan was published in 2011, and included recommendations for legislative amendments (Sisäasiainministeriö 2011). Since then, there has been no dedicated plan or comprehensive working group focusing on trafficking in human beings although other efforts to counteract trafficking have been undertaken.

The **national system of assistance for victims of human trafficking** was established in Finland in 2006. The system is coordinated by the Joutseno reception centre for asylum seekers and is based on the law on the integration of immigrants and the reception of asylum seekers (Act 1269/2006). In practice, victims receive support and services, including legal advice, crisis support, social and health services, accommodation, and subsistence support. Although the current system of assistance has functioned relatively well there

has been also criticism, e.g. against whether the system is truly victim-centred, whether the threshold to enter the system is low enough, whether the principle of equality is fulfilled for victims of trafficking in different parts of the country, and whether the system should be managed by the asylum centre or by some other entity (see Jokinen et al. 2011a, 111−115). The legislative basis for providing assistance to victims of trafficking is currently being assessed by a working group under the Ministry of the Interior with possible amendments to the law forthcoming.

Finland established the position of a **National Rapporteur on Trafficking in Human Beings** in 2008 (the post is held by the Ombudsman for Minorities). This position has proven instrumental in increasing the awareness about and actions against trafficking in human beings in Finland. The National Rapporteur monitors the situation in Finland and issues recommendations to the authorities and government actors. The first report of the National Rapporteur in June 2010 presented several important recommendations for the authorities with the aim of improving Finland's efforts to counteract trafficking (Ombudsman for Minorities 2010). Many of the recommendations have been implemented, including the establishment of two inter-ministerial working groups looking at amending the criminal provisions relating to trafficking as well as the legislation governing the current system for victim assistance.

A working group by the Ministry of the Interior has recently proposed the establishment of a position of a **National Coordinator** on trafficking. The National Coordinator would be responsible for the overall coordination of all activities relating to human trafficking in Finland. It is expected that the National Coordinator will be appointed as of early 2014. (Sisäasiainministeriö 2013a.)

The **labour inspectors** of the Occupational Safety and Health Inspectorates of the Regional State Administrative Agencies are responsible for monitoring the use of migrant labour (henceforth we use the term "labour inspectorate" to refer to this organisation). There are currently a total of 17 labour inspectors specialised in monitoring the use of migrant labour. The inspections largely focus on whether the employers have fulfilled their legal obligations in line with the requirements of Finnish law. By law the labour inspectorate is obliged to report certain violations and offences to the police.[7] However, trafficking in human beings is not included among these offences. This has caused some amount of discussion regarding the roles and responsibilities of labour inspectors, especially since labour inspectors have been instrumental in uncovering several cases of exploitation of migrant workers as well as trafficking for forced labour.[8] At the explicit recommendation of the National

[7] Violations of the Aliens Act (section 185), an employer's violation of the Aliens Act (section 186), unauthorised use of migrant labour (Criminal Code Chapter 47, section 6(a)), work discrimination (Criminal Code Chapter 47, section 3), and extortionate work discrimination (Criminal Code Chapter 47, section 3(a)).

[8] See e.g. the discussion during a national conference on trafficking for forced labour, held in February 2011: http://www.heuni.fi/Etusivu/1302672127623 (accessed 11 August 2013)

Rapporteur, guidelines for the identification of victims of human trafficking and their referral to the victim assistance system were approved in 2012 by the occupational health and safety authorities (Ombudsman for Minorities 2013; Sosiaali- ja terveysministeriö 2012).

In addition to labour inspectors, **trade unions** are responsible for monitoring the collective agreements. Some collective agreements (such as the collective agreement for the construction sector) give trade unions the right to carry out inspections at workplaces. Trade unions may also place certain employers under a blockage if there are serious flaws in how the collective agreement is implemented at a specific site (Juntunen 2011, 53−54). Trade unions therefore have a fair amount of formal power to oversee the labour conditions also of migrant workers (see Ristikari 2012, 22−23). Similarly, **employers' associations** are involved in the negotiation of collective agreements, guide their members in the implementation of the agreements, and supervise the interests of their membership. The employers' associations also promote healthy competition and condemn irregular economic practices that distort the functioning of the market economy.

In 2011 the **police** made a decision to prioritise the investigation of trafficking offences (HS 23 December 2011), which is clearly reflected in the statistics presented above. There is currently, however, no specialised police unit focusing on trafficking offences. In 2012, the Police Administration issued guidelines on how to intervene in offences of trafficking, including concrete indicators for the identification of victims and information on how to refer them to the system of assistance (Poliisihallitus 2012).

1.3 Migrants in Finland

The term migrant worker covers a variety of people with different residence statuses and permits, including EU/EEA and Swiss citizens and third country nationals. Migrant workers may reside in Finland on different immigration statuses which are usually based on employment (work permit; posted work) or studies (student permit) in Finland or on family ties with someone living in Finland, as well as on the grounds of international protection (status as refugee and asylum seeker). It is possible to work in Finland using any of these residence statuses after some requirements are met. For example, students can work for 25 hours a week on average during the academic term.[9] Also asylum seekers have the right to work after having stayed in Finland for three months, if they have a valid travel document. If not, they have the right to work after six months. (Working in Finland 2013, 1.)

In addition, a foreigner can come to Finland with a visa to do seasonal work for up to three months (Aliens Act, section 81). EU citizens have the right to reside in the country for up to three months looking for work, after which they should register with the local authority. However, this does not concern short-term

[9] http://www.migri.fi/studying_in_finland/right_to_employment (accessed on 11 August 2013)

workers from Estonia who commute between Estonia and Finland. Also posted workers account for a large proportion of foreigners working in Finland. Posted workers are posted by their foreign employer to work in Finland for a limited amount of time.

So called undocumented or paperless (irregular) immigrants are persons who have overextended their visa or residence permit or have not registered their residence after the three month limit (EU citizens). This group also includes those arriving into the country using unofficial channels (e.g. human smuggling) and who do not subsequently seek asylum.

Because a large variety of different types of migrant workers are employed in Finland, it is extremely difficult to estimate how many migrant workers there are in Finland on any given day, let alone in a year. According to Statistics Finland, there were a total of 183,133 foreign citizens in the country in 2011, while the figure was 195,511 in 2012. In 2012, around 20 % of these were Estonians and around 15 % Russians. (Statistics Finland 2013a.)

There are reliable statistics on residence permit applications and permits issued to foreigners.

In 2012, the Finnish immigration service registered a total of 21,264 residence permit applications. The majority of them were based on family ties (40 %), studies in Finland (28 %) and employment in Finland (27 %). (Maahanmuuttovirasto 2013, 1.) The statistics on issued workers' residence permits reveal that the number of issued permits has decreased in 2012 (table 4). This is most likely related to the economic downturn.

Table 4. Initial positive decisions to issue a work permit 2011−2012.

Year	First permits	Extension permits	Total
2011	4,463	5,181	9,644
2012	3,827	4,851	8,678

Source: Työ-ja elinkeinotoimisto 2011; Työ- ja elinkeinotoimisto 2012a; 2012b.

In 2012, work permits were most commonly issued to persons from Russia, Ukraine and Croatia. Regarding Asian citizens, the permits were issued most commonly to migrants from China, Thailand and Philippines. The permits were especially issued to migrants working in food preparation, cleaning, gardening and other agricultural jobs. Also lorry drivers, welders and plumbers were among the most common professions, according to available statistics. (Työ- ja elinkeinotoimisto 2012a; 2012b).

There are no reliable statistics on the number of posted workers, since workers of companies registered abroad usually do not appear in any official statistics (e.g. Lith 2007). According to Hirvonen (2012), there were an estimated 31,000 posted workers in Finland in 2010. Two out of three posted workers came from Estonia, while the next two biggest groups were from Poland and Germany. Most of them worked in construction and a few thousand in the

metal industry. (Hirvonen 2012.) The number of posted workers has increased in recent years, as there were an estimated 18 000 posted workers in Finland in 2007 (Lith 2007).

According to a recent Border Interview Survey, in 2012 there were approximately 59,000 migrants working in Finland whose permanent country of residence was other than Finland. About 30,000 of these migrant workers had their permanent residence in Estonia, 6,500 in Poland and 4,700 in Russia. The study shows that the number of foreigners travelling to a place of work in Finland has increased rapidly from 2008 to 2012. This information was gathered from foreign passengers at border crossing sites. (Statistics Finland 2013b, 2.)

According to statistics of the Ministry of Foreign Affairs, around 12,000 seasonal workers come to Finland each year to pick berries. Around 8,000 of these migrants are employed in berry farms, and 4,000 pick wild berries.[10] These seasonal workers come primarily from Russia (6,000 persons), Ukraine (3,500 persons) and Thailand (2,800 persons). (EMN 2011, 18.)

The number of asylum seekers in Finland fluctuated between 3,088 persons in 2011 and 3,129 persons in 2012. (Statistics Finland 2013a.)

Some estimates have been made of the number of undocumented migrants in Finland. In 2011, an estimated 4,000 undocumented migrants lived in Finland (YLE 7 September 2011). On the other hand, the Clandestino project estimates that between 8,000–12,000 paperless persons may be living in Finland (Leppäkorpi 2011, 28). Also the police have estimated that there are up to 2,000−4,000 irregular migrants in Finland (YLE 17 February 2013). No estimates exist on how many of these migrants work in the clandestine job market, but the police have encountered paperless persons working for example in the cleaning sector. (Ibid.)

1.4 Labour market policies in the cleaning and restaurant sectors

The Finnish labour and social policy legislation concerning working life is built on a tripartite process of collaboration between the government and labour market organisations representing both employers and employees. There is currently no law on the minimum wage in Finland, since the wages are regulated by the collective agreements. Collective agreements cover the terms of Finnish employment relationships in most sectors, and are formed in negotiations between employer organisations or so-called employers' associations, and employee organisations i.e. trade (or labour) unions. (Ministry of Employment and the Economy 2012.) The legally binding collective agreements cover entire sectors in Finnish economy, and most

[10] This is not done in any formalised employment, since the pickers of wild forest berries are considered entrepreneurs and do not need to pay taxes from the profits made from selling the wild berries.

sectors have their own agreement. Trade unions – and employers' organisations – therefore negotiate the terms of the collective agreements not only on behalf of their own members, but also for non-members, thus including also migrant workers. (Ristikari 2012, 22−23.) The stipulations made in the collective agreement are binding and thus concern also non-unionised members.

The cleaning and restaurant sectors were selected as the focus of this study because there are many migrant workers in both sectors, and several cases of exploitation and misuse of migrant workers have been detected in both. It is important to note that the main part of employers and actors in both sectors is legitimate and does not engage in any irregular or illegal practises. The majority of employers in both sectors are organised, i.e. part of the respective employers' association. The employers in the cleaning sector are organised under Kiinteistöpalvelut ry, i.e. the Property Maintenance Association, while the restaurant sector is organised under Matkailu- ja Ravintolapalvelut MaRa ry, i.e. the Finnish Hospitality Association. All members of the associations are obliged to follow the standards, regulations and guidelines of the sector in question. However, both sectors also include a large share of unorganised entrepreneurs and actors, some of whom engage in misconduct and in exploitation of (migrant) workers. Our interest in this research is especially in pointing out such "grey" and irregular practices, in which the misuse and exploitation of migrant workers, and ultimately trafficking, take place.

1.4.1 The cleaning sector

There were 6,253 cleaning companies in Finland at the end of 2011, employing a total of 57,000 workers. The majority (70 %) of the businesses were small one-person companies, with one-fifth of the companies being larger (share-holder) companies. The turnover of the whole sector was 1.5 billion EUR, with these large companies accounting for 85 % of the turnover. (Verohallinto 2013, 2.) The Property Maintenance Association which is the employer's union in the cleaning sector has 400 company members, employing a total of 40,000 persons.[11] The cleaning sector as a whole employs a large number of migrant workers. For example, in the Helsinki region estimates of the proportion of cleaners with a foreign background ranges from one third to one half (YLE 10 December 2012; HS 10 March 2013).

The cleaning sector can be divided into different sub-sectors including, inter alia, office cleaning; school, day-care and organisational cleaning; grocery store and shopping mall cleaning; hospital cleaning; hotel cleaning; subway and bus cleaning; ferry and other transport cleaning; airport cleaning; and construction-site cleaning as well as home cleaning.

The Property Maintenance Association estimates that the number of employees in the sector has doubled since the recession during the 1990s. The increase is a

[11] http://www.kiinteistopalvelut.fi/tietoatoimialasta/ (accessed on 11 August 2013)

result of the development where also public sector actors have outsourced their cleaning and other related services to private companies.[12] The growth of the cleaning sector can also be explained by the low threshold of entering the business as an entrepreneur: little capital is needed to start a cleaning company (Verohallinto 2013). The cleaning sector has also been the object of major structural changes. Most cleaning is now outsourced to professional cleaning companies, while only some 10–20 years ago cleaners were the employees of the organisations whose premises they were cleaning. The reason for the outsourcing has partly been the pressure from contractors to cut costs and to obtain more flexible services than what permanently hired own cleaners could offer. As a result of the need to rationalise the work and make the services more competitive, the prices paid for such services have simultaneously decreased. Moreover, estimates made by Statistics Finland show that the wages paid in the cleaning sector have decreased in the Helsinki region because of the large proportion of migrant workers employed in the sector (YLE 10 December 2012).

The turnover in the workforce in the cleaning sector is high, with a high proportion of young, non-unionised, low-skilled, and non-Finnish speaking workers. All of these factors make the cleaning sector susceptible to illegal and irregular, "grey" practices. (Verohallinto 2013, 2−3.)

The current collective agreement for the cleaning sector is valid until the end of November 2013. The agreement outlines e.g. the overall terms of work, the daily and weekly working hours, absences and leaves, occupational safety and health. Most importantly, the agreement outlines the minimum hourly and monthly wages of employees in the cleaning sector. The current basic wages for a trainee in the cleaning sector are 1,340 EUR/month, with hourly wages of 8,33 EUR. The current basic wages in the highest category are 2,118 EUR/month, with hourly wages of 13,15 EUR. (PAM 2011.) Workers are also entitled to various forms of extra evening and weekend pay as well as other benefits depending on their employment status and hours of work

1.4.2 The restaurant sector

The hospitality sector, which includes both hotels and restaurants, is a growth industry in Finland. The employer's union in the sector, the Finnish Hospitality Association MaRa, has 2,400 member companies, which employ a total of 60,000 persons.[13]

In 2008, migrants owned 1,440 restaurant or hotel businesses in Finland, making up about 13 % of all restaurant or hotel companies in Finland and employing a total of 5,000 persons. In 2008 the turnover of these businesses was about 3 % of the total sector. (Lith 2010a, 16, 28.) Most of the restaurants

[12] http://www.kiinteistopalvelut.fi/tietoatoimialasta/ (accessed on 11 August 2013)

[13] http://www.mara.fi/maran-toiminta/(accessed on 11 August 2013)

owned by migrants were located in Southern Finland, and most of these in the Greater Helsinki region (Lith 2010a, 29). About 70 % of these migrant entrepreneurs were from Turkey and Asia (China, India, Vietnam and Thailand) (ibid., 16).

The restaurant sector can be divided into subsectors, which include many different types of restaurants and catering services. There include e.g. lunch restaurants; fine-dining establishments; cafes; ethnic restaurants; pizzerias; pubs and bars; catering services, including services for schools, hospitals and other institutions, and fast food restaurants.

As with the cleaning sector, restaurant work is often the first entry point for migrant workers into the Finnish labour market. Also the threshold to start one's own business is low in the restaurant sector. The restaurant sector is particularly vulnerable to irregular economic practices, partly caused by the fact that most of the customers are private individuals, who do not need receipts for their meals. Breaches of societal obligations seem especially common in ethnic restaurants. (Lith 2010a, 2.) Indications of such breaches include sales without receipts, undeclared wages and non-payment of obligatory employers' fees (ibid., 31).

The current collective agreement for the hospitality sector is valid until the end of April 2014. The agreement outlines the terms of work, including types of work contracts as well as permanent and temporary work, working hours, and absences and holidays. The current basic wages for the lowest level of restaurant workers are 1,558 EUR/month or 9,80 EUR/hour, while the current highest basic wages are 1,902 EUR/month or 11,96 EUR/hour. In addition to this, workers may be entitled to various extra evening and weekend pay as well as other benefits depending on their employment status and hours of work. (PAM & MaRa 2012.)

2. Data and methods

The main aim of this research is to provide new information on the vulnerabilities, factors, methods and channels that facilitate exploitation of migrant labour, ultimately resulting in trafficking for forced labour. We particularly wanted to focus on exploitative recruitment and employment practices which can result in trafficking for forced labour.

Our main research questions were the following:

- What practices/mechanisms/processes facilitate situations of trafficking for forced labour?
- Can certain practices be identified that increase a migrant worker's risk of ending up in a situation of trafficking for forced labour?
- What can be done to prevent migrant workers from ending up in situations of exploitation?

Our questions relating to recruitment practices and the recruitment chain were the following:

- Are there links between the use of recruitment agencies/actors and migrant workers ending up in situations of exploitation?
- Are workers aware of potential risks?
- What are the workers' experiences of using recruitment agencies?

Our questions regarding the roles and responsibilities of employers were these:

- What structural factors facilitate or enable exploitation of migrant workers?
- In which context does exploitation take place?
- What gaps (in administration/bureaucracy) facilitate exploitation?
- What practices do employers engage in that result in exploitation of migrant workers?

To answer these questions, a variety of sources of information were used. The main source of information was interviews with experts and migrant workers. In addition, we collected selected court cases and pre-trial investigation materials regarding key cases, and also used information available through media sources. (For a more detailed account of a similar method, see Jokinen et al. 2011a, 48−60; Jokinen & Ollus 2011, 324−333).

2.1 Data and materials

2.1.1 Expert interviews

Expert interviews were carried out in March–May 2013 using the qualitative thematic interview as the interview method. The interviewed experts came from a variety of different sectors, all dealing with issues relating to migrant labour. We focused on identifying experts who could tell us particularly about

issues concerning the cleaning and restaurant sectors, or both. Our approach was to keep the interviews focused on some of the specific problems related to the recruitment of migrant workers, the roles and practices of the employers as well as prevention of exploitation. In order to ensure that the roles of employers would be included, we wanted to specifically interview different representatives of employers and employer's unions.

Altogether we conducted 21 interviews with 28 different experts in Finland. These represented employer's associations (three interviewees), a recruitment agency (one interviewee), two employers (two interviewees), trade unions (four interviewees), shop stewards in the cleaning and restaurant sector (two interviewees), a central trade union (one interviewee), the church (two interviewees), a migrant support agency maintained by the city of Helsinki (three interviewees), the asylum centre (two interviewees) as well as the police (two interviewees) and the border guard authority (one interviewee). In addition we interviewed a representative of the labour inspectorate (one interviewee), representatives of the permit and tax authorities (two interviewees) and one representative of the Federation of Municipalities (one interviewee).

Eight of the interviews were conducted in a group situation where the number of participants varied from two to six persons including the interviewers. Three of the interviews were conducted over the phone. All of the expert interviews were conducted by Anniina Jokinen (AJ) and Natalia Ollus (NO). One expert interview was conducted in English and the rest in Finnish. All interviewees were given an information paper about the interview in advance by email (Annex 1). At the beginning of each interview, the purpose and aims of the project were explained and we mentioned the issues that we were particularly interested in discussing during the interview. All respondents were assured of the confidentiality of the interview. The interviewees were asked for permission to record the interview, to which all consented. The interviews lasted between approximately 50 minutes and 1,5 hours, the average being an hour.

In preparation for the expert interviews, a problem-oriented general interview template was developed (Annex 2). This general framework, however, was greatly modified depending on the profile of each respondent, so that they were asked questions relevant to their particular expertise or the sector they represented. We developed additional question for both the restaurant and the cleaning sector on the specific problems and practices that occur in these sectors. All interviewees were specifically asked also about their views and ideas for the prevention of exploitation.

The anonymity of the expert interviewees is protected by different means throughout this report. The respondent's name, and his/her exact professional title or place of employment are not disclosed. In the following chapters, direct quotes from the interviews are presented. These quotes have been modified so that names of persons and exact locations, colloquial expressions and other features that might help identify the speaker have been deleted or changed.

Otherwise, the interview excerpts have been kept as authentic as possible when translating them from Finnish into English.[14]

The interviewed experts were divided into six categories in order to prevent the identification of individual interviewees by combining interview excerpts. The categories are 1) *employer's representatives* (six interviewees), 2) trade union representatives (seven interviewees), 3) *permit and inspection authorities* (four interviewees), 4) *police and border guard* (three interviewees), and 5) *migrant service providers* (seven interviewees). In the report, interviewees are referred to by these categories, e.g. "trade union representative" or "migrant service provider". In writing the report we have attempted to give equal voice to all interviewed experts. We decided not to number the respondents to protect their anonymity due to the sensitive subject area, and because there are relatively few actors in Finland, who can easily be identified if the interview quotes were to be combined.

Contrary to the interviews we carried out in our previous research on trafficking for forced labour and the exploitation of migrant labour (Jokinen et al. 2011a), we did not ask any general questions about trafficking. Instead, we focused on the specific expertise of each interviewed expert in the context of exploitation of migrant workers in the cleaning and restaurant sectors. Since we modified the interview template for each interviewee, each interview was very different from the others. We did not therefore aim for a saturation of data but instead at collecting different views and standpoints on recruitment and employment practices in the cleaning and restaurant sectors.

The expert interview data is quite comprehensive, but of course not all relevant actors could be interviewed for the purposes of this project. The interviewees do, however, represent a cross-section of the cleaning and restaurant sectors, and comprise several central actors who work with questions related to the exploitation of migrant workers and human trafficking, or who work with migrant workers or employ them. Many of these are persons who meet migrant workers as part of their daily work or who provide help to victims of exploitation, and thus who could talk about concrete cases of exploitation and highlight the specific problems that migrants have encountered.

2.1.2 Migrant worker interviews

The interviews with migrant worker were conducted in March−April 2013. Altogether ten interviews were conducted with eleven migrant workers. The interviewees were recruited by using existing contacts that we acquired primarily in carrying out our previous study (Jokinen et al. 2011a). Persons and agencies working with victims of human trafficking or with migrant workers were very helpful in identifying interviewees and in making arrangements for

[14] The translations have been done by Anniina Jokinen and Natalia Ollus. The translations are as accurate as possible, but some editing of the spoken language has been done in order to make the excerpts easier to read.

the interviews.[15] Without their help, it would probably have been quite impossible to locate persons to be interviewed. An information paper about the interviews explaining the project and the interviews (see Annex 3) was sent to these persons and agencies. They informed their clients about our research and asked whether they would like to participate in the study by consenting to an interview. We were not given anyone's contact details before the person in question had consented to be interviewed.

All the interviewed migrant workers had experienced different forms of labour exploitation while working in Finland. All had worked either in the cleaning or restaurant sector or in both. Some had experienced severe forms of exploitation while others did not have as bad experiences. All interviewed migrants, however, defined their experiences as exploitation and had sought some form of help either from the authorities, the trade unions or NGOs. Some of the interviewed migrants had been accepted into the official system of assistance for victims of human trafficking in Finland. The migrant workers came from Estonia, Russia as well as Africa and Asia.[16]

Two of the interviews were conducted in English, one in Finnish using an interpreter, four in Estonian and three in Russian. The interviews in English and Finnish were conducted by Anniina Jokinen and Natalia Ollus. The Estonian and Russian interviews were conducted by Anna Markina, our Estonian project partner from the University of Tartu who is fluent in both of these languages. Anna Markina conducted six out of seven interviews in Helsinki, while one interview was conducted in Estonia. One of these interviews was a group interview with two migrant workers. The interviews with migrant workers were loosely based on a thematic interview template developed as part of the ADSTRINGO project (Annex 4).

It was decided that it would be helpful if the Estonian and Russian interviewees could talk freely in Estonian or Russian with a person from a similar cultural background instead of with us conducting the interviews in Finnish using an interpreter. This proved to be a good choice since both the Estonian and the Russian interviewees spoke very openly about their life and experiences in Finland. Such ease of communication is important when you take into consideration the problems of communication that permeate the experiences of many migrant workers in general and also take note of the potential of information lost in interpretation. We have also noted the potential problems of using an interpreter in our previous study (Jokinen et al. 2011a, 52−53).

All the migrant workers were asked permission for the recording of their interviews and they consented to this. They were also given background information about the project and its goals and they were advised that they

[15] We particularly want to thank Monika – Multicultural Women's Association in Finland, the labour inspectorate in Southern Finland and the Joutseno reception centre for helping us.

[16] We decided not to disclose the countries of origin of the Asian and African interviewees in order to protect their anonymity.

could at any time choose to not answer questions asked. All the interviews were recorded and transcribed. The Estonian and Russian interviews were translated into English by an Estonian translation company.

The Finnish and Estonian reports partly use the same interviews as data in the respective country studies. In order to avoid overlaps, the Finnish and Estonian researchers met in Tallinn in May 2013 in order to discuss the use of the interviews. Despite the different focus of the two studies, there is some slight overlap in the use of the interviews, and the same interview excerpts may therefore be used in both studies.

It is very important to take note of ethical considerations when interviewing victims of human trafficking and/or migrants who have experienced different forms of labour exploitation.[17] The anonymity of the migrant interviewees is protected by different means throughout this report. Instead of referring to individuals, we have decided to group the interviewed migrant workers into two subgroups: Estonian/Russian workers (eight interviewees) and Asian/African workers (three interviewees). In the report the interviewed migrant workers are referred to using these two categories. No other information is given about the background, gender or age of the migrant workers. When direct quotes from the migrant worker interviews are used, all references to names, exact locations or any other features that might help identify the respondent have been deleted or changed.

We decided not to number the interviewees to protect their anonymity due to the very sensitive subject matter and the small number of respondents. We instead decided to group the interviews into these two broad groups because the small number of interviewees might otherwise compromise their anonymity. We also decided to use these two categories in order to highlight on one hand the differences between the two categories and on the other, the similarities within the groups. There are some obvious differences between the migrants coming to Finland from afar rather from the neighbouring countries. Also the status of the migrant worker is dependent on their country of origin: migrants from Estonia are EU-citizens while migrants from Russia, Africa and Asia need a work permit or some other form of residence permit to work in Finland.[18] The geographic proximity to Finland makes the group of Estonian and Russian workers more mobile and flexible in moving between Finland and their country of origin, while the workers from further away are less able to leave Finland.

---

[17] For further details on ethical issues relating to research on trafficking, see Zimmermann & Watts 2003 on recommendations for interviewing trafficked women; for information on interviewing returned labour migrants, see Andrees & van der Linden 2005; Andrees 2009.

[18] Although Russian workers need a work or residence permit to work in Finland, contrary to Estonians, who are EU-nationals, we decided to group interviewed workers from these two countries together due to the geographic proximity of both countries. It should also be noted that this category includes Estonian nationals from Estonia, Russian nationals from Russia, as well as Estonian Russians, who have no Estonian nationality, and hold a so-called grey passport.

2.1.3 Court data and pre-trial investigation material

Court and pre-trial investigation materials provide a detailed source of information on cases of exploitation of migrant workers and trafficking. Our approach was to keep the study focused on the restaurant and cleaning sectors. In order to do this, we selected two cases, one from each sector, for which we obtained the court judgment as well as the pre-trial investigation materials. The cases we selected were the Pirkanmaa Asian restaurant case and the bus depot cleaning company case in the Greater Helsinki region. They are described in more detail below.

Asian restaurant case in Pirkanmaa

A Vietnamese couple operated two Asian restaurants in the Pirkanmaa region in South Central Finland. Between the years 2006–2012 they recruited at least ten migrant workers, many of them couples, from Vietnam to work as cooks and waitresses in their restaurants. For example, one of the exploited cooks received starting wages of 500 EUR per month and had to work 6−7 days a week, up to 10–15 hours a day. The wages were raised by 100 EUR after each year of working in the restaurant. The waitresses got even lower wages which were at least in some instances paid to their husbands' bank accounts. The exploited workers lived in accommodation organised by the employers. Some also shared accommodation with the employers themselves and did household chores for them after work. The workers were dependent on the employers 24/7 due to debt and because they could not speak any languages other than their mother tongue and did not know about their rights as workers or the minimum wages that they were entitled to. The migrant workers were threatened and controlled psychologically by the employers, who said that they would be sent back to Vietnam if they were to complain. The couple was sentenced by the Pirkanmaa district court to imprisonment for 6 years and 10 months on eight counts of trafficking for forced labour, two counts of extortionate work discrimination as well as tax fraud and accounting offences. (Pirkanmaa district court 29 June 2012. R 12/2271; pre-trial investigation material 8330/R/55534/11)

Bus depot cleaning company case

A cleaning company operating in the Greater Helsinki area employed tens of migrant workers and asylum seekers mainly from Sri Lanka and Morocco in order to clean busses during night time at various bus depots in 2009−2011. At least three of the migrant workers had had to pay recruitment fees to middle-level managers, who themselves had a migrant background, in order to get employment. The workers worked during the night, cleaning and moving the busses, but without receiving proper extra pay for night and evening work. They were only paid for a certain amount of hours no matter how long it took to clean the busses. The workers were dependent on the work since it was linked to their work permits, and their right to reside in Finland was based on it.

The middle-level managers controlled the workers and let them know that complaining would result in losing their employment. Also links to the arrangement of illegal immigration were suspected in the case, and this was investigated by the border guards. The owner of the cleaning company was sentenced by the Vantaa district court for aggravated extortion and work discrimination to a suspended sentence of 1 year and 10 months. One of the middle-level managers was sentenced for aggravated extortion, extortionate work discrimination and a working hour offence as well as accounting offences to a suspended sentence of 1 year and 3 months. Also the other middle-level manager was sentenced for aggravated extortion to a suspended sentence of 1 year and 3 months. The case has been appealed and is still before the Court of Appeal. (Vantaa district court 28 September 2012. R 12/2139; pre-trial investigation material 9186/R/61009/09.)

In addition, we used some newer court judgments on trafficking for the purpose of forced labour and aggravated extortion.[19]

- Pirkanmaa district court 18 December 2012. R 12/5728, ethnic restaurant case, trafficking in persons.
- Varsinais-Suomi district court 22 March 2013. R 12/1508, kebab restaurant and butcher's shop case, aggravated extortion.

We also refer to the first judgment ever given in Finland on trafficking for forced labour, passed in Helsinki district court in 2012. This case dealt with the exploitation of a Vietnamese woman in a manicure salon in Helsinki (Helsinki district court 30 March 2012, R 12/2465).

The court judgments and pre-trial investigation records were read carefully and analysed according to a thematic framework based on the ILO indicators (see also Jokinen et al. 2011a, 55–58). Special attention was paid to the recruitment of workers and the possible exploitative recruitment practices uncovered as well as to the channels used in recruitment and possible recruitment and placement fees charged. We also investigated the role of employers and tried to uncover indications of systematic exploitation and how such exploitation was organised and maintained by the employers.

2.1.4 Media materials

On-going media monitoring of newspapers and online media, including Helsingin Sanomat (referred to as HS in the text), Hufvudstadsbladet, Iltalehti, Ilta-Sanomat and PAM-lehti as well as YLE news was conducted in 2012–2013 with a special focus on the restaurant and cleaning sectors. Also the on-going discussions on migrant workers and the grey economy were followed.

[19] Two more judgments on trafficking for forced labour were passed in Pohjanmaa district court in early 2013. We have not, however, used these judgments as materials in this study since they concern exploitation in a wood processing plant (Pohjanmaa district court 28 January 2013) and in a plastic factory (Pohjanmaa district court 15 May 2013).

The media materials have mainly been used as background information on current issues associated with these themes, but also some direct information regarding exploitation cases and exploitative practices have been derived from the media. These are listed in the references.

2.1.5 Expert meeting

Under the auspices of the ADSTRINGO project, HEUNI organised a national expert meeting on 22 November 2012 in Helsinki. The meeting focused on the cleaning, restaurant and agriculture sectors,[20] primarily because these sectors have a multitude of workers recruited from abroad, and although the clear majority of companies operate in accordance with laws and agreements, several known cases of exploitation have nonetheless been uncovered. Representatives of employers, trade unions, the labour inspectorate, employment authorities, recruitment companies and NGOs attended the meeting. The aim of the meeting was to discuss good practices in the prevention of exploitation of migrant labour, discuss problems encountered in these sectors, and to consider the roles and responsibilities of various actors. The aim was also to create a forum for networking and information exchange as well as to provide input for the research component by identifying suitable experts to be interviewed. A total of 21 participants attended the meeting. We first gave a presentation on the project and on trafficking for forced labour in Finland, after which the participants gave a short statement relating to their own field of work. The meeting was concluded with a general discussion on how to best prevent exploitative practices in these sectors. We took detailed notes during the meeting. These notes form part of the research materials used in this study. After the meeting, some of the participants were interviewed for the study (see section 2.1.1).

2.2 Analysis

The different study materials and data were analysed thematically. The data from both the expert interviews and the migrant worker interviews was read carefully and coded using the ATLAS.TI programme. A total of 85 codes were created during the coding process and grouped under ten larger themes. After the coding, the selected themes and codes were taken out for further analysis. The themes were grouped and read through once more. The interview data forms the core of our study, since this data was analysed most carefully and thoroughly. We constructed the empirical chapters on the themes uncovered in the analysis of the interview data. The other sources of information, i.e. the court and pre-trial investigation data and the media materials, were used to provide additional information and details on e.g. forms of exploitation and irregular practices.

[20] After the meeting we decided to exclude the agricultural sector from further analysis, primarily because we considered two sectors to be sufficient for the purposes of this research.

We have chosen to present our empirical findings together with references to the literature, such as research, reports, governmental documents and policy papers. The literature is used to support our interview findings and other data and is used to provide context for our findings.

The empirical findings are presented in the next four chapters. Chapter 3 starts with an overview of existing migration and employment policies in Finland. This chapter aims at contextualising the societal situation in which the exploitation of migrant workers, and ultimately trafficking for forced labour, takes place. Chapter 4 outlines recruitment mechanisms, describing the recruitment of migrant workers into the Finnish labour market, as well as exploitation taking place during recruitment and also during the work permit application process. Chapter 5 further contextualises the exploitation of migrant workers as taking place within the broader context of the grey economy and clandestine practices. This chapter also details the forms of exploitation that take place in the cleaning and restaurant sectors. Chapter 6 analyses and presents preventative measures so as to best tackle the exploitation of migrant workers, and ultimately trafficking for forced labour. The last chapter provides a summary of the results and presents our conclusions and recommendations.

3. Migration and employment policies in Finland

Discussions about the perceived threat posed by a shortage of labour have been ongoing in Finland since the 1970s (Forsander 2002). During the early 2000s, labour migration became seen as a solution to the problems caused by the aging population and the related decrease in the active labour force. In 2006 the Government introduced for the first time a specific and proactive labour migration policy, with migrant labour considered as a solution to the perceived labour demand, with an emphasis on attracting skilled and mobile labour. At the same time, government policies emphasised that labour immigration should be based on a genuine demand for labour. On a policy level, therefore, the governmental discussions have focused mostly on the positive aspects of migrant labour, although risks relating to uncontrolled migration have also been mentioned. (Ollus & Alvesalo-Kuusi 2012.)

The new migration policy of the Finnish government of June 2013 calls for more flexibility in migration processes. The processing of work permits should become more flexible and clear and the permits process should better reflect the need to promote migrant labour as well as Finland's attraction as a destination for skilled labour. The policy also recognises that trafficking is related to migration, and promotes the prevention of trafficking, as well as the identification of and assistance to victims. (Valtioneuvosto 2013.)

As was shown in the introductory chapter, the number of migrant workers in Finland has increased in recent years, with the majority of the workers coming to fill less skilled or semi-skilled jobs (Asa & Muurinen 2010). There has been a discussion on the dualisation or the bifurcation of the labour markets, with a fear that migrant workers increasingly end up in poor working conditions and work that may be described as precarious (Könönen 2011). As such, the policies surrounding migration and labour migration are highly relevant also for the understanding of the context in which exploitation of migrant workers and labour trafficking emerge and take place.

In this chapter we present the context in which exploitation of migrant workers takes place in the Finnish labour market, and analyse the structural factors that facilitate such exploitation. We first describe the ongoing discussion regarding the need for migrant workers and the perceived shortage of labour in Finland. Next we analyse the ongoing debate concerning assessment of available labour in the cleaning and restaurant sectors. The assessment procedure directly affects the possibilities that migrant workers have of acquiring work in Finland, and forms a framework for the regulation of labour immigration. The need for labour migration and how it is controlled is relevant also for the understanding of what facilitates and enables more serious forms of exploitation, such as trafficking. This is discussed in the final part of this chapter.

3.1 The perceived shortage of labour and assessment of available labour

The need to attract migrant labour to Finland is fuelled especially by concerns about the aging population and the perceived decrease in the active labour force, leading to a sustainability deficit. The ageing of the population will certainly affect the economy, but the future labour demands of different sectors is still unknown (Honkatukia et al. 2010). The shortage of labour was discussed at length in many of our expert interviews. There were diverging views among the experts regarding whether or not there is indeed currently a lack of labour and, consequently, a need to attract increasing numbers of migrant workers.

The representatives of employer commonly refer to the problem of matching the demand and the supply of labour, which is compounded by regional factors, and also affected by the current economic downturn.

> This demand for foreign labour, it's clear that we'll need it. And we have this 20-year retirement process, so it is likely that it [the labour shortage] will explode already much earlier [than anticipated]. (Employer's representative)

An analysis by the Bank of Finland, however, shows that the discrepancy between supply and demand has not decreased significantly despite the economic downturn, thanks to flexibilities in the Finnish labour market (Schauman & Vanhala 2011). There seems to be a lack of labour in specific sectors, such as the health care and social welfare sectors (EMN 2010, 103). At the same time, however, there are unemployed persons available in many sectors. A working group under the Centre for Economic Development, Transport and the Environment in the Uusimaa region in Southern Finland carried out a mapping of existing vacancies in the cleaning sector in the fall of 2012, and found that there are indeed both many vacant positions, as well as many unemployed cleaners, and that supply and demand do not meet (HEUNI expert meeting 2012). Views differ with regard to the reasons of why supply and demand do not meet.

The divergence in views is evident especially between the representatives of trade unions and employers. A major issue of contention is whether or not there actually is a real labour shortage, or whether the problems of labour shortage are more structural and related to the quality and contents of the jobs on offer.

> When the economy starts to improve and the number of people retiring will increase, then I think we will have that shortage. And we also unfortunately have this problem of meeting supply and demand, we have a lot of unemployed. (Employer's representative)

There is a fundamental divide in how the available employment opportunities are understood and portrayed. In the cleaning sector one of the problems is the way the work is scattered and organised, with contracts not offering full-time employment and with the work spread out at different hours of the day (see also 5.1.3). This means that even though there are vacant positions, the terms of work are not necessarily sufficient to attract available labour. According to

the interviewed workers, the problem of supply and demand is a direct result of the poor working conditions offered (too few working hours, poor wages, temporary contracts etc). According to one interviewer worker, employers consciously exploit employees by offering poor contracts and terms of work.

> There is no shortage of cleaners, and those employers know it. They give you 3 months and then they find a new person, they exploit the person, that person goes and then they find a new person. Just a few people get those permanent contracts. (Asian/African workers)

An interviewed trade union representative sees a specific rhetoric in use by employer's representatives, portraying Finnish workers as "lazy, drunks and unprofessional" and thus useless and unwilling to work. This expert calls for more attention to be paid to the types of work and contracts offered instead of just looking at the available labour and why they do not want to work. Several interviewed experts mentioned that for example in the cleaning sector a lot of jobs on offer are only part-time contracts. In addition, the interviewed trade union representative would like to see structural changes in employment conditions (especially in the low-paid sectors) and improved recruitment and employment of migrants already residing in the country.

As demonstrated above, the discussions on migration policies and the perceived need for labour in Finland are controversial and difficult topics where different actors have diverging views. At the centre of the controversy lies the procedure for assessing the available work force before recruitment from abroad is allowed, a process which has caused considerable debate. The current Government programme of 2011 outlines that "the system of determining availability of labour on the domestic labour market will be maintained and the supervision of the labour market will be enhanced" (Government programme 2011, 46).

For certain sectors, an assessment of the available labour on the domestic market is carried out when an employer seeks a work permit for an employee from a country outside the EU/EEA. In practice, the assessment of the available work force means that the regional Employment and Economic Development Office checks that the conditions of work are fulfilled, i.e. that the wages are in line with the collective agreement and that the employer is capable of fulfilling his/her obligatory employer's duties. The Office also assesses whether there is available labour domestically for the advertised position. If suitable labour is available within a reasonable time-frame, then there are no grounds to grant a work permit for a foreign worker from outside the EU/EEA.[21]

This assessment process is based on section 71 of the Alien's Act. The sectors in which such assessment is practised are determined by the regional Centres for Economic Development, Transport and the Environment in their regional guidelines concerning work permits for foreigners. The regional guidelines are

[21] http://www.mol.fi/toimistot/vantaa/tyolupayksikko.html (accessed on 28 May 2013)

informed by national guidelines issued by the Government. In October 2012, the Finnish Government issued its latest guidelines on the prerequisites for using migrant labour (Valtioneuvoston päätös 2012). In this document, the Government encourages the regional Centres to issue regional guidelines and to keep these guidelines up to date, taking into consideration the fluctuations and changes in the regional labour markets. For instance, employers are not allowed to require lower professional skills from foreign labour compared to what is required from labour available in Finland, and foreign labour must receive the same wages as similar labour available in Finland. (Ibid.)

In the Uusimaa region in Southern Finland, the most recent guidelines were issued in November 2012. The document list a number of professions in which the availability of labour has decreased, including various professions in construction as well as health care professionals, domestic workers and child carers, agricultural workers, and cleaners (Uudenmaan ELY-keskus 2012). For these sectors migrant workers from outside the EU can be recruited without the assessment whether available (unemployed) labour already resides in the region. For the cleaning sector the prerequisite is that the worker is offered full-time employment (37,5h/week) on a continued contract, with wages in line with the collective agreement (ibid.). The recent inclusion of cleaners among those professions for which labour can be recruited from abroad without the assessment procedure has been particularly controversial.

3.1.2 The debate concerning assessment of available labour in the cleaning and restaurant sectors

This section deals with the assessment of available labour in the cleaning and restaurant sectors, i.e. the two sectors covered by this study. Both sectors employ many immigrants, some of whom are recruited from abroad. As with the overall discussion on the shortage of labour, there are diverging views between trade unions and employers' associations also with regard to the need to assess available labour. This discussion is relevant for our further analysis on the conditions of employment – and situations of exploitation – in which migrant workers find themselves in Finland.

Section 71 of the Alien's Act stipulates that labour market organizations shall participate in the monitoring and assessing practices and in preparing the national and regional policies. In practice, therefore, representatives of both trade unions and employer's organisations should participate in negotiating in which professions or sectors the assessment of the available labour force should continue, and in which sectors such assessments are no longer needed. The recent decision to no longer require an assessment of the available labour force in respect of the cleaning sector has caused a heated debate between trade unions and employer's organisations.

The Central Organisation of Finnish Trade Unions (SAK) and the Service Union United (PAM) claimed after the Uusimaa guidelines were issued that that there is available labour for cleaning work, and that the perceived shortage

is not supported by statistics. Instead, the overall working conditions in the cleaning sector have become worse especially in the Greater Helsinki region due to increased competition (and a corresponding increase in the areas to be cleaned with decreased time available for the work) with a large staff turnover as a result. (SAK 15 November 2012.)

Statistics by the Confederation of Finnish Industries (EK), however, show that in the property sector organised under the employer's association (which includes cleaning work), 85 % of the employed persons have a permanent contract (working either full-time or part-time), and 68 % of staff are working full-time (either on permanent or temporary contracts) (EK 2012).[22] The employer's side states that overall, the conditions are not as bad as the unions claim. In a response to the criticism, the cleaning industry's employer's organization states that it is too simplistic to claim – as the trade unions are doing – that there would be available and willing labour for the cleaning sector. According to the cleaning industry's employer's organization the problem is that those (unemployed) who are offered cleaning work either do not want, or are unable to do the work. Without new labour (presumably from abroad), many vacant positions will remain unfilled. Instead of keeping the assessment process for the cleaning industry, the cleaning industry's employer's organisation calls for measures to ensure ethically sound employment conditions also for those who are recruited from abroad. (HS 31 August 2012.) One of the interviewed employer's representatives felt that work permit practices should be further developed to ensure that they work effectively.

The Confederation of Finnish Industries (EK) has stated already for some years that Finland is in a need of migrant labour. EK and the Federation of Finnish Enterprises (Suomen yrittäjät) submitted a statement in the current preparation of the new migration policy. The proposal should in their view explicitly state that no assessment of available work force is needed when considering the recruitment of any labour from outside the EU, arguing that the current practice of assessing the available labour force is based on a wish to protect the employment possibilities of Finnish workers but that such an argument is no longer valid in a global labour market. Furthermore, EK and the Federation of Finnish Enterprises point out that the current processes are contradictory with regard to the overall policy of promoting labour migration. (Sisäasiainministeriö 2013b, 30.) EK has previously also argued that no company would recruit labour from abroad unless there is a real need, since the recruitment costs are so high and the process very bureaucratic (EK 13 August 2010). An interviewed representative of an employer's organisations confirmed these views, and highlighted the impracticality of recruiting from abroad unless there is a real labour shortage.

[22] It should be pointed out that these statistics only refer to employees of organised employers. Often times migrant owned businesses do not belong to employers' unions and the employees of these companies are therefore not included in these figures.

> I'm sometimes a little amused when the trade unions so loudly oppose this assessment of work permits. In reality companies don't do it if there is labour available in Finland. It is so expensive, cumbersome, difficult and laborious, that you don't do it if there is any in Finland. It is so much easier and cheaper to recruit from Finland. […] When you find a couple of able-bodied and willing persons, then they don't want to do night work. Or they don't want to do this or that. In the end you only have one. You don't have many other options than to start looking from abroad. […] There are a lot of those [on the dole] who can't work. […] and then they apparently overload the system, that there would be all these unemployed. (Employer's representative)

In a response to the view presented by employer's organisations that workers are unwilling to take the jobs that are offered to them, an interviewed representative of the trade unions felt that this aspect is exaggerated and the problem lies in the poor working conditions offered.

> NO: How about when employers argue that the available workforce is not able-bodied or doesn't want to take the offered jobs?
> R: Of course I understand this, and they have a point. It is clear that there are those who are unable to work. But then there are probably also many of those who cannot accept the jobs because you can't survive on it, like these part-time jobs. I think it is an exaggeration. Clearly these exist, but it is maybe marginal. There are so many more unemployed who seek employment. (Trade union representative)

In a recent statement, the Central Organisation of Finnish Trade Unions (SAK) called for an analysis on why it has become more difficult to obtain labour for the cleaning sector, to understand why there is a need to recruit migrant labour: is there a real need or are the problems of availability of labour caused by poor working conditions and poor wages? The unions fear that the waiving of the assessment leads to worsened working conditions for migrant labour, and will negatively affect the overall labour conditions, with increased part-time work and inadequate wages for both migrants in Finland and those recruited from abroad. Especially vulnerable are those recruited from abroad, who cannot fulfil the requirements for an extension of their work permit due to too few working hours and a low income (see also chapter 4.2). (Palkkatyöläinen 19 February 2013.)

The discussion on the assessment of available labour is also relevant for the restaurant sector, where there is a discussion on whether there is a lack of cooks in general and of cooks for ethnic restaurants in particular. One interviewed employer's representative pointed out that the unemployed cooks in Finland, when invited to job interviews in ethnic restaurants, are unable to prepare the required dishes or unwilling to work in general.

> [The assessment] should perhaps be eased a bit, because there is real shortage of labour in some positions and all the time in assisting positions. What happens is that in Finland Finnish people don't want to clean or wash dishes anymore, but yet in the employment office there are these

> people who could do the work. They should perhaps consider a bit whether it [the assessment] is always needed. (Employer's representative)

While it may seem that trade unions in general oppose recruitment from abroad, this is in fact not the case, at least according to an interviewed trade union representative. This expert emphasized that the unions do not oppose migration or migrant labour, but they are instead concerned with the structural problems created by some sectors becoming less valued and unattractive, with poor working conditions as a consequence.

> It is just because of these structural reasons in the sectors with low wages. The oversight doesn't work and the legislation doesn't work. This is why it is so much easier to exploit these vulnerable persons from third countries. But nowadays also Finnish citizens are being exploited. (Trade union representative)

While the concerns about a bifurcation of the labour market do not seem to be shared by employer's representatives (see e.g. HS 29 May 2013), there is a wish on both sides to prevent exploitation. The biggest divide seems to be with regard to the role and impact of the workforce assessment. The unions fear a worsening of the overall working conditions in the sector and therefore see the assessment as an important tool in preventing an influx of foreign workers who end up in exploitative conditions. The employer's side sees the assessment as a bureaucratic process that more or less hinders the free flow of needed labour. What seems clear, however, is that the problems of meeting supply and demand in the cleaning and restaurant sector are indeed related to the structural problems of poor and unattractive employment conditions and the risk of a bifurcation of labour markets, where migrants fill up positions that no one else wants to take.

3.2 Exploitation leading to trafficking?

The perceived and real need for migrant labour is in many aspects at last partly ideological as much as it is practical. Another issue is whether there is a need to make structural changes in order to ensure that the employment contracts offered and the terms of work are reasonable and feasible. The structural changes for instance in the cleaning and restaurant sectors relate partly to the development during the recession in the early 1990s, when the status of less valued jobs decreased, unstable jobs became more common and income disparities started to increase (Salmenhaara 2008; see also Asa & Muurinen 2010).

The Finnish researchers Himanen & Könönen (2012), who have written on the subject of precarious work, are critical of the assessment of labour. In their view the assessment process has made it more difficult for the most vulnerable migrants in Finland (often the paperless) to legalize their status in the country. The legal position improves if a person whose application for asylum has been

rejected can obtain a work permit based e.g. on cleaning work.[23] Himanen & Könönen claim that in the cleaning sector the assessment process has not been successful in limiting the supply of labour, and that the structural problems of the cleaning sector cannot be solved by limiting this supply. (Himanen & Könönen 2012).

Sweden stopped assessing foreign labour in December 2008. As a result, the number of migrant workers in low-paid sectors of work has increased (Vogiazides & Hedberg 2013). Swedish studies have indicated that stopping the assessment procedure has led to a situation where migrant workers are ready to take a job offer in order to secure a work permit. As a result the buying and selling of work permits has been uncovered (LO 2013, 27−28; Vogiazides & Hedberg 2013), ultimately leading to the risk of trafficking for labour exploitation.

The bifurcation or dualisation of the labour market into precarious work and other forms of work is closely linked to an increased risk of severe forms of exploitation and trafficking. If trafficking for labour exploitation takes place in the context of general exploitation of migrant workers, the poorer the working conditions of the most vulnerable, the greater the risks and opportunities of extreme forms of exploitation. Instead of stopping the assessment of available labour in sectors such as the cleaning or restaurant sector, there is a need to ensure the possibility of employment of migrants already residing in Finland, especially including those in precarious positions (such as undocumented migrants). The amendments made to the Aliens Act in 2012 (449/2012), make it possible to issue a temporary residence permit to an irregular migrant worker i.a. if they have been subjected to exploitative working conditions or have been working as a minor (Chapter 4, section 52(d)). There are no public statistics available on whether this possibility has yet been used in practice. Further, amendments made in 2011 make it possible to issue a work permit to a migrant who has arrived in Finland without a valid residence permit but has secured a job based on the grounds that not issuing such permit could be unfounded or unreasonable (Chapter 4, section 49).

[23] In the case concerning the bus depot cleaning company, some of the workers received a work permit after their asylum claim had been rejected (Pre-trial investigation material 9186/R/61009/09; Vantaa district court 28 September 2012).

4. Recruitment of migrant workers and work permits

The number of migrant workers in Finland has increased in recent years, although exact statistics are lacking (Hirvonen 2012). This increase is related to conscious policies as was shown above: since the early 2000s, Finnish government policies have promoted labour migration as a solution to the perceived threats posed by the aging population, the decrease in the active labour force and future adverse economic development. Migrant labour has been portrayed as promoting prosperity, and policies have thus focused on enabling easy entry of wanted and needed migrants. The main emphasis has been on skilled migrant workers, who would fill the gaps in the national labour supply. (Ollus & Alvesalo-Kuusi 2012.) In reality, however, there has been an increase in migrant labour in low-skilled, low-paid and poorly valued employment (Asa & Muurinen 2010).

The recruitment of migrant workers in Finland can be divided into two main categories: recruitment of those already residing in Finland, and recruitment of workers from another country (for both high- and low-skilled labour). Those already residing in Finland may be in the country because they are, for example, asylum-seekers or students, because of family reasons, or because of some previous employment (see chapter 1.3).

Recruitment of labour may take place either through official sources (such as the employment services of the Ministry of Employment and the Economy or the European Employment Services EURES), through direct contacts, or through informal sources (Raatikainen 2004, 21). As we already showed in our previous report, recruitment of migrant workers can be divided into organised, larger-scale recruitment through various recruitment companies, and less organised, informal means of recruitment, especially through friends, family and acquaintances (see also Jokinen et al. 2011a).

The shifts in the global economy and production patterns have affected the economy and employment market also in Finland. As a result, there are divisions in the labour market, placing some groups of migrants in particularly vulnerable positions of misuse and exploitation. Recruitment plays an important role in how migrant workers gain access to the labour market and into which jobs they are hired.

In this chapter we describe the context in which recruitment of migrant workers into the Finnish labour markets takes place, and analyse the mechanisms of recruitment. We also discuss the work permit procedures and how the process may facilitate exploitative practices. We first describe the rationale of labour migrants wanting to come to Finland, and then outline recruitment taking place through recruitment companies as well as through family and friends. This is followed by a discussion of (illegal) fees that migrants may have paid to obtain work in Finland. We also describe some good practices with regard to recruitment. Finally the chapter outlines the work permit procedure, how permits may be used as a means of exploitation, and how this dissuades them

from disclosing their experiences of exploitation to the authorities when applying for an extension of their permit.

4.1 Recruitment mechanisms

4.1.2 Rationale for coming to Finland

Both the interviewed experts and the interviewed migrant workers in Finland emphasised that economic reasons are an important rationale for seeking work in Finland. This applies both to those coming from further away as well as to those coming from nearby countries, such as Estonians seeking work in Finland.

> If you get 2,70 [EUR] in Estonia and get offered eight [EUR] [in Finland], then it is a big difference. (Estonian/Russian worker)

The difficulties in getting a job in the home country, together with the prospect of finding a job in Finland that pays more than similar work in the home country, is naturally a major reason for seeking work in Finland. Interviewed migrant workers considered work in Finland as an opportunity to improve one's life and many are willing to compromise regarding the employment and the conditions, as long as they can earn more than at home. One of the employer's representatives noted with reference to certain countries in Asia, where migrant labour is common, that the readiness to leave one's family behind should not be moralised upon. In this person's opinion, and considering the options, Finland is still one of the better choices.

> They will leave in any case as they don't have work there, and if their standard of living will improve [by working in Finland]. Of course it is tragic, but their life over there is no walk in the park. I would rather see that they come here than go somewhere to Saudi-Arabia, where they will be beaten. In a way then, we in Finland offer them quite good conditions. If they leave anyway, why not come to Finland. We have work to offer them. (Employer's representative)

A representative of the trade unions was critical about the structural factors that cause labour migration, and the consequences of the desperation in which some of the migrant workers find themselves.

> It shouldn't be an end in itself, saying that you should move like mad. When it is voluntary, then it's fine. But if people are forced to move, that is if the push factors are stronger than the pull factors, if people are forced to move because they cannot survive in their own countries. When the situation is so desperate, then it may happen that the person takes whatever working conditions. (Trade union representative)

The interviewed representatives of employers seem to prefer to recruit a person who is a resident or citizen, or already residing in the country, who is well integrated, and who speaks the local language(s), or at a minimum, English. As explained by one employer, this is deemed to be easier, cheaper and simpler than the costly process of recruiting a specific person for a specific position

from abroad. This view was, however, contested by several references in our data. There are examples in the cleaning sector where workers with no Finnish or Swedish language skills, and possibly also very poor English skills, have been recruited, despite the official positions of the employers stating the contrary. This may of course be caused by the general lack of labour, or the unwillingness of available labour to work under the conditions offered, thus causing a situation where the language preferences cannot be upheld.

The lack of language skills causes problems especially when signing work contracts, but also in the carrying out of the actual work. One concern raised by the interviewed experts is workplace safety and the risk of accidents and mistakes if the employees do not speak or understand Finnish or English.

Inadequate language skills among migrant workers recruited to Finland have also been uncovered e.g. in the ethnic restaurant sector. In all of the convictions for trafficking for forced labour in Finland, the exploited employees have not spoken Finnish, Swedish or English (e.g. Helsinki district court 30 March 2012; Pirkanmaa district court 29 June 2012; Pirkanmaa district court 18 December 2012). The recruitment of workers with inadequate language skills may thus for some employers be a conscious decision, since it is easier to exploit a person who cannot make him/herself understood outside of the remit of employment.

4.1.3 Recruitment through recruitment and employment service companies

Recruitment companies and employment service companies can be divided into those that mainly focus only on recruitment of labour from abroad and/or from Finland, and those that in addition to recruitment also provide temporary (agency) workers to companies in need of labour and thus function as the employer of these workers. In 2011 the private employment service sector provided employment for approximately 100,000 workers in Finland. Calculated in full-time employees, the entire sector employs around 25,000 workers, with the majority of them (23,000) being temporary agency workers. About half of the members of the Private Employment Agencies Association (HPL) that provide hired personnel have used foreign workers. In 2010, 17 % of HPL member companies brought foreign labour to Finland.[24]

The interviewed experts point to different types of recruitment and employment services. The smaller companies often start with a person who has his or her own experience in the field, and who then sets up his/her own recruitment company, since the business is relatively easy to enter into. The large recruitment and staffing companies operate on a larger scale both doing actual recruitment and providing staff for client companies. Recruitment through recruitment and employment service companies can be divided into

[24] http://www.hpl.fi/henkilostopalveluyritysten_liitto/english/statistics_new.php (accessed on 11 August 2013)

two main forms: recruitment of migrants already residing in Finland, and recruitment from abroad. Migrants residing in Finland – especially if they lack language skills and higher education – may be recruited through various recruitment and employment service companies to the cleaning and restaurant sectors, but also to other forms of temporary work. Explicit recruitment from abroad can further be divided into shorter-term rented work and longer-term employment. The shorter-term rented/temporary agency workers often come from Finland's neighbouring countries (mainly Estonia). They work for some months and then go back to their home country.

The longer-term explicit recruitment of workers from abroad does not seem to be so common in Finland. The cost is high and the process is cumbersome and bureaucratic, and the mere acquisition of a work permit may take unreasonably long (see also chapter 4.2). One individual recruitment could cost up to 6,000−8,000 EUR, according to one interviewed expert. The labour demand for which foreign recruitment is practised should therefore be based on a longer-term, rather than short-term need. Such recruitment has so far only been applied to certain sectors and positions, such as health care staff (nurses, doctors), the restaurant sector (cooks) and certain industries (metal workers). The employers' representatives pointed out that their preference is to recruit for longer-term contracts, with the idea that the person who is brought to Finland should stay in the country, if not permanently than at least semi-permanently. Preference is therefore given to persons who indicate a willingness to stay longer. This is also the reason why explicitly recruited persons often first get a contract with the recruitment company, through which they are placed in the client company as rented staff, and only later move onto become the employees of the client company.

Interviewed experts overall emphasised the importance of ethical recruitment of migrant workers and the responsibilities of the recruiter. This includes ensuring that the employer is legitimate and trustworthy, and that the employment into which the workers are recruited is full-time and adequately remunerated. Interviewed employer's representatives pointed out that the examples of exploitation that have been uncovered in the recruitment sector (see e.g. Jokinen et al. 2011a, 67–69) should be seen as problems caused by unorganised employers and recruitment companies. Various middlemen and others who benefit from recruitment should not be identified with professional companies, according to employers' representatives. Attention should instead be paid to the unregulated and problematic actors in the field, who do not follow the agreed rules. In 2009 the Private Employment Agencies' Association (HPL) published its Rules for the recruitment of foreign employees for the personnel services sector. The rules function as a code of practice, with the aim of ensuring that the member companies of HPL undertake to act ethically and lawfully when recruiting foreign employees. They also aim to improve the status of foreign employees in Finland, and include issues such as the prohibition of recruitment fees, ensuring of adequate permits and skills, contracts, guidance, occupational safety and freedom of association. (HPL 2009).

All of the interviewed representatives of employers and employment service companies emphasised the challenges of finding reliable, ethical and skilled partners in the country of origin. Reliable partners lessen the problems of corruption and of ensuring that the workers are not charged illegal fees (illegal fees will be dealt with in more detail below). Several interviewed experts mentioned that Finnish companies have consciously avoided recruitment from certain countries due to the problems of corruption and the problems of ensuring that the recruited workers are not exploited at the recruitment stage. The further away the country of recruitment is, the bigger the risks with recruitment, as mentioned by one expert.

> You need to have good contacts there and local help. […] How do you ensure that someone is a reputable partner? You can't say for sure. I guess it comes with experience. And of course you need to interview the workers and ensure that no fees are charged. Create an atmosphere of trust with your own employees. […] Externally all may look good, but it is learning through trial and error. (Employer's representative)

As we showed in our previous report, in 2008 there was a major case of recruitment of Chinese workers for the cleaning sector, in which there were problems with the working conditions in Finland, in addition to which the partners and intermediaries in China had charged the workers various fees (Jokinen et al. 2011a, 67−69). This case illustrated the problems in ensuring that the workers are not given false information about the work, or charged illegitimate fees. It seems that since this case, the recruitment companies have tried to improve their recruitment practices. There is, however, a need for even clearer rules and regulations.

For example, a large recruiting and employment service company in Finland has received publicity in recent years through its recruitment of nurses and cooks from South-East Asia, with the recruitment of nurses starting in 2008 (HS 19 January 2008). In 2008, an investigative TV-programme revealed that the company's partner in South-East Asia had charged the recruited nurses illegal placement fees of thousands of euros (Ulkolinja 13 February 2008). As a result, the company changed its recruitment practices in order to ensure that no misconduct takes place. The recruitment is a multi-layered procedure, involving the travel of a representative from Finland to personally interview all potential employees and administer several skills tests. The company also emphasises to the migrant workers that no fees are charged during the process. (HEUNI expert meeting 2012.)

Representatives of employers, especially those that recruit migrant workers from abroad, highlighted in our interviews the need for comprehensive contractual clauses with the partner companies in order to rule out problems and to clarify responsibilities. Any legitimate fees should be clearly stipulated in the contracts, and if any additional fees are charged, this should be a ground for terminating the cooperation and for payment of damages. Once the workers have arrived in Finland, a close and open relationship to the employees is created in order to ensure that any complaints or problems are noted.

There are currently many efforts to improve the quality of recruitment practices of migrant workers to Finland. The Ministry of Employment and the Economy is running a programme financed by the European Social Fund to develop services for the recruitment of migrant labour. The programme aims to develop guidance to migrant workers and employers engaged in recruitment from abroad. A guide on international recruitment to Finland was published in 2012. The guide provides concrete information on how start a recruitment process from abroad, how to choose countries and partners, how to conduct interviews, how to organize work permits and how to settle in Finland.[25] (TEM 2012.)

The strategy for immigration 2020 includes a section on ethical recruitment (Valtioneuvosto 2013, 13). It is not clear from the strategy whose responsibility the preparation of guidelines on ethical recruitment should be and who should monitor their implementation. There is a need for further information and instructions on what is meant by ethical recruitment, how to take into consideration the situation in the country of origin (in order to avoid brain-drain), and how to prevent illegal/unlawful payments. It is also important to avoid bilateral recruitment agreements with countries with poor human rights situation or evident corruption.

4.1.4 Recruitment by relatives, acquaintances and word-of-mouth

The second major recruitment modality is through relatives, acquaintances and word-of-mouth. This applies especially to ethnic restaurants, where the recruitment of relatives and friends seems to be intentional and systematic. As one employer's representative pointed out, there is often a close relationship between the worker and the employer, such as the worker being a close relative. This raises questions about the rationale of the recruitment: is it for the purpose of finding needed labour, or to enable the entry into the country of a specific person? One interviewed expert mentioned a case where a person sought asylum in Finland and immediately went to work in a restaurant owned by his relative's restaurant. In addition, as we showed in our previous report, the close relationship between the worker and the employer may increase the worker's dependency on the employer, and thus his/her vulnerability to exploitation and abuse.

The recruitment of asylum seekers was mentioned by several interviewed experts. One interviewed police and border guard representative referred to cases that have come to the attention of the authorities which indicate that especially in the case of asylum seekers from some parts of Africa, a specific employment, often in the cleaning industry or restaurant sector, has been organised for them in Finland.

---

[25] As regards recruitment fees, the guide notes that even if a partner is reliable, it cannot always be avoided that those seeking employment pay the recruiter for the chance of securing an interview. The guide recommends that as far as possible, such situations should be anticipated through contractual clauses or fines.

Chinese and Vietnamese restaurants in Finland are examples of organised, systematic recruitment, often of relatives and acquaintances, or of people from the home village, recruited by relatives of the owner of the restaurant. Such recruitment was practiced in a case which lead to the second conviction in Finland for trafficking for forced labour. Two Asian restaurants owned by the same couple in Pirkanmaa had recruited several workers from Vietnam. One of the recruited workers said that his family and the family of one of the perpetrators were acquainted in Vietnam, and this is how he came into contact with the employer. The employers claimed that they had repeatedly advertised for open cooks' positions in Finland, but the vacancies could not be filled, so they instead recruited from Vietnam. One of the defendants travelled to Vietnam personally to recruit staff. The workers were promised 500 EUR a month for the first year, and the possibility that their families could join them in Finland after a couple of years. In the end, the workers ended up working for several years for low pay, being controlled by the employer and having little contact with the outside world. (Pirkanmaa district court 29 June 2012; Pre-trial investigation material 8330/R/55534/11.)

Both the interviewed migrant workers and employer's representatives confirmed that in the cleaning sector much of the recruitment happens through word-of-mouth. Other migrants recommend employers or companies to their peers and friends. Friends also recommend one another to employers especially if they have a good relationship with their superiors.

> We have a good reputation among employees. Information spreads this way and I think regardless of the nationality, the information moves at incredible speed … they directly give the number and [encourage] to ask whether there would be work available, and say that I gave the number and I recommend you. (Employer's representative)

> R: I've worked in three cleaning companies and they were all through my friends.
> AJ: So your friends recommend places?
> R: Yeah, they recommend places where they work and where the possibilities are. (Asian/African worker)

> The best thing is to use your acquaintances, then it's more reliable. Then that person knows whether to recommend that company or not. (Estonian/Russian worker)

Other migrants also provide information on what are good recruitment practices, and what to avoid.

> At first I advise them that when they are going to an interview and it takes place at a café or in a car then this is the first bad sign. If they don't conclude an employment contract then don't expect to be paid. At first ask for the office. (Estonian/Russian worker)

Various NGOs, but also churches and asylum centres also assist migrants in finding work, since it is in the interest of these organisations to assist their clients in getting employment. One interviewed expert mentioned that of

asylum-seekers in Helsinki, about 25 % work, most of them in temporary employment in cleaning, in delivering newspapers and in restaurants, especially pizzerias. Such employment is often acquired through other countrymen or acquaintances.

The role of middle-level management, who themselves have an immigrant background, as recruiters is evident from the interviews. The middle-level managers possess a lot of power: employers trust them and they may consequently have the right to recruit and hire staff. Often the middle-level managers hire workers from the same ethnic background as themselves. At the same time, the owner of the company may not be aware of exactly how the middle-level managers use their powers, and the possible problems related to this.

The role of middle-level managers in recruitment and as facilitators of exploitation was highlighted in many parts of our data. Some interviewed experts claim that the higher level managers are unaware of what is going on at the lower levels, while others say that the managerial level is well aware of the situation. There were also accounts of problems or direct discrimination between middle-level managers and workers of different ethnic background.

In the case of cleaners at a bus depot in the Greater Helsinki region, two middle-level managers were in a central position in recruitment. The company did not advertise for new posts but instead recruited workers directly from the reception centre for asylum-seekers, while others were relatives of the middle-level managers and were recruited directly from the home-country. The middle-level managers, themselves of foreign origin, possessed power and privileges, and were in addition to recruitment responsible for guidance and discipline at the work place and were used as interpreters between the owner of the company and the employees. The workers were paid just below the stipulated minimum wage, but there were accounts of extortion in connection with the extension of work permits (see chapter 4.2.2). The two middle-level managers as well as the owner of the company were all sentenced for aggravated extortion (in addition to other offences). The owner of the company claimed that the reason for recruiting the migrant workers was that she was helping people who wanted to have better living conditions, and as such, she was doing them a favour (Pre-trial investigation material 9186/R/61009/09, 276; Vantaa District Court 28 September 2012).

Our data did not provide information on the possible involvement of organised criminal groups in the recruitment of workers to Finland. There was one anecdotal account of a case where one migrant in Finland went for a job interview and disappeared without any contact to his family. This could be an indication that the person may have been kidnapped or fallen victim to a number of serious offences.

Box 1. Estonian workers

The recruitment of Estonian workers shows specific characteristics mainly due to the proximity between Finland and Estonia. Employment opportunities in Finland are advertised in Estonia, but also Estonian workers advertise their available labour. Newspaper advertisements functioned as the main source of information some years ago, but have now been replaced by the Internet. Advertisements on Facebook and other forms of social media were also mentioned. There are also companies that specialise in recruitment, offering both the possibility to place one's CV online, as well as open positions in various countries (see e.g.: www.cvkeskus.ee). Word-of-mouth is an important source of information. Friends and acquaintances with contacts in or experiences from Finland recommend employers. Many of the interviewed Estonian workers highlighted a preference for Estonian-owned companies in Finland. Workers may for instance look online for cleaning companies with Estonian names among management. At the same time, some of the interviewed workers said that Finnish companies might be better than Estonian ones: "an Estonian's favourite dish is another Estonian".

There is also recruitment through large recruitment agencies or employment service companies in Finland. The large companies in Finland usually have local Estonian contacts who recruit workers to Finland on rented labour contracts (an on-call contract with the right to refuse a work offer is common - the person takes temporary jobs in different companies, such as restaurants, and if a good match is found, then a longer fixed-term contract is made). One employer's representative mentioned that the short distance between Finland and Estonia is both positive and negative: the positive aspect is that the workers are flexible with regard to the employment they accept, but negative because the short distance to Estonia means workers may not commit for long periods of time.

> There are really good workers in Estonia, but Estonia is only 70 km away. The threshold to go back is really low. […] It is cheap to come here from Estonia. They don't risk anything and it doesn't take a lot of investment [on the worker's behalf]. Just pack your backpack and come here. Many have relatives or acquaintances they can stay with. … That's why it is not so critical for them what kind of contract they get, and if there is no work, they can go back. (Employer's representative)

4.1.5 Recruitment fees and other fees

The previous HEUNI report contained data that showed some examples of situations where migrant workers had paid recruitment or other fees in order to come to Finland (Jokinen et al. 2011a, 69−71, Jokinen et al. 2011b, 82−85). It is clear that the situation has now changed: there are many more accounts of recruitment or other fees having been paid at different stages of the recruitment and the search for work in Finland in both the restaurant and cleaning sectors.

Recruitment and placement fees charged by private employment agencies are prohibited through ILO Convention No. 181 on Private Employment Agencies of 1997. The Finnish law on labour force services prohibits the charging of employment services (Law on labour force services, Chapter 4, section 16) and the Finnish Criminal Code criminalises the charging of fees for employment agency services (Chapter 47, section 6, Employment agency offence).

A recent case in which fees were charged is that of the bus depot cleaning company. The company recruited migrant workers especially among asylum-seekers. Some of the workers testified that they had paid the middle-level manager 1,300 EUR to grant them a job in the company. Having receiving the job, the asylum-seeker could apply for a work permit. In addition to paying for the position, the workers paid fees to keep the employment and for accommodation. In addition, there was underpayment of wages and threats against the workers. However, the workers did not want to complain because they feared losing their jobs. In this case there was also evidence that some of the workers had been recruited for the work already in their home country, before travelling to Finland to apply for asylum. (Vantaa district court 28 September 2012.) This points to the organisation of (illegal) entry into the country for the purposes of employment, although the workers initially entered the country as asylum-seekers.

As one interviewed representative of the police and border guard explained, there are instances where illegal entry into the country or smuggling is combined with recruitment for a specific employment. In addition to entry into the country, the recruited person is also promised employment. Smuggling organisations are naturally interested in ensuring that their costs are repaid, and therefore a "package deal" including employment may be offered.

> NO: To what extent is the organisation of employment part of the activities of smuggling operations?
> R: For the professionals, who have elaborate systems, yes this is part of it. This is how they secure the money for themselves. It is 100 % certain that they don't take any risks that the [smuggled] person would perhaps get a job organised. If they can point to a job and then profit from it, then you earn double yourself and in this way secure the money. (Police and border guard)

The representative of the police and border guard argued that there is a clear structure or organisation in such cases, which is compounded if the organisers in the country of origin and country of destination are related and thus act in even closer cooperation. The combination of organisation of illegal entry and the organisation of employment and the charging of fees not only for smuggling, but also for employment, is a phenomenon which may increase in the future.

The phenomenon of charging excessive fees for securing employment in Finland is not uncommon, especially among Asian restaurants (see also Jokinen et al. 2011b, 115−117; 128−129).

> In my understanding they are connected so that if a person from China wants to come to Finland to work in a Chinese restaurant, this person has no chance of getting a job in any of the Chinese restaurants in Finland unless he/she pays the employer a handling fee. It seems that this is some kind of cartel or generally accepted [practice]. Everyone here knows that you have to pay this handling fee if you intend to work in Finland. The only difference is how much the employer charges in handling fees. (Police and border guard)

The "handling fee" for securing a job in a Chinese restaurant may fluctuate between 10,000−40,000 EUR according to the interviewed representative of the police and border guards. The fee is not in any proportion to any possible costs actually incurred for the recruitment and/or travel to Finland. Instead, the excessive recruitment fees effectively place the worker in a situation of debt. In one case of a Chinese restaurant operating in Finland, referred to by a representative of the police and border guard, a member of the restaurant owner's family recruited workers in China directly from a school for cooks. All workers were asked to pay 10,000 EUR in handling fees. They were also told in detail what to say at the embassy/consulate when applying for a work permit, and they then received flight tickets to come to Finland to work in the restaurant owned by the relative of the recruiter. The employees then started repaying the recruitment fee through their labour.

In a similar vein it may be argued that very low wages paid by employers can be seen as compensation for recruitment and hiring costs and thus as an indirect recruitment fee. In the two judgments on trafficking for forced labour in the restaurant sector in Finland, the employees received very low wages (e.g. 500−700 EUR/month the first years in the Pirkanmaa restaurant case, then gradually increasing). (Pirkanmaa district court 29 June 2012; Pirkanmaa district court 18 December 2012). In these cases the employees paid for the "costs" of recruitment through their labour and therefore their wages during the first years were so low.

Interviewed experts maintained that in the Philippines and China it is common to pay recruitment or placement fees very early in the recruitment process. Some placement fees are legal in the Philippines, but also many fraudulent and illegal fees are paid.[26] One interviewed expert noted that such fees place the migrants in a difficult position of debt.

> They are up to their ears in debt, when they have first paid some local recruitment company for even being listed as a migrant worker seeking employment abroad. Then they have borrowed the money and it is a debt of honour to repay it. We saw this in one case with cleaning workers. (Permit and inspection authority)

[26] http://www.poea.gov.ph/air/howtoavoid.htm (accessed on 11 August 2013)

There are also indications that asylum seekers may pay some fees to friends and acquaintances so that they organise employment e.g. in (ethnic) restaurants (see also chapter 5.2.2).

Another form of payment is the re-payment of part of the wages in cash to the employer, which we noted in our previous report (Jokinen et al. 2011a, 96−98). It seems that such re-payment of wages still continues. One of the interviewed representatives of permit and inspection authorities referred to cases where employers have charged fees from Estonian workers, arguing that the repayment is a compensation for recruitment costs or time spent assisting the worker to integrate into Finnish society. The monthly repayment may be for example 200 EUR for helping in taking care of e.g. banking and tax matters, with an additional monthly fee charged for the recruitment. Fees as high as 500−600 EUR were also mentioned by one of the interviewed experts.

> Then we have these younger employees, I have noticed this among workers in the cleaning sector. Estonians who have come here to work for a Finnish company, with an Estonian person [in charge] or as the manager. They have to pay some of their wages back. Some specific amounts, for which they are in debt because they got to come here to Finland. (Permit and inspection authority)

As was pointed out by Kask and Markina (2011, 283−283) Estonian labour facilitation companies commonly charge fees for uploading CVs online or other services, which according to Estonian law should be provided free of charge. Also some of the Estonian workers we interviewed had paid fees of 100 EUR to have their CV uploaded on these websites and to get recruited through one of these companies.

> R: I paid 100 EUR and sent my CV.
> AM[27]: Did they explain to you what that money was paid for?
> R: She said rent was expensive, and phone expenses were quite high, too. She was getting in touch with employees, so she had to pay phone expenses, and sometimes business trips as well. […] She promised to send me to Norway, then to Sweden to a fish factory. Then she called and said she would send me here [Finland) to do the cleaning. (Estonian/Russian worker)

Illegal recruitment fees are closely related to fees charged for receiving a work contract, which is needed for registration of EU nationals in Finland or for applying for a work permit if the person is not an EU/EEA citizen, and fees charged for receiving Schengen visas (see also 4.2).

Unreasonably high recruitment fees and the resulting debts are a major cause of making migrant workers vulnerable to exploitation and forced labour. Migrant workers often take out loans to be able to cover the recruitment fees, and in order to pay back, they are willing – or forced – to continue working no matter what the working conditions. Illegal and irregular recruitment practices

[27] Anna Markina

therefore directly increase the risk of exploitation of migrant workers in the country of destination.

Irregular recruitment practices, including the charging of illegal and excessive fees, are directly linked to trafficking in persons. To distinguish between "mere" exploitation and trafficking, the International Labour Organisation (ILO) has developed a set of operational indicators to assess whether a specific worker should be considered a victim of trafficking, or as an exploited migrant or a victim of deception and exploitation (ILO 2009). With regard to recruitment, the ILO identifies three conditions that may indicate a situation of trafficking: deceptive recruitment, coercive recruitment and recruitment by abuse of vulnerability. In addition to recruitment, the ILO has identified exploitation and coercion and abuse of vulnerability at destination as indicators of a potential situation of trafficking. Depending on how many elements are present in the situation, and how strong these elements are, an assessment may be made of whether a person is a victim of trafficking, or of exploitation.

The strongest indicator of deceptive recruitment is that the worker has been deceived about the nature of the job, location or employer. Other, medium-level indicators include deception about conditions of work, content of the work contract, housing and living conditions, legal migration status, travel and recruitment conditions, and wages (ILO 2009). Coercive recruitment include violence as its strongest indicator, followed by abduction, confiscation of documents, debt bondage, isolation, confinement or surveillance, threats against the victim (of denunciation, of violence), violence against the family, and withholding of the victim's money. Indicators of recruitment by abuse of vulnerability include abuse of the worker's difficult family situation, illegal status, lack of education or language, or lack of information, control, providing the victim with false information about the law, the attitudes of the authorities, or successful migration, psychological and emotional dependency, personal situation, as well as the general context of the person. (ILO 2009.)

Following the ILO model, indicators of deceptive recruitment can be found in our data. These are mostly related to medium-level indicators such as deception about terms of employment, wages and working hours which differ from the promises made during the recruitment process. Also vulnerability of the worker's difficult position in the home country (e.g. debt and family situation) may have been exploited when the job offer was made. The ILO indicators, however, do not include fraudulent, excessive or illegal payments as an indicator of possibly deceptive or fraudulent recruitment. As indicated above, however, it is clear that such fees increase the risk of exploitation of migrant workers. The higher the debt, the more vulnerable the workers are to exploitation and trafficking.

4.2 Work permits

It has been established that so far in most cases the identified victims of labour trafficking and persons who have encountered labour exploitation in Finland

have possessed the necessary workers' residence permits or other legal grounds for staying in the country (Jokinen et al. 2011a).[28] The current permit system requires that a migrant wanting to work in Finland must first find a job and then apply for a first permit which is valid for a year after which an extension permit must be applied for. Before granting an extension permit, the authorities check whether the promised terms of employment have been met and whether the migrant has earned enough to cover the minimum income in his/her sector of work.[29] Also the assessment of available labour is made in many sectors (see chapter 3.1).

We have highlighted the different problems and challenges related to the process of issuing work permits in our earlier study and will not thus go into such detail here (see Jokinen et al. 2011a, 73−75). Instead we have approached the question of work permits from the point of view of recruitment, prevention and the desperation that many migrants feel about needing to stay in Finland at no matter the cost.

4.2.1 Recruitment and work permits

Getting a work permit is a very lengthy process for both the employer wanting to recruit a migrant worker and for the workers themselves. After amendment of the law, the migrants must now apply for the permit in person,[30] which means that employers cannot apply for the permits on their behalf (Aliens Act 631/2011). The application must be made at the Finnish embassy/consulate where the applicants are also interviewed. Applying for the first permit is also quite expensive, since it costs 500 EUR.[31] It was mentioned by several experts that this is potentially a risky endeavour in terms of costs for an applicant who has to finance his/her travel to another country to visit a Finnish embassy/consulate and pay the fee of 500 EUR for the permit when they cannot be certain that they will actually receive the permit in the first place. If the employer pays for such expenses, the employee is already in debt when coming to Finland, which makes them especially dependent on the employer and potentially exposes them to exploitation (e.g. Jokinen et al. 2011a). On the other hand if the employer does not help cover such costs, it is quite common that prospective migrant workers borrow money from family, friends or the bank, which again causes pressure for the migrant worker to pay back the debt as soon as possible.

---

[28] This does not apply to EU/EEA-citizens or Swiss citizens who do not need work permits to work in Finland.

[29] The minimum wages are 1134 EUR/month if there is no collective agreement in the sector of work. Otherwise the minimum income is calculated based on the sector-specific collective agreement. For example, the minimum in the restaurant sector is 1558 EUR/month and the minimum for cleaning work is 1340 EUR/month. (PAM & MaRa 2012; PAM 2011.)

[30] http://www.migri.fi/working_in_finland/an_employee_and_work/residence_permit_for_an_employed_person/filling_in_the_application (accessed on 11 August 2013)

[31] http://www.migri.fi/services/processing_fees (accessed on 11 August 2013)

According to the interviewed experts, getting the work permit may take up to 6−9 months. There is currently no maximum time limit how long this may take. Interviewed employer's representatives mentioned that this is a major problem for the employers interested in hiring migrant workers. The same problems exist when the worker applies for an extension permit. One interviewed employer described the permit confusion as a jungle where no one provides the employer with information on how long a person can continue working with the first permit when they have applied for an extension, or whether their application might have been refused.

> One problem is […] that when their resident permit expires and they bring us the certificate that they have applied for a new permit before the old one has expired. Then according to law they have the right to work in Finland, but for how long? […] Getting a new permit may take half a year, 8 months, a year. How can we know if this person has gotten a negative decision? We have made this decision after asking from a lot of different places and getting a lot of answers that such a certificate is valid for us for half a year. After that you have to bring a certificate with a new date that the issue is still ongoing. Like I said, this is quite a jungle. (Employer's representative)

According to law, the first permit is valid until a decision on the extension permit has been made, if the application has been filed before the first permit has expired (Aliens Act 631/2011). Similarly, the first permit is valid even if the application for an extension permit has been refused, if you have appealed this decision within 30 days of its issuance. (Ibid.). A work permit issued by another EU country is not valid in Finland.[32] This practice had, however, caused confusion for some of the interviewed employers.

4.2.2 Exploitation with work permits

Both experts and victims of exploitation have highlighted the potential for exploitation when it comes to work permits (see also Jokinen et al. 2011a, 74). Because the residence of migrants in Finland in these cases is dependent on them having a job, they are very much dependent on their employers who seem to exploit this dependency quite blatantly.

> A residence permit is a lever. If you don't have permits, if you don't do as you're told, then you're out of here. I think it's like a shackle. (Police and border guard)

> They are stuck with those companies, because in order to live here you need to prove that you are still working, so the employer is their only way to stay in the country. (Asian/African worker)

---

32 http://www.mol.fi/mol/fi/01_tyonantajat/02_rekrytointi_ulkomailta/03_ta_muistilista/index.jsp (accessed on 11 August 2013)

Even though most migrants have such work permits that do not tie them to a certain employer and only to certain sectors, there is some confusion about this.[33] Based on our interview data, migrant workers are sometimes given false information about their work permits by their employers, for example leading them to think that they cannot change jobs even within the same sector. It is also important to note that if migrant workers who have sector-specific work permits want to change jobs between different sectors, they need to apply for a new work permit which again takes time and patience. It may in some instances also be unsuccessful, as was explained by a migrant service provider.

> The immigration police may demand, because their first residence permit was based on this particular company, that when they went to renew they are expected to come with a contract from that same company. They may be denied or the whole renewal of their residence permit may be dropped because of the change of company. (Migrant service provider)

Finding a full-time job that is not below the minimum income level for getting an extension permit is not necessarily very easy and the exploitative employers know this. There are several examples in our data of how the employers for example make the migrants work up to 12 hours a day, even 7 days a week, but only pay for 37,5 hours a week without any compensation for overtime or extra pay for evening, night and weekend work (e.g. Pirkanmaa district court 29 June 2012; Pirkanmaa district court 18 December 2012). This practice was mentioned as being common especially in ethnic restaurants, including kebab restaurants and pizzerias. It is, however, almost impossible for the permit authorities to catch these kinds of cases when everything looks to be in order on paper.

> Of course we see, if we know that some restaurant is open seven days a week from lunch time until late in the evening. And every month the wages are exactly the same minimum as in the collective labour agreement, then we get suspicious that is this person really always just working in the morning shift? Then we contact the labour inspectorate that can check this out and see if everything is okay there. (Permit and inspection authority)

Exploitation with the number of working hours seems to be another variation of this. Many migrants seem to struggle in getting enough working hours in the week since they have flexible working hours in their contract (see also chapter 5.1.3). If the migrants do not get enough working hours, they do not get an extension on their work permits because the minimum income has not been met.

> The employer knows that their residence permit is dependent on their job. If they go somewhere to complain, then they don't get enough hours and

[33] According to the Alien's act, work permits for migrant workers are usually sector-specific, and workers may freely change jobs within the same sector (see also Jokinen et al. 2011b, 90–91).

> then certain authorities start to inquire whether you have a valid visa for being here. (Trade union representative)

A matter of concern is that interviewed migrant service providers mentioned that there are also migrants (including undocumented migrants) who work for free for months hoping to get a work contract, so that they can apply for a worker's residence permit in the first place. Such people are thus working without a contract or even wages just so that they could first get a contract and then apply for a residence permit.

> The situation is sad, because the person will need a work contract to apply for the work permit so they are willing to do anything in that sense so that they will get the work contract or to apply for the work permit. So it doesn't matter for how long the person has to stay in that situation just hoping that well, I will get a work contract and then if I apply for the work permit then I can look for other areas within the job. So most of the ethnic employers they are able to take people without a work permit, because there is an immigration demand, this contract before giving you the work permit. (Migrant service provider)

It was suggested by some experts that there are some instances where the migrants have had to pay for work contracts, so that they could apply for a work permit. It is unknown whether persons buying contracts ever work for the employers issuing such job contracts. It was also mentioned that asylum seekers who have had their application rejected are also potentially a very vulnerable group to such form of exploitation. Migrants wanting to stay in Finland may thus need to pay for getting a job (which can be considered also a variation of a recruitment fee), work for free before getting a job contract, or have to agree to lower wages or returning some of their wages back to the employer in order to pay back their debt for getting a job and subsequently the work permit.

> In a way, this is encouraged by the system. Getting the work permit is conditional on having a job first. So when you are told that you have to have a job first, then people go to get a job without a work permit. This is what the authorities are encouraging. Because of this system, people end up working without a permit and with less pay or bad conditions. (Migrant service provider)

According to interviewed experts, there are at times cases where the papers indicate that a person has worked for months or even years without a work permit. In such cases, both the employer and employee are fined for a work permit offence. Issuing a work permit is a separate matter, and so it does not necessarily mean that the person who has worked previously without a work permit would have their application rejected, according to an interviewed member of the police and border guard. Similarly also in Sweden, there have been cases where migrant workers have had to pay for work permits (LO 2013, 27−28; Vogiazides & Hedberg 2013).

4.2.3 Disclosing exploitation when applying for an extension permit

When it comes to prevention of labour exploitation and trafficking for forced labour, it is highly problematic that the victims of such exploitation rarely disclose their experiences to the authorities when applying for an extension to their work permit after having worked in Finland the first year. The application for an extension permit is submitted to the police in person. This could be an opportunity to disclose exploitation encountered. It is, however, not necessarily in the best interest of the exploited migrant worker to report any of the problems they have with their employer, such as having to return part of their wages in cash to the employer, because they would be risking their residence permit and thus the ability to stay in Finland.

The interviewed police and border guard representatives openly admitted that the migrants rarely trust the authorities with such information unless they are ready to quit the job altogether or are at the limits of their strength. Migrants are often afraid of the authorities and gaining trust is difficult and time-consuming.

> We don't hear about these cases [of exploitation]. We can see what we can check, the total wages from their bank statement that is how much they're paid and the job contract, what it reads. We don't know how much the person works in reality. They don't tell us about that. For them, getting the residence permit is more important than telling [us]. Only a very small proportion of people who are already totally psychologically and physically exhausted come and tell us that they have been exploited. (Police and border guard)

The language issue is another major hurdle in disclosing experiences of exploitation when applying for an extension permit from the police. Many victims of the most serious cases of exploitation that have been detected by the authorities do not speak any languages other than their own mother tongue. It was explained by an interviewed police and border guard representative that in principle the police can offer services in English, Finnish and Swedish, and if a person is unable to understand any of these languages, they should bring their own interpreter when submitting a residence permit application.

> When you come to submit a residence permit application, you yourself must bring an interpreter if you don't understand any of these languages. So they themselves must bring that person who explains what they want at the counter. (Police and border guard)

Only if the police decide that they need to interview the person in more detail about something in their application, i.e. carry out a permit investigation, will they provide a registered interpreter for the hearing. It is of course very problematic if the migrant worker's employer acts as an interpreter in a situation where the worker is applying for the extension. This has been also recognised by the immigration police as a red flag of a potentially problematic situation.

> Many times these [employers] want to come to interpret, but we always take an outsider, so that we can make the situation as objective as possible. (Police and border guard)

Instead of disclosing their experiences to police or other authorities, many migrant workers facing exploitation seem to be willing to suffer the poor working conditions and terms of employment for five years, after which they can apply for a continuous residence permit (see also Jokinen et al. 2011a, 74). This strategy also came up in the interviews with migrant workers.

> These people stick to the job and therefore, they shut their eyes to a lot of things. Everybody hopes that if they suffer for 5 [years], get a residence permit for themselves, and they will have everything going in another way. (Estonian/Russian worker)

Several of the interviewed victims mentioned that they are surprised that people who have a criminal record or have a poor financial record are allowed to establish their own companies and employ workers who then end up in difficult situations because of poor or missing wages. It was mentioned in the expert interviews that perhaps the authorities should more rigorously check the backgrounds of those who seem to mainly hire foreigners. As regards the issuing of work permits, the interviewed authorities said the background of the employer is usually checked in detail only in very suspicious cases and even then they have the right to check only certain things from registers (e.g. tax debt, credit problems, insurance). The authorities can see whether the employer has been banned from business operations, but other potentially questionable practices of the employer are not necessarily identified if the worker does not disclose this. Such details do not necessarily affect the decision whether or not to grant the worker a residence permit.

> If you have a tax debt or an employer has committed crimes, it does not necessarily mean that you can't hire someone to work for you. Of course if you have a business ban, then of course not. But otherwise, if you have for example been found guilty of human trafficking, but all the terms of employment are okay in the work contract, then sort of we don't have grounds [to refuse the application]. If all the documents submitted look okay, then we have to grant the permit. Of course we investigate and clarify. It's not like working in an assembly line, but we must familiarise ourselves that everything is in order for granting the permit. (Police and border guard)

The authorities do keep some records of suspicious employers, but if the employer corrects their practices on paper, there is no reason not to issue a work permit for a migrant they employ if the terms of employment seem proper on paper and no other documents (like the migrants' bank statements) prove otherwise.

Of course it is very problematic from the point of view of the worker that if such details are identified, the worker's application is refused, but nothing happens to the employer who has exploited the worker in the first place. It is

thus the victim who suffers while the employer can continue their exploitative practices and recruit new people to be exploited (see also chapter 6.2.3). This is of course a very questionable consequence of prevention. It would therefore be important to identify such cases when the first permit is under consideration, and not when the worker is already in Finland and has already been subjected to exploitation. As a preventative action it would also be important to give the workers information about the Finnish standards and terms of employment when the extension permit is applied for.

From the point of view of prevention, encouraging migrants to report the exploitation they encounter would be very important. Why, however, would the migrants disclose the abuse if all they can be offered is rejection of their application for a residence permit and they lose their job and right to stay in Finland?

5. The grey economy and exploitative practices in the cleaning and restaurant sectors

The exploitation of migrant workers usually takes place within the larger context of the grey economy and clandestine practices which exist in many sectors. The tax authorities define the grey economy as a practice of organisations to abdicate their legal responsibilities such as payment of taxes, obligatory pension-, accident- and unemployment insurance, or custom duty fees.[34]

A typical example of the manifestation of the grey economy is irregularities in the payment of wages, e.g. the payment of wages without tax (undeclared labour), wages below the minimum wages, non-payment of obligatory extra pay for evenings and weekends, or the payment of wages for only a certain number of hours although the worker worked many more hours. Especially in the ethnic restaurant sector there may be many more workers actually working in the restaurant, while only a few persons are registered as official employees.

This chapter first presents problematic practices in the cleaning sector, including views first of the employers and then of the migrant workers themselves. In the latter part of the chapter we present exploitative practices in the restaurant sector, especially ethnic restaurants. The focus, however, is on the cleaning sector, since the most of our interviewees discussed this sector. This is due partly to the fact that we could not locate and interview employers of ethnic restaurants, or other (largely unorganised) restaurant entrepreneurs.

5.1 The cleaning sector

In this chapter we first contextualise the exploitation taking place within the cleaning sector in terms of extreme competition and sub-contracting chains, and analyse the factors that facilitate exploitative practices. We then examine in particular the experiences of migrant workers, with a focus on the different contracts in use and how migrants struggle in balancing their either too small or too big work load and scale of work.

5.1.1 Extreme competition

In Finland, the grey economy, i.e. undeclared turnover, wages and revenue in the real estate, cleaning and security sector amounts to almost 26 million EUR annually, with most illegal practices taking place in smaller companies. Undeclared wages amount to almost 15 million EUR. (Hirvonen et al. 2010, 37.) The illegal practices include e.g. use of undeclared and undocumented workers, underpayment of wages, non-payment of obligatory extra pay for

[34] http://www.vero.fi/fi-FI/Tietoa_Verohallinnosta/Harmaan_talouden_torjunta/Harmaan_talouden_torjunta(14465) (accessed on 21 August 2013)

weekend, evening and overtime work, as well as overlong working days with no rest days in between (see e.g. PAM 18 May 2012; Riihijärvi 2013, 25).

The cleaning services, especially in municipalities, have increasingly become the focus of competition. As the cleaning companies aim to increase their profits, the result is a reduction in the time and cost allocated to the work to be performed, and thus a reduction in the level of wages of cleaners and a tightening of their working conditions (Tarkkonen 2010). As in the restaurant sector, the wages and personnel costs make up the main share of the costs of cleaning services. It is thus evident that if savings are needed, they will be taken from the workers' wages, and thus also from how the work is dimensioned. As a result, the time allocated to carry out certain cleaning is often underdimensioned in order to press down the overall cost of the cleaning. This problem of underdimensioned cleaning contracts was highlighted by the interviewed trade union representatives and also by one employer's representative.

> It's true that at this moment big cleaning companies make bids at prices that are impossible to fulfil. (Employer's representative)

Several interviewees mentioned that the cleaning services are nowadays structured so that the basic cleaning is often offered at cost, which creates little or no profits for the cleaning company. The profit is instead made through offering additional elements, such as special cleaning or even security or reception services.

Another problem identified by our interviewees is that those buying the cleaning services often focus only on the price, and do not always fully comprehend what exactly is included in the bid (especially if the basic bid offers only very basic services). Several experts questioned this practice of always preferring the cheapest bid instead of assessing also other elements.

> The cheapest bid is always the one where the area to be cleaned has been reduced. The one who accepts this offer usually sits somewhere else than where the cleaning is carried out. The person just looks at the bottom line. (Trade union representative)

Another trade union representative blamed the employers for the cheap bids, which place undue pressure on the employees, but also blamed those who choose the cheapest bids, thus placing employers in a position where the cost-cutting is ultimately taken out of the wages of the workers.

> I claim it's the greed of the employers. The wish to do the work as cheaply as possible. The work and the targets are put up for bids a lot. Often the cheapest bid is the best and it's taken. But where does the cheapness come from, the employer seeks savings from the employee's wages. The other permanent costs are so permanent that the only flexibility is the wages. When you pay less you save and get contracts. (Trade union representative)

Also the employers' side calls for more responsibility among those buying cleaning services. Those responsible for the cleaning contracts should understand what they buy and what they pay for.

> The clients should understand that you need to buy also on other [dimensions] than the price. If you want quality, it's worth paying more. When there's more money, it has positive effects also on the workers' working conditions and level of wages. […] A huge problem is that the procurement expertise among customers is insufficient. They don't understand what they buy, what they want to buy, at what price that can be offered. That's a major problem (Employer's representative)

This view is confirmed also in a study of the cleaning sector, according to which especially public organisations are largely still unable to consider factors other than the price in tenders and procurement (Tarkkonen 2010, 79).

A major structural change in the cleaning sector has occurred also with regard to when the work is carried out. Cleaning work is no longer carried out during the day or evening, but often in the mornings, in the evenings or at night.[35] This places a burden on the cleaning companies, when customers want the cleaning to take place exactly at the same time, meaning that a large labour pool is needed for these few hours. This affects the working contracts and working conditions of the cleaning workers, as we will show in subsequent chapters.

5.1.2 Subcontracts and long chains

Another issue that emerged in the cleaning sector is the use of subcontracting chains. The practice resembles that in the construction sector (Lith 2010b), where the winner of a tender may subcontract parts of the tender to another company, which in turn subcontracts it to another one. Problems arise when the subcontractors provide services clearly under a reasonable payment level, again affecting the wages and working conditions of the employees ultimately carrying out the work.

The provision of overly cheap deals seems to be a practice that in particular small cleaning companies owned by immigrants in Finland engage in. This theme was often mentioned in the expert interviews.

> When there is a big cleaning company and they sub-contract the jobs to immigrant-owned cleaning companies where there is often only one person, the owner of the company is the cleaner. So he is getting a sub-contract and so they are reducing the prices in this way and the big company gets a certain margin and then the one person who has his own company gets a smaller amount and then maybe again saying that ok I get

[35] However, cleaning work has traditionally also been carried out at night, but night-time wages are more expensive for the employer. Early morning work (6–8am) is cheaper for the employer because no extra wages have to be paid.

> as much and as many contracts as I can. Suddenly he is having too many and then again sub-contracts to someone else, you can do this and I can give you this. Again the price goes lower and lower. (Migrant service provider)

Several of the interviewed migrant workers had experienced similar situations where the work was contracted on to the next company in the chain, minimising the wages of the migrant workers at the lowest level of the chain.

> He passed the work on. But he already took a bit of the money from in between. Then the next one took some money. There was nothing left for the workers. Everybody wanted a big bite out of it. (Estonian/Russian worker)

A trade union representative mentioned a situation in which the main contractor sold the work to a subcontractor. The workers did not know that the service had been sold to a subcontractor, and ended up receiving no wages although they in effect continued to carry out the work. In addition to the poor wages and working conditions at the end of the subcontracting chain, there are also problems of the main contractor not knowing who ultimately carries out the work. An employer's representative had negative experiences using subcontractors in cleaning work. Despite strict agreements regarding the conditions of subcontracting and lists of workers to be used by the subcontractor, there were instances when the subcontractor had further subcontracted the work to another company.

> There were chains [of subcontracts]. We couldn't know who were working there or how wrong they were treated. (Employer's representative)

This particular employer consequently decided to stop using subcontractors, as they could not be assured of the conditions under which the workers were performing the tasks. Another company that decided not to use subcontractors is HOK-Elanto, a major co-operative corporation (see Box 2). One of the reasons is the major challenge in ensuring proper oversight of such subcontracting chains.

Box 2. HOK-Elanto

The Helsinki Cooperative Society Elanto (HOK-Elanto) is a retail co-operative owned by 560,000 customer-owners in the Greater Helsinki region. HOK-Elanto operates in the Greater Helsinki area with 300 stores, and is one of the largest restaurant operators in the Nordic countries (http://www.hok-elanto.fi/index.php?id=145). The cleaning of all the stores has been outsourced to cleaning companies. As of the beginning of 2013, HOK-Elanto has decided that none of the contracted cleaning companies are allowed to use subcontractors in HOK-Elanto's stores. The reason for this ruling is that during earlier occasional inspections, instances were identified in which the cleaners actually working in the stores were not listed among the employees of the subcontractor. In addition, there were problems with the documentation required by the Act on the Contractor's Obligations and Liability when Work is Contracted Out. Due to these problems, HOK-Elanto decided to completely ban the use of subcontractors. (PAM 17 August 2012.)

The Act on the Contractor's Obligations and Liability when Work is Contracted Out (1233/2006) stipulates that the contractor is obliged to check certain aspects of the subcontractor before entering into a contract.[36] The obligation to check these elements of the subcontractor only covers the first level of a contract, i.e. the contractor is not obliged by law to also check possible subsequent subcontractors hired by the first subcontractor (see e.g. Hirvonen et al. 2010, 5). There has been discussion on whether or not the contractor's liability should in fact cover the whole subcontracting chain, with references made to the Dutch model that covers the whole subcontracting chain (HS 1 May 2013). Such a model was called for also by one of our interviewed employer's representatives. Another interviewee felt that it would be important that at least the chains are as short as possible.

> As short chains as possible - that would be good in terms of oversight. Then we would know who implements the contract. The contractor is responsible for the functioning of the chain in the end. (Permit and inspection authority)

The Occupational Safety and Health authorities have special inspectors who check these documents and who can give so-called negligence fees if there are breaches (in line with sections 9–12 of the Act). One interviewed permit and inspection authority representative mentioned that such a fee can be ordered for instance if the cost of the subcontract is severely underdimensioned. However, it is sufficient that the subcontractor provides documentation regarding what collective agreement is followed in the payment of wages, but no proof of the

[36] These include proof of registration with the tax authority, with the Employer Register, and the VAT Register; provision of an extract from the Trade Register; a certificate of tax payment or of tax debt; certificates of pension insurances taken out and of pension insurance premiums paid; and an account of the collective agreement or the principal terms of employment applicable to the work.

actual payment of wages – or the amounts – is required by law. In practice, then, the employer may pay the worker wages that differ from what has officially been announced. Such misuse may be intentional but it may also be unintentional and caused by ignorance. This was pointed out by one interviewed permit and inspection authority representative.

> The most important is that does the employer of the subcontractor understand him/herself what s/he has informed us. One should add a paragraph that the subcontractor should clarify what collective agreement is followed and how much wages the workers are to be paid. What does this mean. (Permit and inspection authority)

An employer's representative mentioned that they had required documentation beyond what is demanded by law, but that all documentation is easy to falsify and does not provide any guarantee of what happens in reality. Of the 700–900 annual inspections carried out by the Occupational Safety and Health authorities inspectors, in about 50 % there are some problems with the documentation (Harmaan talouden selvitysyksikkö 2012, 5). There is also a website (tilaajavastuu.fi), which provides a service for companies wanting to check their subcontractors. The website provides the necessary information for a fee, and companies can also sign up on the website as "trustworthy partners". However, this website was also criticized by an employer's representative, since a green tag indicating that the company is a "trustworthy partner" does not guarantee that everything is in fact in order.

5.1.3 Zero contracts and part-time work

The cleaning sector employs many migrant workers particularly in the Helsinki area. The cleaners are often third-country nationals, particularly asylum seekers and students. (Riihijärvi 2013, 25.) There were many references in the expert and migrant worker interviews to the different types of work contracts and the amount of work listed in them. Many migrant workers seem to struggle with different variations of part-time work contracts and the lack of enough working hours to be able to earn enough money for their up-keep. This seems to be especially true when it comes to different branches of the service sector where part-time work is quite common in general (TEM 2013).

As has been already established above, for example in the cleaning sector the cleaning companies have had to allocate their work force more carefully due to increased competition over prices, so that they can manage to navigate between the number of commissions and the number of employees as flexibly as possible. This has been done by hiring part-time labourers with different, more flexible work contracts. (Verohallinto 2013, 3.)

Lilja and Savala (2013, 18–19) note that 39 % of employment contracts in the hospitality, restaurant and leisure sector were part-time contracts in 2007–2010 and that the proportion of part-time contracts has increased in recent years. The same study concludes that only 6 % of work contracts in the cleaning sector were part-time (Ibid.) However, the data concerning cleaners used in the

calculations does not include the types of contracts that are hour-based (wages are paid based on the number of hours worked) and only includes data on cleaners with fixed monthly wages (Verohallinto 2013, 3). Thus the proportion of part-time contracts used in the cleaning sector is much higher in reality.

Huotari and Pitkänen (2013) surveyed temporary agency workers and their employers in a study commissioned by the Ministry of Employment and the Economy. Among the surveyed workers (N= 3,024), 16 % had so-called zero contracts where the working hours were not fixed and no minimum amount of work was guaranteed in their work contract. 69 % of the workers with such contracts worked for 0–20 hours per week. Such contracts were most common among persons aged over 60 or under 20 years of age. (Ibid., 33−34.)[37] Unfortunately, no mention of the ethnic background or migrant status of the respondents can be found in the study. It would be interesting to see whether such contracts are more common among migrant workers than among Finnish citizens since there are many signs of this in our data.

In particular migrant workers working in the cleaning sector may have work contracts that list their hours of work as being from zero to 37,5 hours a week or from zero to 20 hours a week, for example. So called zero contracts demand ultimate flexibility from the workers; they can never be sure how many hours they work in any given week. They could work full hours one week and have no hours in the next. It has also been decided that no work permits are to be granted to a person who only has a zero contract. In fact work permits are granted to migrants working from outside the EU/EEA countries in the cleaning sector only if they have a full-time (37,5 hours a week) and continuing contract and their wages are aligned with the collective labour agreement within that sector (Uudenmaan ely-keskus 2012). Migrants with so-called zero work contracts are thus usually already in the country on some other grounds e.g. as students or asylum seekers. However, there have been cases where the working hours of migrant workers have been decreased and their contracts have been changed from full-time to part-time contracts.

Interviewed trade union representatives commented that zero contracts make the migrant workers vulnerable to exploitation and bind them to employers in many ways. They listed many problems related to these types of contracts.

> R1: Work is flexible, if there's no work, there's no obligation to offer them any and when there's work, then it's done. There's no obligation.
> R2: If you're a nasty person, then your hours are zero.
> R1: If you have a full-time contract and you're sick, then the employer must pay your wages, but when you have a zero contract, then some one else can do your job instead and the risk is kind of on the employee's side.

[37] Students and older (e.g. retired) persons can of course benefit from the ultimate flexibility of the zero contract, as it enables them to take as much or as little work as their life situation permits. Unfortunately, for many migrant workers the zero contracts are the only possibility for gaining some employment. In their situation, the flexibility is not a choice, but it is imposed on them due to their more vulnerable position (see e.g. Könönen 2011).

> R3: I think it's exploitation if you take a large number of employees working small total hours, so that they're all at the borderline of their livelihood. This causes them to fight for the extra hours with each other. Because they have nothing else, they're negatively bound to the firm. Employers don't want few people with full-time contracts so that they could make a living. (Trade union representatives)

As shown in the interview quote, there can be many benefits for the employers if they use zero contracts. They can benefit from the flexibility of contracts in many ways especially with regard to fluctuating amounts of work. It is also easier for the employer to organise the work among part-time workers when the biggest need for cleaners is early in the morning and late in the evening. The use of zero contracts instead of fixed part-time contracts was, however, recognised as being unfair by one of the interviewed employers' representatives as well.

> I think that 0–37,5 [contract] is serious exploitation. You oblige the worker to be in constant readiness. You may have zero hours this week and then Monday you're called to come to work today. Of course a person must have other life – otherwise you'd be driven crazy. (Employer's representative)

According to the interviewed employer's representative it is better to issue a contract with fixed amount of hours, even if that amount would be quite low, than to use a zero contract. Additional hours could be offered to people with fixed part-time contacts if there was more work in one week than expected or one of the workers is on sick leave.

It was commented further by another trade union representative that cleaning companies have such heavy competition over contracts that they make use of different types of contracts in order to maximise their profits.

> It's cheaper for the employers. There's three, four big cleaning companies that compete with each other, they play around with these work contracts. When the cheapest [bid] wins. Zero-contract people can work full-time for three weeks with these contracts and then have nothing. (Trade union representative)

According to the interviewed employers, the system of zero contracts is caused by the demands of the buyers of cleaning services. The buyers want cleaners to clean offices or stores early in the morning when they are empty or alternatively in the evening after the premises have been closed. Also according to trade union representatives, the busiest hours for cleaning are in the morning between 6−8 am when a lot of cleaners are needed, but the need for labour is considerable smaller during the day. Doing the work in the morning between 6–8 am is also the cheapest option in terms of wages, since no evening extra pay need be paid to the workers.

Some sectors of cleaning are especially common among migrant workers. For example, the cleaning of grocery stores or cleaning of passenger ships are sectors within the over-all cleaning sector that in general employ many migrant

workers. Often such jobs are the most precarious ones: they have exceptionally short working hours and the work may be heavier than office cleaning, for example. An interviewed employer commented that Finns are not willing to work just for a few hours in the evening. The length and timing of the cleaning of stores is defined by the grocery stores themselves. They expect the service counters and the premises to be cleaned between 8–10 pm in the evening or between 6−8 am in the morning. An interviewed employer explained that in order to fill that need, a cleaning company may have to employ up to eight people for that two hour period. It is not possible to have one person clean the store for 7,5 hours instead. It was the experience of both interviewed experts and migrant workers that such cleaning jobs are the easiest to get in the first place.

> I think the migrants find themselves in those areas, because they don't have other options. Those jobs are relatively easy to get. (Asian/African worker)

An interviewed employers' representative placed some responsibility also on the migrant workers themselves who are willing to sign such zero contracts.

> Is it already a bit stupid of the worker that they start to work with this zero contract? I wouldn't dare [to do it] myself if I had a contract like that. I would say that it [the contract] needs to read something else, but can they [migrant workers] demand – that's another question. I don't think it's a problem that such contracts are offered – it's more of a problem if it's not explained what it means. Every one has the right to decide whether they take such an uncertain contract or not. […] But you must be told that there are weeks with no hours. Are you going to manage? Calculate and think. (Employer's representative)

It is of course a difficult choice between signing a zero contract or having no job at all. Although it is true that each employee should understand the contents of their work contract before they sign it, many of the migrant workers have no other choice than to take the jobs that are on offer, despite the obvious poor working conditions. The interviewed migrant service providers in particular emphasised that migrant workers want to believe that if they show that they are good workers they will get rewarded with more hours and a better contract. For similar reasons migrant workers may even be willing to work for reduced wages or enter different kinds of "internships" or other work trial schemes where they work for free. There is a risk that unscrupulous employers may take advantage of such willingness and make a profit out of the exploitation of "interns" or other unpaid "helpers".

Box 3. Internships for free

The phenomenon of "internships" and work trial schemes seem to be quite a common problem encountered by both interviewed migrant workers and migrant service providers. These were reported to take place among the smaller, unorganised cleaning companies as well as in ethnic restaurants. The idea behind such practices is that the employer wants to test whether a person is a good worker and worth hiring. At the same time the employers get free labour out of the arrangement.

> So when I went there we had a few days of training, like 3 days. Very long hours. Sometimes we started at 3 till about after midnight. They said it was about training and stuff like that. There were 8 of us and the guy said that after the training period he would choose among those people. So after those days, those long hours he said "ok, I will be selected" and another friend was selected, the guy I was talking to. That was it. Those days we worked, we were not paid. (Asian/African worker)

> When we were working there he basically told us first that he would train us for which he will not pay us. Of course we accepted the terms that he gave us. (Asian/African worker)

The interviewed experts had also heard about such schemes in the restaurant sector where a person might work for free for months in the hope of securing a job in the restaurant.[38] In such instances, the motivation of the migrant workers to continue working must be seen from the point of view of their wish to stay in Finland. Thus securing a job could allow them to file an application for a work permit.

> There are some restaurants that have this kind of practice that they take a few people to work for free, like 5 people, and say that I take you for 2 months or 3 months to work for free like training and then the best person will get the job. So one of the 5 will get the job there, and then again he takes another 5 people and says the same that you work here for free and one of you get a job and if they are lucky they will be the one who gets the job. It is a kind of a nice offer, but at the same time there is a lot of free labour for the restaurant with that system. (Migrant service provider)

Such schemes especially target asylum seekers and undocumented migrants who are very desperate to stay in Finland no matter what the price (see also chapter 4.1.5).

[38] Also especially young Finnish students may work for free in restaurants in order to secure a job. (e.g. Makuja.fi 30 November 2012).

5.1.4 Not receiving enough hours or having too much work – the problem of scaling the work

One of the biggest problems of migrant workers having zero contracts is the uncertainty of the amount of work offered in any given week and thus having enough income to be able to get by in Finland. This constant struggle in order to get enough working hours was quite a common problem among the migrant workers we interviewed. On the other hand, some migrants seemed to have so much work that they risked serious exhaustion. This issue was also mentioned in the interviews conducted with the migrant service providers.

> Some are active and liked it, they do really long hours. Some then work only a couple of hours a few times a week. (Migrant service provider)

The interviewed migrant workers emphasised how many employers evaluate the workers based on how hard-working, diligent and humble they are. It was their experience that migrants deemed to be good workers get a lot of hours while people who have complained or for example refused to take extra work one time struggle with getting more than a few hours a day or per week.

> It was so that if you opened your mouth and said that something is not to your [the employer's] liking, then you were immediately influenced through [the amount of] work. You were not given any work until you said to everybody that yes, yes, this is how it should be. Then you got lots of work. But when you said that you are tired and want to leave earlier on that day, then for five weeks several jobs were taken away. (Estonian/Russian worker).

The uncertainty of work came up a lot also in the study of temporary agency workers by Huotari and Pitkänen (2013). It was the experience of many temporary workers that complaining about having too few hours to work was risky since it may lead to having the hours cut entirely. The surveyed workers also mentioned that they did not know how many hours they would work each day, since they were often either asked to stay longer or go home earlier. Many of the workers mentioned that they were stressed about not knowing whether there would be enough work in the next month and whether they would have enough money to pay their bills. (Ibid., 59−60.)

When it comes to the cleaning sector, another major issue seems to be related to the sizing of the work in relation to the number of hours given to the workers to finish their tasks. Many migrant workers and trade union activist mentioned that in their experience, it is common that the work is overscaled. This is especially the case with hotel cleaning, but is relevant also in many other sectors of cleaning.

Box 4. Hotel cleaning

Hotel cleaning is a special branch of cleaning, which nowadays employs a number of migrant workers, according to interviewed experts. In recent years, the tendency had been to reduce the hours of work the hotel cleaners have available to clean a room to an absolute minimum. According to a magazine of the Service Union United (PAM), hotel cleaners may have to clean up to 20 rooms in just 5 hours. The union has calculated that using the normal pace the cleaners can clean a maximum of 15 rooms in 6 hours, which means that the cleaner walks at a speed of 4,8 km per hour. However, some employers may demand their workers clean as many as 30 rooms in six hours. This means that the cleaner should actually run at a speed of 9,6 km per hour. Thus the amount of work is seriously overscaled in relation to the time it has to done, and many cleaners end up using also their coffee and lunch breaks or even finish the job on their own time, so that they can fill a "daily quota". (PAM-lehti 8 March 2013.)

The interviewed trade union representatives emphasised that the employer cannot actually say how many rooms a person must clean; they just have work at a normal pace and then go home after the working hours are done, but in practice especially migrant workers stay overtime to finish their work.

> There's an awfully lot of Estonian and Russians among the hotel cleaners. The amount of rooms they have to clean during the work day or in an hour is unreasonably large as a result of competitive bidding. You can't really talk about coping with the work load. (Trade union representative)

The current collective agreement in the cleaning sector does not refer to the possibility of work being paid as piecework (by the number of rooms) (Kiinteistöpalvelualan työehtosopimus 2011−2013). This means that the wages of the hotel cleaner cleaning 30 rooms in 6 hours instead of 15 rooms is the same, even though s/he has to work at a double pace. Such developments are the result of extreme competition over the prices of hotel cleaning and the tendency to outsource the hotel's own cleaners to private companies, as was explained by trade union representatives. The employer's representative also emphasised the responsibility of the buyers of cleaning services (i.e. the hotels) who accept the bids with the lowest price without any consideration of factors other than the price.

Several interviewed migrants mentioned that they were given such large areas to clean that it was impossible to finish the work in the time allocated for them.

> I knew I couldn't do it in that period of time, but I said ok I needed this job, I can't complain now. So I waited a little bit, I worked for about 1 week and I told the employer that ok I can do this but I need more time. He said if I can't do it then he can find somebody who will do it. So I was like ok that's not a problem. (Asian/African worker)

Complaining about the scaling of work would in this migrant worker's experience lead to losing the job. An interviewed trade union representative as well as some employers' representatives emphasised that the workers are not in any way obliged to finish the job in the location by staying there longer than paid for; they should simply report to their immediate superior that they did not have enough time to finish the work, and go home.

> NO: Do they [migrant workers] report?
> R: No, they do the work. If you're a bad employee, then you're either fired or you're given such a place [to clean] that they know you're going to resign. They play around with that. (Trade union representative)

As comes up in the quote above, migrant workers rarely report unfinished work to their superiors. In fact, not only do the migrant workers do some of the remaining work in their own free time, they ask their family members, friends or even children to help finish the work, so that they could keep the job and be considered as hard-working and good employees. Such practices were mentioned by the migrant workers themselves as well as interviewed experts.

> I've noticed that they ask their relatives to help, or kids, spouses. They come and help because having the job is most important. They want to hang on to it. […] Just today I had a case where this employee's friend came to help her/him, and he/she gave some of the wages to her. Just so that this person was able to do the job. (Permit and inspection authority)

A variation of this phenomenon was discussed also in a wider context of exploitation. There are some signs that migrants employed in the cleaning sector might pass on their own work duties to their friends or other contacts. They might organise the work so that their friend would do some of their shifts in case they themselves were sick or had something else during that particular time.

> My friends would be working somewhere and then they would take some days off and said [to me,] ok go and work in my place. Of course it was illegal, but then what am I supposed to do. So that's how I would survive for one year. (Asian/African worker)

Also at least one interviewed employer had encountered some examples of this. This came up when a stranger was found cleaning a location instead of the person who was hired to there. To prevent such instances, the employers of organised cleaning companies have issued identity cards with pictures and taxation number to their employees, so that an outsider could not be mistaken for an employee. This also the policy required by the employer's union (see also chapter 6.2.5).[39] A similar practice has been mandatory in the construction industry since 2012, according to law (1231/2011). The mandatory tax number was introduced in order to combat the grey economy in the construction sector (Vero 2012).

[39] http://www.kiinteistopalvelut.fi/2270.aspx (accessed on 28 May 2013)

In situations where someone else carries out the work on behalf of the contracted employee, at least some portion of the wages would usually be paid to the "friend" doing the work, but there is still a risk of exploitation present. Interviewed migrant service providers had also heard of instances where the entire job was passed on to a paperless, undocumented migrant with considerably lower wages. Such instances have also been reported in the media (YLE 17 February 2013; YLE 7 September 2011).

Box 5. Undocumented migrants

Undocumented migrants are a group of people who are extremely vulnerable to labour exploitation due to their difficult status. There are some estimates that the total number of undocumented migrants in Finland fluctuates between 2,000 and 4,000 persons, but generally many sources indicate that the size of this group in Finland is smaller than in many other EU countries. (YLE 17 February 2013; YLE 7 September 2011.) The term undocumented or irregular migrant refers to people who are staying in the country without a valid residence permit. They can be people whose previous residence permit or tourist visa has expired or who have arrived in the country through unofficial channels or via a human smuggling organisation, for example (e.g. Al Omair & Heikinheimo 2013). Technically also EU citizens can become irregular migrants if they do not register their stay in Finland with the local authorities within the first 3 months of their stay. It is important to note that paperless migrants are not only those who have been explicitly smuggled into to the country, but also a regular migrant may become an undocumented migrant simply due to the expiration of his/her legal permit to stay in the country.

An interviewed representative of the police and border guard mentioned that the number of undocumented migrants may be increasing in Finland. This would primarily be due to the poor economic situation in Southern Europe.

> It's purely because things are not good in Southern Europe. Greece, Italy, Spain etc, they don't have jobs even for these irregular migrants. They deport them saying you have one month to get out of here. […] So when these guys are wanted [by the police], and they have no grounds for staying in the country, they come up here in the North. Sweden, Finland, Norway, these are the countries they want to come to. (Police and border guard)

The interviewed expert further elaborated that such people know that it does not make sense for them to seek asylum in the Nordic countries because they would only be returned to their first country of entry into the EU due to the so-called Dublin II regulation[40] (Council Regulation (EC) No 343/2003). Therefore, such people do not even seek asylum but try to find any jobs available in order to sustain themselves and their families.

> They are left there as so-to-speak unknown persons and you would think that exploiting them is super easy. All you need to do is say "I'm going to call the police, are you going to do that job or not?" So it's a big lever. You don't even have the chance to complain anywhere. (Police and border guard)

Undocumented persons are often willing to do any work and explore many possibilities of finding work (e.g. YLE 17 February 2013). They try to find work among various networks, especially among their own countrymen or persons with a similar ethnic background. It was mentioned by interviewed migrant service providers that they had encountered instances where an undocumented migrant does someone else's job for only a fraction of the wages that they should be receiving.

> Then there are cases where an undocumented person is doing the job permanently when another person gets their wages and this undocumented person gets just a fraction of the wages, some pocket money. Then this person who has the contract can take another job. They can take many jobs and just find undocumented persons to do the actual work. (Migrant service provider)

An interviewed employer's representative mentioned that it is difficult to monitor whether a person who has signed the contract actually does the job themselves and that such problems could occur in instances of sub-contracting, where the cleaning contract is sold to another company or entrepreneur.

Similarly, a Danish study on exploitation of migrant workers in the cleaning sector reveals two cases where undocumented migrant workers of African origin paid a middleman to "lend" them a European identity. Through this identity they received a Danish personal ID number, which enabled them to seek employment in Denmark. The two interviewed workers explained that they paid 3,000 DKK/month each (about 400 EUR/month) for the borrowed identity. Through the identity they were able to secure fully legal and contracted employment in a big cleaning company. (Mygind Korsby 2011, 31−32; 41.) Also the Finnish police have, according to media sources, found undocumented migrants working in the cleaning industry (YLE 17 February 2013).

[40] The regulation is based on the principle that only one EU Member State is responsible for examining an asylum application. The objective is to avoid asylum seekers from being sent from one country to another, and to prevent abuse of the system by the submission of several applications for asylum by one person. Council Regulation (EC) No 343/2003.

In some instances, it seems that the migrant workers get certain basic wages based on fixed amount of hours no matter how long they work in reality. An interviewed migrant worker had encountered such a case where their employer told them explicitly when they started the job that they would be paid only for five hours of work while in reality finishing the cleaning would take up to eight hours or even more.

> R: [H]e paid for five hours a day, five days a week.
> NO: How much did you in reality work?
> R: Sometimes I worked for like 12 hours or 15 hours. Some days I worked for the minimum, so a day it was 8 hours. (Asian/African worker)

In contrast to such migrant workers who were struggling with having too few hours of work, some of the interviewed migrant workers had also been struggling with too many hours of work without any compensation for overtime.

> R1: At the beginning everything was normal. But then the boss got greedy and then it was work, work and work. It was all voluntary, at the beginning we also asked for work to do. But if you worked 40 days straight and even more. And when you then ask for a day off, then you are looked at with a blank face and told that you haven't done any work, what day off do you expect.
> R2: 12 to 14 hours every day.
> R1: There was even more, even 20-hour shifts. The boss was greedy. Did not pay for extra hours. This is how the problems started. (Estonian/Russian migrant workers)

This seems to be particularly relevant also for migrants working in ethnic restaurants who often work many more hours than they are paid for. As was indicated in our previous report, it seems to be a quite widespread practice in ethnic restaurants (Jokinen et al. 2011a; see also chapter 5.2.2). It is of course very alarming if such practices take place in the same cleaning companies – i.e. while others are struggling with too much work, others have too little work to support themselves and their families.

5.2 The restaurant sector

In this section we first contextualise the exploitation taking place within the restaurant sector in terms of the grey economy and undeclared labour and analyse the factors that make exploitation possible. We then focus in particular on the practices of labour exploitation occurring in ethnic restaurants and discuss the recent cases of labour trafficking and exploitation that have taken place within this sector.

The restaurant sector covers many different types of restaurants and catering services, and includes a large variety of different pubs, ethnic restaurant and fast food restaurants. It has been noted that underpayment of wages is common together with other forms of tax evasion and avoidance of obligatory payments

in the restaurant sector in general (e.g. Hirvonen et al. 2010). The lost tax revenues in the restaurant sector are high: according to a report by the Audit Committee of the Parliament, in 2008 the restaurant sector had undeclared, non-taxed revenues of 670M EUR (ibid., 3).

The interviewed employers' representatives emphasised that the problems of the grey economy concern especially the unorganised employers. The organised employers highlight that illegal and irregular practices hinder healthy competition in the restaurant sector, and is thus negative for the whole sector.

> Underpayment, working hours violations, that is round-the-clock days and with underpayment of pages. We are very negative about this, because it hampers the operations of our members. It distorts competition. It's a very negative phenomenon. (Employer's representative)

The underpayment of wages and the use of undeclared workers are particularly common in ethnic restaurants, where the low prices directly indicate that the restaurant cannot be making any profits (Hirvonen et al. 2010, 50; Keskusrikospoliisi 2011, 2). The police have noted that often also disturbances of the peace, serving alcohol to drunken customers and other such problems occur in restaurants which engage in practices related to the grey economy (Ibid., 9). Regarding ethnic restaurants, the police note that restaurant sector as a whole has a tax debt of 120–150 million EUR a year. Businesses owned by migrants accounted for 11 % of these tax debts in 2008, while such businesses only accounted 2–3 % of the annual turnover within the restaurant sector as a whole. (Keskusrikospoliisi 2011, 9−10.) The use of undeclared labour and the underpayment of wages in the restaurant sector were reported also in our previous report (Jokinen et al. 2011a). An interviewed expert noted that the difference between the actual costs and the undeclared wages easily becomes very high.

> So an hour of work, including all fees, holiday wages and everything is about 22–25 EUR per hour, depending on the restaurant. So if you pay 7 EUR per hour under the table, it makes quite a big competitive advantage. (Permit and inspection authority)

The high personnel costs are seen as the main reason for the existence of illegal practices in the restaurant sector (Hirvonen et al. 2010, 52). The payment of wages "under the table" may thus be attractive especially to smaller restaurants with a small turnover. Such practices have come up in particular in ethnic restaurants in addition to exploitation of migrant workers (see also chapter 5.2.2). To minimise the staff costs and to better react to fluctuating demand for services, many firms in the restaurant sector also employ workers through temporary work agencies. Migrant workers are employed in particular in dish washing and other assisting positions through temporary work agencies who lease them to restaurants.

Box 6. Agency workers

Much as is the case with the cleaning sector, also within the restaurant sector different forms of zero and part-time work contracts are used. It was mentioned by interviewed experts that many migrant temporary workers have "on-call" or "called when needed"agency contracts, which do not specify any minimum hours of guaranteed work per week. Instead, the workers get a call or a text message when there is work available for them. While such contracts do not oblige migrants to take the job when they are called, interviewed migrant workers mentioned that a refusal to take the offered hours would decrease the likelihood that they would get the best jobs or more calls for work in the future.

> I have friends who have those kinds of contracts like "zero to", many of them. Mostly it's in the restaurant sector like dish washers, they have "zero to", these zero contracts. They can just call you and say that today you go to work and maybe next week no work or until they call you. (Asian/African worker)

The interviewed employers' representative argues that the use of such contracts is dictated by the nature of the restaurant sector and the fluctuating demand for labour that is caused by the shifts in the daily number of customers.

> Due to the nature of the sector, we have people on these "called when needed" contracts, who don't have any agreed hours of work in their contract. They are used a lot in this sector because the demand changes greatly from day to day and in volume. Demand is usually centred around weekends and evening. Then we have lots of sick leaves, have large groups of customers and orders coming to one restaurant, they need staff quickly. We must have this kind of reserve, when it is needed separately. (Employer's representative)

An interviewed migrant worker mentioned that dish washing jobs are given to people with a migrant background because the job is hard, the working conditions are poor and Finnish people do not want these kinds of jobs or contracts. "Of course we immigrants have difficulties in having a job, so of course we basically have no choice than to do those", concluded an interviewed Asian/African worker.

5.2.1 Sales without taxes

The use of undeclared labour is the most common manifestation of the grey economy in the restaurant sector, with unaccounted or undeclared sales of food and alcohol coming second and third (Hirvonen et al. 2010, 50). According to an interviewed expert, the sales margin for a restaurant that also sells alcohol should be somewhere around 70–75 %, with wages accounting for about 30 % of the turnover. The same interviewed expert estimated roughly that the lower threshold for a restaurant (open from morning until late at night) should be a minimum of 400,000 EUR in turnover, but a third of all restaurants have an annual turnover of only 250,000 EUR. Part of the explanation may lie in the

fact that many owners of small restaurants work long hours themselves without pay, but the other explanation is that restaurants hide their income, i.e. that part of the turnover is never entered into the accounts or registered.

> The most common way is that the till is not used at all, or the sale is removed from the till. (Permit and inspection authority)

This interviewed permit and inspection representative mentioned that sales can be removed from the till for example by redirecting card payments from the till to other, unaccounted bank accounts, by using blind accounts and by subtracting amounts from the sales before closing the books for the day. Also other interviewees highlighted sales without receipts as a particularly problematic issue in the restaurant sector.

> Selling "outside the till" is probably the biggest [problem], since this is a cash business. This all customers can see for themselves in certain restaurants. (Employer's representative)

It seems that it is especially smaller restaurants, such as pubs, that engage in selling without receipts (Hirvonen et al. 2010, 50).

> Of course we have a lot of honest pizzerias, honest pubs, a lot of them. There are these chains, chain pizzerias, chain pubs, but also private ones, that take care of their business perfectly, and then in their neighbour they sell a pizza and pint for a fiver. That's no good. (Employer's representative)

The illegal practices are seen to skew competition and prices, and contribute to an overall erosion of the economy. At the same time, part of the problem is also caused by the demand for cheap services. An interviewed employers' representative also called into question the responsibility of consumers in buying cheap pizzas or drinks.

> It is unfortunate that the customers do not care. There has been discussion among the public that there are always two sides in the grey economy. Of course you can't pass the responsibility to the customers. But is true that if they weren't there or people would not frequent there, then of course there would not be supply or demand either. (Employer's representative)

There has been an on-going discussion in the media on issues related to ethical consumption and the responsibility of consumers in making sure that the products they use are not manufactured through the use of "slave labour" (e.g. Apu 21 January 2013). At the core of the illegal and irregular practices lie the misuse and exploitation of workers. Migrant workers are the most exposed and also the most vulnerable and in this sense there is a clear link to more serious exploitation, such as trafficking.

5.2.2 Ethnic restaurants – signs of systematic exploitation?

> They're all sort of relatives there. These – I've thought – the worst places are not far away. They're not somewhere in the woods. They're near here, we simply just don't know. (Permit and inspection authorities)

Some of the most serious cases of trafficking for forced labour and labour exploitation identified in Finland have taken place in ethnic restaurants (see also Jokinen et al. 2011a). In 2012 district courts passed judgments on trafficking for forced labour in two cases concerning Asian restaurants (Pirkanmaa district court 29 June 2012; Pirkanmaa district court 18 December 2012). In addition, one case concerning kebab restaurants proceeded to court as aggravated human trafficking, but the defendant was acquitted on the charges of trafficking. Instead, the court found enough of evidence of aggravated extortion for conviction (Varsinais-Suomi district court 22 March 2013). The victims in these cases have been Asian migrant workers as well as asylum seekers from the Middle East. It is our intention to analyse in this section how systematic the exploitation taking place in ethnic restaurants is and why serious forms of exploitation of migrant workers may occur in such establishments.[41]

The term "ethnic restaurants" applies to at least two different groups of restaurants: Asian restaurants and kebab restaurants and pizzeria style fast food restaurants. According to Lith (2010a, 28), there were around 1,440 migrant owned businesses in the hospitality and restaurant sector and they employed around 5,000 persons in 2008.[42] Three out of four of these restaurants were owned by migrants from Asian countries (e.g. Vietnam, Thailand, China and India) and Turkey (Ibid.). In 2009, there were an estimated 3,900 migrant owned businesses in the Uusimaa region in Southern Finland. Nearly 60 % of these businesses were established after the year 2005 despite the economic recession, which caused a halt to the increase of immigrant businesses in the capital region after 2007. Most of the immigrant businesses are found in the trade sector, but the hotel and restaurant sector comes in second. (Uusimaa Regional Council 2011, 5.)

Ethnic restaurants often sell their products at very cheap prices. In such cases profits are typically made by exploiting employees through the payment of low wages and wage discrimination (Keskusrikospoliisi 2011, 9−10; Lith 2010a, 33). The turnover of these ethnic restaurants consists primarily of food items because the proportion of alcohol sales is lower than in the restaurant sector in general. (Keskusrikospoliisi 2011, 9−10.) Lith maintains that the use of

---

[41] It may also be that police and other authorities especially monitor and control certain sectors and actors within the sectors. It may be that ethnic restaurants are particularly monitored by authorities, and this could explain why so many cases of exploitation have been uncovered in this sector.

[42] Such statistics do not, however, include businesses owned by migrants who have been granted Finnish citizenship, which is likely affecting the statistics presented here (Lith 2010, 28).

clandestine labour, sales without taxes and the neglect of various social welfare obligations are not rare in ethnic restaurants (Lith 2010a, 33).

Already in the recruitment chapter, it was noted that both of these types of restaurants often recruit their own relatives or people from their own home village in the home country. This may be a risk for migrant workers working in such places. As reflected in interviews, the family bond may make migrants particularly vulnerable to exploitation in the expert interviews.

> It's really a problem concerning ethnic restaurants. It can be so that officially ethnic restaurants only have one employee when in reality 5–6 persons may work there. Easily. It's like out of this world, the pressure from family or relatives. There's no possibility of refusing to work, because it's like putting the family to shame. They don't feel like they're only working, but it's the obligation of that person [to work] because they belong to this family. (Trade union representative)

It was also the experience of permit and inspection authorities that often migrants working in ethnic restaurants are related. When the owners change, the new owners usually again recruit new family members which may be a way of circumventing immigration regulations.

> It's totally clear that one comes to work in some relative's restaurant in Finland. Then they open a new restaurant and again relatives are brought to work in that new restaurant. (Permit and inspection authorities)

Some of the relatives or friends brought into the country are not officially working in the restaurant (e.g. Riihijärvi 2013, 26; Aluehallintovirasto 2010b, 2). Instead, they are just "helping" for free or in exchange for food because they want to "spend time with family and friends", according to interviewed experts. Also "free internships" take place in ethnic restaurants where migrants work for reduced wages or for free in the hope of securing a job in the restaurant in the future (e.g. Varsinais-Suomi district court 22 March 2013; see also box 3).

An interviewed representative of the permit and inspection authority also mentioned that a new phenomenon is to bring young Estonian women to work in kebab restaurants and pizzerias in Finland. These young women may also be married to the owners of the restaurants or be their girlfriends. They do not disclose their working conditions or terms of employment, the interviewed permit and inspection authority explained, and so uncovering possible exploitative practices (including sexual harassment and abuse) is difficult for the authorities.

In many instances in particular Asian restaurants are owned by a couple who then employ (distant) relatives to work in their establishment (Pirkanmaa district court 29 June 2012; Pirkanmaa district court 18 December 2012). An interviewed representative of the police and border guard argued that the owners of these Asian restaurants are networked and share information relating to wages, placement fees etc and that low wages are often explained by the fact

that the employees are in fact paying back debts that the huge recruitment fees have cost them. (see also 4.1).

> They pay back debts from that super huge placement fee they apparently have paid due to their unawareness, so that they can come to work in Finland. You have to pay a huge fee for the residence permits. (Police and border guard)

This networking and change of information by restaurant owners could explain why ethnic restaurants in different parts of Finland seem to be paying very similar (low) wages to their workers and use the method were the workers have to return part of the wages paid to their bank account back to the employer in cash (see also Jokinen et al. 2011a, 97–98).

Such practices took place in the aforementioned case of the Asian restaurant in Pirkanmaa. In the Pirkanmaa restaurant case, the exploited Vietnamese cooks testified during the trial that their starting wages had been around 500 EUR a month and had risen to 600 EUR in the second year and then to 700 EUR in the third year. They had worked up to seven days a week, 12 hours a day and on the weekends without any mandatory extra pay or overtime compensation. The employees had been forced to return a part of their wages to the employer in cash. This procedure was very systematic, in that the workers were given a piece of paper detailing the sum of money they had to withdraw from their bank account after a certain period and return to their employer in cash. The workers were advised not to show this piece of paper to anyone and ordered to then destroy the paper afterwards. The employees had not been given any particular reason for such a practice, but some had heard that it might have something to do with taxes. (Pirkanmaa district court 29 June 2012; pre-trial investigation material 8330/R/55534/11.) Also one of the interviewed migrant workers had experienced a situation where s/he had to return money to the employer in cash.

> The wages were paid to my account, but I always had to go to the bank and withdraw all of it. At the beginning of the month they paid XXXX [EUR] to my account, but I was allowed to keep only XXX [EUR] and had to return the rest. (Asian/African worker)

Also instances where the employer has had access to employees' bank accounts directly or have retained their bank cards have been uncovered in Finland (e.g. Jokinen et al. 2011a, 98−99). An interviewed representative of the police and border guard elaborated that exploited workers may not even know which bank their account is in and their bank cards may be stored in the cash register of the restaurant.

> They have a bank account and everything looks okay in the eyes of the tax authorities that they have received wages and paid taxes. But the bank account and the bank card are in practice in the hands of the employers. They empty the account the next day after they have paid the wages. (Police and border guard)

A variation of such practices had also been encountered by an employer's representative who told about a case where the employer explained that s/he was simply "borrowing" money from the employee by using such means of returning part of the wages.

> S/he [the employer] explained that they have a Chinese culture of assistance. This worker lent money to the employer and they in "great cooperation" agreed about this because the plan was to open a new restaurant and this would guarantee a job and create opportunities to work later on. S/he said that by that day s/he would return the money. This was explained by the employer. No matter the truth, it can't work like that! (Employer' representative)

Several interviewed experts thought that paying certain fixed term wages is a common method of wage discrimination practiced in ethnic restaurants. This means that migrants may work up to 12 hours a day, 6−7 days week, but only receive certain basic wages without any mandatory extra pay for evening, night, Saturday and Sunday work or overtime (see also Jokinen et al. 2011a, 91−96).[43] The restaurant owners may also forge a work schedule and records of working time, so that it seems that everything is in order. Often times no such mandatory records are even kept, as noted by labour inspectors (e.g. Aluehallintovirasto 2010a; Riihijärvi 2013, 25−26) or they do not include any exact dates or times, just that the person works "every day" (HS 26 May 2013.)

Our data quite clearly demonstrate that the practice of underpayment of wages or having to return part of the wages in cash is a very systematic and calculated way in which the unscrupulous employers try to mislead different permit and inspection authorities in the restaurant sector. For example if the authorities responsible for issuing work permits would find out about such practices, the workers would not have their extension permits renewed due to the regulations on the minimum income (see also chapter 4.2). Such practices also hinder the police investigation and securing of evidence (Jokinen et al. 2011a, 116–122), but for example electronic monitoring and wire tapping are ways of collecting evidence on the nature and forms of exploitation occurring in ethnic restaurants.

[43] It must be noted though that such practices have also been uncovered among Finnish chefs in several fine dining restaurants in Helsinki in the spring of 2013. The chefs were paid certain fixed wages no matter how many hours they worked. It was argued that working for free is a common way for professional chefs to accumulate the culinary skills and expertise they need (HS 9 May 2013).It should be pointed out that the wages of these chefs were of course much higher than those paid to exploited migrant cooks.

Also in respect of kebab restaurants and pizzerias, cases have come up where migrant workers and particularly asylum seekers are working for wages as low as 2−3 EUR/hour even though they work up to 6−7 days a week and up to 12 hours a day (e.g. Varsinais-Suomi district court 22 March 2013). In particular asylum seekers (and undocumented migrants) may do such work in the dark labour market, which means that their wages are paid under the table. Such a practice was used in the case of the Turku kebab restaurant and butcher's shop where the owner explained to a migrant worker that he was the only official worker in the place, and that all the others were working in the dark, undeclared market. This was apparently because "official employment" would cause trouble for the business. (Varsinais-Suomi district court 22 March 2013, 125.)

Box 7. Asylum seekers

Asylum seekers are one group of people who, according to some interviewed experts, work in the dark labour market. Some work there because they do not yet have official permission to work, which according to law they gain after three months if they have identity documents, and after six months if they do not.[44]

> They may get the work permit [paper proving they have the right to work] after three months, if they give their documents or their identity. If they didn't have any documents then it takes six or nine months for them to get the work permit. In that sense it becomes a long process for them. (Migrant service provider)

Moreover, asylum seekers do undeclared work because they have no other options for securing a job. It was mentioned by interviewed experts that such work exists both in the restaurant and cleaning sectors. Another interviewed migrant service providers mentioned that they have encountered cases where asylum seekers work in pizzerias for wages as low as 2−3 EUR per hour or have "internship" arrangements. "They feel that it's better than nothing", an interviewed migrant service provider explained. Securing a decent job is difficult for asylum seekers because they have difficulties in opening a bank account or in getting a tax deduction card which is mandatory in any regular place of work.

> It's almost impossible to get a tax deduction card. First you have to go to a registry office to ask for a paper that says you can't get an identity number. Then you have to take this paper and the work contract to the tax authorities and humbly say that I'm planning on staying in Finland and need a tax deduction card. A normal tax deduction card. Not one where the tax percentage is 60 or 50 %. (Migrant service provider)

[44] http://www.migri.fi/asylum_in_finland/right_to_employment (accessed 25 July 2013)

Such concrete obstacles make asylum seekers particularly vulnerable to labour exploitation and different exploitative practices. Asylum seekers may also be in debt to the organisers of human smuggling operations for their services in transporting them into EU Schengen area, which makes them desperate to find in order to work to pay back the debt. For example, in the case of the Turku kebab restaurant and butcher's shop, the employer recruited at least two of his relatives to work in his business. According to the workers, he also organised and paid for their journey to Finland in the hands of human smugglers. The workers would seek asylum and start work in the restaurant and butcher shop immediately afterwards in order to pay for the debt caused by that their smuggling operation. The court, however, did not find enough evidence of the smuggling aspect in the case. (Varsinais-Suomi district court 22 March 2013.)

Underpayment of wages in the restaurant sector is also often accompanied by different tax violations such as sales without taxes (see chapter 5.2.1) and failure to withhold taxes from the employees' earnings (e.g. Lith 2010a, 33). Also neglect to pay mandatory pension, accident and unemployment insurance or organise mandatory work health care services commonly occur in ethnic restaurants. (Työsuojelupäällikkö.fi 23 April 2013; Riihijärvi 2013, 25.)

Moreover, the ownership of businesses in the restaurant sector changes often: many restaurants only operate for a couple of years and are then sold or closed. For example out of the 1,300 businesses opened in 2006, only about 40 % were operational at the end of 2010. (Keskusrikospoliisi 2011, 11.) Interviewed permit and inspection authorities noted that the owners of ethnic restaurants change quite often.

> They sell those restaurants to each other. The owners and persons in charge change. An employee buys it. Or an employee buys a new one and then they look for more employees again. (Permit and inspection authority)

This is in line with research by Lith, who has noted that ethnic restaurants are often transferred between family members and friends using different names, which may indicate that this is done in order to misuse social benefits and allowances, such as the so-called start-up money for opening a new business (Lith 2010a, 34). Some of the interviewed experts maintained that such practices are also used to wipe clean details entered into various registers (i.e. corporate register and corporate liability register) and enable the new owner to start fresh without any notations or credit problems, for example. In addition, Lith (2010a, 34) maintains that money laundering may take place in ethnic restaurants.

Many interviewed experts pointed out that the dependency of the workers in ethnic restaurants on their employers is exceptionally deep. This is also demonstrated in the court and pre-trial investigation materials of the Asian restaurant case, which detail how the employees had to rely on the employers in everything: translating their post; paying their bills, taking them to the bank or doctor and so on (Pirkanmaa district court 29 June 2012; pre-trial

investigation material 8330/R/55534/11). As one interviewed migrant worker explained, they simply did not know how they could manage on their own without understanding Finnish.

Accessing the restaurants is also difficult for the different authorities due to language and culture barriers (e.g. Keskusrikospoliisi 2011, 12; Jokinen et al. 2011a, 119–121). For example labour inspectors face difficulties in trying to communicate with restaurants owners and staff when conducting inspections in ethnic restaurants.

> Usually these Chinese restaurants [owners] don't speak Finnish or English. It's quite common that Chinese restaurants are owned by a father and a mother. The children may have gone to school here in Finland and they come join us or they are asked. Even very young ones help in interpretation. Such restaurants may have been functioning already for over 10 years. (Permit and inspection authority)

A survey conducted among restaurant owners found that owners feel that the authorities do not dare intervene in malpractice occurring in ethnic restaurants (Laitinen 2005, 14). In fact, ethnic restaurant owners rarely belong to employers' associations, several interviewed experts noted. They are therefore also excluded from the control of the employers' association and often times lack even basic information on for example the collective agreements, the changes made in the mandated minimum wages and the principles for the calculation of wages in general.

An interviewed employers' representative elaborated that often ethnic restaurants owners become members or try to join employers' associations only after they have encountered problems and have received complaints.

> They usually become members at that stage when problems occur. Then they are often totally helpless, that where can we find the correct wages and then we bring out the collective agreement and read it and show it. The question is that they have no clue what is the minimum wage and where you can find it. Then they become members. (Employers' representative)

It would benefit both employers and employees if the owners of such restaurants were aware of the regulations and the contents of collective agreements in the first place. Often the owners of ethnic restaurants may not even be aware of the existence of employers' associations, since no such unions exist in their home country (YLE 21 May 2013). To our knowledge, the employers' association in the restaurant sector has not organised any specific campaigns targeting ethnic restaurants. Such campaigns could be a good way of disseminating information about the employers' association and further their aim in providing accurate information and assistance to employers. According to recent news, however, a growing number of ethnic restaurant owners are now becoming members of employers associations (YLE 21 May 2013).

It has been established previously in this chapter that the problems and exploitation of migrant workers encountered in ethnic restaurants often seem to

be very systematic and thus intentional. In many cases, therefore, for example the underpayment of wages is not merely an honest mistake due to lack of knowledge about the different mandatory wage compensations to which the workers are entitled. (See also chapter 6.2.1)

5.3 Flexibility and dependency: the context for exploitation

> Finns tend to think that if I do this job, I want to work for seven hours in one place and I don't need to move anywhere. Migrants are flexible. (Employer's representative)

The theme of the flexibility of migrant workers came up constantly in the interviews. This same topic has also been noted in other studies. The Finnish researcher Könönen interviewed employers in the cleaning and restaurant sectors regarding their views on employing migrant workers. The employers considered migrant workers to be very flexible regarding working hours and emphasised that they were motivated and hard-working employees who were less likely to change jobs than Finns. (Könönen 2011, 58.) On the other hand these strengths can be seen as signs of the particular dependency of migrant workers on their employers: they are flexible and less demanding than Finns because they cannot afford to complain or demand better wages and contracts.

Flexibility combined with desperation and dependency on their employer make migrant workers vulnerable to exploitation. The interviewed migrant workers saw a difference in the way native Finns are treated in the working life and the way migrant workers are treated.

> They [migrants] are more flexible in the sense that they can work without a contract. You can call them at any time and they will come. That's the flexibility that the employers exploit. We usually say that you won't go tell a Finn to go work without a contract, so employers know that. You won't tell a Finn to repeat his work. They go for the people who will, and those people are mostly migrants. (Asian/African worker)

Particularly some of the representatives of trade unions see that the ultimate risk of such flexibility is the bifurcation of the labour markets (see also chapter 3).

> You can't support yourself with these part-time contracts and zero contracts. The working conditions are bad and so. They look for labour [from abroad] that is willing to do the work, because people living in this country can't do it because you can't make a living out of it. (Trade union representative)

Moreover, the high turnover among workers in particular in the cleaning sector has already been interpreted by some of the interviewed experts as a sign of the worsening conditions within the sector. Also the interviewed employers' representatives saw the high turnover as a risk, since each new recruitment and hiring of a new person is not free of change, and is in fact quite expensive for the employers. At the same time the high turnover was mentioned as

benefitting those employers who want to evade the costs of having to pay seniority allowances, retirement costs and different industrial health -related costs that aging workers would cause. Having young and inexperienced workers can reduce the overall wage costs. Unscrupulous employers reportedly can cycle migrant workers indefinitely, issuing only temporary contracts to the workers, as was explained by an interviewed Asian/African worker.

> The employer brings in new people all the time and then gives them trial periods, only they don't extend it. When I stopped in this company I went to the next company and they gave me three months and after that it stopped. They bring in some new person and give the person three months, it stops, and they can call you again and give you a new contract for three months. So the idea is that they don't take people permanently or anything. They just want to keep recycling so they don't have any responsibilities. (Asian/African worker)

Such temporary or short-term contracts increase the dependency of the migrant workers on their employers in particular if their right to reside in the country is based on working in Finland (e.g. Keskusrikospoliisi 2011, 12).

There is an on-going discussion in the interview data on the issue that there is always another person waiting in line behind the door to be exploited. It is based on the fact that unscrupulous employers always seem to find new persons to exploit, as was explained by a trade union representative. The employees who question the practices of such employers are laid off and a new person is found to take their place. This was commented upon by one trade union representative, who ironically expressed frustration with the situation.

> The employers' side uses this expression that "we've got people lined up behind the door". It's like no matter what you do, it doesn't make any difference. We always laugh at this, that no can do, there's a line behind the door, I might as well just go home. (Trade union representative)

This theme also came up in the migrant interviews. An interviewed Estonian/Russian worker told about an instance where he/she asked about the wages and was given the following response from her employer.

> R: We went to ask for it, then we were told that we can go back to Estonia, that there are ships going.
> AM: This is such a universal answer everywhere.
> R: Yes, the ships come and go. This was always the answer. There were many people who were even willing to work for five [EUR].
> (Estonian/Russian worker).

It is no miracle that often migrant workers juggle between such issues as whether complaining about the wages or terms of employment are worth the risk of loosing the job and the small income. Often it is not in the best interest of the worker to complain. Also the police have noticed the phenomenon, an interviewed representative of the police and border guard explained.

> This one guy went to say that hey, I want more pay, that it's horrible working at such low wages when I do such and such work and am a good employee and a hard worker. Then the employers say, okay we must think about it and then informed him that "your work contract has been terminated". They sent him back to [Asian country X] and they refuse to pay any more wages. Then the employee's worst fear is realised: they have to leave. (Police and border guard)

It must also be concluded that such practices used by unscrupulous employers ultimately help sustain a cycle of exploitation of migrant workers. The cycle of exploitation simply begins all over again when a new person is hired to replace an old one. In the next chapter we discuss the ways in which such exploitation can be prevented.

6. Prevention of exploitation of migrant workers and trafficking for forced labour

Many migrant workers seem to be weighing the pros and the cons of disclosing their experiences of exploitation to the authorities versus the risk of losing their job, their means of income and perhaps even the right to reside in Finland as a result of their disclosure. Migrant workers are often not only thinking about their own individual situation but also about the situation of their family in their home country, who are often dependent on their wages in Finland. It is therefore important to understand that migrant workers carefully consider whether disclosing exploitative practices is worth the risk and what is the outcome of such disclosure.

Similarly, the authorities are in an important position in uncovering instances of exploitation and misuse of migrant labour. However, it seems that the existing mechanisms of oversight and monitoring are insufficient for intervention in different forms of exploitative practices. One particular problem seems to be the lack of tools for intervention and prevention, including sanctions.

In this chapter we discuss the difficult issue of migrants seeking help and disclosing labour exploitation to the different authorities or organisations. We first outline which migrant workers are particularly vulnerable to exploitation, and why. This is followed by a discussion on where migrant workers have sought help, their experiences with trade unions, and how the awareness of migrant workers of their rights and services could be enhanced. The second section of this chapter deals with examples of intentional exploitation by employers, and how the authorities and others try to tackle this. The chapter then outlines the lack of sanctions, and presents examples of how to improve current practices. Finally the responsibility of contractors and the role of inspections and oversight are discussed.

6.1 Seeking help and disclosing labour exploitation

6.1.1 Migrants at risk

A person's migration status and the basis for their residence permit are very relevant matters when it comes to looking for help and reporting exploitation. It was mentioned by the interviewed experts that undocumented migrants and asylum seekers in particular are in a very vulnerable position when they encounter labour exploitation. One of the main problems is that there are few places of assistance and support where they are not requested to show their ID and thus disclose their (irregular) migration status.

Identifying instances of exploitation of undocumented workers is therefore particularly difficult because it is often not in the best interest of such workers to disclose their experiences to the authorities and risk revealing their

migration status to the police or the border guard authorities. Migrant service providers emphasised that gaining trust in such instances is extremely difficult.

> People don't want to tell that much, if we try to ask, they kind of get scared. We would like to gain their trust so that they wouldn't think that you can't come here, they start grilling you and asking about all sorts of things. (Migrant service provider)

Both migrant workers and service providers suggested that undocumented workers would be more likely to use services offered by non-governmental organisations rather than turn to the authorities.

> People would go to non-governmental organizations more freely. Somebody who is undocumented would not go to the labour inspectorate. So NGOs have a big role to play. (Asian/African worker)

Unfortunately, in Finland no specialised non-governmental organisation is solely focused on the issues of migrant workers or promoting their rights.[45] In recent years, so-called Global Clinics have been established in Helsinki, Oulu and Turku in order to offer health services to undocumented migrants (YLE 23 April 2013). There are also some groups promoting migrants' rights such as the the Vapaa liikkuvuus ("Free Movement") network, but more targeted services could be made available. Another interviewed migrant service provider emphasized that there must be a way to guarantee that when and if an undocumented migrant seeks help from the authorities they are not just deported from the country without any consideration given to the ordeal they have gone through.

> I think the other thing is also to protect the illegal immigrants so that they are able to speak about their ordeal. If they are being exploited and they know that if they go to immigration to report or tell about what has happened then they are going to be taken away. Then they will not do it, so they remain in that situation. There should be a kind of protection for them. A part of a policy to protect them that if they speak, then they should find a way not to be deported. (Migrant service provider)

As regards asylum seekers, it was mentioned by interviewed permit and inspection authority representatives that they are often also quite reluctant to seek help from the authorities for example because of previous experiences of corruption in the home country.

> These asylum seekers, it's even harder for them to find an authority or I guess they don't really trust authorities but [trust] their employer instead. How can they find such a contact who they can get in touch with? They have a completely different situation. (Permit and inspection authority)

[45] In many countries there are different services and information service points targeting migrant workers, such as the Migrant Rights Centre in Ireland that offer advice and assistance especially to migrant workers.

Also migrants with a worker's residence permit may hesitate in contacting the authorities if this entails losing their job and having to find another firm with a (full-time) contract within the same sector (see also chapter 4.2).

6.1.2 Where to seek help?

> You write reports, you complain, but at the end nothing happens. (Asian/African worker)

When migrants decide to seek help or look for a place that could provide them assistance or reply to their questions about wages or terms of employment, many do not know where such services are provided. It was mentioned in several of the interviews that migrant workers lack knowledge about the different authorities, service providers and trade unions which could help persons in their circumstances.

> I actually asked around in Estonia whether anybody knew who to turn to in Finland. (Estonian/Russian worker)

> R1: They don't really know where to go.
> R2: Really, like several times each day we refer people to the labour inspectorate. That means that they don't know that such a national and free place exists where they should go. First I ask, though, that are you a member of a trade union and if they are, that do you know that you should have this shop steward at your work place. (Migrant service providers)

It is also clear that in particular migrant workers who lack language skills and are able to communicate perhaps only in their native tongue have problems finding out about the existence of different services and accessing them. Such problems concern in particular migrants from Asian countries, according to interviewed experts, but also for example Estonian workers may find it difficult to access services unless they can speak Finnish.

> My language was also quite poor at the time. It's difficult to express yourself in Finnish if you have to deal with such matters. (Estonian/Russian worker)

> Even though I went to the police, tried to make myself understood, but, you know, there was no interpreter. (Estonian/Russian worker)

Most services offered by the different authorities and trade unions are available in Finnish, Swedish and English and sometimes also in Russian, but the variety of languages offered could be expanded. For example, the labour inspectorate in Helsinki employs an Estonian-speaking labour inspector whose phone number is circulated among the Estonians working in Finland. Also different trade unions employ Estonian, Russian and Chinese-speaking officials, but this could be used even more widely. (see also chapter 6.1.3).

There are some good practices in respect to services targeted for migrant workers in the Helsinki area. They are presented in the boxes below. It must, however, be pointed out that both of these services are maintained either by the

authorities or by the city of Helsinki and are thus not offered by non-governmental organisations. This may present too high of a threshold for some migrants who want to avoid all official services, such as undocumented migrants or migrants who have been threatened with the authorities by their employers (see also Jokinen et al. 2011a, 78–80).

Box 8. In To Finland

"In To Finland" is a shared service point of the Social Insurance Institution of Finland (Kela) and the Tax Administration, intended for advising migrant workers in Finland. In addition to migrant workers, they provide services for entrepreneurs and students from other countries, along with agencies or companies hiring or bringing in employees from outside Finland.

The staff at the service point in central Helsinki offer services in a multitude of languages and provide advice on social security and taxation issues. Migrant workers can for example apply for a tax card and the worker-specific tax number currently required in the construction industry. Migrants coming to work in Finland for less than a year can also obtain at the service point a Finnish personal identification number without having to visit the local register office.[46]

Box 9. Virka Info

"Virka Info" is a public information service located in the City Hall of Helsinki. The centre offers general information and advice on living and working in the Helsinki area as well as special advice and guidance on migration issues. The centre gives practical guidance and advice to people moving to Helsinki from abroad on issues such as residence permits, citizenship, EU citizen residential registration and social security. In addition to Finnish and Swedish, Virka Info offers service and guidance in English, French, Russian, Chinese, Bulgarian, Arabic, Somali, Kurdish, Turkish, Dari and Persian (Farsi). Virka Info also serves as a Citizens' Advice Office of the Finnish Immigration Service, the Helsinki Register Office and the Police.[47]

Based on statistical information collected by Virka Info, a clear majority of their clients, almost 80 per cent, are third-country nationals. The number of clients advised by the service has increased rapidly between 2011 and 2012, indicating a clear need for such a service (see Table 5).

[46] http://www.infopankki.fi/en-GB/into/ (accessed on 11 August 2013)

[47] http://www.virka.fi/en/info/english (accessed on 11 August 2013)

Table 5. Clients by background at Virka Info in 2011−2012.

Year	Total	EU citizens %	Third country nationals %	Nordic citizens %
2011	2832	19,7	79,9	0,3
2012	3797	17,7	79,5	2,8

Source: Virka Info 2013.

Virka Info also maintains statistics on what questions their clients have and what kind of assistance they need. As can be seen from the table below, issues related to work and residence permits are among the most common topics that migrants ask about.

Table 6. Most common themes asked by Virka Info clients during 2012.

Residence permits, registration, citizenship	1947
Clarifying decisions or processes made	1739
Work and working life (looking for a job, occupational health and safety, internships)	697
Social insurance (Kela)	508
Social affairs (social service and guidance)	505
Housing	485
Filling in forms	459
Family life (children's school, day care, relationships)	322
Education-related issues	303
Studying Finnish language	297
Police and court issues (criminal and civil cases)	265
Finances (taxes, debts, bills, bank and consumer issues)	253

Source: Virka Info 2013.

Approaching the police is even harder for many exploited migrant workers than contacting services offered by the labour inspectorate, the tax authorities or the municipality. The interviewed representatives of the police and border guards mentioned that often only migrants who are at the limits of their strength or had lost their job contact the police on their own to report their experiences of labour exploitation. This can be explained by the fact that

migrants may be afraid of the police in general or have bad experiences in dealing with them in the past in their home country, for example. An interviewed migrant service provider mentioned that they have forwarded cases to the police after the migrant in question has first learned that the Finnish police is not corrupt in the first place.

> It also has happened that when people learn about the legal system and rights and that this kind of abuse or corruption is not really permitted. Then the people have asked me to inform the police. Sometimes I have passed information on in that way. (Migrant service provider)

The issue of trust is particularly important when it comes to interaction between the victims of exploitation and the authorities responsible for investigating such offences. Already in our previous report the interviewed authorities mentioned that gaining the trust of the victims is very important when it comes to securing evidence during the criminal investigation (Jokinen et al. 2011a, 119−122).

> We have such problems that they [migrant workers] may tell us something, but they inform us that they don't want to be the only ones who are the plaintiffs. They want others to come forward as well and talk about the living circumstances and working conditions and how they have been recruited and what kind of work contracts there are and what placement fees they've had to pay and everything. […] They are very timid indeed. (Police and border guard)

According to an interviewed representative of the police and border guard, they have also experienced instances where victims of labour exploitation have wanted to withdraw their cases because they did not want to risk losing their job. Such cases are problematic because often the offences in question are subject to public prosecution. The police cannot drop such a case if there is already evidence of an offence, even if the victims decide that they are not willing to talk about their experiences. Such withdrawals may also be a sign of threats made by the employer (see also Jokinen et al. 2011a, 78−80). Of course in such cases, it is very likely that the migrant workers end up losing the job after all if the employer is arrested by the police.

Some interviewed migrant workers had also sought help from legal aid to which they had been referred by the labour inspectorate or other authorities. Unfortunately the experiences of both interviewed migrants and migrant service providers on the use of services of legal aid were quite negative.

> Just yesterday I had a case where the client hadn't received any wages. The firm went bankrupt. Then s/he went to the labour inspectorate and the labour inspectorate said that go to legal aid. Then s/he went to legal aid, the employee in legal aid said that they can't get in touch with anyone from this firm. S/he came to me and asked what now, s/he hasn't received wages and the legal aid says they can't do anything. The firm still exists in the registry of the National Board of Patents and Registration of Finland. I

> say to try to make a report of an offence. What can I do? Try to make a report of an offence, there's no other way. (Migrant service provider)

Two interviewed migrant workers had had their cases dropped by the legal aid office for reasons that were not explained properly to them.

> R: I went to legal aid in [street X]. The legal aid office there. The lawyer dropped the case.
> AJ: Why?
> R: She said well we can take it to court and the employer can claim something that I can't prove. I'm still young, I can find another work and stuff that I should just let it go. (Asian/African worker)

Some of the interviewed migrants had managed to recover their missing wages from pay security. It was, however, brought up by interviewed migrant service providers that not all migrant workers find out about the possibility in time, since the applications for wages due must be submitted within three months.[48]

Overall the interviewed migrant workers expressed their frustration in not getting enough information from the authorities about whether their case had been taken under investigation or what was happening and what were the grounds for taking different decision. It was suggested by an interviewed migrant that a simple email saying that "we have received your email and decided to take the following action" would be a big improvement instead of having no information at all on what was happening or not happening.

Some of the interviewed migrant workers had been accepted into the system of assistance for victims of trafficking which is coordinated by the Joutseno reception centre. The interviewees were generally happy with the services that they had received through this system. Similar views were expressed in our earlier study (Jokinen et al. 2011a, 113−115.)

Experts from the police and border guard told of instances where migrants were reluctant to enter the official assistance system for victims of trafficking due to fears of losing their job and consequently their wages.

> We went over these details, what it means if you enter this trafficking assistance system. When the person found out that it means that they stop working and get no wages, they cannot send any money to their home country, they did not want to enter. S/he said it was too big a price to pay. (Police and border guard)

Another interviewed expert had similar experiences. The victims are sceptical regarding the assistance system because they are uncertain what it means in practical terms to be within the system.

---

[48] http://www.mol.fi/mol/fi/00_tyonhakijat/08_palkkaturva/index.jsp, http://www.mol.fi/mol/en/02_working/05_foreigners/02_employment_relationships/05_paysecurity/index.jsp (accessed on 11 August 2013)

> It's indeed difficult when they are in serious need, but they are too afraid to start the process if when they are told about the assistance system and that they get different kinds of support: legal, medical and food and housing. Still they have this huge prejudice about starting the process. […] They are afraid somehow of the assistance system, that they don't know for sure even when we elaborate and sell and market it. (Police and border guard)

Such views expressed by the migrants emphasise the importance of transparency of different services and the need to offer something concrete to the victims of labour exploitation, so that they can be certain that it is indeed worth the risk of contacting the authorities and seeking justice for themselves. Too often help is sought only after the situations of exploitation have escalated and the victims are exhausted (see e.g. Brunovskis & Surtees 2007). This was also confirmed in the interviews conducted with migrant workers.

Further, it is certainly alarming that many interviewed migrant workers mentioned that after they had decided to complain about the exploitative practices encountered, they did not really get any help or clarity in their particular experience. Instead the migrant workers had been passed around among the different authorities with no clear result or direction.

> I had to write down complaints in many places. Basically I laid complaints in every possible place I could lay hands on. […] So I wrote a complaint to the tax office, but the tax office said that this is not our business and you need to go to the police. Then I went to the police and they said that ok this is not our business and said that you should go to the lawyer, the legal aid. (Asian/African worker)

Of course if the migrant workers were encouraged to file complains and disclose their experiences to the various authorities, they should be able to have confidence that the process results in something positive for themselves or for society at large.

> The authorities they don't really provide much help in my opinion and from my experience. (Asian/African worker)

This is a theme of utmost importance when it comes to prevention of labour exploitation and traficking for forced labour – if the results of disclosing exploitation are negative, how could migrant workers be encouraged to report their experiences to different authorities?

Moreover, many of the migrant workers we interviewed emphasised the importance of standing up for their rights. Many had learned their lesson and felt that after encountering exploitative practices they were now more aware of their rights as workers in Finland, where to seek help and how to make sure they receive proper wages and a legitimate employment contract. They also expressed views that by raising these issues, seeking justice and eventually suing the unscrupulous employers they were promoting the collective good while at the same time also sending a message to employers and the public that such practices are wrong.

> Even if I don't get my money back, but the crime stops it's better for the greater public. (Asian/African worker)

However, the migrant workers we interviewed in this study were all particularly active in seeking help for themselves, which is illustrated by the fact that they had already used a variety of services. Many migrant workers are not in a similar position and thus the role of the authorities and other organisations is important in seeking out those in need. Next we discuss the role of the trade unions in helping migrant workers and the experiences of migrant workers in dealing with trade unions in more detail.

6.1.3 Migrant workers' experiences of trade unions

The role of the trade unions is crucial when it comes to promoting the rights of workers. The issue becomes trickier when the question concerns the rights of migrant workers who are not necessarily union members. There is an on-going debate within the trade union movement on serving the common good and thus also non-members, versus serving the needs of members only (e.g. Ristikari 2012; Alho 2008) Many migrant workers in Finland do not necessarily know about the existence of trade unions in Finland and the benefits of union membership which include i.e. better unemployment benefits and legal aid. This came up in the interviews conducted with migrant workers as well as in the expert interviews.

Since this report focuses on the (private) restaurant and cleaning sectors, the most relevant trade union is the Service Union United (PAM). It is a trade union for those working in the private services sector. PAM has over 230,000 members.[49] Based on a study commissioned by PAM, almost 40 per cent of their migrant members had joined the union based on the recommendations given by a friend or a family member (Ritari 2013, 20−21). This was also confirmed by the interviewed trade union representatives.

> It is so that if one joins today, tomorrow three of his/her friends come. This Finnish system of labour market is such that the workers are quite alone. They can't afford to hire a lawyer. There's also fear about the role of the trade union. Do I dare to join and what does it leads to? Am I labelled somehow? Do I ever get a job if the employer finds out that I'm a union member? (Trade union representative)

At the end of 2012, 8,000 PAM members had a migrant background, as suggested by the fact that their mother tongue was not Finnish, Swedish or Sami (which are the official languages of Finland). The proportion of migrant members has increased quite rapidly: ten years earlier, in 2002, only 800 members had a migrant background. (Ritari 2013, 5.) In the local office of

[49] http://www.pam.fi/en/membership/join/Pages/10reasonstojoin.aspx(accessed on 11 August 2013)

PAM in Helsinki, a majority of clients seeking help have a migrant background, interviewed experts maintained.

It was suggested in the interviews that trade unions should provide services in multiple languages, especially in Estonian and Russian instead of just in Finnish, Swedish and English. It was the experience of some of the interviewed experts that migrant members often remain invisible in the union. It was sometimes even frustrating for trade union activists to see how reluctantly migrant workers would fight for their rights at work.

> I've tried to say especially to those who belong to the union that they could for example try to further these matters as a class action suit, but they by no means want this. They just want to work so that no problems come up. (Trade union representative)

It has been also noted by Ritari (2013, 22) that only 28 % of migrant PAM members had used any of the services provided by the trade union. This could be explained by the difficulties related to language skills, as it was suggested by the interviewed experts that some migrant who are trade union members do not feel like they can really access the services offered by the union because they cannot use their mother tongue in communicating their problems. Some trade unions, such as PAM, have also organised Finnish language courses for their migrant members (e.g. Ritari 2013, 6).

In her doctoral thesis, Tiina Ristikari (2012) studied the views of trade unions towards migrants. She found that the question about whether to advocate for migrants' rights or to insist on the equal treatment of all members not only divides unions at large, but also there exist differing opinions on this question within individual unions. (Ibid., 133−134.). There were signs of this debate also in the expert and migrant worker interviews. It was the experience of some experts that the unions do not help non-members or are very reluctant to do anything before they have been members of the union for 3–6 months. In most trade unions the workers must be paying members of the union for six months before they are entitled to free legal aid provided by the unions. This is of course very problematic in situations where the exploited migrant worker has not even known about the existence of trade unions or of such benefits.

> It's kind of a problem that these clients only come at the stage where the game is already almost over, even the union can't help then. (Permit and inspection authority)

However, some of the interviewed migrant workers had been helped by PAM even though they had not been members at the time.

> But later I learned that the trade union PAM is a trade union for cleaners. That you don't have to be a member, that you simply turn to them and they help you. (Estonian/Russian worker)

Also more negative views were expressed about the work trade unions do in helping migrant workers. In particular some of the interviewed migrant service providers reported negative experiences that their clients had had. Some

migrant workers had even been union members but without any information on what it means to be a union member, what kind of services they could get and how they should proceed when complaining about a case.

> There are trade union federations in Finland. Some told me that they joined. I don't know if 20 euros or something like that is then deducted as the membership fee. It helps if you become homeless, or helps financially. It should help. But if you're there for the first time, it doesn't help. (Estonian/Russian worker).

Overall, many of the interviewed migrant workers had very good experiences of trade unions after they had decided to become members. They had received advice on their terms of employment, wages and back pay issues as well as concrete legal help and assistance.

> Many people don't go to the union. They think, oh, why do I need this. But you get a lot of help from there. The unions are different, but you still get legal advice, you can ask. You go there, you can ask for advice, information. (Estonian/Russian worker)

> I have reported two employers to [trade union X], of course [trade union X] stood on my side and I got my money. (Asian/African worker).

The role of trade unions in promoting the rights of migrant workers and their ambivalence regarding their responsibilities towards those who are not members are themes that will certainly continue also in the future. It would be important for the trade unions to find new ways of offering services to migrant workers and engaging them in different ways. Mobilising the networks of migrants themselves would be a good way for trade unions to disseminate information about workers rights to a wider set of migrant communities and raise awareness about issues of work discrimination and exploitation. Next, this theme is analysed in greater detail.

6.1.4 Raising the awareness of migrant workers on their rights and available services

> AJ: So what do you think should be done about these problems, what would help migrant workers who encounter such problems and exploitation?
> R: The first thing is information. In my opinion, the first thing is that they should be informed. Migrant workers need information on what to do in case this happens. They just need to know that ok if they feel something is wrong then they should know where to come to complain. (Asian/African worker)

One of the biggest obstacles in preventing labour exploitation is that migrants do not know about their rights as workers in Finland. As one interviewed migrant worker explained, s/he simply did not know anything about the existence of minimum wages, collective agreements or laws regulating working time. It was also the experience of many other migrant workers that at

first they did not know about the different services available in Finland and where you can ask for advice or assistance in issues concerning labour exploitation. Dissemination of such information is therefore of utmost importance in order to prevent labour exploitation and trafficking for forced labour.

There was discussion in the expert interviews that migrant workers would need to be given information about their rights at the earliest stage possible: already at the stage where they are applying for a worker's residence permit, for example. This was emphasised by many interviewees, particularly the representatives of the police and border guard.

> They should be given – no matter what country they're from – also in writing, first they should be told and then given [a leaflet] in written format so that they could read it. Perhaps even advice that hang on to this and don't give this paper to anybody. If you're for example applying for a work permit for a restaurant in Finland, then already in the residence permit interview you would be instructed who to contact in Finland if you have bad working conditions – first you contact the labour inspectorate and then the police. […] So that they would have some ammunition and not be in a position of slave in Finnish society for the first year. It boggles my mind how unaware these people are. (Police and border guard)

Another possible opportunity for giving information about workers rights was deemed to be the stage when migrants apply for an extension of their residence permit from the police. Although the scarce resources of the police do not enable them to make sure that migrant workers know about their rights, they could give such persons a small leaflet containing some basic information and contact details of labour inspectorate, for example. Such a brochure should be available in multiple languages.

> The fact whether this person knows about overtime compensations or annual leave isn't passed on anywhere. It's undeniably one matter which we could have the desk officer give a brochure about. It's not possible that the desk clerk would start explaining the labour law from A to Z there. […] But of course some kind of brochure, it's not a bad idea at all, that we could pass on to them. (Police and border guard)

The Joutseno reception centre, which manages the official system of assistance to victims of trafficking, and the Finnish immigration service have produced an information booklet on workers' rights targeting asylum seekers as part of the Hapke -project.[50] The aim of the project is to improve the identification of trafficking in persons among asylum seekers. The booklet contains information about the right of asylum seekers to work, their rights and responsibilities in respect of working in Finland as well as information on the contents of work contracts, working hours, wages and collective agreements, for example. The

[50] The development project of the vulnerable asylum seekers' service provision system in Finland (HAPKE).

booklet also gives information about trade unions and places to contact if problems arise at work, including the contact details of the labour inspectorate and the assistance system for victims of trafficking. (Working in Finland 2013.)

A considerable amount of information is available also online. For example, the Info bank is an online portal targeting migrants. The website gives information about issues such as Finnish society and culture, residence permits, housing, studying Finnish, finding employment, education, health care and social services in at least 15 languages.[51] Also many trade unions have their websites available in at least English and Russian, for example. The problem is that not all migrants facing exploitation have access to the internet in the first place, or they prefer to access information in ways other than reading something in written format.[52] It was discussed in the expert interviews that while there is a lot of information available online and different authorities have produced all kinds of different information leaflets and brochures, the problem is that such documents do not necessarily really reach their target groups or serve their particular needs.

The interviewed migrant workers themselves emphasised the importance of dissemination of information through informal channels, contacts and ethnic groups. It was the experience of many interviewees that information spreads best by word-of-mouth.

> In the African community, information is what Africans know. Somebody hears something. If somebody has a problem then somebody calls the next person and the person gives his own advice and own experience. There is no information coming from the outside. It's hard to get information from the outside. If somebody goes out, they get information and he brings it in. So it's good to have some system where information reaches directly so people get it. (Asian/African worker)

Particularly the migrant service providers also emphasised the importance of offering services in person, not just online. It was their experience that migrant workers often have problems interpreting the information available from different sources and putting it into practice, applying it to their own situation or circumstances.

> R1: A person who reads this [website] doesn't know what concerns their particular situation. […] When they read they want to know what they are entitled to just currently.
> R2: It must be tailored to their situation.
> R3: […] the situation in life always dictates what information you remember and what you don't need you forget it. That's why it's important that always when people come to ask about different things [we

[51] http://www.infopankki.fi/en-GB/home/ (accessed on 28 May 2013)

[52] It must also be noted that some migrants may be illiterate or partially illiterate.

bear in mind] their particular situation and now it's this, what we do now. (Migrant service providers)

It is very important that targeted services are available for migrant workers, whether they are offered by the different authorities, the municipalities, trade unions or non-governmental organisations. It is equally important that the services available have a low threshold and that they can offer advice and assistance in multiple languages. As we noted already in our previous report, it is unfortunate that there is no non-governmental organisation focusing on the rights of migrant workers (Jokinen et al. 2011a). Nor is there a telephone hotline for migrant workers wanting to ask advice about their terms of employment, wages or other such matters in multiple languages.[53] For example, in Estonia the NGO Living for Tomorrow maintains a hotline for victims or persons seeking help and advice on working abroad and other such issues.[54] It was the experience of both interviewed experts and migrant workers that services offered by non-governmental organisations would be easiest to get in touch with also for migrants in the most vulnerable position (e.g. undocumented migrants).

> They kind of need some sort of impartial – what ever it could be – for instance the municipality or something. That the migrant could experience it as impartial would require a lot of groundwork. The police are kind of impartial now, but people coming from those third countries, they can have very critical views about the police. There's corruption and everything, and in general if they may feel that state and municipality officials are all corrupt. (Police and border guard)

Moreover, the co-operation between different authorities and actors could be intensified, so that a migrant worker accessing one service could also hear about other such services and other actors that could be of use to them. It would make sense to create and intensify contacts between reception centres, trade unions, and different information service points and the labour inspectorate for example. Trade unions could also cooperate with the assistance system for victims of trafficking in cases where there are signs of serious exploitation, i.e. forced labour. The interviewed experts also argued that information-sharing between different authorities should be improved, since currently different existing registers do not really "talk" with each other. This could reduce the bureaucracy of the system which from the point of view of migrant workers impedes the process of getting help and making complaints.

Next we will look at the factors that facilitate continued exploitation of migrant workers in Finland from the perspective of the employers, the authorities and existing practices.

---

[53] The Joutseno reception centre maintains a phone service for victims of trafficking, but many times the problem is that victims do not identify themselves as victims of trafficking and they would not call such a phone service. Instead they want to ask whether their terms of employment are legal and whether their wages are correctly calculated.

[54] http://www.lft.ee/human-trafficking/hotline-service (accessed 25 July 2013)

6.2 Prevention of exploitation and the role of the authorities and employers

6.2.1 Intentional exploitation

An important aspect of prevention is the roles and responsibilities of employers who actually employ migrant workers. Although as we have stressed many employers operate in a legitimate manner, we have in this study wanted to focus on understanding the exploitation that does exist and how systematic the means of exploitation are. It is clear from our data that the exploitation that the migrant workers have experienced takes place in the context of intentional misuse and abuse. This is compounded by a lack of sanctions and problems of oversight, which make it possible for unscrupulous employers to continue their illegal practices.

Although much of the abuse is intentional, this might not always be the case: such misuse may in part be unintentional, as was explained by one of the interviewed Estonian/Russian workers. The interviewee had encountered a situation where the employer was ignorant about the employer's obligations and was therefore not able to run his/her business in line with laws and regulations. Also a migrant service provider explained that abuses are not necessarily intentional. Therefore there seems to be a certain element of altruism, or of wanting to assist fellow countrymen, combined with a wish to make a profit out of it.

> I think it's both, but it is mainly intentional. The intention may not be bad; it's mixed with doing good and helping as well. So it may be out of a good heart and then saying that ok I am taking a risk so maybe I should be getting something extra, because I am taking this risk, but I am helping this person. (Migrant service provider)

In order to avoid mistakes caused by ignorance and a lack of information, one interviewed employer's representative suggested that everyone who founds a company in Finland should receive basic information on the rights and obligations of entrepreneurs at the stage when the company is registered with the Finnish Trade Register. Also some of the interviewed Estonian/Russian workers mentioned that their employers were not familiar with Finnish regulations and their mandatory obligations as employers. One interviewed employer's representative pointed out that it is not always easy even for a Finnish employer to know all the rules and regulations regarding the employment of migrant workers. Therefore concrete and easily accessible information should be provided also to employers.

> We have this "In To Finland" service, they have a lot on links and other information, but we need a one-stop service where all information could easily be found. Anything that you could imagine that you need when you employ [people], and especially when you employ foreign workers. It's such a jungle of information and permits. That in itself hampers [employers] from bothering [to follow the rules]. (Employer's representative)

Another employer's representative saw a distinction between small mistakes, such as not remembering to pay the annual obligatory raises in wages, and intentional, continuous exploitation.

> This underpayment of wages that goes on for years, that's certainly systematic. It's no longer ignorance. The amounts are too big. (Employer's representative)

However, our data shows that most of the problems are not caused by misunderstandings, ignorance and mistakes, but by intentional abuse (see also chapter 5.2.2). As one of the interviewed workers saw it, those who exploit migrant labour do indeed know that the practices in which they are engaged are wrong.

> I think they do it because they know the people are vulnerable. I think everybody knows that if the job is eight hours, you give somebody pay for five hours is wrong. (Asian/African worker)

The intentionality and systematic nature of the exploitation becomes evident also when looking at the convictions for trafficking for forced labour and aggravated extortion that have been passed in Finnish courts of law (see e.g. Helsinki district court 30 Match 2012; Pirkanmaa district court 29 June 2012; Pirkanmaa district court 18 August 2012; Vantaa district court 28 September 2012; Varsinais-Suomi district court 22 March 2013). In all of these cases, the courts have found that the exploitation taking place had been intentional and illegal in nature. The employers have received quite considerable financial profits from systematic underpayment of wages. In some cases the exploitation lasted for several years (e.g. Pirkanmaa district court 29 June 2012). Exploitation is also often linked to a disregard for occupational health and safety issues.

Box 10. Disregard for occupational safety and health

The occupational health and safety of migrant workers was discussed in the expert interviews. According to some studies, migrants are more likely to be working in sectors with existing health and safety concerns (e.g. McKay et al. 2006). In particular new migrants who have limited knowledge of the local health and safety system may have an increased risk of work-related accidents and health problems. (Ibid.) In particular undocumented workers may have poor working conditions and rarely report such conditions or work-related accidents to any authorities or service providers (Irastorza 2013).

In particular language problems may compromise the occupational health and safety of migrant workers and hinder the training of workers (see also Mattila et al. 2010). Such views were also presented in the expert interviews. An interviewed trade union representative told about an instance where a retail mall had to be evacuated due to a serious emergency. Because of language problems, the cleaners, who were migrant workers, did not understand that they should leave immediately.

> The middle-level manager called the employee and tried to say in bad English that you have to evacuate. The employee just says that no, I'm going to finish my work. The security guards and property maintenance understood and left, but the cleaners stayed. No one cared about them. […] It's a work safety risk. All instructions and product descriptions are in Finnish. (Trade union representative)

There are signs in the data that migrant workers may lack proper training on how to use for example the toxic detergents and substances that are used in cleaning. In the case of the bus depot cleaning company, the cleaners were driving buses in the depot area without proper driver's licences and ended up damaging the buses and endangering other workers (PAM-lehti 15 June 2012). One of the cleaners was also accused of destroying an interior panel of a bus because he had used the wrong type of detergent (Vantaa district court 28 September 2012).

Also the rush, and working up to 12 hours a day 6−7 days a week, may compromise the health of migrant workers and make them more prone to accidents at work (Jokinen et al. 2011a, 100−101). Such accidents are particularly common among cleaners, farm workers and construction workers (Eskola & Alvesalo 2010, 33). There are also instances in our data where migrant workers have had to work while they were ill or in pain. One interviewed worker told about such an instance.

> AJ: Did you have to work while ill.
> R: Yes. Sometimes I was ill and another employee got me some Burana [pain medication]. The employer said that the flu is better cured while working. (Asian/African worker)

Other interviewed migrant workers also mentioned having accidents at work or on their way to work. Such examples show that poor terms of employment may also be reflected in the actual work safety of migrant workers and can compromise their health and well-being in the long term.

Next we will present some of the challenges in targeting exploitation in terms of existing policies and practices of employers and the authorities, and present some suggestions for improvement.

6.2.2 Lack of sanctions

If exploitation of migrant labour is to be prevented, it seems clear that an additional focus should be placed on recognising the exploitation of migrant workers as an offence that needs to be appropriately sanctioned. Police investigations relating to illegal migrant labour have tended to focus on offences against the state (such as tax evasion) or offences against other companies (such as fraud) instead of focusing on offences by employers against migrant employees (Eskola & Alvesalo 2010). Also the sanctions for offences that involve the exploitation of migrant labour seem relatively lenient. For example, the sanction for extortionate work discrimination is most

commonly a small fine: in 2011 the average fine imposed by Finnish district courts and courts of appeal for the offence of extortionate work discrimination amounted to 220 EUR (Statistics Finland StatFin database 2013a).

The topic of inadequate sanctions or measures to curb exploitation was also raised in many of the expert interviews. The lack of sanctions was highlighted in particular by trade union representatives and representatives of the authorities, but not so much by employers. One interviewed representative of the police and border guards pointed out that harsher sanctions are the only way of responding to those who engage in misconduct and compared the situation to that of airlines. When airlines started receiving fines for transporting persons travelling without valid documents, the problem of undocumented travellers on airplanes largely disappeared. The incentive to comply was clearly financial and this applies also to labour exploitation, according to the interviewed expert.

> It's money that makes the world go round. That's clear. (Police and border guard representative)

An interviewed permit and inspection authority representative called for the right for labour inspectors to give on-the-spot fines to employers who do not comply with the regulations, e.g. by not having up-to-date work shift lists. Imposing immediate fines would also be a more effective method than involving the police and long criminal investigations into the matter (HS 11 October 2012). These views were echoed by one of the interviewed workers.

> For example in my case they [labour inspectors] found that that company did not pay me for X days. They should have the power to tell the company to pay me or receive a fine. But they don't have that power and the companies know that the labour inspectorate cannot do anything. (Asian/African worker)

The need for heavier fines was also raised by a trade union representative, who suggested that fines should be in proportion to the company's size.

> If a company's management thinks that we can pay less than the minimum wages, because it is [more] likely that we in this way will make a profit than that we would have to repay the wages. How would this way of thinking change if there would be the risk of 10 % of your turnover, or 200,000 EUR in corporate criminal liability? (Trade union representative)

The Criminal Code stipulates that the fine for corporate criminal liability is between 850 and 850,000 EUR (Criminal Code Chapter 9, section 5). The current proposal for the amendment of the Criminal Code in relation to the offence of trafficking in human beings and related offences by the Ministry of Justice also includes a proposal to include extortionate work discrimination among the offences for which corporate criminal liability could be used as a sanction (Ministry of Justice 2012). This issue was also raised by interviewed experts in our previous study (Jokinen et al. 2011b, 176–177).

Another problem with lack of sanctions is the issue of not having enough work, i.e. of employees receiving too few hours of work (see also chapter 5.1.3). According to the Employment Contracts Act, the employer is obliged to first offer additional work to existing part-time workers before new part-time staff is hired (Employment Contracts Act 55/2001, Chapter 2, section 5). A worker who has not been offered such additional work is entitled to seek compensation for the hours that s/he did not receive.[55] This of course requires that the employee is aware that s/he was not offered extra hours but other workers were hired instead, and in addition the employee should be aware of the possibilities of demanding compensation and be able to initiate the process. This is often not the case with migrant workers, who often lack awareness of their rights and are not members of the trade union, which could assist them in such situations. One interviewed trade union representative therefore called for the application of corporate criminal liability also in situations where the employer does not fulfil the obligation to offer additional work, and to introduce a hefty fine as a deterrent in such situations.

Trade unions have also been calling for the right for unions to raise class action suits. In 2012 a member of the Social Democratic group in Parliament submitted a law proposal to introduce class action suits in civil matters (LA 85/2012 vp). The proposal is currently with the Parliamentary Law Committee. An interviewed trade union representative explained why such a right would be needed:

> The right to use class action suits would be the most important [sanction]. I think that all these underpayments, the obligation to offer additional work, and what not, they should be sanctioned in a way that if you consider a company with a turnover of two million euros, if that company pays one worker their due wages, that's nothing more than a mosquito's pee in their operations. When it's not sanctioned in any way, why would they not try it again. The long-term benefit is so big. (Trade union representative)

One additional sanction that has been discussed recently is the criminalisation of underpayment of wages. The Finnish Parliament is currently considering a proposal by a member of Parliament (Social Democrat Party) to amend the Criminal Code with the aim of criminalising the underpayment of wages. The proposal outlines that employers should follow the existing collective agreements, with fines or a maximum penalty of 6 month imprisonment for intentional or negligent breaches of the law. (LA 15/2012 vp.) The current Minister of Finance (who is also the chairperson of the Social Democratic Party) has supported the proposal to introduce fines against those employers who do not pay wages in line with the collective agreement (MTV3 12 July 2013a). Employers' representatives oppose the proposal, arguing that employees have the possibility of demanding their wages by suing the

[55] www.pam.fi/fi/tyo/tyosuhde/lisatunnit/.../PAM_lisatyo_nettiin.pdf (accessed on 11 August 2013)

employer in court, or through the offence of extortionate work discrimination (MTV3 12 July 2013b). The Service Union United (PAM) criticises the employers' view, since even if the court case is successful, the outcome of the trial would only be that the employer pays the employee the wages that the employee should have received already in the first place, in line with the collective agreement. In this sense, the current practice does not impose any sanctions on those employers who underpay their workers. In addition, the cases that go to court are only the tip of the iceberg of the grey economy in the service sector. (PAM 13 July 2013.)

From the perspective of protecting the rights of employees, it seems that it would be important to consider sanctions that on one hand could be given more swiftly and on the other, that would have a deterrent effect.

6.2.3 Bankruptcies and the ban on business operations

Several of the interviewed migrant workers had experienced situations where the (mainly cleaning) company that they had worked for had gone bankrupt and the workers had been left without wages. Some of the workers had been able to recover their wages through pay security (see also chapter 6.1.2), which is a government-financed wage guarantee for employees who have outstanding wages due to the employer being unable to pay (e.g. due to bankruptcy). [56] This was confirmed by one of the interviewed permit and inspection authorities.

> AJ: So part of this strategy is that you go bankrupt and then you leave the wages unpaid?
> R: Yes, directly to pay security. The employer may him/herself say that go straight to pay security, s/he is not able to pay anything. (Permit and inspection authority)

Many of the interviewed workers also wondered how companies that have gone bankrupt in Finland are still able to continue operating under another name.

> And then the company closes down ... goes bankrupt. Then it starts up again, but with another name. And they start recruiting trainees again. (Estonian/Russian worker)

This specific case points to a situation where certain employers intentionally misuse the system for their own benefit. An interviewed representative of the permit and inspection authorities explained that if the company has no funds, no one will take care of the liquidation, since it would cost too much. The bankruptcy thus becomes a mechanism to avoid paying outstanding taxes and other obligatory fees. This was commented on by one of the interviewed experts.

---

56 http://www.mol.fi/mol/en/02_working/05_foreigners/02_employment_relationships/05_paysecurity/index.jsp (accessed on 11 August 2013)

> That's how you get rid of your old sins. The business itself laughs that these are those tax-free operations. These are those tax-free restaurants. (Permit and inspection authority)

In 2012 a total of 172 restaurants and 62 cleaning companies were declared bankrupt (Statistics Finland StatFin database 2013b). Entrepreneurs with an immigrant background were twice as likely to end up bankrupt compared to Finnish entrepreneurs, according to a survey by the newspaper Taloussanomat. The most common bankruptcies are among Estonian construction companies and ethnic restaurants. (Taloussanomat 30 November 2010.)

In addition to bankruptcy, misuse in managing and running a business may result in a ban on operating a business. In July 2012 there were 1150 persons under a ban on business operations in Finland. The majority of these companies were in the construction sector. Many of those under the ban, however, continue engaging in business operations in both Finland and Estonia although the Ban on Business Operations Act stipulates that a person who has been banned from operating a business is not allowed to manage a business, not even using a middleman (section 4). Annually some 30–40 persons are caught for violation of such a ban. (Verohallinto 2013.) There was at least one example of such a company in our research data, where a person on whom such a ban had been imposed as a result of exploitation of migrant workers, still continued operating a business either directly or indirectly. An interviewed expert explained that oversight if difficult.

> Such a company can be a partner, provided that the sentenced person has been moved to other tasks. The problem may be that the sentenced person is in effect the actual decision-maker although s/he is not officially involved in the activities in any way. But how do you prove this, so that it would be legally binding for instance to terminate the contract? These are really tricky questions. Companies and persons engaging is such fiddling behind the scenes are really cunning and they know the intricacies of the law and are able to navigate in such a way that the papers always look clean. It's easy to use these shell companies and to always start a new company and in that way hide the tracks. Oversight is indeed difficult. (Police and border guard)

An interviewed trade union representative felt that the process of having a ban imposed on a person is cumbersome and takes too long, and in the end the ban is only valid for a few years. This expert called for more sanctions and mechanisms in order to target those who engage in problematic practices.

The problems of oversight are well known. The Ministry of Justice has recently suggested amending the law so that a person guilty of extortionate work discrimination could have a ban on business operations imposed on him or her by the court (Ministry of Justice 2012).[57] The Tax Authority has recently in its

[57] Already in 2009 the owners of a Chinese restaurant in Eastern Finland received a nine months suspended sentence for extortionate work discrimination and a five year ban on operating a business (Savonlinna District Court 20 February 2009).

investigation of persons under the ban suggested intensifying efforts to oversee the ban and to publish a register online of all persons on whom the ban is imposed (Verohallinto 2013). Such a public registry of companies engaging in misconduct was supported also by one of the interviewed workers.

> R: I think that when such things are happening, it should be published. The names.
> NO: Sort of like name-and-shame?
> R: Yeah, the name of the company and the name of the people involved. I think that should be done. Even if you can't publish it, it should be made public. I think that will go a long way to solve many things. (Asian/African worker)

One interviewed representative of the permit and inspection authorities, however, thought that such a name-and-shame practice conducted by the authorities would not be in line with the basic principles of the rule of law. Some trade unions keep public listings of companies that have been declared boycotted due to non-payment and underpayment of wages. For example, the Finnish Construction Union publishes the names of such suspect companies regularly, so that their members can watch out for themselves and avoid such companies.[58]

In the construction sector, a recent law amendment enables the imposition of a negligence fee if a contractor subcontracts a company that is under the ban and in situations where it is known that the subcontractor does not intend to fulfil its obligations (Act on the Contractor's Obligations and Liability 469/2012, section 9). Such a negligence fee could also be introduced into other sectors apart from the construction industry in order to enhance oversight and control.

6.2.4 The responsibility of contractors

> It is possible to provide false information in [submitting] a bid [for a contract]. Lie. They're not going to tell in the bid if they intend to use undeclared labour for the actual work. It's difficult, since the contractor should be able to trust the information in the bid. But nothing guarantees that the information is correct. (Permit and inspection authority)

Several interviewed experts mentioned that one way of addressing problems of maltreatment of workers is that contractors should take more responsibility over inquiring about the contents and conditions of the contracts.

> Personally I think that the contractors should perhaps find out more and demand more. As long as there are companies and sectors which, when they order services, don't really find out what common sense already tells you, that is that there's something fishy here, it is that long that there's going to be the grey economy. One shouldn't take the easy way out. The

[58] http://rakennusliitto.fi/palkat-ja-tes/liiton-julistamat-saarrot/ (accessed on 11 August 2013)

> prices must be realistic and all papers must be in order. (Employer's representative).

The price of the contract is not the only criterion for choosing a specific tender. According to the Act on Public Contracts, which governs the actions of public entities (such as municipalities and cities), the price of the contract is not the sole criterion. The selected tender can either have the lowest price or be the most economically advantageous, meaning that in addition to price, also e.g. quality, technical merit, functional characteristics, environmental characteristics, and cost-effectiveness are taken into consideration (section 62 of the Act on Public Contracts 348/2007). The European Commission is also currently in the process of modernising public procurement in the European Union, including a proposal for a new Directive on public procurement.[59] Ethical selection criteria are, however, not included either in the Finnish Act on Public Contracts or in the new EU Directive.

There are, however, examples where actors at least in theory agree to consider also the ethical aspects of contracting. For example, the city of Helsinki has introduced a strategy of global responsibility in which they pledge to combat i.a. practices of the grey economy and to raise awareness of trafficking in persons and exploitation of migrant workers among those who are responsible for making acquisitions for the city and accepting bids (Helsinki 2012, 5.) The Service Union United (PAM) has published a pamphlet on fair procurement, which highlights elements of ethical tendering and procurement, including how to take into consideration not only the price, but also the working conditions, wages, rights of the workers, quality of the work, the payment of obligatory fees, oversight etc. (PAM 2012).

In the cleaning sector the price is often the decisive factor, as has been noted above, but it does not need to be the only factor. It is fully possible to include also other elements into contracts, such as the obligation to provide evidence of wages paid. The contractor can also him/herself oversee the work being carried out, e.g. through unannounced spot checks. The city of Helsinki has introduced the practice of such "surprise inspections" into the sub-contracting companies and the services they are buying (Helsingin kaupungin tarkastuslautakunta 2010, 11). At least one major contractor has tasked a private security company to check whether the cleaners working in particular sites are listed as employees of the cleaning company (PAM 17 August 2012). Such practices could allow the contractor to identify illegal practices, undocumented workers or potential problems first hand.

One of the interviewed migrant workers suggested that contractors should demand not only a list of employees, but also their contact details, so that the contractor could be in touch with the workers directly.

---

59 http://ec.europa.eu/internal_market/publicprocurement/modernising_rules/reform_proposals/index_en.htm (accessed on 11 August 2013)

> I think one way to do that those given the contract, it can be a law that says that for every employer you need to give me a register of employees. Then now if you get the register of employees, the person giving the contract can now contact the employees. I mean e-mail is easy, you send one e-mail and it goes to everyone. (Asian/African worker)

It is of course not always feasible to expect contractors to be in direct contact with each worker, but from the perspective of the migrant workers, it may be useful for them to know that they themselves can also contact the contractor in case there are problems. A concrete solution to solving the problem of bidding is to introduce a common template for bids. This is already used by some companies in the cleaning sector.

From the perspective of contractors, one interviewed permit and inspection authority representative emphasised the need of oversight already at the beginning of the bidding process in order to remove the "bad apples" already at that stage.

As regards the prevention of labour exploitation, many strategies suggested by experts and migrant workers in this chapter could be potentially very valuable ways of combating exploitation which may ultimately lead to trafficking for forced labour. It is often the contractors who have the best chance of uncovering such practices and discontinue contracts with unscrupulous companies. Financial consequences and sanctions seem to be the most efficient in intervening in such irregular practices.

6.2.5 The role of oversight and inspections

Several of the interviewed experts emphasised the need for additional oversight to be carried out by the authorities and government bodies in order to prevent the exploitation of migrant workers in the cleaning and restaurant sectors. This is in particular the view of interviewed employers' representatives, who highlighted the roles and responsibilities of the authorities in tackling labour exploitation.

> R: Of course this cleaning sector is a sector where it's easy to commit abuses unless they are monitored. (Employer's representative)
> NO: What do you think should be the mechanisms to prevent the grey economy?
> R: Inspection activities and increasing them. I don't know if the authorities could also increase their mutual cooperation. In any case, more oversight activities. (Employer's representative)

The same employer's representative called specifically for more resources for the labour inspectorate, and more inspectors. This expert also felt that the monitoring should especially target smaller restaurants, such as the ethnic restaurants, where problems are more common.

The current Government programme and the programme to prevent the grey economy and economic crime stipulate that the number of labour inspectors

focusing on migrant workers should be increased (Government programme 2011). As a result, there are currently 17 labour inspectors focusing solely on migrant workers as compared to nine previously. There clearly is a need for even more inspectors, since it seems that many of the exploitative practices that the migrant workers encounter can only be uncovered through visits to and checks of the actual working places.

The employers' association in the cleaning sector (Kiinteistöpalvelut ry) has introduced a tax identification number for all employees of companies that are members of the association. This follows the current practice in the construction sector, where by law all workers on construction sites must carry a visible ID-card that includes their personal tax number. The idea behind the tax ID is that all workers on site can be identified and the credibility of the company can be verified through registry data from the tax authority. (Kiinteistöpalvelut ry 24 September 2012.) However, as one interviewed migrant worker pointed out, the use of the tax ID is a good measure in principle, but the measure mostly seems to target illegal or unregistered workers. While the measure indeed increases oversight, and control over who are working in any given company is welcome, the measure in itself does not solve the possible problems of exploitation occurring in the workplace.

In addition, to curb undeclared sales in the restaurant industry, there has been a discussion of the introduction of so-called 'black boxes' to be attached to the cash machine, in order to prevent misuse. The tax authority recommends that the introduction of cash machines that cannot be manipulated, together with an obligation for restaurants to always provide a receipt for purchases (Harmaan talouden selvitysyksikkö 2013). 'Black boxes' are in use in Sweden, and they store information on all transactions relating to the cash machine. In Sweden the tax authority also has the right to access the information and can thus check whether there have been sales "outside of the till". However, the Finnish employers' association in the restaurant sector, MaRa opposes the introduction of such a box in Finland, as it is deemed to be too expensive for restaurants to install such a machine and also too easy to manipulate it. The association instead promotes the obligation to always provide a receipt for all restaurant purchases. (Vitriini 2013, 50; Taloussanomat 16 March 2012.)

There are many good examples of measures to prevent the grey economy and the related exploitation of migrant workers. The 'Grey economy, black future' -campaign ("Harmaa talous, musta tulevaisuus") is a multiagency campaign by governmental and non-governmental actors (including trade unions and employers' associations), that aims at awareness-raising among the general public in Finland. The campaign has for instance focused on raising awareness about the responsibility of customers not to buy services which are overly cheap.[60]

[60] http://www.mustatulevaisuus.fi/ (accessed on 11 August 2013)

To truly prevent the grey economy and the exploitation of migrant workers in particular, it is important to have a holistic approach. There is need for proper and efficient oversight, the dissemination of information to both employers and employees, adequate legislation, as well as a public discussion on the premises and values under which work is carried out – and at what cost – in today's society.

7. Discussion and recommendations

7.1 Summary of main results

This report approaches trafficking in human beings for the purpose of forced labour from a broad perspective. As we showed in our previous report (Jokinen et al. 2011a), trafficking for forced labour takes place in the context of exploitation of migrant labour. Labour exploitation can be conceptualised as a continuum of situations and acts which range from less severe to more severe forms of exploitation. Trafficking for forced labour is the most severe form of exploitation, while more subtle forms of coercion represent less serious forms of exploitation (see Andrees 2008). Less serious forms of exploitation can be a breeding ground for more serious acts, leading up to trafficking for forced labour (e.g. David 2010).

The research was limited to two sectors which employ many migrant workers and where exploitation of migrant workers has been uncovered: the restaurant sector and the cleaning sector. However, the use of migrant labour is not in itself an indicator of irregular or exploitative practices in the workplace. The data comprises a variety of sources. Thematic interviews were conducted with various experts (N=28) including representatives of employers, trade union activists and migrant service providers. Also migrant workers (N=10) who themselves had experienced different forms of labour exploitation were interviewed. In addition, the data includes five court judgments on trafficking for forced labour and aggravated extortion, and pre-trial investigation materials from two cases, media materials from the Finnish news media over the years 2011−2013 as well as information gathered at an expert meeting organised by HEUNI in 2012.

Exploitation of migrant workers must be understood in the more general context of employment and migration policies in Finland. These policies firstly regulate how many and what types of migrants enter Finnish job markets. Finnish Government policies have for some years promoted migrant labour as the solution to the perceived labour demand, which is a result of the aging population. The emphasis of governmental policies has been on attracting skilled and mobile labour. However, at the same time, the reality is that the majority of migrant workers coming to Finland enter the labour market in low-skilled positions in the service sector. The influx of migrant workers into these sectors is regulated through the so-called assessment of the available labour on the domestic market, a process which is linked to the granting of work permits to foreign workers. Our study shows the conflicting views that exist among employers and trade unions firstly regarding whether there is indeed a shortage of labour in the cleaning and service sectors. Secondly, the interviewed experts also disagree over how the possible discontinuation of the current assessment procedure would affect the general standards of work in these sectors in general and whether the risk of exploitation of those most vulnerable would increase.

Recruitment of migrant workers covers two different groups of migrants: those already residing in Finland in different statuses and those residing in another country. Most migrant workers coming to Finland seek work due to economic reasons. Work in Finland is seen as an opportunity to improve one's life and living conditions and many are willing to compromise regarding the employment and the conditions, as long as they can earn more than at home. Recruitment of migrants is carried out either via recruitment and employment service companies or via relatives, acquaintances and word-of-mouth. When it comes to serious cases of exploitation and trafficking, the latter method seems to be a more common way of securing a job in Finland. Our data revealed several cases where migrant workers have had to pay unreasonably high recruitment and placement fees. Such practices make the migrant workers particularly vulnerable to exploitation, since they are often in debt to their employer. Also deceptive recruitment practices were uncovered, for example in relation to the terms of employment, working hours and the wages.

Migrants from third countries must apply for a worker's residence permit if they want to come to Finland for work. In order to file an application for the work permit, the migrant must already have secured a job in Finland. Getting the work permit is a lengthy and potentially costly procedure for both the migrants and their employers. Examples from the data show that migrant workers are exploited in different ways when it comes to work permits. Because their residence in Finland is dependent on having a job, migrant workers are reluctant to disclose to the authorities exploitative practices they have encountered. Unscrupulous employers may give misleading information about the contents of the work permits to migrant workers and give them the impression that they cannot change jobs or that their work contract will not be renewed if they complain about the terms of employment. From the viewpoint of prevention, it is problematic that migrants who disclose their experiences of labour exploitation to the authorities may risk their extension permit and right to reside in Finland, if their residence permit is dependent on having that very same job in which they were exploited.

In the cleaning and restaurant sectors, the exploitation of migrant workers seems to take place within the larger context of the grey economy and various clandestine practices. This research first analysed the situation in the cleaning sector and outlined the terms of extreme competition and sub-contracting chains that affect the working conditions of migrant workers. Due to extreme competition over bids in the cleaning sector, the prices are low and employers try to make savings and profit via reducing the personnel costs, which make up the main share of costs of cleaning services. Although we find that most employers in the sector (and in the restaurant sector) do abide by the laws and collective agreements, our data revealed a number of cases where this effort to reduce personnel costs leads to exploitation. Exploitative practices distort free competition and are overall condemned by employers' associations. Savings are also made by reducing the time allocated to carry out certain tasks and thus increasing the workload of the workers. Problems arise when work is contracted out to subcontractors, who provide services clearly under a

reasonable payment level, again affecting the wages and working conditions of the employees ultimately carrying out the work at the end of the chain. According to the data, such sub-contractors are often small, unorganised and in many instances migrant-owned companies in the cleaning sector.

These mechanisms for reducing the costs of cleaning reflect directly upon the terms of employment in the cleaning sector. Many migrant workers struggle with different zero or part-time contracts and many have experienced having either too little or too much work. Examples from our data show that for many migrant workers, complaining about such issues had lead to situations where the number of working hours offered was cut, resulting in financial problems for the interviewed migrant workers. Also the sizing of the work often causes problems, since in many instances the areas for which the workers were responsible were so large that they were not able to finish the work in the time they were paid for and instead had to finish the work in their spare time. In addition, the interviewed workers had encountered practices where they had to "intern" or work for free for some days in order to show that they are "good workers" before securing a job. According to interviewed migrant service providers, such schemes are especially common among asylum seekers and undocumented migrants who are particularly desperate to obtain a job.

Regarding the restaurant sector, the grey economy manifests itself especially in different tax offences such as sales without taxes, underpayment of wages and avoidance of obligatory payments and insurances. The illegal practices are seen to skew competition and prices, and contribute to an overall erosion of the economy within the restaurant sector. At the same time, part of the problem is also caused by the demand of consumers for cheap services. The most serious cases of exploitation of migrant workers and labour trafficking so far uncovered in Finland have been in ethnic restaurants: in Asian restaurants and kebab restaurants and pizzerias. These are often owned by migrants who exploit their own countrymen through low wages and long working hours. Exploited migrants may work up to 12 hours a day, 6−7 days week, but only receive certain basic wages without any mandatory extra pay for evening, night, Saturday and Sunday work or overtime. In some cases wages as low as 500 EUR/month have been paid to cooks. As in our previous study, this research shows many examples of how workers have had to return part of their wages in cash to the employer. Such practices seem systematic and calculative and a way in which unscrupulous employers try to mislead different permit and inspection authorities in order to maximize their profits.

In this report, prevention of labour exploitation is analysed from the point of view of both migrant workers and employers and the authorities. Many migrant workers seem to be weighing the pros and the cons of disclosing their experiences of exploitation to the authorities versus the risk of losing their job, their means of income and perhaps even the right to reside in Finland as a result of their disclosure. In particular asylum seekers and undocumented migrants are vulnerable to exploitation due to their poor status in society.

Our research shows that migrant workers are often unaware of their basic rights and obligations: they do not know their rights as employees in the Finnish system, nor do they know where they could find help. They have problems understanding the Finnish tripartite system with collective agreements that stipulate the minimum wage, and how the responsibilities of dealing with rights and obligations in the labour market are divided among the different authorities and institutions. Raising awareness among the networks of the migrants themselves is extremely important, since information on the existence of i.a. trade unions or labour inspectorate is disseminated via such networks and ethnic communities. Although relevant information may be available online and in different leaflets and booklets, in particular the interviewed migrant service providers emphasised the importance of offering services in person and in multiple languages.

The data reveals that in many cases the exploitation of migrant labour is intentional and systematic in nature. The motivation of exploitative employers is largely based on money and profit-making. The lack of sanctions further undermines the ways in which the authorities can intervene in the practices of unscrupulous employers. Interviewed experts made several suggestions for improving the system and responding more effectively to labour exploitation. These include financial sanctions and the right of labour inspectors to give fines to unscrupulous employers, and placing more emphasis on the responsibility of the contractor in monitoring its sub-contractors or companies offering services. In addition, the representatives of trade unions promoted the right for unions to bring class action suits. Suggestions were also made to criminalise the underpayment of wages as a potential way of combating labour exploitation. In addition, business bans could be used more often in cases where the employer has been found guilty of exploitation of migrant workers. Several of the interviewed experts also emphasised the need for the authorities and government bodies to conduct more oversight activities in order to prevent the exploitation of migrant workers in the cleaning and restaurant sectors.

7.2 Discussion on the findings

The findings of this study show that the situation in Finland with regard to exploitation of migrant labour is no different from what it is in other parts of the world. The International Labour Organisation (ILO) has noted that the "number of migrants in an irregular situation is rising, fuelled by the growth of informal forms of employment, shortages of workers for dirty, demeaning and dangerous jobs ("3D-jobs") and lack of opportunities for regular labour migration" (International Labour Conference 2004). This reality for many people in different parts of the world should be acknowledged in preparing migration and labour policies as well as in seeking to prevent exploitation and misuse.

In this report we decided to focus on two sectors: the cleaning and the restaurant sectors. Both sectors are part of the service industry, and migrants make up a large share of the employees in both. Both are labour-intensive

sectors, where labour form a large part of the overall costs. Since it is difficult to incur savings on other costs such as material costs and taxes, the goal to maximise profit may lead to a situation where employers save especially in the labour costs. Furthermore, on one hand there seems to be a lack of labour in some sectors, and on the other an oversupply of unemployed persons. The problem seems to be one of matching the supply and demand of labour at a time of an economic downturn. The nature of both the cleaning and restaurant sectors is such that there is a large demand for labour at certain hours of the day, or certain days of the week (early mornings and evenings in cleaning work; lunchtime, evenings, Fridays and Saturdays in restaurant work). This leads to a situation where a labour reserve, often working on part-time contracts, is needed to respond to this fluctuating demand. Migrant workers are seen as a flexible labour reserve, available for such part-time and on-call-when-needed work. Due to their difficulty in acquiring other (more permanent, full-time and better paid) positions, many migrant workers are willing to take such disadvantageous contracts, largely as a result of their circumstances in Finland. These circumstances may include their precarious residence status, lack of required language or other skills, lack of a formal recognition of previous education and degrees (leading to a situation where migrants cannot get jobs that correspond to their education), discrimination and racism, and the simple need to sustain themselves and their families. Many migrant workers, especially from third countries (i.e. outside the EU/EEA), wish to stay in Finland, and they may thus accept work at any terms.

It may seem that at times this report deviates quite far from the issue of trafficking in persons for the purpose of forced labour. However, we argue that a focus solely on trafficking for forced labour makes it difficult to see and understand the larger structural and contextual factors that facilitate exploitation of migrant workers. As we argued above, trafficking does not take place in isolation from the larger context of exploitation of migrant workers. From the point of view of attempting to prevent human trafficking, it is necessary to see and address the mechanisms under which this exploitation is possible.

In our previous report (Jokinen et al. 2011a) we outlined in detail the manifestations and forms of exploitation that migrant workers have experienced in Finland. We analysed these forms of exploitation of migrant labour using the ILO indicators of forced labour as our frame of analysis, including physical or sexual violence or the threat of such violence; restriction of movement of the worker e.g. through confinement or through prevention of contact with the host community; debt bondage or bonded labour e.g. arising from the process of recruitment and transportation; withholding wages or refusing to pay the worker at all; retention of passports and identity documents, and threat of denunciation to the authorities (ILO 2005, 20–21). All these forms of exploitation were uncovered in our previous study, together with additional types of abuse. In our view, our earlier account is still largely valid: the forms of exploitation inflicted upon migrant workers in Finland have remained more or less the same. The most common forms of exploitation of

migrant workers still seem to be types of underpayment, discrimination in wages, indebtedness to and dependency on the employer, psychological control of the workers, and an overall lack of alternatives, hindering the worker from leaving the abusive work situation (see Jokinen et al. 2011a).

This is why in this report we have not gone into such detail in presenting concrete forms of exploitation. Instead we have presented a more in-depth analysis of aspects of recruitment and the practices of employers as well as structures that facilitate exploitation. We have tried to give more voice to migrant workers themselves, who have experienced exploitation in Finland. We thus try share their views on why they have ended up in these abusive situations, what keeps them in these jobs and how they themselves see that such exploitation should and could be prevented. Our report shows that the migrant workers we interviewed are active subjects who continuously calculate the risks and benefits of the work, and whether they should stay or try to leave the employment. When experiencing exploitation, the workers often assess whether it is worth disclosing their experiences to the authorities, since it is likely that the only outcome is that they will lose their job, without receiving compensation or remedies for lost wages and experienced abuse.

To balance the views presented by migrant workers, we have in this report also wanted to give voice to representatives of employers and recruitment agencies. The view presented do not necessarily represent all employers and recruiters, since we were able to only interview organised employers who belong the formal employers' associations. From detected cases of trafficking for forced labour and exploitation of migrant workers we know that many of the unscrupulous and abusive employers are unorganised, i.e. they do not belong to the respective employer's associations. Many of the employers engaging in illegal practices also have a foreign background themselves (especially in the ethnic restaurants).

It is important to note that the majority of employers and recruitment agencies in Finland are law-abiding and do not engage in exploitation or misuse. This does not mean that exploitation does not occur among organised employers. There is still a need for increased awareness about the existence of exploitation of migrant labour, as well as forms of self-regulation to tackle those who engage in illegal and exploitative practices. One major challenge in tackling exploitative practices seems to be the lack of sanctions. In the most extreme cases, the lack of efficient intervention methods makes it possible for unscrupulous employers to continue their abuse over many years, continuously recruiting new workers.

In addition, it seems that the existing oversight mechanisms in Finland are largely based on ensuring that the required documentation is in order, instead of attempting to actually finding out whether the obligations are fulfilled in reality. In many instances the papers may be in order in order to mislead the authorities while the reality in the workplace is different.

One key challenge is how to detect cases of exploitation. Exploited workers do not necessarily disclose their experiences to the authorities, such as the police,

because they cannot be certain that such disclosure will lead to any benefits for them or an improvement in their situation. From the perspective of prevention, it is problematic that migrant workers do not disclose their experiences, since this is one of the only avenues of receiving information about exploitation. In addition, undocumented migrants and asylum seekers possess specific vulnerabilities that facilitate exploitation. All these groups of migrants pose a challenge to the authorities: how and whether to acknowledge them in the first place, and how to respond to their specific needs. It seems that the best way of supporting exploited migrant workers and vulnerable populations is through non-governmental organisations that provide services with a low threshold. Unfortunately there are few such organisations. One potential actor who could take on board this group of migrants is the trade union movement. Trade unions have both the expertise and often first-hand experience about the problems in the labour market. Many trade unions today also have members with a migrant background: the unions could utilise this membership to a greater extent and train migrant members to provide peer support and thus also access communities that might otherwise be difficult to find and enter.

In order to prevent exploitation, it is important to tackle the exploitative practices already from the very outset of labour migration (or trafficking chain) in the source country. From the perspective of a destination country this is often very challenging, especially as much of the exploitation in recruitment take place among unorganised recruiters, such as family, friends and acquaintances. There is an inherent contradiction also in the prevention of recruitment: efficient prevention of irregular and illegal recruitment practices would mean that the person would not be able to migrate at all. However, from our perspective labour migration is welcome, and willing migrant workers should have the right to access the (Finnish) labour market. It is the conditions under which they are recruited and in which they work that should be in line with the general standards of work in the country of destination.

As has been noted, the current government strategies and policies focus on the positive aspects of migration, without acknowledging the risks and side-effects of labour migration from the perspective of the migrant workers. Policies should also include efforts to ensure that migrant workers can work under fair and decent circumstances, even in low-skilled positions and labour-intensive sectors. Some argue that at least migrant workers receive better wages than they would in their home country. However, the point is that migrant workers should receive the same wages as do local workers in the destination country, and they should be able to work under the same terms of employment, with the same rights and responsibilities.

The problems that migrant workers experience in Finland are directly related to the restructuring of work and production as well as the larger changes in the economy and the effects of globalisation. All of this has affected how work is organised and contracted out in today's societies. Increased competition is pressing down prices (both nationally and internationally) and ultimately the price is paid by the most vulnerable workers. The effects of these global

changes can be felt and seen also in Finland, as this study shows. One may argue that it is not only the exploitative or "unscrupulous" employers in the cleaning and restaurant sectors who benefit from the general weakening of the bargaining power of employees and the overall diminishing standards of employment in the low-paid sectors of the economy, but it the entire business, including the legitimate actors and organised employers.

There is a need to raise awareness among contractors and consumers, but also to increase the efficiency of oversight mechanisms by the authorities. The existing good practices of legitimate and responsible employers and recruitment agencies in different sectors should receive more attention. Ethical conduct in business should be made a valuable asset in the current competitive market economy. All in all, the most efficient means of preventing labour exploitation and trafficking is cooperation among all actors: government, non-governmental and civil society, trade unions, employers and migrant workers themselves. Increased oversight, improved dissemination of and access to information, and adequate legislation are crucial. In addition, there is a need for an enhanced public discussion regarding the circumstances under which work and services are performed. Ultimately it is a question of societal values and acceptance: how much are we willing to pay for goods and services? Who benefits from overly cheap prices, and who must suffer the consequences?

7.3 Recommendations

In the final section of this report, we present some concrete recommendations for different actors and suggestions for how to prevent exploitation of migrant labour as well as trafficking for forced labour.

Approaches towards labour migration

The policies that promote labour migration should also acknowledge the problems of exploitation and trafficking. Migrants should not be seen as a "commodity", but as active agents who seek better employment opportunities for themselves.

- If migrant labour is to be attracted to Finland, integration services need to be further developed, including language training and information on rights and obligations. This prevents exploitation and vulnerabilities.
- The working and employment conditions offered to migrant workers should be adequate and in line with the respective collective agreements. Where possible, full-time employment should be offered to migrants in the cleaning and restaurant sectors and contracts should not be changed to become part-time, once a work permit has been obtained.
- A restrictive approach to the removal of the assessment of available labour should be maintained for the time being. The assessment should

remain in place in sectors where workers are vulnerable to abuse as well as employers known to have exploited employees in the past.

- Further efforts to ensure employment of migrants already residing in the country should be undertaken.

Recruitment practices

One of the challenges of prevention is that many of the problematic practices have emerged among workers recruited by individuals and relatives. This small-scale recruitment is more difficult to address and to influence than if the recruitment of migrant workers is organised through large, organised companies. Therefore the preventative mechanisms need to take into consideration both types of recruitment, and the risks and potential problems involved in both.

- Information to those wishing to come to work in Finland should be provided at the stage where applications are made for a visa.
- Ethical recruitment guidelines should be prepared for sectors that employ a number of migrant workers and these guidelines should be promoted among employers and recruitment agencies.
- Employers and recruitment companies wanting to recruit workers from abroad should use only reliable and accredited recruitment companies and partners.
- Recruitment agencies should make contracts that forbid their partners from asking for recruitment fees and if this is done, the contract should immediately be terminated.
- Recruitment agencies should make sure that the employer/client company for which they are recruiting is reliable and has enough assets to pay for wages and offer full-time work in Finland.
- Recruitment companies should make sure that the persons they recruit have not had to pay recruitment fees at any stage in the country of origin.

Work permits

The current system of issuing work permits to migrant workers, especially from third countries, could be used to disseminate information to workers, as well as to uncover exploitative practices.

- The process of acquiring work permits should become more predictable and there should be a maximum time limit during which work permits have to be issued.

- The high processing fee for the first permit could be lowered or returned in cases where no permit is issued, since this may expose migrants to exploitation.
- A short information leaflet could be given to a person applying for a work permit or an extension to their permit, which contains some basic information on their rights as workers in Finland and information on where to seek help in their own language.
- When a person applies for an extension permit from the police, the police could personally interview at least some selected migrant workers, especially if the permit is for a high risk sector (e.g. ethnic restaurants). This would enable the police to better assess whether the terms of employment of the applicants have been met or whether they have encountered exploitative practices.
- In certain instances when the extension permit is refused due to exploitative practices of the employer (e.g. the minimum income has not been met), the migrant workers should be given a flexible period during which they have the right to look for another job.
- New work permits should not be issued to employers who have not been fulfilling their duties as employers and whose employees have had their applications for extension permits rejected because of this. There should also be a probation period during which work permits are not granted on behalf of employers who have been sentenced for extortionate work discrimination, aggravated extortion or trafficking in persons.

Employers' roles and responsibilities

Employers have a key role to play in preventing exploitation of migrant workers. Although much of the exploitation seems to take place among unorganised employers, also the organised employers have a responsibility to ensure that recruitment and the conditions of work are of a certain standard in their respective sector.

- Employers should ask whether people they are hiring have had to pay anything for getting the job (both recruitment from abroad as well as from Finland, especially if the person is an asylum seeker, for example.)
- Employers should make sure that the people they hire understand their terms of employment when they sign the contract.
- One way of ensuring that employees understand the terms of employment as well as their broader rights and obligations would be to provide a comprehensive introduction to the work and also opportunities to attend language courses. Work instructions and

manuals should be provided in a language that the workers can understand.

- Employers should ensure that also migrant workers understand the concept and contents of occupational health and safety regulations and standards.
- As far as possible, employers should offer full-time contracts or fixed-part time contracts and avoid issuing "zero-contracts", i.e. contracts with no guaranteed amount of working hours.
- Employer's associations should make additional efforts to attract migrant entrepreneurs to become members of employer's associations. The associations could also enhance the distribution of information about employers' rights and obligations and the existing collective agreements to employers who are not yet members of the association. This includes information and materials also about workers' rights, trade unions and life in Finland.

Contractors

- Contractors should ensure that their knowledge of contracting rules and stipulations is sufficient.
- In selecting a bid, contractors should not only focus on the price, but also take into consideration the overall conditions and terms under which the work is carried out. This includes thorough checking of the background of subcontractors and ensuring that the wages to be paid to workers are in line with the minimum wages in the collective agreement.
- Contractors should make use of their power to impose additional monitoring and oversight over subcontractors. This could include e.g. additional background checks, surprise checks of work sites, as well as additional documentation regarding wages and taxes paid. Additional clauses and requirements could be introduced into contracts.
- In situations where oversight is not possible, contractors should limit their subcontractors from further subcontracting the work. If breaches of such limitations are uncovered or if exploitation is detected, the contractor should terminate the contract.

Services for migrant workers and coordination among organisations offering such services

There still seems to be a lack of targeted services for migrant workers. In particular, there should be more information provided to migrant workers on their rights and obligations, and on how and where to seek help.

- Awareness of the rights of workers in Finland should be improved among migrants. Already when migrants are applying for work/residence permits, they should be given a leaflet about their basic rights and about places they can contact when in need of help or advice.
- To improve migrants' awareness of their rights, their own networks should be utilised to a greater extent than before. Migrants' own networks and ethnic communities should be engaged in the dissemination of information.
- A low-threshold service point where migrant workers could seek advice and help should be established. Such a migrant information centre could be run by trade unions, NGOs or other civil society actors. It could offer support for workers in order to ensure that the employment and their work contract is legitimate and that the working conditions are adequate.
- Legal assistance to migrant workers should be ensured, also for those who are not members of the trade unions. It is important to improve migrant workers' access to justice and to keep them informed information about the proceedings.
- The accessibility and transparency of existing services provided to migrant workers should be enhanced in order to ensure that they understand what is happening and how things are proceeding. It would be important that the person could access information from one or a few points of service instead of having to visit numerous authorities. Any services provided should be available in multiple languages where possible
- Despite increased knowledge of labour exploitation among different actors, many key agencies do not cooperate sufficiently and their data is not compatible or cannot be shared due to data protection regulations. The appointment of a national coordinator for anti-trafficking efforts is expected to lessen the problems of coordination.

Trade unions

Trade unions possess expertise and information on the situation in the labour market. They also have direct contacts with employees, including migrant workers. This places them in a unique situation as both providers of information, and as actors who can intervene and assist in situations of misconduct.

- Trade unions could take a more prominent role in providing direct assistance to all migrant workers, regardless of whether they are members or not. This could include the establishment of a telephone helpline or a service point for migrant workers who need information on their terms of work or situation in Finland.

- Trade unions could train members with a migrant background to act as peer support persons in order to provide information to (ethnic) workplaces and communities that might otherwise be difficult to access.
- The cooperation between trade unions and other service providers should be further enhanced. This could include cooperation with actors such as the church, migrant service providers (e.g. In To Finland and Virka Info) and the official system of assistance for victims of trafficking. Trade unions could also increasingly direct victims to the system of assistance.
- There is a need to develop the practices of the authorities and others who potentially come into contact with migrant workers. This should cover a wider range of authorities than previously considered, and could include e.g. alcohol inspectors, tax inspectors, fire inspectors, and health inspectors who should learn to identify indicators of exploitation and trafficking.
- There is still a need to increase the number and resources of labour inspectors focusing on inspecting the terms of employment of migrant workers. The reporting of trafficking in human beings should explicitly be included in their mandate.

Sanctions

The lack of adequate sanctions and tools seems to be a barrier to the efficient tackling of labour exploitation in Finland.

- Labour inspectors could be given the right to impose on-the-spot fines to employers who violate the employers' obligations, e.g. who do not keep up-to-date working hour lists or lists of employees, who violate employment health care provisions etc.
- Extortionate work discrimination should be included among the offences for which corporate criminal liability can be used as a sanction.
- The fines for corporate criminal liability for exploiting migrant workers could be enhanced. The fines could e.g. be in proportion to the overall turnover of the company in question in order to have a true deterrent effect.
- It should be made possible for trade unions to initiate class action suits in some situations of labour exploitation.
- There should be additional sanctions for entrepreneurs who repeatedly declare bankruptcy and ask employees to claim their wages from pay security.

- The ban on business operations should be used more often and enforcement should be stricter.
- In situations where a person has been sentenced for exploiting migrant workers and/or trafficking, the possible proceeds of the offence should be confiscated and directed to victims as well as to the authorities to strengthen their capacity to respond to such exploitation.

References

Alho, Rolle (2008): Maahanmuuttajat suomalaisessa ay-liikkeessä – tapaus PAM. Teoksessa Helander, Mika (toim.): Going Global. Ay-liikkeeen menestysresepti globaalissa ajassa? Helsinki: Minerva, 283–330.

Al Omair, Nada & Heikinheimo, Karoliina (2013): Paperittomien oikeus terveyteen. 2013. Available online: http://www.paperittomat.fi/wp-content/uploads/2013/04/paperittomien-oikeus-terveyteen_verkkoon.pdf (accessed 25 July 2013)

Aluehallintovirasto (2010a): Ulti-tiimin raportti vuoden 2009 peruskirjan toteutumisesta. Etelä-Suomen Aluehallintovirasto, työsuojelun vastuualue. 11.2.2010.

Aluehallintovirasto (2010b): Länsi- ja Sisä-Suomen aluehallintoviraston lausunto harmaan talouden tutkimuksesta "Suomen kansainvälistyvä harmaa talous". Lausunto Dnro LSSAVI/2010/2097/Ha-7. 29.9.2010.

Andrees, Beate & van der Linden, Mariska (2005): Designing Trafficking Research from a Labour Market Perspective: The ILO Experience. International Migration 43 (1/2) 2005. Special Issue. Data and Research on Human Trafficking: A Global Survey. IOM.

Andrees, Beate (2008): Forced Labour and Trafficking in Europe: How people are trapped in, live through and come out. Working Paper. Special Action Programme to Combat Forced Labour. Geneva: ILO.

Andrees, Beate (2009): Trafficking for Forced Labour in Europe. In Andrees, Beate & Belser, Patrick (eds.): Forced labour. Coercion and exploitation in the private economy. Geneva: ILO and Lynne Rienner, 89–109.

Asa, Riikka & Muurinen, Heidi (2010): Maahanmuutto työvoiman tarpeen täyttäjänä? Helsinki: Maahanmuuttovirasto & European Migration Network.

Brunovskis, Anette & Surtees, Rebecca (2007): Leaving the past behind? When victims of trafficking decline assistance. Fafo-report 2007:40. Oslo: Fafo.

Council Regulation (EC) No 343/2003. Council Regulation (EC) No 343/2003 of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national. http://europa.eu/legislation_summaries/justice_freedom_security/free_movement_of_persons_asylum_immigration/l33153_en.htm (accessed 25 July 2013)

David, Fiona (2010): Labour Trafficking. AIC Reports Research and Public Policy Series 108. Canberra: Australian Institute of Criminology.

EK 13.8.2010. Byrokratia ei tee työvoiman maahanmuutosta hallittua. http://www.ek.fi/ek/fi/ajankohtaista/uutiset/byrokratia_ei_tee_tyovoiman_maahanmuutosta_hallittua-2559 (accessed 8 August 2013)

EK (2012): Työtä tarjolla! Monta tapaa tehdä työtä – monta tapaa työllistää. EK: Helsinki

EMN (2010): Maahanmuutto työvoiman tarpeen täyttäjänä. Euroopan muuttoliike verkosto; Maahanmuuttovirasto. Available online: http://www.emn.fi/files/285/220910_EMN-Raportti_FINAL_KORJATTU.pdf (accessed 24 July 2013)

EMN (2011): Viisumipolitiikka maahanmuuton väylänä. Euroopan muuttoliike verkosto; Maahanmuuttovirasto. Available online: http://www.emn.fi/files/521/EMN-Visa-Study-fi-FINAL-251111.pdf (accessed 24 July 2013)

Eskola, Kaisa & Alvesalo, Anne (2010): Ulkomaiseen työvoimaan liittyvät väärinkäytökset – poliisin tutkimat tapaukset. Helsinki: Työterveyslaitos.

Eurostat (2013): Trafficking in human beings. 2013 edition. Eurostat Methodologies and Working papers. Luxembourg: Eurostat.

Forsander, Annika (2002). Luottamuksen ehdot. Maahanmuuttajat 1990-luvun suomalaisilla työmarkkinoilla. Väestöntutkimuslaitoksen julkaisusarja D39/2002. Helsinki: Väestöliitto.

Government programme of Prime Minister Jyrki Katainen, 22 June 2011.

Harmaan talouden selvitysyksikkö (2012): Harmaa talous 2012. Vero/Skatt.

Harmaan talouden selvitysyksikkö (2013): Kassalaitteet ja tulonsalaukset Harmaan talouden selvitysyksikkö. Verohallinto. 11.6.2013

Helsinki (2012): Globaalin vastuun strategia. Helsingin kaupunki 3.9.2012.

Helsingin kaupungin tarkastuslautakunta (2010): Harmaan talouden uhat, haitat ja torjunta Helsingissä. 8.12.2010.

HEUNI expert meeting (2012): National expert meeting on the recruitment of migrant labour and the prevention of labour exploitation and trafficking. Helsinki 22.11.2012. Summary of deliberations.

Himanen, Markus & Könönen, Jukka (2012): Saatavuusharkinnalla ei paranneta siivoojien työoloja. Kansan uutiset 8.12.2012. Available online: http://www.kansanuutiset.fi/mielipiteet/nakokulma/2923434/saatavuusharkinnalla-ei-paranneta-siivoojien-tyooloja (accessed 8 August 2013)

Hirvonen, Markku, Lith, Pekka, & Walden, Risto (2010): Suomen kansainvälistyvä harmaa talous

Eduskunnan tarkastusvaliokunnan tilaaman harmaata taloutta käsittelevän tutkimuksen loppuraportti. Eduskunnan tarkastusvaliokunnan julkaisu 1/2010. Kesäkuu 2010.

Hirvonen, Markku (2012): Veropohja murenee ulkomaisen työvoiman verottomuuden ja alipalkkauksen takia. Tieto & trendit 3/2012. Tilastokeskus. Available online: http://www.stat.fi/artikkelit/2012/art_2012-06-05_001.html?s=0 (accessed 24 July 2013)

Honkatukia, Juha, Ahokas, Jussi & Marttila, Kimmo (2010): Työvoiman tarve Suomen taloudessa vuosina 2010–2025. VATT tutkimukset 154. Helsinki: Government Institute for Economic Research.

HPL (2009): Henkilöstöpalvelualan ulkomaisten työntekijöiden rekrytoinnin pelisäännöt. Ulkomaalaisten rekrytointi. Helsinki: Henkilöstöpalveluyritysten liitto.

Huotari, Kari & Pitkänen, Sari (2013): Selvitys määräaikaisten sopimusten yleisyydestä ja tiedottamisesta vuokratyössä. Työ- ja elinkeinoministeriön julkaisuja, työ ja yrittäjyys, 16/2013. Helsinki: Työ- ja elinkeinoministeriö

ILO (2005): Human trafficking and forced labour exploitation. Guidance for legislation and law enforcement. Special action programme to combat forced labour. Geneva: ILO.

ILO (2012): ILO Global Estimate of Forced Labour. Results and methodology. International Labour Office (ILO) Special Action Programme to Combat Forced Labour (SAP-FL) 2012. Geneva: ILO.

International Labour Conference (2004): Report of the Committee on Migrant Workers. Sixth item on the agenda: Migrant workers. International Labour Conference, Provisional Record 22. Ninety-second Session, Geneva, 2004.

IOM (2012): Counter Trafficking and Assistance to Vulnerable Migrants. Annual Report of Activities 2011. Geneva: IOM. Available online: http://www.iom.int/files/live/sites/iom/files/What-We Do/docs/Annual_Report_2011_Counter_Trafficking.pdf (accessed 22 May 2013)

Irastorza, Xabier (2013): EU-OSHA and Migrant Workers. Presentation at SELEX Expert Meeting European Union Agency for Fundamental Rights,Vienna 4–5 June 2013. European Agency for Health and Safety at Work.

Jokinen, Anniina, Ollus, Natalia & Viuhko, Minna (2011a): Work on Any Terms: Trafficking for Forced Labour and Exploitation of Migrant Workers in Finland. In Jokinen, Anniina, Ollus, Natalia and Aromaa, Kauko (eds.). Trafficking for Forced Labour and Labour Exploitation in Finland, Poland and Estonia. HEUNI Reports 68. Helsinki: HEUNI. 2011, 31−164.

Jokinen, Anniina, Ollus, Natalia & Viuhko, Minna (2011b): Ehdoilla millä hyvänsä. Työperäinen ihmiskauppa ja ulkomaalaisten työntekijöiden hyväksikäyttö Suomessa. HEUNI Reports 67. Helsinki: HEUNI.

Jokinen, Anniina & Ollus, Natalia (2011): Trafficking for Forced Labour: Project Summary and Conclusions. In Jokinen, Anniina, Ollus, Natalia and Aromaa, Kauko (eds.). Trafficking for Forced Labour and Labour

Exploitation in Finland, Poland and Estonia. HEUNI Reports 68. Helsinki: HEUNI. 2011, 312−333.

Joutseno reception centre (2010): Personal communication with a representative of the Joutseno reception centre. April and December 2010.

Joutseno Reception Centre (2012a): Personal communication regarding statistics on the victims accepted into the assistance system for victims of trafficking in persons in Finland.

Joutseno reception centre (2012b): Tilastokatsaus. Ihmiskaupan uhrien auttamisjärjestelmä 1.1.–31.12.2012.

Juntunen, Marjo (2011): Tilaajavastuulaki ja sen valvonta – ongelmat erityisesti työehtosopimuksen noudattamisen valvonnassa. Liiketalouden koulutusohjelma, Opinnäytetyö tammikuu 2011. Hyvinkää: Laurea-ammattikorkeakoulu.

Kask, Maris & Markina, Anna (2011): Trafficking for Forced Labour and Labour Exploitation in Estonia. In Jokinen, Anniina, Ollus, Natalia & Aromaa, Kauko (eds.) Trafficking for Forced Labour and Labour Exploitation in Finland, Poland and Estonia. HEUNI Report Series No. 68. Helsinki: HEUNI, 246−311.

Keskusrikospoliisi (2011): Yrityksiin kohdistuvan ja niitä hyödyntävän rikollisuuden teematilannekuva 2011: ravintola-ala. KRP:n diaarinumero 2400/2011/98. 11.4.2011 Keskusrikospoliisi, Tiedusteluosasto.

Kiinteistöpalvelualan työehtosopimus 2011–2013. Kiinteistöpalvelualan työntekijöitä koskeva työehtosopimus 1.11.2011–30.11.2013. Palvelualojen ammattiliitto.

Könönen, Jukka (2011): Palvelualan työnantajat ja joustavat ulkomaalaiset työntekijät. Maahanmuuttohallinnon merkitys prekaarin työvoiman tuottamisessa. Janus Vol. 19 (1), 53–67.

LA 15/2012 vp Antti Lindtman /sd LAKIALOITE 15/2012 vp Laki rikoslain muuttamisesta

Laitinen, Ahti (2005). Ravintola-alan yrittäjien ja viranomaisten käsitykset ravintola-alan verovalvontaprojektin vaikuttavuudesta. Viranomaisyhteistyön kehittämisprojekti. 15.3.2005.

Leppäkorpi, Mervi (2011): Asiaton oleskelu kielletty: tutkimusmatkalla paperittomien Suomessa. Helsinki: Into.

Lilja, Reija & Savala, Eija (2013): Sukupuolten välinen palkkauksellinen tasa-arvo yksityisillä palvelualoilla. Selvitys miesten ja naisten palkkakehityksestä vuosilta 2007–2010 kaupan alalla, kiinteistöpalvelualalla sekä matkailu-, ravintola- ja vapaa-ajan palveluissa. Palkansaajien tutkimuslaitoksen raportteja 24. Helsinki: Palkansaajien tutkimuslaitos.

Lith, Pekka (2007): Työnteko yli rajojen lisääntyy. Tieto & trendit 7/2007. Tilastokeskus. Available online: http://www.stat.fi/artikkelit/2007/art_2007-11-07_005.html?s=0 (accessed 24 July 2013)

Lith, Pekka (2010a): Majoitus- ja ravitsemisalan piilotalous. Tilastonäkemys majoitus- ja ravitsemistoiminnan yritystoiminnasta, kysynnästä ja harmaiden markkinoiden laajuudesta 2010 Helsinki 19.03.2010. Available online: http://web.eduskunta.fi/dman/Document.phx?documentId=kl16910101949442&cmd=download (accessed 8 August 2013)

Lith, Pekka (2010b): Rakentamisen harmaa talous. Tilastonäkemys rakennusalan harmaan talouden painopistealueista, ilmenemismuodoista ja laskennallisesta laajuudesta. Helsinki 20.5.2010.

LO (2013): Fusk och utnyttjande – om avregleringen av arbetskraftsinvandringen. Landsorganisationen i Sverige.

Maahanmuuttovirasto (2013): Tilastokatsaus. Maahanmuutto yksikkö 18.2.2013. Oleskeluluvat 1.1.–31.12.2012. Maahanmuuttovirasto. Available online: http://www.migri.fi/download/40069_mamu_tilastokatsaus_2012.pdf?1fd067ca1f50d088 (accessed 23 July 2013)

Mattila, Tiina, Sinisalo, Alina & Lätti, Markku (eds.): Työntekijöiden perehdyttäminen ja työnopastus puutarha- ja maataloustuotannossa. TTS tutkimuksen raportteja ja oppaita 43. Nurmijärvi: Työtehoseura. 2010.

McKay, Sandra, Craw, Marc & Chopra, Deepta (2006): Migrant workers in England and Wales. An assessment of migrant worker health and safety risks. Working Lives Research Institute, London Metropolitan University. London: London Metropolitan University.

Ministry of Employment and the Economy (2012): Finnish Labour Legislation and Industrial Relations.

Ministry of Justice (2012): Ihmiskauppatyöryhmän mietintö [Report of the Trafficking in Human Beings Working Group] Mietintöjä ja lausuntoja [Publication of the Ministry of Justice] 63/2012. Helsinki: Ministry of Justice.

Mygind Korsby, Trine (2011): Menneskehandel i rengøringsbranchen? En kvalitativ undersøgelse af migrations- og arbejdsvilkårene for en gruppe migrantarbejdere i Danmark. Odense: Servicestyrelsen 2011.

Ollus, Natalia & Alvesalo-Kuusi, Anne (2012): From cherry-picking to control: migrant labour and its exploitation in Finnish governmental policies. Nordisk Tidsskrift for Kriminalvidenskab, Vol. 99, No. 3, 376–398.

Ombudsman for Minorities (2010): The Finnish National Rapporteur on Trafficking in Human Beings Report 2010: Trafficking in human beings, phenomena related to it, and implementation of the rights of human

trafficking victims in Finland. Publication 7. Helsinki: Ombudsman for Minorities.

Ombudsman for Minorities (2013): Annual report of the Ombudsman for Minorities 2012. Helsinki: Ombudsman for Minorities.

PAM (2011): Kiinteistöpalvelualan työntekijöitä koskeva työehtosopimus 1.11.2011–30.11.2013.

PAM & MaRa (2012): Matkailu-, ravintola- ja vapaa-ajan palveluita koskeva työehtosopimus: työntekijät 1.4.2012–30.4.2014. Palvelualojen ammattiliitto PAM ry ja Matkailu- ja Ravintolapalvelut MaRa.

Poliisihallitus (2012): Ihmiskauppaan ja sen kaltaisiin rikoksiin puuttuminen ja ihmiskaupan uhrien auttaminen. Ohje 12.4.2012, 2020/2011/3768, voimassaoloaika 1.5.2012–30.4.2017.

Raatikainen, Tea (2004): Ulkomaisen työvoiman hankinta. Selvitys ulkomaisen työvoiman hankintaan liittyvistä kanavista ja työnantajien palvelutarpeista EURES – työnvälityspalvelun kehittämiseksi. Työhallinnon julkaisu 338. Työministeriö.

Riihijärvi, Anssi (2013): Aluehallintovirasto – työsuojelu, ulkomaalaiset työntekijät. In Harmaa talous – valvontatilastoja 2012. Vero/Skatt, 24−27.

Ristikari, Tiina (2012): Finnish Trade Unions and Immigrant labour. Migration Studies C 22. Turku: Institute of Migration. Available online: http://www.migrationinstitute.fi/pdf/C_22_Finnish_Trade_Unions_and_immigrant_labor_by_Tiina_Ristikari.pdf (accessed 1 August 2013)

Ritari, Anni (2013): Töissä Suomessa. Raportti Palvelualojen ammattiliiton maahanmuuttajajäsenten kokemuksista. Palveluliittojen ammattiliitto PAM ry, julkaisuja 1/2013. Helsinki: Palvelualojen ammattiliitto.

Roth, Venla (2010): Defining Human Trafficking, Identifying its Victims. A Study on the Impact and Future Challenges of the International, European and Finnish Legal Responses to Prostitution-related Trafficking in Human Beings. Turku: Turun yliopisto.

Salmenhaara, Perttu (2008): From Horizontal to Vertical Divides: Immigrants' Employment in Finland in the 1990s. Finnish Journal of Ethnicity and Migration. Vol. 3, No. 1, 13–20.

Schauman, Heidi & Vanhala, Juuso (2011): Beveridge-käyrä, kriisit ja työmarkkinoiden rakenteellliset muutokset Suomessa. Suomen Pankki, Rahapolitiikka- ja tutkimusosasto 14.3.2011. Helsinki: BoF.

SM (2009): Työvoiman maahanmuuton toimenpideohjelma. Maahanmuutto. Sisäasiainministeriön julkaisuja 23/2009. Helsinki: Sisäasiainministeriö.

Sisäasiainministeriö (2008): Ihmiskaupan vastainen tarkennettu toimintasuunnitelma. Maahanmuutto. Sisäasiainministeriön julkaisuja 27/2008. Helsinki: Sisäasiainministeriö.

Sisäasiainministeriö (2011): Ihmiskaupan vastaisen toimintasuunnitelman toimeenpanon arviointi sekä suositukset ihmiskauppaa koskevan lainsäädännön ja toimenpiteiden kehittämiseksi. Ihmiskaupan vastaisen toimintasuunnitelman ohjausryhmän loppuraportti. Sisäasiainministeriön julkaisut 17/2011.

Sisäasiainministeriö (2013a): Ihmiskaupan vastaisen toiminnan poikkihallinnollisen seurannan ja koordinoinnin järjestäminen valtioneuvostossa. Sisäasiainministeriön julkaisut 15/2013. Helsinki: Sisäasiainministeriö.

Sisäasiainministeriö (2013b): Maahanmuuton tulevaisuus -työryhmän ehdotus. Sisäasiainministeriön julkaisut 5/2013. Helsinki: Sisäasiainministeriö.

Sosiaali- ja terveysministeriö (2012): Ohje ulkomaisen työvoiman valvonnasta. 07.09.2012. STM/3424/2012

Statistics Finland (2013a): Väestö 2012. Available online at: https://www.stat.fi/tup/suoluk/suoluk_vaesto.html#ulkomaidenkansalaiset (accessed 23 July 2013)

Statistics Finland (2013b): Border Interview Survey 2012. Transport and Tourism 2013. Statistics Finland. Available online at: http://tilastokeskus.fi/til/rajat/2012/rajat_2012_2013-05-30_en.pdf (accessed 23 July 2013)

Statistics Finland Statfin database (2013a): Oikeustilastot. Rangaistukset rikoksittain, 2009–2011 (käräjäoikeudet ja hovioikeus ensimmäisenä oikeusasteena)

Statistics Finland Statfin database (2013b): Konkurssit toimialoittain 2008.

Tarkkonen, Juhani (2010): Enemmän, nopeammin ja halvemmalla. Laadullinen tutkimus siivoojien kohtelusta, asemasta, vaikutus-mahdollisuuksista ja työoloista siivousyrityksissä ja julkisissa organisaatioissa. Innosafe-tutkimukset 1/ 2010. Oulu.

TEM (2012): Kokemuksia kansainvälisistä rekrytoinneista Suomeen -opas. Työ- ja elinkeinoministeriö.

TEM (2013): Osa-aikatyötä selvittäneen työryhmän muistio. Työ- ja elinkeinoministeriön julkaisuja, työ ja yrittäjyys, 6/2013. Helsinki: Työ- ja elinkeinoministeriö.

Työ-ja elinkeinotoimisto (2011): Tilastot vuosi 2011. Työ-ja elinkeinotoimistojen osaratkaisut koskien työntekijöiden oleskelulupahakemuksia. Vuosi 2011.

Työ- ja elinkeinotoimisto (2012a): Osaratkaisut ensimmäisiin oleskelulupiin 2012.

Työ- ja elinkeinotoimisto (2012b): Osaratkaisut jatko-oleskelulupiin 2012.

Ulkoasiainministeriö (2005): Ihmiskaupan vastainen toimintasuunnitelma. Helsinki: Ulkoasiainministeriön julkaisusarja.

Uudenmaan ELY-keskus (2012): Uudenmaan elinkeino-, liikenne- ja ympäristökeskuksen ulkomaisen työvoiman käytön edellytyksiä koskeva linjaus. Työlupalinjaus Dnro 2530/00.01.01/2010. 13.11.2012.

UNODC (2012): Global Report on Trafficking in Persons. December 2012. Vienna: UNODC.

Uusimaa Regional Council (2011): Maahanmuuttajayrittäjyys Uudellamaalla. Raportti ulkomaalaistaustaisten yritysten määrästä, toimialasta ja yrittäjien kansallisesta taustasta. Uudenmaan liiton julkaisuja E 116–2011. Helsinki: Uudenmaan liitto.

Valtioneuvosto (2013): Valtioneuvoston periaatepäätös maahanmuuton tulevaisuus 2020 -strategiasta.

Valtioneuvoston päätös (2012): Ulkomaisen työvoiman käytön yleisiä edellytyksiä koskevista valtakunnallisista linjauksista 11.10.2012.

Vero (2012): Veronumero – ohje rakennusalan työntekijöille ja työnantajille. 30.3.2012. Available online: http://www.vero.fi/fi-FI/Syventavat_veroohjeet/Muu_verotus/Veronumero__ohje_rakennusalan_tyontekijo(20240)#1.Ensimmisenvaiheenlakimuutokset_(accessed 25 July 2013)

Verohallinto (2013): Siivouspalvelualan yritykset. Harmaan talouden selvitysyksikkö 21.5.2013. Verohallinto. Available online: http://www.vero.fi/download/noname/%7B6A17AC0C-6CCB-4F98-BC09-7C0A11CAB9B5%7D/8504 (accessed 24 July 2013)

Vogiazides, Louisa & Hedberg, Charlotta (2013): Trafficking for forced labour and labour exploitation in Sweden. Examples from the restaurant and the berry industries.

Working in Finland (2013): Know Your Rights. The Finnish Immigration Service and National Assistance System for Victims of Trafficking. 2013.

Zimmerman, Cathy & Watts, Charlotte (2003): WHO ethical and safety recommendations for interviewing trafficked women. Geneva: World Health Organization.

Media sources

Apu 21 January 2013. Panttivankina ananasmaassa.

HS 19 January 2008. Filippiineiltä aiotaan tuoda kymmeniätuhansia töihin Suomeen.

HS 23 December 2011. Poliisi tutkii ihmiskauppoja nyt ennätystahdilla.

HS 31 August 2012. Vastaväite: Siivousalalla riittää töitä. Tiia Brax. Elinkeinopoliittinen asiantuntija. Kiinteistöpalvelut ry.

HS 11 October 2012. Tarkastajat haluavat sakotusoikeuden Olkiluodossa. Ulkomaisen työvoiman laiminlyönteihin halutaan puuttua nykyistä nopeammin.

HS 10 March 2013. Jopa puolet pääkaupunki-seudun siivoojista maahanmuuttajia.

HS 1 May 2013. Hollannin mallilla saisi suursäästöt. Sulkutilit ja ketjuverotussäännöt tekevät veronkiertäjän toiminnan vaikeaksi.

HS 9 May 2013. Ravintoloitsijat puolustavat ilmaista työtä. Työntekijöiden könttäpalkat ilman ylityö- ja iltalisiä ovat palvelualan ammattiliiton mukaan laittomia.

HS 26 May 2013. Poliisit iskivät ravintoloihin Espoossa. Poliisi ja rajavartiolaitos halusivat puuttua ulkomaisten työntekijöiden oloihin.

HS 29 May 2013. Mielipide: Ulkomaalaiset eivät vie töitä suomalaisten nenän edestä. Riitta Wärn. Maahanmuuttopolitiikan asiantuntija. Elinkeinoelämän keskusliitto EK.

Kiinteistöpalvelut 24 September 2012. Kiinteistöpalvelut ry velvoittaa jäsenyrityksensä veronumeron käyttöön 1.3.2013 mennessä.

Makuja.fi 30 November 2012. Huippukokki teki puoli vuotta töitä ilmaiseksi – "Nykyajan nuoriso on vellipersekansaa!" Available online: http://www.makuja.fi/artikkelit/1666342/ajankohtaista/huippukokki-teki-puoli-vuotta-toita-ilmaiseksi-nykyajan-nuoriso-on-vellipersekansaa/ (accessed 8 August 2013)

MTV3 12 July 2013a. Yritysten kannettava vastuuta työntekijöistään, Jutta Urpilainen. Available online: http://www.mtv3.fi/uutiset/nettivieraat.shtml/1780073/yritysten-kannettava-vastuuta-tyontekijoistaan (accessed 8 August 2013)

MTV3 12 July 2013b. EK:sta täystyrmäys alipalkkauksen kriminalisoinnille. Available online: http://www.mtv3.fi/uutiset/kotimaa.shtml/ekstä-taystyrmays- alipalkkauksen-kriminalisoinnille/2013/07/1780120 (accessed 8 August 2013)

Palkkatyöläinen 19 February 2012. Pääkaupunkiseudulla rehottavat kahden kerroksen työmarkkinat. Available online: http://www.sak.fi/luottamushenkiloille/jutut/paakaupunkiseudulla-rehottavat-kahden-kerroksen-tyomarkkinat-2013-02-19 (accessed 8 August 2013)

PAM 15 June 2012. Ajokortittomat joutuvat bussin rattiin.

PAM 17 August 2012. Kuka hän on? Available online: http://www.pam.fi/fi/info/pam-lehti/Sivut/Kukahanon.aspx (accessed 7 August 2013)

PAM 13 July 2013. PAMilta täysi tuki Urpilaisen avaukselle alipalkkauksen kriminalisoinnista.

SAK 15 November 2012. SAK ja PAM arvostelevat rankasti ELY-keskuksen siivousalapäätöstä. Available online: http://www.sak.fi/ajankohtaista /uutiset/sak-ja-pam-arvostelevat-rankasti-ely-keskuksen-siivousalapaatosta (accessed 7 August 2013)

Taloussanomat 30 November 2010. Tuplariski vaanii ulkomaista yrittäjää

Taloussanomat 16 March 2012. Kassojen musta laatikko – kiitos ei, liian hämärä homma.

Työsuojelupäällikkö.fi 23 April 2013. Ravintola-alan valvontaisku: Puutteita työterveyshuollossa ja työaikaseurannassa. Available online: http://www.tyosuojelupaallikko.fi/sitenews/view/-/nid/6417/ngid/2 (accessed 7 August 2013)

Ulkolinja 13 February 2008. Ulkolinja: Vientituotteena hoitajat. TV-documentary.

Vitriini (2013): Tulevatko mustat laatikot ravintoloihin? Vitriini: matkailu- ja ravintola-alan ammattilehti 2/2013.

YLE 7 September 2011. Paperittomia Suomessa oletettua enemmän. Available online: http://yle.fi/uutiset/paperittomia_suomessa_oletettua_enemman/5419744 (accessed 8 August 2013)

YLE 10 December 2012. Ulkomainen työvoima laskee palkkoja pääkaupunkiseudulla. Available online: http://yle.fi/uutiset/ulkomainen_tyovoima_laskee_palkkoja_paakaupunkiseudulla/6409895 (accessed 7 August 2013)

YLE 17 February 2013. Paperiton siirtolainen siivosi Suomessa rakennusjätteitä muutaman euron tuntipalkalla. Available online: http://yle.fi/uutiset/paperiton_siirtolainen_siivosi_suomessa_rakennusjatteita_muutaman_euron_tuntipalkalla/6490945 (accessed 8 August 2013)

YLE 23 April 2013. Paperittomille avattiin klinikka Turussa. Available online: http://yle.fi/uutiset/paperittomille_avattiin_klinikka_turussa/6592581 (accessed 8 August 2013)

YLE 21 May 2013. “Liian halpa hinta on huutomerkki” – Järjestö: Etnisissä ravintoloissa ongelmia. Available online: http://yle.fi/uutiset/liian_halpa_hinta_on_huutomerkki__jarjesto_etnisissa_ravintoloissa_ongelmia/6642626 (accessed 8 August 2013)

Judgments and pre-trial investigation materials

Helsinki district court 30 March 2012. R 12/2465.

Pirkanmaa district court 29 June 2012. R 12/2271; pre-trial investigation material 8330/R/55534/11.

Pirkanmaa district court 18 December 2012. R 12/5728.

Pohjanmaa district court 28 January 2013. R12/1683.

Pohjanmaa district court 15 May 2013. R11/756.

Savonlinna District Court 20 February 2009. R 08/206.

Vantaa district court 28 September 2012. R 12/2139; pre-trial investigation material 9186/R/61009/09.

Varsinais-Suomi district court 22 March 2013. R 12/1508.

Laws and regulations

Act on the Contractor's Obligations and Liability when Work is Contracted Out (1233/2006) and (469/2012).

Act on Public Contracts (348/2007).

Aliens Act (301/2004, 631/2011, 449/2012).

Criminal Code (39/1889).

Employment Contracts Act (55/2001).

Law on the Integration of Immigrants and the Reception Asylum Seekers (1269/2006).

ANNEX 1: INFOPAPER FOR EXPERT INTERVIEWS

RECRUITMENT OF MIGRANT WORKERS AND THE PREVENTION OF EXPLOITATION IN THE CLEANING AND RESTAURANT SECTORS

The European Institute for Crime Prevention and Control, affiliated with the United Nations (HEUNI) coordinates an international project that aims at preventing the exploitation of migrant labour in Finland and the Baltic Sea region. The project is a continuation of an earlier research project on labour trafficking in Finland. The research showed that exploitation of migrant labour is often difficult to identify and to intervene. More information is especially needed on how workers end up in situations of exploitation.

The aim of the project is to map the practices and problems in the recruitment of migrant workers, and to come up with good practices for preventing exploitation of migrant workers. The project will publish a research report on Finland, Estonia, Lithuania and Sweden and also prepare guidelines for employers and recruiters on how to identify and prevent labour trafficking and exploitation.

One part of our research comprises of expert interviews. We would like to discuss with experts from different sectors on issues related to recruitment of migrant workers and think about ways in which the exploitation of migrant workers could be prevented. We would also like talk about the problems that have occurred in different sectors and think about the roles and responsibilities of different actors. Your answers are very important and valuable, and we are very grateful for your participation.

The interviews will be confidential and HEUNI staff is bound by secrecy rules. We will not share any personal information with outsiders. In the final publication the information will be presented in such a manner that you can not be recognised. Participation in the interview 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 project or the interviews, please contact us. You can also find more information on: www.heuni.fi

Natalia Ollus
Senior Programme Officer

Tel: xxxxxxxxxxxxxxxxxxx
Email: xxxxxxxxxxxxxxxxx

Anniina Jokinen
Researcher

Tel: xxxxxxxxxxxxxxxxxxxx
Email: xxxxxxxxxxxxxxxxxx

ANNEX 2: THEMATIC INTERVIEW TEMPLATE FOR EXPERT INTERVIEWS

Recruitment – general questions for both recruitment agencies and employers

Have you recruited workers from abroad? Why?

What kind of profile do you expect and prefer the workers to have?

What kind of recruitment mechanisms do you use for the workers?

For recruitment agencies

Do you have sister companies/subsidiaries or partners abroad that handle the recruitment (overseas)? Have you audited these firms? How do you ensure their trustworthiness? How do you make sure that the information provided to the workers is legitimate and accurate?

Have you encountered problems related to recruiting workers from abroad?

How do you make sure that workers do not need to pay excessive/illegal recruitment fees?

Have you encountered any problems with foreign recruitment companies or middle men?

How do you distinguish between trustworthy, legitimate companies and what could be labelled as "rogue firms"?

Do you think the recruitment company has any responsibility in making sure that the migrant workers do not end up being exploited? What is the role of the recruitment company in ensuring that the foreign workers do not have false information or misleading expectations about the work and the working conditions? Should the recruitment company ensure that the workers are aware of their rights (as workers)? (If so, what should the recruitment company do to inform the workers?)

For employers:

How do you recruit migrant workers? How do you start the recruitment process?

Have you used a recruitment company? What qualities are important when selecting a recruitment company?

Have you been offered cheap labour by recruitment companies or middle men from abroad or within the country?

Have you encountered problems related to recruiting workers from abroad?

Have you encountered any problems with foreign recruitment companies or middle men?

Do you think the employer has responsibility in ensuring what the recruitment companies promise the workers/what type of information they give the workers?

What is the role of the employer in ensuring that the migrant workers do not have false information or misleading expectations about the work and the working conditions? Should the employer ensure that the workers are aware of their rights (as workers)?

General questions on restaurant and cleaning sectors

Which countries do the workers come from? How do they hear about the jobs?

What kind of jobs do they have within these sectors, what kind of work they do and where?

Have you encountered exploitative or problematic practices in these sectors? Please tell more about these cases? What happened to the workers and to the employers?

Why do you think such practices have taken place?

What types of contracts are used to employ migrant workers in these sectors? Why?

Are there some exploitative practices that employers use against/on migrant workers?

Do you think migrant workers have poorer terms of employment than Finnish workers? Why?

Finally

What are the roles and responsibilities of employers in ensuring that migrant workers are not exploited?

How could exploitative recruitment practices and exploitation at work be prevented?

ANNEX 3: INFOPAPER FOR MIGRANT WORKER INTERVIEWS

RECRUITMENT OF MIGRANT WORKERS AND THE PREVENTION OF EXPLOITATION IN THE CLEANING AND RESTAURANT SECTORS

The European Institute for Crime Prevention and Control, affiliated with the United Nations (HEUNI) coordinates an international project that aims at preventing the exploitation of migrant labour in Finland and the Baltic Sea region. The project is a continuation of an earlier research project on labour trafficking in Finland. The research showed that exploitation of migrant labour is often difficult to identify and to intervene. More information is especially needed on how workers end up in situations of exploitation.

The aim of the project is to map the practices and problems in the recruitment of migrant workers, and to come up with good practices for preventing exploitation of migrant workers. The project will publish a research report on Finland, Estonia, Lithuania and Sweden and also prepare guidelines for employers and recruiters on how to identify and prevent labour trafficking and exploitation.

For our research we would like to interview people who have experienced labour exploitation in Finland. We would like to know how you were recruited to Finland, what your working conditions were, and how your employer treated you. We are interested in your experiences especially in the cleaning and restaurant sectors. Your answers are very important and valuable, and we are very grateful for your participation.

The interviews will be confidential and HEUNI staff is bound by secrecy rules. We will not share any personal information with outsiders. In the final publication the information will be presented in such a manner that you can not be recognised. Participation in the interview 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 project or the interviews, please contact us. You can also find more information on: www.heuni.fi

Natalia Ollus

Senior Programme Officer
Tel: xxxxxxxxxxx
Email: xxxxxxxxxx

Anniina Jokinen

Researcher
Tel: xxxxxxxxxxxx
Email: xxxxxxxxxxx

ANNEX 4: THEMATIC INTERVIEW TEMPLATE FOR MIGRANT WORKER INTERVIEWS

Where are you from? How long you have been in Finland?

Where have you worked?

Recruitment

How long were you looking for a job? What kind of job were you looking for? What kind of jobs have you had before?

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

Did you get the job through an employment agency or recruitment agency?

Could you describe the recruitment process from beginning to end? How did the recruiters go about in recruiting you as a worker?

Did you have to pay something (e.g. a mediation fee) to get the job? How much did you pay and to whom? Did you have to borrow money to be able to pay this fee? From whom did you borrow the money?

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

How did you travel to Finland? Did you buy the tickets yourself?

Did you have to borrow money to be able to travel to Finland? 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?

Did the work/employment correspond to what you were promised (at recruitment)?

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

What were the working conditions like?

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

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

Were you able to leave the job when you wanted (quit the job at will)?

Were you forced to keep working even when you would have wanted to terminate the work contract? How?

Did you tell anyone about your 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.)? Who paid the salary?

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

Did you recommend the job for your friends, relatives or someone else?

Getting help

Did you seek help yourself? Where?

Did you get help? What help did you get?

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?

Recommendations

What do you think recruitment agencies/employers should do to prevent exploitation of migrant workers?

Is there something the state/government or someone else should do to prevent the exploitation of migrant workers?

Do you have anything to add?

TRAFFICKING FOR FORCED LABOUR AND LABOUR EXPLOITATION IN SWEDEN: Examples from the Restaurant and the Berry Industries[1]

Louisa Vogiazides and Charlotta Hedberg[2]

Summary

Since the introduction of a new liberal labour immigration policy in 2008, several cases of abuse of migrant workers have tarnished the good international image of the Swedish Model of industrial relations. Using the examples of the restaurant and berry-picking industries, this report investigates practices of trafficking for forced labour and labour exploitation in Sweden. The report examines the migrants' working conditions as well as exploitative practices occurring in the context of the workers' recruitment, including the role of recruitment agencies, middlemen and employers. The data was collected through interviews, fieldwork, and media material and court judgments. Trafficking for forced labour is considered from a broad perspective, not only focusing on the legal definition of trafficking for forced labour but also on milder practices of labour exploitation that constitute the context in which trafficking can occur. The report identifies a number of challenges to the prevention of migrant labour exploitation and proposes recommendations to policymakers, employers and other societal actors. It argues that acknowledging the shortcomings of Sweden's new liberal labour immigration policy does not imply that it should be entirely rejected but rather that there is scope for its improvement.

[1] This report was commissioned by the European Institute for Crime Prevention and Control, affiliated with the UN (HEUNI) under the auspices of the ADSTRINGO project (Addressing trafficking for labour exploitation th□rough improved partnerships, enhanced diagnostics and intensified organisational approaches). The project is implemented with the financial support of the Prevention of and Fight against Crime Programme European Commission - Directorate-General Home Affairs.

[2] Department of Human Geography, Stockholm University.

1. Introduction

The Swedish Model of industrial relations, characterized by a high level of self-regulation and cooperation between trade unions and employers' organisations, is world-renowned for its efficiency and emphasis on the protection of workers' rights. However, cases of exploitation of international migrant workers in Sweden have come to the forefront of both national and international media, tarnishing the positive image of Sweden's labour market. Just as in other advanced economies, the Swedish labour market seems to be increasingly polarized, with the labour migrants occupying the lower segments and working under poorer conditions than the native-born population.

In the wake of the new policy on labour immigration, which was launched in December 2008, an intensified debate has arisen in Sweden around the issue of labour exploitation of low-skilled migrant workers. The policy was introduced in order to increase the amount of labour immigration, which at that time was extremely low in Sweden, and is liberal in nature. First, it includes the right to work in Sweden for both low- and high-skilled workers, and second, it gives the workers the possibility to apply for a permanent residence permit in Sweden when the employment has lasted for four years.

Among the workers who have entered Sweden within the framework of the new policy, the situation of seasonal berry-pickers from Asian and East European countries, in particular, has been emphasized for the exploitative conditions faced by the workers (Wingborg 2011a; 2011b; 2012; Woolfson et al. 2011). Forms of abuse include the non-payment of wages or very low wages, excessive working days and various forms of coercion such as physical force and threats. The restaurant industry, which also employs a high number of low-skilled migrant workers, is characterized by similar working conditions of low wages and long working hours. Despite these trends, the issue of human trafficking for forced labour has received relatively little policy attention. Instead, the debate has been initiated around the policy on labour immigration, and possible ways to improve this.

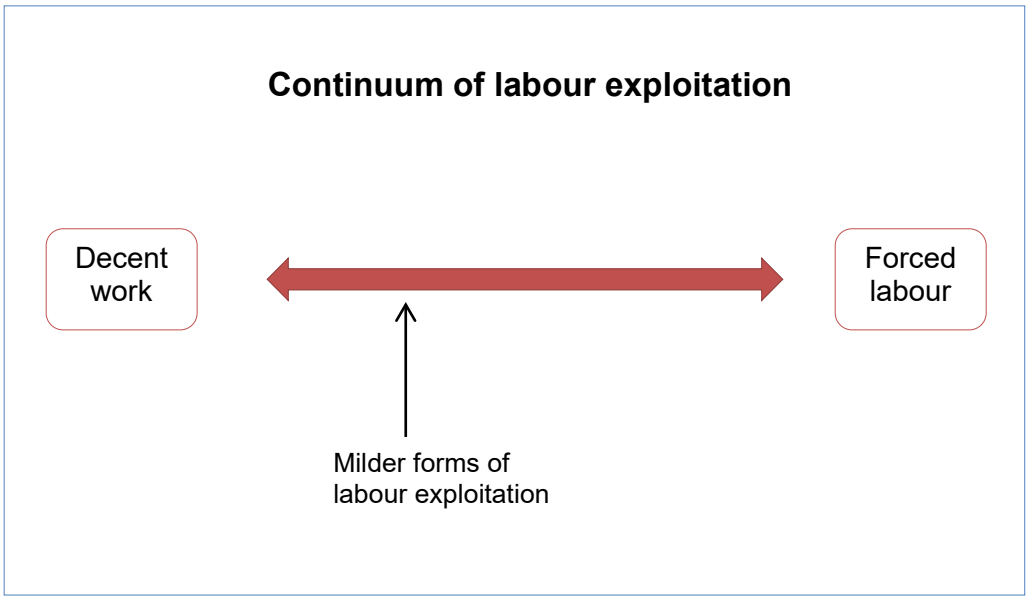
1.1 Aim and approach of the report

Increased knowledge about migrant labour exploitation is essential for developing effective prevention mechanisms. Using the cases of the restaurant and berry-picking industries, this study investigates practices of trafficking for forced labour and labour exploitation in Sweden. Particular attention is given to exploitative practices occurring in the context of the workers' recruitment and working conditions, looking at the role of recruitment agencies, middlemen and employers.

Trafficking for forced labour occurs in a broader context of exploitation of labour, often affecting migrant workers. In this report, trafficking for forced labour is considered from a broad perspective. The notion of labour exploitation is conceived as a continuum of situations and acts ranging from

less to more severe forms of exploitation, where forced labour is the most severe form of labour exploitation (Figure 1) (Andrees 2008).

Figure 1. Continuum of labour exploitation



Milder forms of exploitation can correspond to poor employment conditions, for instance long working hours or low wages. Based on this broad perspective, the study does not only focus on court cases of trafficking for forced labour but also on the different practices and mechanisms of labour exploitation that increase the risk that migrants find themselves in situations of trafficking. Thus the practices of exploitation discussed in the study do not necessarily constitute human trafficking as defined in the Swedish Penal Code. However, milder forms of exploitation are illustrative of a broader context of exploitation of migrant workers in Sweden, in which trafficking can occur. In addition, milder forms of exploitation can develop into more serious acts leading up to trafficking for forced labour.

Our analysis is inspired by the ILO indicators of trafficking for labour exploitation which are structured around six dimensions (ILO 2009):

- Deceptive recruitment or transportation;
- Coercive recruitment or transportation;
- Recruitment by abuse of vulnerability;
- Exploitative conditions at work;
- Coercion at destination;
- Abuse of vulnerability at destination.

According to the ILO, a certain combination of a number of these indicators can constitute trafficking for labour exploitation.[3]

It is worth making one clarification regarding the use of coercion in recruitment or employment situations. Coercive practices do not only suppose that the workers were forced to enter a labour situation. Measures that prevent workers from terminating their employment could also be considered as elements of forced labour, even if the workers had initially freely consented to enter the employment situation (ILO 2005; Phillips and Mieres 2011, 9).

The choice to focus on the restaurant and berry-picking industries stems from the fact that they employ a large share of non-EU workers who were granted a labour permit in Sweden. In addition, both sectors have recently been at the forefront of the media due to cases of migrant labour exploitation (Aftonbladet 2012a; New York Times 2010; Ruth 2012; the Economist 2012).

[3] For more information on the ILO indicators and their recommended use, see ILO 2009.

2. Methodology

The data for this study was collected through interviews, fieldwork, and media material and court judgments. 22 interviews were conducted with a variety of actors, including representatives of Swedish governmental institutions, trade unions, employers' organisations, immigration lawyers, and an NGO. A number of persons whom we interviewed were identified through a National Expert Meeting on human trafficking for forced labour in Sweden, which was organised in Stockholm in November 2012 as part of the ADSTRINGO project.[4] The Meeting brought together, among others, representatives from the Swedish Migration Board, the Work Environment Authority, the Tax Authority, the National Police Board, the Border Police, the International Public Prosecution Office and the Hotel and Restaurant Workers' Union.

Regarding the restaurant industry we also took part in an interview study of Chinese restaurant workers in Sweden (Axelsson et al. forthcoming). We were also given access to an interview of a restaurant chef which was conducted in 2012 by the independent Swedish think tank Global Challenges in the context of a study of Swedish labour migration policy from the perspective of migrants from Iraq (Nordlund and Pelling 2012). In the case of the berry industry, interviews were conducted with two berry merchants. Additionally, information on the berry industry was drawn from previous research conducted within another research project,[5] consisting of fieldwork in Thailand and Sweden and interviews with berry companies, berry-pickers and other central actors in the berry industry. The fieldwork, which was carried out in 2011–2013, involved stays for 1–2 weeks in rural areas, three times in Sweden and two times in Thailand, where a broad range of actors were approached and where it was possible to get a picture of the daily life of the berry-pickers both in their home village in Thailand and in their seasonal work in Sweden.

The interviews with stakeholders, which were performed in direct relation to this report, were semi-structured, including some standard questions but also leaving room for more specific questions depending on the background of the person interviewed. Given our broad understanding of labour exploitation, the interviews did not only focus on trafficking for forced labour but rather on migrant labour exploitation more generally, including both milder and more severe forms of exploitation. The interview questions were built upon the research framework of the ADSTRINGO project, developed around the following themes:

---

[4] The ADSTRINGO (Addressing trafficking in human beings for labour exploitation through improved partnerships, enhanced diagnostics and intensified organisational approaches) project, of which this study is a component, is a transnational project that focuses on trafficking for forced labour and labour exploitation in nine countries in the Baltic Sea region.

[5] The research project "Grapes of wrath"? Mobilities, global value chains and social effects on rural labour markets within the berry industry, Department of Human Geography, Stockholm University.

- The role/activity of the person interviewed in regard to labour immigration and migrant labour exploitation
- Practices of migrant labour exploitation and human trafficking (types, methods used, victims and the profile of the perpetrators)
- Process of the recruitment of the migrants (role of social networks, recruitment agencies and middlemen)
- Mechanisms to prevent migrant labour exploitation (role of employers, governmental institutions, policymakers …)

The interviews conducted for the study were anonymous. The persons whom we interviewed are referred to by the name of the institution they work for. In the case of actors in the berry industry, we did not reveal the name of the companies but only the type of occupation (merchant, company owner or buyer).

The interviews with stakeholders took place between January and March 2013, mostly face-to-face and sometimes by telephone. They were audio recorded and then transcribed. In general, the persons we interviewed showed interest in the study, and were of the view that it would be a meaningful contribution to the prevention and addressing of migrant labour exploitation.

In addition, media material and court data were also analysed for the study.

3. Context and legislation

This chapter sets out the context of human trafficking for forced labour in Sweden. It begins with an outline of the existing legal and policy framework and the main actors involved in the combating of trafficking for forced labour, which represents the most severe form of labour exploitation on the continuum (Figure 1). In the second stage, it presents the Swedish labour immigration policy, which has been reformed in 2008 in the direction of more liberal and demand-driven immigration for non-EU citizens. The chapter finishes with a description of the restaurant and berry-picking industries in Sweden.

3.1 Human trafficking for forced labour in the Swedish context

Until recently, the issue of human trafficking for forced labour has received relatively little attention in Swedish policy discourse. Instead, more emphasis has been put on the combating of trafficking for sexual exploitation, an issue for which Sweden has renowned expertise (Woolfson et al. 2011, 2). This is reflected by the fact that, to date, very few cases of trafficking for labour exploitation have reached the Swedish courts, with only one case leading to a conviction.

3.1.1 Definition and legal framework

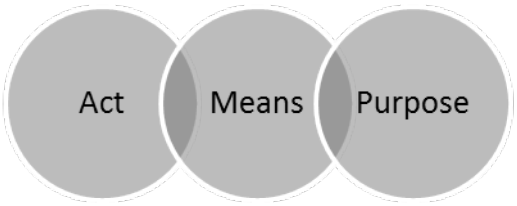
The first provision on trafficking in persons was incorporated in Swedish law in 2002 and concerned the prohibition of trafficking for sexual purposes. It was included in the Penal Code in chapter 4 on Crimes against liberty and peace (section 1a). In 2004, the law was amended to cover trafficking for purposes other than sexual exploitation, as well as trafficking within national borders. Trafficking for purposes other than sexual exploitation includes the exploitation of the victim for forced labour, for the removal of organs, in active military service or in a situation that places a person in distress.

The provision was based on the definition of human trafficking in the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the UN Convention against Transnational Organized Crime (adopted by the UN General Assembly in November 2000. According to the Swedish Penal Code (section 1a), a person commits the crime of trafficking when:

> [he or she], by the use of unlawful coercion or deception, exploiting someone's vulnerable situation or by some other such improper means recruits, transports, accommodates, receives or implements some other such measure with a person, and thereby assumes control over the person, with the aim that the person should be exploited for sexual purposes, in war service or compulsory work or other such compulsory condition, for the removal of organs, or in another way in a situation that involves a distressful situation for the vulnerable person.

Trafficking thus consists of three basic elements: the first is the act of recruiting or transporting a person across borders or within a country; the second is the unfair means that are used to constrain the victims' freedom of choice and gain control over them, including coercion, deception or threat; and the third is that the purpose must be exploitation (Figure 2.).

Figure 2. The three elements of human trafficking



According to the Swedish legislation, each of these three elements must be present for a crime to be recognised as human trafficking. However, when the victims of trafficking are children that are under eighteen years old, the conditions for trafficking are fulfilled even if no unfair means have been used.

The penalties for human trafficking prescribed by the legislation range from two to ten years of imprisonment. Even in cases where suspects are acquitted of the crime of human trafficking, they are commonly convicted for fraud or assault (Ministry of Employment 2008).

3.1.2 Policy and background

Regarding policy documents, Sweden has had a **National Action Plan against Prostitution and Trafficking for the Purpose of Sexual Exploitation** for the period of 2008 to 2011. In 2008, an inter-ministerial working group chaired by the Ministry of Labour also published a **report and a draft Action Plan against trafficking for purposes other than sexual exploitation** (Ministry of Employment 2008). However, this Action Plan has not yet been approved and implemented by the government (CBSS 2013, 98–101).

A number of actors are active in the prevention and combating of human trafficking in Sweden. As part of the 2008–2010 National Action Plan, a **National Coordinator against Prostitution and Human Trafficking** was appointed in 2009 as part of the 2008–2010 National Action Plan. Based in the Stockholm County Administrative Board, the National Coordinator is responsible for coordinating the efforts of different agencies, including the sharing of information and the development of common strategies.[6] The mandate of the coordinator was previously limited to working against prostitution and trafficking in human beings for sexual exploitation, thereby

[6] The National Coordinator also coordinates the National Methodology Support Team, a task force that includes specialized units at the police, the Social Services and the Prosecutor's Office (CBSS 2013, 100).

excluding trafficking for other purposes. (Ibid.) However, in 2013 the mandate was broadened in order to include all forms of THB.

The National Police Board has also appointed a **national rapporteur on trafficking in human beings** since 1998. The rapporteur's role consists of collecting and analysing information about the situation of human trafficking in Sweden and abroad, preparing annual reports on the results of counter-trafficking efforts, and organising training programs on trafficking for police officers, prosecutors and judges. The mandate of the national rapporteur was initially limited to trafficking for sexual exploitation, but has progressively been expanded to include trafficking for other purposes (Ibid.).

In Stockholm and other Swedish cities, the **Border Police** has been assigned the mandate to work on trafficking for purposes other than sexual exploitation (notably forced labour), while the regular police is responsible for cases of trafficking for sexual exploitation. All cases of human trafficking in Sweden are dealt with by the **International Public Prosecution Office Stockholm**.

Other stakeholders are indirectly involved in anti-trafficking efforts. The **Swedish Tax Agency** conducts inspections of workplaces for taxation-related matters and reports to the police on cases where trafficking for forced labour is suspected. Similarly, the **Work Environment Authority** carries out inspections on work places regarding the work environment and reports to the police about suspected cases of trafficking. However, they lack the mandate to review wage-related issues. The **Swedish Migration Board** also plays a pro-active role in preventing trafficking for labour exploitation. In its role of issuing labour permits for non-EU nationals it conducts controls of employers seeking to employ migrant workers, which will be elaborated further below (Ibid.). Finally, **trade unions** have the formal mandate to examine work permit applications for non-EU citizens. For each application, the relevant trade union must express its opinion on whether the terms and conditions offered, notably the wages, are at least the same as in the collective agreement within the sector. However, its role is only consultative and is not determining for the decision of whether or not a permit is granted.

In recent years, the number of reports of suspected trafficking for forced labour in Sweden is rising, while the number of reports for sexual exploitation remains stable. In 2010, the police received 31 reports of trafficking for sexual purposes and 52 of trafficking for other purposes, including forced labour and the removal of organs. In 2011, the corresponding numbers were 35 and 63 (Table 1).

Table 1. Trafficking reports

	2010	**2011**
Trafficking for sexual exploitation	31	35
Trafficking for other purposes	52	63

Source: National Police Board 2012, 20.

Sectors that are particularly exposed to practices of migrant labour exploitation include the restaurant and service sector, agriculture and seasonal work, cleaning, and construction (National Police Board 2012, 21; Ministry of Employment 2009, 76–84).

However, despite the increase in reports there has only been one conviction for trafficking for forced labour since 2004, when the crime of human trafficking for purposes other than sexual exploitation was included in Swedish legislation (see Box 3 below). In this one case, from 2012, the perpetrators were convicted for trafficking berry-pickers from Bulgaria in 2009 and 2010 (Hudiksvalls District Court, 15 June 2012).

There have also been a number of convictions for trafficking for the purpose of begging and thievery. For instance, in 2008 four people were convicted for having forced a physically disabled Ukrainian man to beg in different European countries (National Police Board 2009: 13). In 2010 a woman was convicted in the lower court for forcing five Polish women to steal, but on appeal, in 2011, she was sentenced to prison for fraud.

In addition, there have been a number of prosecutions where the crime of human trafficking was not substantiated but which nonetheless led to alternative judgments, including fraud and extortion. As mentioned above, the crime of human trafficking requires the presence of three elements, the act, the means and the purpose (Figure 2). If one of these elements is missing, the crime is not considered as a trafficking crime in the legal sense. This was the case in a 2010 judgment that dealt with five domestic workers. The act and the means were substantiated, but it was not demonstrated that the employer's purpose was to exploit the victims for forced labour since it could not be proved that his intent had been to limit their freedom (National Police Board 2011). A 2011 case that did not lead to a conviction for human trafficking involved a Bulgarian woman who had recruited three berry-pickers from Bulgaria. She had confiscated their passports and had not given them any payment for their work. However, it was not proved that the woman had had the purpose to deceive the pickers and she was sentenced for assault (among others) (National Police Board 2012; Hudiksvalls District Court, 31 October 2011, judgment B 1834-11).

In another judgment, three British men had recruited two other British men to perform asphalt work in Sweden. In this case, the act and the purpose were substantiated, but not the unfair means. The difficulty was in proving that that the victims had been misled regarding the wage and working conditions that they were supposed to work under in Sweden[7] (Woolfson et al. 2011, 5).

For the purpose of this report, it is crucial to emphasise that the low number of prosecutions and convictions for trafficking for forced labour does not necessarily signify the absence of this form of exploitation in Sweden. A large

[7] Interestingly, the same case, involving the same perpetrators, resulted in a sentence of trafficking for forced labour in Norway (Jaeren district court 4 July 2008).

number of cases are never reported to the police and do not come to the knowledge of authorities. Victims may be reluctant to report cases of exploitation for fear of losing their job and residence permit. The fact that few cases have reached the Swedish courts may also be a result of the authorities' limited capacity to recognise cases of trafficking for forced labour (Ollus and Jokinen 2011, 17). Also, as we argue in this report, trafficking should be viewed on a gliding scale. Hence, even when it is not forced labour it can be a case of labour exploitation (Figure 1).

3.2 Swedish labour immigration policy

3.2.1 The 2008 labour immigration policy reform

Sweden has two distinct labour immigration regimes, one for citizens from within and one for citizens from outside the EU/EEA and Switzerland. Since 2006, EU citizens can enter the country as part of the free mobility agreement (Schengen) and seek a job during a three-month period. The labour migration policy for citizens from non-EU countries underwent a major reform in 2008, which has made it the most liberal policy among the OECD-countries (OECD 2011, 11). This is due to two main reasons. First, the Swedish policy does not impose any skills requirement or quotas restricting the number of permits issued. This differs from other countries where labour immigration is usually limited to higher skilled labour only. Second, the policy opens up the possibility of gaining permanent residence status after working two plus two years in Sweden (OECD 2011).

Before 2008, when the law was passed, the possibilities for labour immigration to Sweden were very restrictive, with the main channels of entry being migration for humanitarian grounds and family reunification. Work permits for foreign workers were granted only in cases where the Public Employment Service assessed labour market shortages that could not be covered by the workforce present in Sweden. As a result, labour immigration mainly consisted of short-term seasonal employment and immigration within some highly specialized occupations (Ibid., 57–59).

Spurred by a concern over demographic forecasts and labour shortage, a reform of the immigration regime was agreed between the centre-right government and the Green Party. The reform, which came into force on 15 December 2008, introduced a new demand-driven migration policy based on the employers' identification of the need to recruit workers from third countries rather than on the assessment of a national authority. The Swedish Migration Board may issue permits that are valid for up to two years. The permits are constrained to a specific employer during the first two years and to a specific occupation during the first four years. After two years, the workers can apply for an extension of the permit for another two-year period, on the condition that the employer agrees for a prolongation. After four years, they are eligible for permanent residence status in Sweden. Individuals who are made redundant or decide to

leave their employment have a three-month period during which to find new employment in the same sector provided that their permit is still valid (Government Bill 2007/08: 147, 28–32).

A number of conditions are attached to the recruitment of non-EU citizens. The terms of employment and salaries must be at least on the same level as the standards of the collective agreements or the prevailing practice within the profession or sector. Workers must be offered a minimum monthly pre-tax salary of 13,000 SEK (ca. 1,500 EUR). In addition, the position must be advertised at least ten days in the Swedish job bank (Platsjouren) and/or the European job mobility portal (EURES). Finally, work permit applications must include a statement by a trade union on the terms of employment offered. When these fulfil the union's requirements, it gives a positive recommendation to the Swedish Migration Board (Government Bill 2007/08: 147, 28–32). It is also worth stressing that migrant workers enjoy the same labour and employment rights as Swedish citizens.

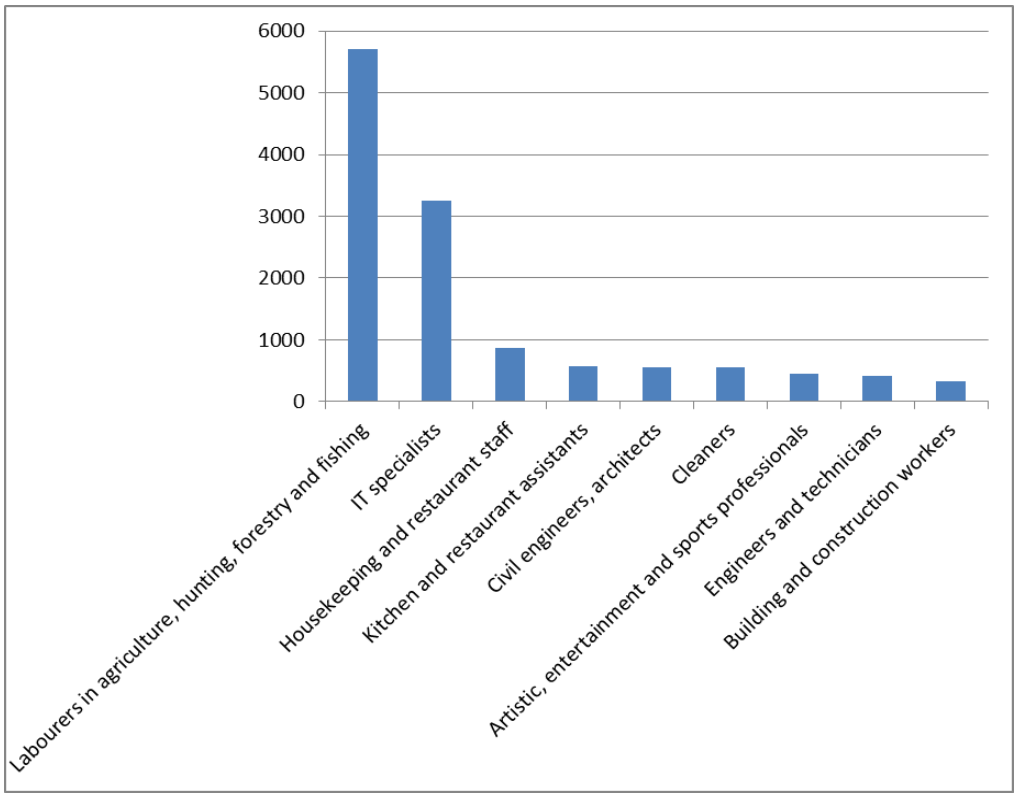
Asylum-seekers have the right to work in Sweden during the period they are waiting for an answer on their application for asylum, provided that they have a certificate exempting them from the obligation to have a work permit (AT-UND) (Swedish Migration Board 2011b). Asylum-seekers who have been denied asylum may also apply for a work permit, provided that they have been working in Sweden during the last six months before the negative decision and that the application is submitted within two weeks after the decision (Swedish Migration Board 2011b).

The evaluation of work permit applications can last between one and nine months, depending on whether all the required documents had been submitted.[8]

Since the new legislation entered into force in 2008, the Swedish Migration Board has issued 58,000 work permits to non-EU citizens. Agricultural work, which includes the berry business, is the industry employing the highest number of workers from outside the EU, followed by the IT industry and the hotel and restaurant sector (Figure 3). The workers' main countries of origin are Thailand, India and China (Figure 4).

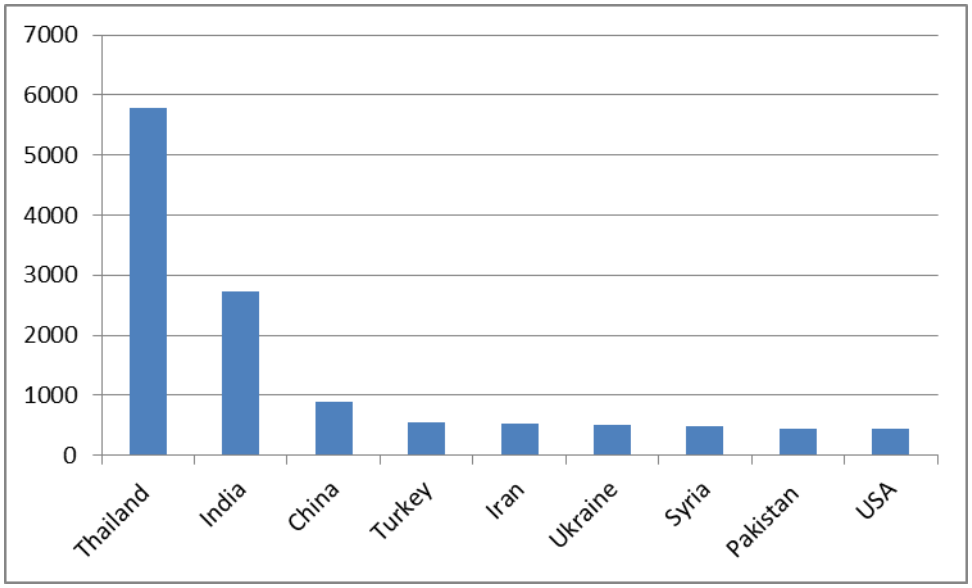
[8] The Swedish Migration Board introduced a certification system for companies hiring a minimum of 25 non-EU workers. The certification entails that the employer accepts the task of submitting a complete application to the Migration Board, which in exchange commits to reaching a decision within a short time frame (Swedish Migration Board 2013a).

Figure 3. Work permits granted in 2012 according to main professional groups.



Source: Migrationsverket 2013b.

Figure 4. Work permits granted in 2012 according to main countries of origin.



Source: Migrationsverket 2013b.

3.2.2 Stricter requirements in certain sectors

Soon after the new legislation was introduced, it appeared that the terms of employment and wage levels were frequently violated in certain sectors, in particular in the berry-picking industry. In 2011, in order to prevent cases of exploitation of migrant workers, the Swedish Migration Board introduced more stringent requirements for recruitment in the berry-picking industry.[9] On 16 January 2012, these additional requirements were extended to the following sectors, which were assessed to be subject to similar practices of labour exploitation: hotel and restaurant, cleaning, construction, agriculture and forestry, trade, automobile repair, service and staffing sectors. Employers in these sectors must prove that their company is able to pay a salary for at least three months by providing bank statements, previous and current income statements, and balance sheets. If the company has previously employed citizens from third countries it must also provide tax account statements for the preceding three months, showing whether the workers had received the salary that they had been promised. Finally, if the business is registered in a non-EU country and operates in Sweden, the employer must also register a branch in Sweden with the Swedish Companies Registration (Bolagsverket). This last requirement is intended to prevent cases where workers are abused in terms of salary or working conditions and the trade unions cannot assist them because their employers cannot be contacted. Such cases had previously occurred in the berry industry (Swedish Migration Board 2013c).

According to the Swedish Migration Board, these stricter requirements have been successful in identifying unscrupulous employers and preventing the exploitation of non-EU migrants in the Swedish labour market. They have resulted in a decrease both in the number of applications and in the number of work permits granted in the sectors affected by the new regulations (Swedish Migration Board 2013a). However, the mandate of the Swedish Migration Board is limited to investigating and checking the seriousness of employers in connection with the work permit application. It does not include conducting post-arrival checks to control whether employers fulfil the terms specified in the offer of employment. As will be further outlined below, this leaves room for various forms of abuse. The shortcomings of the labour immigration policy have been recognized by Swedish policy-makers and there is an ongoing political debate regarding possible amendments.

[9] The introduction of the stricter requirements does not constitute a change in the legislation, but rather a change in the interpretation of the legislation, which was initiated by the Swedish Migration Board (Interview with the Swedish Migration Board).

3.3 Restaurant and berry sectors in Sweden

3.3.1 The restaurant sector

The restaurant sector in Sweden employs a large number of labour migrants and other categories of foreign-born people. It is estimated that half of the companies within the hotel and restaurant industry are run by someone born in a foreign country (Swedish Agency for Economic and Regional Growth 2012: 4). In addition, a large share of the work permits for non-EU citizens were issued to workers in the restaurant sector (despite an unemployment rate of 9% in the sector). After agriculture, forestry and fisheries and the IT industry, the restaurant industry is the third sector where the highest number of labour permits for non-EU citizens is granted (Figure 2; Swedish Migration Board 2012; 2011a; 2010). The workers in the restaurant industry come mainly from Asia (China, Bangladesh, Thailand and Vietnam) as well as from the Middle East (Egypt, Turkey and Syria) (Tables 2 and 3). The labour force in the sector is rather young, mostly between 20 to 40 years, and predominantly male (Axelsson et al forthcoming; Interviews with the Hotel & Restaurant Workers´ Union, the Work Environment Authority, and immigration lawyers).

Table 2. Work permits for the category 'kitchen and restaurant helpers'.

	2010	**%**	**2011**	**%**	**2012**	**%**
Turkey	101	18.5	160	20	100	17.5
Syria	71	13	95	12	69	12
Egypt	44	8	94	12	56	10
Iraq	70	13	82	10	55	9.5
Bangladesh	41	7.5	61	7.5	57	10
Others	219	40	308	38.5	233	41
Total	546	100	800	100	570	100

Source: Statistics from Swedish Migration Board.

Table 3. Work permits for the category 'restaurant staff'.

	2010	**%**	**2011**	**%**	**2012**	**%**
China	291	28	305	23	231	27
Turkey	265	25	231	17	125	14.5
Syria	52	5	130	10	87	10
Thailand	74	7	93	7	57	6.5
Vietnam	55	5	92	7	44	5
Others	313	30	476	36	318	37
Total	1050	100	1327	100	862	100

Source: Statistics from Swedish Migration Board.

Between 2008 and 2012 the number of applications for non-EU citizens in the restaurant industry has been constantly rising (HRF 2012, 9). However, from the beginning of 2012, when stricter requirements were introduced to prevent abuses in a number of sectors including the restaurant industry, there has been a decrease both in the number of applications and in the number of permits issued. The permits issued in January and February 2013 for restaurant staff decreased by 34 % compared to the same period in 2012. For kitchen and restaurant helpers, the number of permits declined by 35 % (Figure 5).

Figure 5. Work permits issued: comparison January–February 2012 and 2013.



Source: Swedish Migration Board 2013d.

In addition, during the first eight months of 2012, the number of applications in the sector decreased by 40 %, out of which 60 % where issued. In total this implies a 35 % decrease between 2011 and 2012 (Interview with the Swedish Migration Board). This change can probably be attributed to the strengthening of the requirements that were mentioned earlier. Presumably, non-serious employers have been discouraged from hiring third country nationals and the applications for their potential employees have been rejected. Even so, this does not mean that all forms of exploitation of labour have been eradicated.

3.3.2 The berry industry

The Swedish wild berry industry has unique characteristics that distinguish it from other economic sectors. This section describes the functioning of the Swedish berry industry and the actors involved.

The wild berry industry is part of a global commodity chain that exports the raw material to producers with a global spread (Hedberg 2013). The wild berries have a high export value due to their expected health benefits, not the

least in Japan, which is one of the main markets for Swedish bilberries.[10] Other areas of use are for juices, jam and flavouring. Even though the global competition has hardened during the last ten years, Sweden is still a principal provider of wild berries to the world market and about 80 % of Swedish berries are exported. The yield varies considerably from year to year, but in good berry years, the Swedish forests are abundant with bilberries, cloudberries and lingonberries (Sw. lingon).

A prerequisite for the Swedish wild berry industry is the 'Right of public access' (Sw. Allemansrätten), which gives anyone the right to pick berries on private property.[11] During the 1980s–2000s, the industry has undergone a transition, with increasing globalization, competition and export volumes, and a subsequent shift of the workers from being mainly native-born, picking berries as a side income, to being almost completely internationalised. Today, these seasonal migrant workers arrive both from Thailand and from Eastern European countries. These two groups represent two separate legal systems, where the pickers that are EU citizens (unregulated workers) have the right to travel freely within the European Union to pick berries, whereas non-European pickers (regulated workers) need a work permit and travel within the framework of Swedish labour migration policy. According to interviews with berry companies these groups are similarly large in numbers, with about 5,000 each. One berry merchant estimates that in the future, the group of unregulated pickers will increase substantially due to economic hardships and increased competition over jobs in Europe.

Berry-pickers usually come from rural areas, often taking substantial loans to cover travel costs and fees to middlemen and recruitment agencies, in the hope that the income earned in Sweden will help improve their standard of living at home (Hedberg 2013). In recent years, both Swedish and international[12] media have abounded in stories about deceived and indebted berry-pickers who had been misled by unscrupulous actors in the industry. The various forms of abuse suffered by berry-pickers, many of which denote human trafficking, will be further discussed in upcoming sections.

The Swedish berry industry involves a range of different actors with specific roles, which to some extent depends on if the berry-picker is unregulated and of European origin or unregulated and of non-European origin: the berry-pickers; middlemen and recruitment agencies based in their home country; berry companies, and berry buyers and merchants[13] (Figure 6).

---

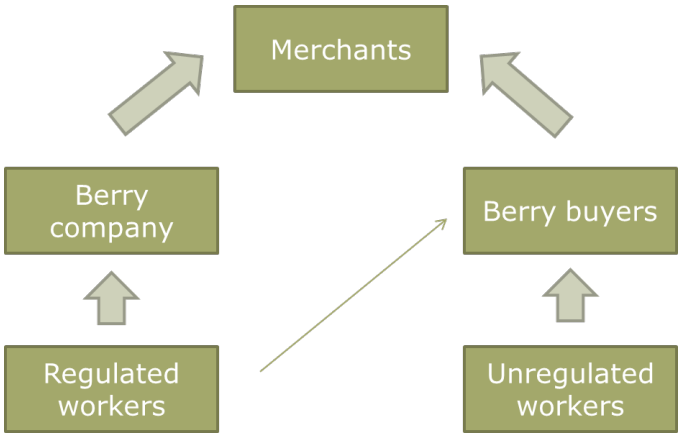
[10] Bilberries are also referred to as wild blueberries.

[11] The right does not extent to being in someone's yard or close to a house.

[12] The international media that have covered the topic of the conditions of berry-pickers in Sweden include the New York Times (2010) and the Economist (2012) as well as the Thai media.

[13] It is worth noting that the non-European system is regularized, and hence is more visible and easy to map, whereas the European system is informal and hence there might be actors in the system who are invisible.

Figure 6. The two parallel groups of workers in the berry industry and the channels of sale to Swedish merchants.



Given the distinct labour migration regimes that apply to EU and non-EU citizens, it is important to separate these groups of workers. The non-European pickers are hence called **'regulated berry-pickers'**, and they arrive mainly from Thailand but at times also from other Asian countries. Pickers from this group require a work permit and a visa in order to work in Sweden and they are granted the rights stipulated by Swedish migration policy and Swedish labour and employment law.

Table 4. Work permits for the category 'Agricultural, fishery and related labourers'. [14]

	2010	**%**	**2011**	**%**	**2012**	**%**
Thailand	3,184	70.6	2,497	88.5	5,502	96.4
China	414	9.2	32	1.1	0	0.0
Vietnam	359	8.0	0	0.0	0	0.0
Bangladesh	281	6.2	192	6.8	0	0.0
Others	270	6.0	100	3.5	206	3.6
Total	4,508	100	2,821	100	5,708	100

Source: Statistics from Swedish Migration Board 2011a; 2012; 2013b.

Regulated berry-pickers are usually employed by **Asian recruitment agencies**. Since 2011 these agencies are required to also register a branch in Sweden. This measure was taken after cases where berry-pickers employed by foreign-based agencies had been cheated and denied at least part of their salary.

[14] These figures also include other seasonal workers. However, according to information from the Swedish Migration Board, most seasonal workers are berry-pickers. This is confirmed by interviews with the Swedish Embassy in Bangkok, stating that the seasonal workers who travel from Thailand to Sweden work in the berry industry.

According to the Swedish Migration Board and the police, this measure, along with the introduction of a guaranteed minimum salary[15] for berry-pickers when the supply of berries is low, has considerably diminished the abuses suffered by Asian berry-pickers (Interviews with the Swedish Migration Board and the National Police Board).

The second group of berry-pickers comprises the so-called **'unregulated (or free) pickers'** who are citizens of an EU country. Being EU citizens, they do not require a work permit or a visa in order to travel and work in Sweden, but they are also not protected by any of the regulations mentioned above. If their stay is shorter than three months they do not need to notify the Swedish Migration Board of the stay. For this reason, their numbers are unknown, but the berry industry estimates that they account for about 50 % of all berry-pickers in Sweden. In 2012, it was estimated that between 1,700 and 2,500 berry-pickers came from Bulgaria (Björklund 2012; interview with the National Police Board). The group of unregulated pickers also includes individuals who travel on their own with family and friends, for instance coming from the Baltic countries or from Poland, as well as a small group of so-called 'tourist pickers' consisting of relatives of Thai immigrants in rural Sweden. Officially, they are free to pick and sell berries up to a value of 12,500 SEK (ca. 1,400 EUR) without being taxed, beyond which taxation is supposed to be introduced. However, unregulated pickers usually escape paying tax, since the unregulated pickers are difficult to control[16] (Wingborg 2011a; 2011b; 2012; Interviews with the Tax Agency and an editor of a magazine on Romani issues).

Regulated berry-pickers usually sell their berries to **berry companies** (Sw. bärföretagare), who are the actors that invited them to and also host them in Sweden (Figure 6). Berry companies provide the workers with accommodation, food and cars, but they do not act as their formal employers. Instead, as mentioned above, Asian pickers are formally employed by Asia-based recruitment agencies. Unregulated berry-pickers, on the other hand sell the berries to **berry buyers** (Sw. bäruppköpare) who do not usually organise the stay of the berry-pickers in Sweden. However, the distinction between the berry companies and berry buyers is sometimes blurred. In some cases, berry buyers do play a role in arranging the stay of berry-pickers in Sweden. It does also sometimes happen that regulated berry-pickers sell berries to berry buyers for a higher price, which causes great suspicion among berry companies (Hedberg 2013).

Finally, berry companies and berry buyers sell the berries to **merchants** (Sw. grossister) who distribute them globally, mainly to extraction companies in

---

[15] The guaranteed wage corresponds to the minimum wage and is stipulated in the collective agreement for staffing companies (Sw. Bemmaningsavtal) and amounts to SEK 18,495 per month (ca 2,100 EUR) (Wingborg 2012, 11).

[16] In addition, EU citizens are allowed to work tax-free in another EU country for up to three months.

Asia, but also to the European and the American market. The price of berries is set by the world market in a strict competition among global merchants and according to the year's availability of berries. There are two main Swedish merchants, but also a number of smaller actors, including merchants from Estonia and other East European countries (Hedberg 2013).

4. Recruitment of migrant workers

After having established the context of the Swedish restaurant and berry industries, we will now turn to the issue of the recruitment of migrant workers in those sectors.

Recruitment is the process of identifying a worker for employment. This chapter examines the process of recruitment of migrant workers in the restaurant industry and berry industry in Sweden, focusing on the different forms of labour exploitation that they involve. It gives an outline of three major recruitment mechanisms: through social networks, through recruitment agencies, and through middlemen. In the second stage, the chapter examines recruitment practices involving the use of deception, which have occurred in the restaurant and berry industries in Sweden.

4.1 Recruitment through social networks

Social networks, including family, friendship and acquaintances, play a large role in the recruitment of migrant workers in Sweden. Already established migrants usually maintain connections with their country of origin. In many cases, they assist relatives and friends back at home in establishing and finding employment in Sweden. Following the reform of labour immigration policy, the main requirement for non-EU citizens applying for a work permit is that an employer is willing to employ them. This means that employers with a foreign background in Sweden are able to hire relatives and acquaintances from their country of origin. Established migrants can also use their social network in Sweden in order to connect people in their country of origin with potential employers in Sweden (Nordlund and Pelling 2012, 32–33).

According to our data, recruitment through social networks is commonplace in the restaurant sector which is characterised by a large share of employers and workers with a foreign background. Although statistics are lacking, many informants agree that the majority of labour migrants from third countries are employed by restaurant owners with the same place of origin (Interviews with immigration lawyers, the Hotel & Restaurant Workers´ Union, the National Police Board, and the Border Police).

Various forms of social contacts are used for the recruitment of staff in the restaurant industry. Restaurant owners may employ family members or acquaintances in their country of origin. They also receive suggestions of potential employees from their relatives in the homeland. Certain owners also ask their current employees to recommend new staff. A recent study of Chinese restaurants in Sweden reveals that personal contacts are a typical recruitment channel. Out of the 12 chefs interviewed in the study, seven found their employment through social networks: two were introduced to the employer through friends who were already in Sweden, four were introduced through a friend of their employer in China and one came through family reunification (Axelsson et al. forthcoming).

Social networks are a common practice among non-EU citizens because, contrary to EU nationals, they cannot come to Sweden in order to search for a job. They must receive a job offer from an employer in Sweden while they reside in their home country. Therefore, having contacts in Sweden is particularly important in order to access information on potential vacancies.

However, as mentioned earlier, a number of persons applying for a work permit have previously lived in Sweden, and therefore they may have developed their own social network in the country (Interview with an immigration lawyer). Most of them are asylum-seekers, whose request for asylum had been rejected.[17]

Hiring employees with the same ethnic origin may be motivated by a sense of trust as well as by practical considerations. As one of the persons we interviewed explains, "Employers know the employees' background and culture. They know how they react. They speak the same language. The recruitment process is also considerably facilitated when one is assisted by contacts in the home country" (Interview with the Border Police). In ethnic restaurants, there is a particular incentive to employ co-nationals as the preparation of ethnic dishes requires specific cooking skills that persons in Sweden may lack.[18]

Hiring employees from one's country of origin is often viewed as a benevolent act where employers give the opportunity to fellow nationals to migrate to Sweden and improve their living standards. However, recruitment through social networks also seems to involve various forms of abuse, such as the payment of fees in return for the offer of employment. Hence, recruitment through social networks is not only a means of helping co-ethnics coming to Sweden, but can also be a means of exploitation of workers while simultaneously earning an income in the process.

Social networks also play a role in the recruitment of berry-pickers. It seems that many berry-pickers come to work in Sweden upon the suggestion of relatives, friends or acquaintances who either reside in Sweden or have previously worked as berry-pickers themselves (Interviews with the editor of a magazine on Romani issues, and with the International Public Prosecution Office).

In Thailand, from which the bulk of the regulated workers originate, most berry-pickers come from the same district. This is the result of an initiative of a Thai woman who was residing in rural Sweden and was married to a Swedish man. She saw the berries as a good source of extra income for her family back in Thailand and, in 1989, she started inviting her family to pick berries during the summer. Within a few years the recruitment process had spread in the

[17] Individuals who have been denied asylum may apply for a labour permit provided that they had worked for at least six months during the period their asylum request was being examined.

[18] On the other hand, this is only half the truth, since many restaurant workers have no skills in preparing ethnic dishes before they received the job offer or are not trained as chefs.

district. Villagers saw that it was possible to earn a substantial income from berry-picking in Sweden and followed their fellow nationals (Hedberg 2013).[19]

4.2 Use of recruitment agencies

Recruitment agencies based in the migrants' country of origin are used in the recruitment of regulated berry-pickers and, to some extent, of restaurant staff. In the case of the berry industry, the recruitment agencies are the formal employers of the workers, while in the restaurant industry they act as brokers, or intermediaries, connecting workers to employers in Sweden (Axelsson et al. forthcoming).

The use of recruitment agencies to recruit chefs and kitchen assistants is rather common among Chinese restaurant owners in Sweden. In recent years, recruitment agencies have grown into a flourishing business in China. They have shifted from being state-owned and institutionalized agencies to becoming privately-owned. In general, they are located in the coastal area of China, which is the most economically developed region (Ibid.).

Sweden has emerged as an important target market for Chinese recruitment agencies. Agencies have become aware of the new Swedish labour immigration policy that was introduced in 2008 and have seized the opportunities it involves. Representatives of one agency located in Shandong province, for instance, visited Sweden in 2011 and 2012 in order to promote their services among the association of Chinese entrepreneurs in Sweden, which mainly consists of restaurant owners. Other agencies publish job offers for chefs to work in Sweden on China International Labor Net, a website that advertises overseas jobs. The advertised positions usually require work experience as a chef and the worker to be between 22 and 45 years old. Sometimes positions are only addressed to men. In general, the services of recruitment agencies are used either by restaurant owners who have few social connections in China, and by workers who wish to migrate, but lack social contacts in Sweden (Ibid.).

Recruitment agencies usually charge the workers substantial fees. The amount of these fees depends on a variety of factors including the sending area in China, the country of destination, the type of work, and the expected levels of income. The chefs interviewed in the study by Axelsson et al. paid between RMB 30,000 and RMB 50,000 (which approximates the same amount in SEK, or EUR between ca. 3,500 and 5,700) to come to Sweden between 2007 and

[19] At that time, the berry-pickers arrived to Sweden with a tourist visa, something which was changed to a work permit when the control of non-European berry-pickers was hardened. Today, the Swedish Embassy in Thailand is very strict about issuing tourist visa in the summer months to Thai people from the region (Interview with the Swedish Embassy in Thailand). However, according to some sources there are still workers coming to Sweden through this channel, particularly from one district. Mainly, however, the recruitment of berry-pickers goes through agencies, which nonetheless is connected to the initial system based on social networks.

2010. However, it is commonly noted that the fees have almost doubled during the last three years, sometimes amounting up to RMB 90,000 (ca. 10,500 EUR) (Axelsson et al. forthcoming).

Recruitment agencies are also used to employ Asian berry-pickers. This system was developed in 2007, when the tax regime applied to the berry industry was reformed, and berry-pickers who had earlier been picking berries tax-free became subject to taxation in Sweden. As a result, the pickers started being employed by recruitment agencies based in their home country, thereby avoiding paying taxes in Sweden (Wingborg 2011a). In Thailand, which is the main sending country for regulated berry-pickers, four recruitment agencies specialized in bringing berry-pickers to Sweden were established, based on close contacts with Swedish berry companies and merchants. Thai recruitment agencies are subject to criticism by trade unions, NGOs and researchers both in Thailand and Sweden due to their high recruitment fees. This criticism is shared by some merchants and berry companies in Sweden, who strongly criticize the high fees of the agencies, arguing that this system moves the responsibility away from the Swedish actors (NAT 2009; Wingborg 2011; Woolfson et al. 2011; Hedberg 2013).

4.3 Recruitment through middlemen: trade in work permits

The introduction of the new labour immigration policy, under which non-EU migrants can legally migrate to Sweden provided that they have received an offer of employment, seems to have prompted the emergence of independent 'middlemen' or 'brokers', whose activity consists in connecting non-EU citizens aspiring to immigrate to Sweden with potential employers and assisting them with the work permit application (Interviews with the Border Police, the National Police Board, the Hotel & Restaurant Workers´ Union and immigration lawyers).

These middlemen are independent of recruitment agencies and are mainly active in Sweden. They may consist of ordinary people who have a network of contacts both in Sweden and abroad and they seek to make profits through brokerage activities. There are also examples where lawyers have acted as exploitative middlemen (Box 1). However, it is essential to stress that certainly not all lawyers providing assistance in the area of labour immigration are unscrupulous middlemen. Many lawyers specialized in immigration law offer legal advice to both employers and employees with regards to the labour permit

application in exchange for a just and reasonable fee.[20] In contrast, exploitative middlemen charge high and unreasonable fees for their services (Ibid.).[21] Our research indicates that the 'trade in work permits' is a rather extensive phenomenon that occurs both in the restaurant and the berry industries.

Box 1. A lawyer brokering work permits in Southern Stockholm

In January 2013 the Border Police started investigating the case of a 45-year-old lawyer from southern Stockholm, who was suspected of fraud involving work permit applications in the restaurant sector. The Hotel & Restaurant Workers´ Union, which has the mandate to examine the offers of employment to non-EU workers in the restaurant sector, had been suspecting him of charging abusive fees for brokerage activities (Ekelund & Sköld 2013). Within two years, he had been involved in 1000 work permit applications to the Swedish Migration Board. Some of these applications seemed particularly suspicious. For instance, he had assisted a small hot dog kiosk to hire ten persons although it did not require more than three employees (Interview with the Hotel & Restaurant Workers´ Union). When questioned about this issue by a journalist of the Swedish newspaper Dagens Nyheter in 2010, the lawyer replied that it was not his responsibility to assess whether the number of work permit applications seems reasonable considering the size of the company (Nandorf & Petersson 2010).

It is reported that the suspected lawyer has charged between 20,000 and 30,000 SEK for each case (ca. 2,300–3,400 EUR). This implies that he would have earned a total income of 25 million SEK (ca. 2,9 million EUR) during the last three years. A 20-year-old man told the Swedish newspaper Aftonbladet that he had paid 30,000 SEK to get assistance to come to Sweden (Ekelund & Sköld 2013).

In the restaurant industry, it seems that the middlemen get in contact with restaurant owners in need of staff, proposing chefs or other restaurant workers 'for sale'. A representative of the Hotel & Restaurant Workers´ Union describes the process:

[20] In many sectors, notably in the restaurant industry, employers who wish to hire non-EU workers have themselves a foreign background. Therefore it is not uncommon that they solicit legal advice with respect to the labour permit application procedure. Similarly, prospective migrants often lack knowledge of the Swedish immigration system or the Swedish language and therefore request legal assistance. In addition, a large share of the persons applying for a work permit are already residing in Sweden for instance as asylum-seekers. Thus they may already be clients of a lawyer and choose to remain so for the duration of the processing of the work permit application. Interestingly, also many of the lawyers working with immigration law have themselves a foreign background. They can often communicate with their clients in their mother tongue, which is seen as an asset. Information on the existence of lawyers with a foreign background usually spreads by word of mouth among clients (Interviews with immigration lawyers).

[21] According to the Hotel and Restaurant Workers' Union, there are two or three major middlemen who assist employers in hiring non-EU workers in the hospitality sector in the Stockholm region (HRF 2012, 11).

> I believe that the middleman visits a restaurant and says 'I know that you need people, I can arrange two cooks from China. I fix all the documents and the matters with the Migration Board and the trade union, and everything that needs to be done.' Of course he gets paid for it (Interview with the Hotel & Restaurant Workers´ Union).

In addition, some employers charge the workers fees in exchange for an offer of employment, which allows the workers to obtain a work permit in Sweden.[22] Prices for an offer of employment are estimated to range from SEK 30,000–50,000 to up to SEK 100,000–300,000 (from ca. 3,400–5,700 to up to ca. 11,000–34,000 EUR) (Interview with the Hotel & Restaurant Workers´ Union, the National Police Board and the Border Police). Migrants frequently get indebted in order to repay these fees. When they cannot afford to pay in cash they may get a loan from their employer which they repay by working for less money (Ibid.). In other words, the employer withholds a part of the workers' salary. In addition, it appears that some workers are required to cover themselves for the employer's social contributions and insurance (Nordlund & Pelling 2012, 28; Kalla Fakta 2013). An Iraqi restaurant chef, who was changing employers and therefore applying for a new work permit, explains how his employer pressured him for payment:

> I was shocked. My employer did not want to sign the offer of employment. He said that he does not usually sign offers of employment or contracts. He did not say it directly, but indirectly he made me understand that he wanted to be paid in exchange for the offer of employment. I told him that I wasn't going to pay a penny and that if he wanted me to work for him we should sign. […] Finally he signed, but only for one year (Interview by Global Challenges 2012).

According to the Hotel & Restaurant Workers´ Union, "buying a work permit is more common than we think, it happens rather often" (Interview with the Hotel & Restaurant Workers´ Union). The Swedish Trade Union Confederation (LO) argues that as many as half of the workers that have been granted a two-year permit since 2008 (in the sectors of its affiliates[23]), that is between 5,000 and 10,000 persons, have paid for it (Nandorf 2013). Other actors we interviewed, such as the police and the Swedish Migration Board, agree that fraud with work permits is a recurring phenomenon, but are more reluctant to estimate any figures.

---

[22] It was also recently revealed that some former employees at the Swedish Migration Board in the city of Malmö are suspected of having sold residence permits (possibly including false offers of employment). A working group against corruption and bribery was set up in order to detect potential irregularities and prevent risks of external influence (Persson 2013; interview with an immigration lawyer).

[23] LO is the central organisation for 14 affiliates which organise workers within both the private and the public sectors.

Box 2. Trade in work permits by McDonald's managers

In November 2012, it was revealed that two managers at McDonald's in Stockholm had sold work permits to non-EU citizens. The managers had charged Pakistani citizens about 150,000 SEK (ca. 17,000 EUR) for a job at McDonald's and thereby also a residence permit in Sweden. One of the suspected employers had worked at McDonald's for eleven years and had held managerial positions in many different restaurants (Aftonbladet 2012a; 2012b; Interview with the Border Police).

According to Håkan Ström, press officer at McDonald's, the two managers had acted on their own initiative. However, the phenomenon is likely to be more extensive. During the last two years, the Swedish Migration Board has examined 170 work permit applications for McDonald's, the majority of which concern individuals from Pakistan. In addition, the two managers suspected two other managers, who seem to have applied for a large number of permits for workers from Pakistan (Ekot 2012). The 24 Pakistani workers who had so far been granted a work permit were all employed by these four managers. Many were relatives, friends or acquaintances of the two managers. Some had also been recruited through a newspaper ad in Pakistan. Many of them lived in the same house, which was owned by one of the managers. According to Aftonbladet (2012a), 12 persons with Pakistani background were registered at that address in December 2010. The Pakistani workers received a monthly salary of SEK 18,000 (ca. 2,100 EUR), which was administered through McDonald's headquarters in Stockholm. However, they were forced to transfer large sums of money every month to the managers or one of their relatives in order to repay for their employment and accommodation.

The case of sold work permits at McDonalds was revealed through tips from other employees (Ekot 2012). The case was reported to the police and the two managers were suspended.

Recently, it has also appeared that a number of unscrupulous employers and middlemen charge migrants fees for a fictitious job. In such cases, the offer of employment seems legal on paper but it does not lead to a real work position for the migrant. However, the work permits obtained in that way can be a means for non-EU migrants to legally enter Sweden or the Schengen area. As a representative of the Hotel & Restaurant Workers´ Union explains:

> There are people who do not work where they are supposed to work. Have they come to Sweden? Have they disappeared? One can have one's suspicions, especially when it is a certain middleman who fixed their work permit. We believe that people pay quite a lot of money under the table to the middlemen. They buy their work permit to Sweden and then disappear in the Schengen area (Interview with the Hotel & Restaurant Workers´ Union).

Such a case occurred in the summer of 2011, when about a hundred people came from Bangladesh with work visas to work as berry-pickers. Instead, some

of them were seen at the Stockholm Central Station entering a bus departing for Paris. One of them, interrogated by the Border Police, stated that he had paid 40,000 SEK (ca. 4,600 EUR) in order to obtain his work permit (Interview with the Swedish Migration Board, National Police Board and the Border Police).

The trade in work permits is described as a new form of abuse of the immigration system that differs from human smuggling. In this case, the persons travel legally with valid documents, whereas human smuggling supposes that they travel with false documents or without any documents at all. It follows that someone who assists a person to enter Sweden with valid documents cannot be prosecuted for human smuggling, even though he or she has charged large illegal fees in exchange for a work permit. One person we interviewed at the National Police Board describes this situation as a loophole in the Swedish legislation. Another person we interviewed at the Border Police agrees that the current situation lacks clarity and it is difficult for the police to intervene: "Is this fraud? Was the person deceived or did he/she voluntarily pay for their permit? It is difficult to determine what kind of crime this is" (Interviews with the National Police Board, the Border Police and immigration lawyer).

4.4 Deceptive recruitment practices

According to the ILO (2009), the strongest indicator of deceptive recruitment is the situation where the recruited person is deceived about the nature of the job, location or employer. Deception can also concern in respect of the conditions of work, the earnings or the content or legality of the work contract. Our research revealed cases of deceptive recruitment both in the restaurant and the berry industries in Sweden. This section focuses on deception regarding the existence of the job promised, while deception regarding earnings and working conditions will be examined later in the report.

In the restaurant industry, it appears that a share of non-EU migrants who are granted a labour permit in Sweden are deceived and do not get the position that they were promised (and which had been stated in the offer of employment submitted to the Swedish Migration Board). These migrants had usually paid a fee to unscrupulous employers and/or middlemen in order to obtain an offer of employment and thereby a work permit (Interview with the Hotel and Restaurant Workers' Union and an immigration lawyer).

An immigration lawyer whom we interviewed argues that cases where people are deceived about the job they were promised are common in the restaurant, building and cleaning industries. He gave the example of 80 persons from Egypt who had paid between SEK 80,000 and SEK 100,000 (ca. 9,200–11,500 EUR in cash to a middleman and who did not find the company that had supposedly hired them. According to this lawyer, some unscrupulous persons abuse the labour immigration system by creating "shell companies" with no activity only in order to apply for work permits for non-EU citizens.

Afterwards, the companies are declared bankrupt and the owners disappear (Interview with an immigration lawyer).[24]

In January 2013, the Hotel & Restaurant Workers´ Union conducted an investigation of 20 working places in the Stockholm area. One restaurant in Stockholm had been granted work permits for twelve employees. However, none of them were present during the visit of representatives of the union. When the employer was asked where these persons were, he refused to give an answer. Two other working places had been granted work permits for four persons in total. However, no restaurants were found at the addresses stated in the applications to the Swedish Migration Board (Bengtson & Ojanne 2013).

Migrant workers may also be deceived regarding the legality of their employment. For instance, some find out that their employer avoids paying their social contribution and insurance. An Iraqi chef who was in that situation explains:

> He [the employer] said that he paid my taxes but I never received any pay-slips. He gave me money in the hand instead of putting it in my bank account, saying that this is the way it is done. […] This year when I received the tax declaration I discovered that he had not paid my taxes (Nordlund & Pelling 2012).

The chef reported the employer to the Tax Agency and was still waiting for a reply at the time of the interview. This is a particularly serious issue for the workers because, unless the right amount of taxes had been paid, they cannot receive their permanent residence permit after working in Sweden for four years.

Cases of deceptive recruitment also exist in the berry-picking industry. For the regulated berry-pickers from Thailand, deception does not seem to be the case in general. Mostly, the conditions of working in Sweden are well known, spread through social networks and over a long time in the villages. However, such cases do exist, as for instance the case of 156 Thai pickers who were left without a salary by the berry company Lomsjö Bär in 2010 (which is described in Box 4). Additionally, at the end of the first decade of the 2000s, the berry industry also invited workers from other Asian countries (Vietnam, China and Bangladesh). In these countries, information about the conditions was not widely known, which resulted in large-scale protests about the working conditions (Interviews with berry companies)

---

[24] This practice was performed on a large scale by a well-known Swedish law firm. In 2011 it was revealed that the firm had assisted a Chinese middleman to establish "shell companies" and apply for work permits for about 200 Chinese citizens. The offers of employment were sold for SEK 25,000 (ca 2,900 EUR), a sum that was divided between the middleman and the law firm. In addition, the applicants had to pay SEK 27,000 per month for the employer's social security contributions for the fictional job (Fröberg 2011; Interview with National Police Board).

For the unregulated berry-pickers from Europe, however, who are considered as self-employed, many seem to have been deceived by unscrupulous middlemen who promise them high earnings and good working conditions, which do not correspond to the reality. As the National Police Board explains:

> Berry-pickers are promised gold in the woods. They are promised that they will live in an apartment, that they won't have any problem to get food, that they will be paid 3 euros per box of berries and that there will be berries in abundance. […] When they came, there were hardly any berries [he refers to the 2010 season which was particularly poor]. They had to sleep six persons together in a tent. They had to fetch water from a creek and collect food from a garbage container outside a supermarket (Interview with the National Police Board).

In the summer of 2012, a number of Romani berry-pickers were recruited by middlemen in Bulgaria who promised them high earnings and good working conditions.[25] On their arrival they were confronted with a different reality: it was too early and the berries were not yet ripe. The berry-pickers quickly found themselves in a desperate situation with neither money nor food. The middlemen who had recruited them had their own car and drove to Northern Sweden were the berries were already ripe, leaving the other workers behind. Those left behind confessed that they felt cheated (Interview with an editor of a magazine on Romani issues).

Persons who have been deceived about their employment find themselves in a precarious situation. Just as those who have lost or quit their job, they have three months to find new employment in the same sector, otherwise their residence permit is revoked (Government Bill 2007/08: 147, 28–32). While the migrants who are deceived by unscrupulous employers run the risk of being expelled, the employers and/or middlemen who deceive the workers are taking a significantly smaller risk. The most likely implication for employers is that they may not be able to employ other non-EU citizens in the future (Interview with the Border Police). They can also be sanctioned if they hire non-EU migrants without a work permit (Alien's Act Chapter 20, paragraph 5).[26] However, no sanction is foreseen in case the employers neglect to fulfil the terms of employment which were stated in the offer of employment and that serves as the basis for the decision taken by the Swedish Migration Board on

[25] In this case, both the recruited berry-pickers and the middlemen who recruited them belonged to the Romani minority. However, they belonged to different Romani subgroups (Interviews with the editor of a magazine on Romani issues, and with the National Police Board).

[26] The Border Police and the Tax Agency, which conduct joint controls of working places, identified 95 persons working without a permit in 2011 and 61 persons in 2012 (Interview with the Border Police).

the granting of labour permits. The latter is not legally binding.[27] In the end, this means that a person who was deceived cannot use this document as proof against an abusive employer. In addition, employers who have hired non-European workers are also free to make them redundant at any time.

Moreover, the mandate of the Swedish Migration Board does not include conducting post-arrival checks to control whether employers fulfil the terms specified in the offer of employment. Thus there is no control of whether non-EU migrants are given the actual employment, or work under the conditions that are were stated in their offer of employment. The lack of post-arrival controls was criticized by several of the persons we interviewed. In the words of a member of the Border Police:

> The problem with this law [labour immigration policy] is that it overlooks the need for a follow-up. One gives a permit without controlling whether it is a just, functioning and well-conducted company. If a person gets a permit to work in Sweden, there should be a follow-up to ensure that they receive fair conditions. Otherwise there is a risk that persons are exploited or deceived. […] At present, the police can only control a workplace if there is a suspicion of crime (Interview with the Border Police).

Without a doubt, many migrant workers are deceived about their job and working conditions in Sweden. However, interviews with berry-pickers and restaurant workers also reveal that a large share of them is actually aware that the position and conditions stated on the employment offer do not correspond to the reality. Even so, they are willing to accept lower standards and disadvantageous arrangements in order to be able to migrate to Sweden and thereby increase their income and quality of life (Hedberg forthcoming). This will be further discussed in the following chapters.

[27] The reason why the offer of employment is not legally binding is because the legislator considered that employees should have the possibility of negotiating their salary and working conditions (upwards) (Interview with the Hotel & Restaurant Workers' Union). The non-binding character of the offers of employment is subject to substantial critique.

5. Coercive recruitment and employment practices

A forced labour situation implies that the worker is deprived of his or her freedom and is subject to various mechanisms of control. It is important to remember that cases of forced labour do not exclude that the worker has 'voluntarily' entered the employment arrangement. Any measure that prevents workers from terminating the employment and leaving the workplace can also constitute elements of forced labour, irrespective of their initial consent. Therefore, this section considers not only coercive practices in the recruitment process but also the mechanisms that prevent workers from leaving the workplace (ILO 2005; Phillips and Mieres 2011, 9; Jokinen et al. 2011). The use of force or violence is the strongest indicator of coercive recruitment. However, coercive recruitment can also involve other, more subtle, forms of coercion such as threats of violence against the victim or their family and threats of denunciation to authorities. The ILO (2009) also mentions the confiscation of documents, withholding of money and isolation, confinement or surveillance. All these elements indicate a form of control exercised by the perpetrator on the victim.

Box 3. Human trafficking for forced labour in the berry industry

The only case that led to a conviction for human trafficking for forced labour in Sweden concerns the recruitment of berry-pickers from Bulgaria in the summers of 2009 and 2010 (Hudiksvalls District Court 15 June 2012).

The perpetrators were a married couple from Bulgaria, who belonged to the Romani minority. They had been coming to Sweden several summers to pick berries together with other family members. They had been in contact with a berry buyer from their previous stays in Sweden, to whom they had sold their berries before they started acting as middlemen.

The victims were also from Bulgaria. Most of them were Turkish Bulgarians or ethnic Bulgarians, and some possibly also were of a Romani background. All of them were quite poor and had a low education. They spoke neither Swedish nor English and most were illiterate.

Before the berry season of 2009, the couple travelled to different towns and villages in Bulgaria, recruiting six persons: two fathers with their sons and one couple. The agreement was that the perpetrators would take care of the travel arrangements (the group travelled in the couple's van), the accommodation and the food and that the income from berry-picking would be divided in half.

As soon as they had left Bulgaria, the perpetrators took the passports from the workers. They arrived at their destination on 16 July. They planned to reside in an old school which was owned by the berry buyer that the perpetrators had met during their previous times working in Sweden. 400 to 500 Bulgarian pickers were already living in the school, including siblings and children of the perpetrators.

Given the large number of pickers living in the school, the berry buyer who owned it asked the police to evacuate it. The pickers recruited by the perpetrators were thus forced to sleep in the perpetrators' van despite cold weather.

Each worker picked between 50 and 70 kilos of berries per day, which were sold for around SEK 10 per kilo (ca one EUR). The perpetrators sold the berries to the berry buyer and kept all the money. Only one of the six berry-pickers received some money.

Although it had been agreed that the perpetrators would provide food, the workers were forced to collect food from the garbage containers of a supermarket. The perpetrators threatened them on a daily basis, telling them that they were lazy, stupid and that they were going to kill them. They said that they would sell them to other Romas present in the woods, who would beat them and force them to steal copper or diesel. One woman was also threatened with prostitution. When two persons tried to escape, they were threatened by the perpetrator with a knife and one of them was hurt.

One of the fathers became very ill and he went to a hospital together with his son. When they got their passports back, they borrowed money from a relative and returned to Bulgaria. Before leaving, they explained the situation to the Swedish police but this did not lead to a police report.

The four remaining berry-pickers met a Bulgarian man living in Sweden, who helped them to get in contact with the police. The police asked the perpetrators to give the passports back and to give money to the victims so that they could return home. Once in Bulgaria, the victims reported the perpetrators to the Bulgarian police.

A similar scenario took place in the summer of 2010, when the couple recruited seven berry-pickers. The pickers were constantly controlled and threatened that something would happen to their relatives at home if they did not pick enough berries.

Just as in the previous year, the workers did not get paid for their work. At the first opportunity they escaped and eventually received assistance from Swedish authorities to return home.

The perpetrators were apprehended by the Swedish police in the summer of 2011. At that time they were back in Sweden but without having recruited any berry-picker from Bulgaria. Even so, some of their family members had recruited workers and were suspected of human trafficking for forced labour. The couple was arrested when they came to the court to testify in favour of their relatives. This was followed by a rather long investigation in which the events of 2009 and 2010 were examined. The international prosecutor in charge of the case travelled to Bulgaria, where another investigation was started after the victims had been reported to the police.

The plaintiffs were heard in a Bulgarian court, which was connected by video conference to the district Court in Sweden. (Interview with the International Public Prosecution Office)

In June 2012, the perpetrators were sentenced for the crime of trafficking to 10 months of prison, expulsion from Sweden and payment of damages to the victims.

The case described in Box 3 involves various elements of coercion, including the confiscation of documents, physical violence, withholding of money, threats, surveillance and isolation.[28]

One case of coercion against regulated berry-pickers involves surveillance and restrictions of the workers' freedom of mobility. Numerous stories told by berry-pickers tell how a berry company, which is respected by the Swedish authorities, locks the workers in overnight, without allowing them visits from their relatives residing in Sweden. They are not permitted to travel as far as they want, but instead they are monitored by GPS. One berry-picker even mentioned that the owner had watched the workers with helicopter. These restrictions are based on the owner's fear that the workers will sell berries to other berry buyers for a higher price, which they are not allowed to according to the work contract (Figure 6) (Hedberg forthcoming).

Practices of coercive recruitment also occur in the restaurant industry. The study of Chinese restaurants in Sweden by Axelsson et al. (forthcoming) reveals that Chinese chefs often are subject to various forms of control. In some cases, employers keep the mails sent to the workers by the Swedish authorities. This is made possible by the fact that the employees often live in a collective accommodation owned by the employer. One of the persons interviewed in the study stated that there have been cases where some Chinese employers confiscated the passport of their employees. Another said that his employer constantly surveyed his employees, not only at work but also during their free time. In addition, the employer disapproved of their talking to people outside the restaurant. In this case, the employer was clearly controlling the workers' moves by maintaining them socially isolated. Arguably, the long working hours imposed by many restaurant owners to newly arrived migrants also contribute to maintaining them in social isolation from the host society. With heavy work schedules, their social contacts in Sweden are limited to their colleagues at the restaurant, most of whom are newly-arrived migrants themselves. The lack of social contacts may prevent them from seeking other employment in case they are mistreated by their employer (Axelsson et al. forthcoming). Some chefs also said that they needed to work particularly hard and 'please the boss' if they wanted permission to have visits from family members from China. Finally, by arranging collective housing it is also

[28] The camps were situated in the middle of the woods and the pickers had no access to a car or other transport, which significantly reduced their possibilities of escaping.

possible for employers to control their workers by keeping mail sent to the workers, for instance from Swedish authorities.

Another common form of coercion in Chinese restaurants is the threat of being fired from their job and thus be forced to return to China (Ibid.). For non-EU migrants, losing their job can result in the loss of their residence permit, since the latter is tied to their employment. More specifically, Swedish immigration policy requires that non-EU migrants remain with the same employer for a minimum of two years. If they change employer, which they must do within three months after their previous employment was terminated, they must apply for a new work permit. In order to receive the permanent residence permit, which is the goal for many workers, they also need the cooperation of the employer to renew the work permit for two additional years. It can hence be argued that Swedish immigration policy puts the migrants in a situation of dependency towards their employer, something which can be problematic if the said employer turns out to be abusive.

6. Exploitative working conditions

In this chapter, we examine exploitative practices at the work place focusing on migrants' earnings, working hours and living and living conditions.

6.1 Earnings

Our research on the restaurant and berry industries reveals several problems with regards to the earnings of migrant workers, including underpayment, delays in payment and the withholding of wages.

Regarding the restaurant industry, the Hotel & Restaurant Workers' Union is in charge of examining whether the wages proposed in the offers of employment to non-EU citizens are at least on the same level as the minimum wages according to the collective agreement for a given work category. When this is not the case, the union gives a negative opinion about the application to the Swedish Migration Board, which makes the decision on the issuing of work permits. However, it appears that the wages stated in the offers of employment seldom correspond to the wages that the workers actually receive. In many cases, migrants on labour visa are paid significantly less than the amount stated in the offer. A representative of the Hotel & Restaurant Workers´ Union explains how suspicions arose in the union:

> It happens that we say no [do not give a positive opinion on the employment offer] because the salary offered is too low. The minimum salary in the sector according to the collective agreement is SEK 20,000 (ca. 2,300 EUR). If they offer SEK 19,000 we say no. Then the employers say 'Ok let's increase the salary'. It can be an increase of hundreds of crowns per month. Usually when we try to negotiate a salary increase of 0.1 % in the collective agreement it is always a problem. But when we ask an increase of SEK 4000–5000 per month [ca. 460–570 EUR), it is not a problem. The first time this happened, we were glad. But when it happened for the tenth time we started getting suspicious. How can it be? Is it that they don't pay the proposed salary anyway? This is what we think happens. (Interview with the Hotel & Restaurant Workers´ Union)

This issue came to the attention of the Swedish Migration Board when migrant workers, after two years of stay, started applying for an extension of their work visa. In order to grant an extension, the Swedish Migration Board controls the data from the Tax Agency which revealed the discrepancy between the wages on paper and the wages actually paid (Interview with the Swedish Migration Board).

In the spring of 2012 the Hotel & Restaurant Workers´ Union (2012, 18) investigated 64 working places that had been granted work permits for non-EU

workers.[29] In 61 of the cases they found obvious errors in the payment of wages and compensations. In most cases, these errors consisted of low wages in relation to the working hours and unpaid compensation.

A study of Chinese restaurants in Sweden (Axelsson et al. forthcoming) also indicates that during their first employment, usually the first year in Sweden, most workers received wages that were lower than the minimum wage in their professional category. Low-skilled kitchen helpers earn particularly little. Some receive as little as SEK 5,000 (ca. 570 EUR) after tax when they first arrived in Sweden. More experienced chefs, on the other hand, received between SEK 13,000 and 15,000 (ca. 1,500–1,700 EUR)[30] The study also showed that the tax level is an unreliable guide to the wage actually received. The workers, in order to obtain a good tax record, usually agreed to pay higher taxes according to a higher level of wages than what would be called for on the basis of the wages that they had actually received. This would enable them to get permanent residence status.

In many cases, these lower salaries are a result of indebtedness arrangements between the employees and their employers. As discussed earlier, many migrant workers are charged fees in exchange for an offer of employment, and they work for little money in order to repay their debt. In addition, many employers also provide collective accommodation, food and transportation to their employees. In such cases, the workers may receive a fair salary, but they need to repay a part of it in cash to their employer in order to cover for the extra costs (Interview with the Border Police). Another overarching reason for accepting low salaries is that the workers want to receive a permanent residence permit in Sweden and are willing to accept bad working conditions in order to achieve it.

While some workers may be deceived about their prospective wages during the recruitment process, others are aware of the difference between the wages on paper and the actual wages. They are told that the amount stated on the documents submitted to the Swedish Migration Board is a requirement for a successful application, but it is not the real amount that they are going to be paid. Even so, they are willing to accept low salaries, at least at the beginning, because these are still higher than what they would have earned in their home country. In addition, they are expecting that their wages will increase over time, which is actually the case for most Chinese restaurant workers (Axelsson et al. forthcoming). Migrant workers are also aware that their competitive

---

[29] The engagement of the Hotel & Restaurant Workers' Union with the issue of the working conditions of migrant labour stems from the union's interest in protecting the collective agreement applied in the sector (with salary dumping being a major concern). The union also seeks to bring policy attention to the problem of the exploitation of migrant workers (Interview with Hotel & Restaurant Workers' Union).

[30] It must be noted that on top of their salary, many workers are also offered collective accommodation, food and compensation for their travel expenses. When these amounts are added, their salary may approximate the minimum salary (Axelsson et al. forthcoming).

advantage in the labour market is to be 'cheaper' than the local labour force and that the employers' main motivation for hiring them is to reduce their costs.

Besides underpayment, restaurant workers in Sweden also face delays in payment and even non-payment. For instance, a Chinese restaurant worker did not receive a salary for a period of three months, without any explanation. In another case, the owner of a restaurant that had economic difficulties stopped paying an employee in order to induce him to quit his job (Ibid.).

In the berry industry, the payment for berries is per kilo. Unregulated pickers from Europe are free movers selling berries to berry buyers. In principle, the berry buyers should keep sales lists with the personal information on the pickers and the amount of berries they have sold. However, such lists are not always kept and the transactions are largely unrecorded.[31] Consequently, the workers have no proof of how much money they are entitled to receive (Wingborg 2011b, 21; interviews with the Tax Authority and an editor of a magazine on Romani issues). In some cases, like in the case of the Bulgarian workers referred to in Box 3, the payment goes through the middlemen, who have recruited a group of pickers and act as its leader. It seems that middlemen often keep a significant share of the money, allegedly to cover the pickers' transport and other expenses. In the case described in Box 3, the pickers did not get paid at all. The berry buyer was paying the middleman for the berries that were picked by the entire group, the transactions taking place in the buyer's car, while the rest of the group waited outside. When questioned on that issue during the trial, the buyer justified this action by the fact that the other workers spoke neither Swedish nor English and that they could not count (Interview with the International Public Prosecution Office).

Regulated pickers from Asia are also paid per kilo. However, since 2011, they are entitled to a guaranteed salary irrespective of the amount of berries they have picked. If the pickers are employed by an Asian recruitment agency, which is the case for the vast majority of them, the guaranteed wage corresponds to the minimum wage that is stipulated in the collective agreement for staffing companies (Sw. Bemmaningsavtal), amounting to SEK 18,495 per month (ca. 2,100 EUR) (Wingborg 2012, 11). The guaranteed wage, which covers the costs of coming to Sweden, should prevent the pickers from returning home indebted in case of a poor berry season. Even so, as will be discussed in the section 7 on indebtedness, this safeguard seems to leave room for abuse.

In 2011, the average regulated picker earned, according to one berry company, around THB 75 000 (SEK 17 000 or ca. 2,000 EUR) for the season after paying back their debts. However, and partly depending on their level of experience, there is a large distribution between high and low income earners.

---

[31] As mentioned earlier, anyone has the right to pick and sell berries up to the value of SEK 12,500 tax free (ca 1,400 EUR). Beyond that amount, the activity is in principle liable to taxation.

According to interviews with berry-pickers, some earned only just enough to cover their debts, whereas others earned up to THB 300,000 (SEK 67 000 or ca. 7,700 EUR). The pickers monitor the payment process by watching the weighing of berries in order to ensure that they receive appropriate earnings for the berries that they had picked. Usually, the sales lists are posted in the accommodation camps.

In the berry-picking industry, there was a notable case of withholding of wages (Box 4).

Box 4. Thai berry-pickers left without salary by berry company Lomsjö Bär

In August 2010, 156 farmers from northeast Thailand came to pick berries in Åsele, Sweden with the Swedish berry company Lomsjö Bär AB. They paid a recruitment fee of THB 80,000 (SEK 18 000 or ca. 2,100 EUR). (Wingborg 2011.)

They were supposed to work only 40 hours a week and were promised six days of holiday. In reality, however, their average working day was 15.5 hours. The berry-pickers were promised SEK 16,000 (ca. 1,800 EUR) as a guaranteed wage in Sweden, and thereafter their wage would be determined by the price per kilo. Also, they would receive a bonus if they worked Sundays. The wage would be paid at the end of each month. However, after the first month, they received only SEK 6,000 (ca. 700 EUR), but were promised the salary the following month. When this time had elapsed and they still had received no money, they initiated a protest march to the main centre of Åsele, which was widely reported in the Swedish media. However, the owner of Lomsjö Bär had by then left the country and disappeared with all the company's money. A majority of the workers, 117, returned to Thailand without any salary. 39 pickers, however, stayed in Sweden to protest against their situation, supported by the local population, Åsele municipality and the Swedish Municipal Workers' Union (Kommunal) (Wingborg 2011). The union succeeded in claiming that the wage guarantee should be valid and hence each worker received SEK 36,000 (ca. 4,200 EUR). The money was paid by the Swedish state, which paid SEK 5.8 million in total (ca. 670,000 EUR).[32]

In February 2013, the owner of Lomsjö Bär was caught in Thailand and arrested for employment fraud. For more than two years he had been hiding from the Swedish authorities, constantly changing his residence in order to avoid being caught (SVT 2013).

According to Junya Yimprasert (2010), the leader of the Migrant Workers' Union of Thailand, the case of Lömsjö Bär severely undermines the image of the Sweden as an upholder of human rights.

[32] Unlike all other cases, in the case of Lomsjö Bär the employer was not a Thai recruitment agency, and instead the company had employed the workers directly. This was a 'lucky' circumstance for the workers, since this made the state responsible for the pay to workers.

6.2 Working hours

Regulations regarding working hours are specified in collective agreements and in the Working Hours Act. They aim to ensure that each worker receives sufficient daily rest and breaks. However, the working hours of migrant workers in both the restaurant and the berry industries commonly exceed the 40 hours per week that are equivalent to full-time employment.

According to the Work Environment Authority,[33] which conducts workplace inspections on work environment and safety issues, restaurant workers on a labour visa tend to work longer hours than other employees (Interview with the Work Environment Authority). The Hotel & Restaurant Workers' Union (2012, 19) draws similar conclusions. Out of the 64 restaurants investigated in 2012, only 36 had accessible working schedules and all of them included some form of violation of the regulations. For example, employees were registered to work a much higher number of hours than a full-time job requires, the daily shifts were too long and the rest periods between shifts were too short. The union came across one person who had worked 295 hours per month while he should have worked 173 hours in his full-time position. Besides long working hours, very short ones can also be problematic. Some employees, who were supposed to work full-time, were actually on 'standby shifts', which means that they could be called on short notice when they were needed at the restaurant. Some of them were supposed to be available to work in several restaurants.

A study of Chinese restaurants in Sweden also suggests that chefs work on average between 10 and 13 hours per day, six days per week. It seems that, before coming to Sweden, the chefs are orally informed that the working hours stated in their offer of employment will not correspond to the actual working hours (Axelsson et al. forthcoming). In addition, Chinese chefs in Sweden do not usually receive any annual leave, although some of them manage to negotiate unpaid leave with their employer (Ibid.).

As argued above, migrants on a work permit are, to some extent, dependent on their employer because their residence permit requires that they stay with the same employer for two years. This dependency situation seems to influence their working conditions in general and their working hours in particular. One Iraqi chef interviewed in a study by Global Challenges explains how his work load increased when he obtained a labour permit after having been denied asylum:

> Before I got the work permit, the employer treated me as any other employee. I was working five days a week. I was free on red days [public holidays]. The working hours were by the rules. After I got the work permit

[33] In 2012, the Work Environment Authority conducted an information campaign on the work environment and safety specifically addressed to the restaurant industry. They sent brochures and information material to 14,000 restaurants in Sweden and also launched a website with a video and information in twelve languages. It is worth noting that the Work Environment Authority lacks the mandate to review wage-related issues (Interview with Work Environment Authority).

> I started working one or two hours extra every day. Red days, white days, I worked every day. And he started charging me with tasks that were not included in my job. Finally, I ended up in a situation where I worked for three people. My employer had a waiter whom he fired so I had to work as a cook, a kitchen assistant and a waiter (Nordlund & Pelling 2012).

In the berry industry, working hours are perhaps even more excessive. Regulated workers have the right to a 40 hour working week and to holidays, but in practice this is not followed. As exemplified in Box 4, it is not unusual that the workers work from early morning until late evenings, sometimes up to 17–18 hours a day, every day of the week. Impressions from fieldwork revealed that they worked even harder during days when it rained in order to keep warm (Hedberg forthcoming). This hard work can be explained by the fact that the berry-pickers are paid per kilo, and that they need to work as many hours as possible in order to increase the earnings they can bring home to their families. In interviews with berry-pickers, they tell that they even want to work as many hours as possible: "When one picks berries then one thinks that one has to earn money within three months". No berry-picker in an interview had complained about working hours. In an anonymous survey, however, there were many berry-pickers who expressed concern about working too many hours (Hedberg forthcoming). The Swedish Municipal Workers' Union (Kommunal) is aware of this situation, but says that it is difficult for the pickers to do otherwise:

> What doesn't work is the time. They pick as much as they can or as much as they can put up with. . . . If we then say 'you cannot pick' and demand that the employer keeps to this, and if not we punish them . . . Then they can go out in their free time and pick and offer it on the black market (Interview with the Swedish Municipal Workers' Union).

In sum, it must be noted that the berry-pickers many times want to work long hours. They are in Sweden in order to earn money for their household and they want to bring home as much money as possible to invest in their farm, in improving their house and in the children's' higher education.

Even though the berry-pickers generally disagree that they work too many hours, most of them consider that the work is extremely hard. They particularly complain about walking long distances carrying heavy rice bags filled with berries. They also have to bend to pick the berries, which grow very low on the ground. It is generally agreed that it is an advantage for a berry-picker to be used to farm work in Thailand, and they compare the work in the Swedish woods to picking bamboo on the mountains in Thailand. However, as one berry-picker explains, with farming in Thailand they can relax more than when picking berries in Sweden (Interviews with berry-pickers).

6.3 Living conditions

Migrant workers sometimes live in poor conditions. Restaurant workers often live in collective accommodation owned or rented by their employer, which are

regarded as part of their salary. The apartments are usually overcrowded and located in far-off areas. This contributes to the migrants' social isolation and dependency on the employer. Even so, many newly-arrived migrants are also satisfied with this arrangement, since they do not need to look for accommodation by themselves (Axelsson et al. forthcoming).

Poor accommodation standards are also a reality for berry-pickers, at least for the unregulated, European pickers. Some groups of workers reside in forest camps under poor sanitary conditions. In the summer of 2012, around a thousand pickers from Bulgaria camped in the woods between Uppsala and Söderhamn. Since they arrived before the berries had ripened, they soon found themselves without money or food. At the beginning, the camp also lacked running water, which was later provided by the municipality. The pickers also lacked adequate clothing for the rainy weather. Some persons provided the pickers with food and clothes, but the presence of the pickers also aroused discontent among the local population. Some local young people even threw stones at the pickers (Ruth 2012; Interview with an editor of a magazine on Romani issues).

In recent years, accommodation facilities for Asian pickers, which are provided by the berry companies that host them, have been monitored by the Environmental and Health Protection Committee of the municipalities and tend to be of good quality. According to fieldwork, Asian pickers usually reside in old schools or abandoned houses, which the berry companies have bought from the municipality. In other cases, they reside on the property of the berry company, or in housing owned by one of the Thai women who reside in Sweden (usually small cottages), or even in the private house of the owner.

7. Arrangements of indebtedness

Arrangements of indebtedness often characterize the work situation of migrants, both in the restaurant and the berry industry. As mentioned earlier, migrants are commonly charged high fees by employers or middlemen in exchange for an offer of employment or to cover the costs of transportation. These fees often take the form of a loan from the employer and are repaid in the form of lower wages. The resulting debt acts as a mechanism to 'bond' the worker with the employer or middleman. As one person interviewed at the Border Police explains:

> During the four years it takes to become eligible for permanent residency, the workers are dependent on their employer. The employer can ask for SEK 100,000 [ca. 11,500 EUR] in exchange for a job. The person pays 10,000 at the beginning and works to repay the remaining 90,000 (Interview with the Border Police).

In addition, employers often take care of the accommodation, food and transportation of their employees, which represent extra costs that the employees need to repay. These costs further contribute to the indebtedness of the workers towards their employer. The workers and employers are thus connected in multiple ways, with the employers also playing the role of landlords and creditors. Arguably these multiple connections increase the workers dependency on their employer (Interviews with the Border Police and the Tax Agency).

For regulated Asian workers the interviews with berry-pickers, berry companies and other actors in the berry business reveal that, during the 2000s, there has been a successive increase in the fees paid by workers. First, there has been an increase in the fee paid to Swedish authorities, which occurred as a result of the transition of the workers from being unregulated, coming on tourist visas, to being regulated workers. The workers have to pay a substantially higher fee for the work permit than they did for the tourist visa. Second, the number of middlemen has increased in Thailand. They are paying fees to local and regional middlemen and to the recruitment agency, they have to take higher loans from the banks and, according to the Thai Labour Campaign (NAT 2009), they sometimes are paying under-the-table money to Thai authorities. This substantial increase in costs, which followed from the introduction of recruitment agencies, is directly paid by the individual worker.

Since 2011, non-EU pickers have, as mentioned above, the right to a guaranteed wage in case they do not manage to pick sufficient berries. This guaranteed wage is intended to protect the worker from returning home indebted. Since the implementation of the guarantee wage there has been no 'bad berry year', when workers have returned indebted. Hence, the right to the guaranteed wage has not yet been tested in a difficult year with a poor berry crop. According to the Swedish berry companies, so far only single individuals

who have become sick have not been able to pick enough berries, and they have then received the guaranteed wage.

However, interviews with berry-pickers reveal that in 2011 a group of seven workers were sent back to Thailand without receiving the guaranteed wage to which they were entitled. The pickers were accused of selling berries to berry buyers, instead of to the berry company that contracted them, because they had returned to the berry company with too low a yield (Figure 6). The owner punished them by sending them back to Thailand, which was before some of them had had the time to pick enough berries to cover the debt. Hence, these workers returned indebted despite their right to the guaranteed wage.

In addition, there are actors in the business who claim that the workers are signing double contracts, with the contract in Thailand stating that they will not receive the guaranteed wage (Interviews with berry-pickers and with berry companies).

Hence, the regulations still make it possible for the employers to cheat workers. According to one Swedish merchant, there is also the risk that the Swedish berry industry will go bankrupt in case the berry business has to face a year with few berries. Although the berry companies have formal bank guarantees, they would in practice not be able to pay the guaranteed wages and thus the workers would not be protected against indebtedness (Interview with a Swedish merchant).

8. Abuse of the vulnerability of migrants

Beside the use of deception or coercion, the abuse of a person's vulnerability also indicates exploitative labour practices. In the previous section, we argued that indebtedness makes the worker vulnerable to abuse by unscrupulous employers or middlemen. The vulnerability of migrants can also stem from the fact that they come from a very poor economic background, have a low level of education or are members of a minority group.

Migrant workers in the restaurant or berry industries in Sweden are escaping a poor economic situation in their home country. For many of them, working in an advanced economy such as Sweden is an opportunity to significantly improve their living conditions and those of their family. Additionally, with the introduction of the new labour immigration policy in 2008, Sweden has become an attractive destination due to the prospects of obtaining a permanent residence permit after four years of work in Sweden.

The victims in the only case that has resulted in a conviction for human trafficking for forced labour in Sweden (Box 3) had been living in conditions of extreme poverty in Bulgaria. The majority was unemployed and regarded berry-picking in Sweden as an opportunity to earn some money for food and electricity expenses. In addition, the victims had a low level of education. Many were illiterate and could not count – when asked, during the trial, about the amounts of berries they had picked their answers were highly approximate. They also had difficulties in expressing themselves in a clear manner and making themselves understood. According to the prosecutor interviewed for the study, it is no coincidence that the victims were illiterate and very poor:

> We should not forget that the victims of human trafficking are also rather poorly educated people, who come from very poor conditions. Most of them were illiterate. Little is needed to scare an illiterate. They cannot read newspapers. They take the information they hear (Interview with the International Public Prosecution Office).

The lack of language skills in Swedish or English also contributes to the migrants' vulnerability. In the restaurant industry, many migrants depend on their employer for all the administrative procedures related to their residency and employment.

Stemming from the lack of language skills, migrants also lack knowledge of the Swedish society and their rights. As a representative of the Hotel & Restaurant workers' union puts it:

> The problem is that the migrants often do not know how it is to live in Sweden, the Swedish standards, rules, agreements, culture, they do not speak the language. They come here and work under poor conditions and are exploited (Interview with the Hotel & Restaurant Workers' Union).

Finally, many of the berry-pickers coming from European countries belong to the Romani minority, which is subject to stigmatization and discrimination

both in their home country and abroad. This makes them particularly vulnerable and poor in their home country, which also makes them more prone to accept an uncertain offer from a middleman.

9. Challenges in the prevention of migrant labour exploitation

After having examined the various exploitative practices in the recruitment process and at the work place, this chapter discusses the main challenges in the prevention of migrant labour exploitation, i.e. the acceptance by migrants of exploitative situations, the lack of complaints by exploited workers, the difficulties in detecting and proving human trafficking for forced labour, the lack of accountability of economic actors and the lucrative character of human trafficking.

9.1 Lack of complaints from the migrants

A major challenge in addressing migrant labour exploitation is the fact that victims of labour exploitation seldom complain to the authorities or seek assistance (Jokinen et al. 2011, 126–129). This was stressed by persons we interviewed at the Police, the Work Environment Authority, the trade union and a Foundation against trafficking.[34] The lack of complaints from the victims of labour exploitation can be due to several reasons.

First, migrants often come from a country where the authorities and trade unions are commonly distrusted (Interviews with the Hotel & Restaurant Workers' Union and the Work Environment Authority). Second, the victims' unwillingness to report the perpetrators of exploitation is largely caused by the fear of losing their employment and, thereby, their right of residence in Sweden (Interviews with the Border Police, the International Public Prosecution Office, and the Hotel & Restaurant Workers' Union). As argued above, the fact that migrants on a labour visa must remain for a period of two years within the same industry in which they were recruited, unless they find a new job within three months, and since they need their employer's consent to continue their employment in order to receive a permanent residence permit, this puts them in a position of dependence towards their employer which leaves room for abuse by unscrupulous actors. It is also a strong disincentive to complain to the authorities. According to a representative of the Hotel & Restaurant Workers' Union, employers commonly threaten their employees with expulsion in case they contact or join the union:

> They do not dare to contact us. It almost never happens. When we discover a case of abuse, the victim usually refuses to let us take action. They do not

[34] While victims of labour exploitation rarely complain to the authorities, many of them consult lawyers in order to complain about their abusive employer. In general they are already clients of the lawyers, who may have assisted them with immigration procedures. Their degree of trust in their lawyer is probably related to the length of their collaboration and possibly also to the client-lawyer confidentiality. One immigration lawyer interviewed for the study is contacted around twice per month by old clients who seek help against their abusive employer (Interview with immigration lawyer).

> want to join the union because they are afraid that if they speak with us they will lose their job and be forced to return to their home country (Interview with the Hotel & Restaurant Workers' Union).

Hence, the Hotel and Restaurant Union has no – or very few – members who are non-EU migrants on a work permit. The migrants' dependency position may also stem from the pressure to repay potential debts towards their employer or other persons.

A third explanation for the low number of complaints is the migrants' lack of knowledge about labour and employment law and regulations in Sweden, which may significantly differ from the situation in their home country.[35] Another reason could perhaps be their poor Swedish language skills. The language barrier, in itself, is an obstacle to communicating with the authorities.

Shame is another reason why the victims of labour exploitation, and even trafficking for forced labour, rarely complain to the authorities. While the majority of the victims of sexual exploitation are women, victims of labour exploitation are usually men. According to the National Police Board, the idea of seeking help could affect the pride of men to a larger extent than women (Interview with the National Police Board).

Additionally, the lack of complaints may also be due to the fact that the victims, at least in the berry industry which is seasonal work, are rather 'mobile'. They often choose to return to the home country after being subjected to deception or labour exploitation. In the case of the conviction for human trafficking involving berry-pickers from Bulgaria (Box 2), the victims were no longer in Sweden when the offenders were arrested. Therefore the trial took place through video conference: the victims were heard in a Bulgarian court, which was connected to the District Court in Sweden.

Finally, migrants may accept exploitative situations because they represent better alternatives to remaining in their home country. This point will be further developed in the next section.

Given the lack of complaints from the migrant workers, the few cases of labour exploitation that are reported to the authorities and trade unions are usually reported by other employees of the company who witness the abuses (Interviews with the Border Police and the Hotel and Restaurant Workers' Union).

9.2 Acceptance by migrants of exploitative situations

Another major challenge to the prevention of migrant labour exploitation is the fact that migrants do not always question the exploitative recruitment processes and working conditions that they are subject to because these still represent a

[35] In particular, migrant workers may be unaware of the Swedish model for industrial relations, where negotiations between trade unions and employers organisations play a key role. Hence, they are not aware about the importance of joining a trade union.

better alternative than staying in their home country (Jokinen et al. 2011, 126–129). Many labour migrants in Sweden come from a poor background. For them, working in Sweden represents a unique opportunity to improve the living standard for themselves and their families. For many Asian berry-pickers, for example, seasonal work in Sweden has become part of their livelihood strategy. They come year after year and combine berry-picking with their farming activity at home, which compared to other alternatives of labour abroad is perceived as a relatively sustainable household alternative (Hedberg 2013). Hence, even though they are exploited in Sweden, they do not perceive themselves in this way.

In addition, Sweden, with its relatively strong economy, is an attractive destination. So far, it has coped better with the economic crisis than most other European countries, which makes it an attractive destination for migrants.

Although migrating to Sweden may involve a large amount of hardships, including separation from relatives, indebtedness and difficult working conditions, many regard it as still being worthwhile. Therefore, many persons who are subject to labour exploitation and even forced labour do not consider themselves to be victims, nor do they consider the abusive employers or middlemen to be exploiters. On the contrary, they often see them as benevolent persons who give them much-needed help.

The fact that migrants seek the assistance of abusive middlemen, despite the high fees that they charge, suggests that there is a certain demand for the middlemen's 'services'. For instance, talking about the middleman who assisted him in coming to Sweden, a 20-year-old man says: "I paid him 30,000 SEK [ca. 3,400 EUR] to get help to come here; it would have been impossible to come otherwise" (Ekelund & Sköld 2013). When this middleman was investigated for fraud by the police (see Box 1), some of his old clients even consulted an immigration lawyer to ask for advice on what to say when they would be interrogated by the police regarding the middleman's activity. "They do not want to harm the lawyer who helped them come to Sweden" explains the other lawyer who refused to give them any advice or be involved in the matter (Interview with an immigration lawyer).

A researcher who studied Chinese restaurants in Sweden confirms that the workers often feel some gratitude towards their employers for giving them the opportunity to work in Sweden.[36] In addition, some employees also have a certain understanding of their employer's situation. They are aware that running a restaurant in Sweden involves significant costs and that the

[36] According to the researcher, Chinese restaurant workers actually have some contradictory feelings. On the one hand, they are grateful to be given a job in Sweden and understand that the employers seek to reduce their costs. On the other, they feel that they are being exploited and hope to see their working conditions improve over time. They expect a higher reward for their hard work (Interview with researcher studying the working conditions of Chinese restaurants workers in Sweden).

competition is tough, which impacts on their earnings (Axelsson et al. forthcoming).

Not only the victims but also the exploitative employers and middlemen seem to consider their act of bringing/employing a migrant worker as benevolent. According to a Chinese chef, restaurant owners "think they are like gods" because they give their employees the opportunity to go abroad and earn more money than they would in China. Even the Bulgarian couple that was convicted in 2012 for the trafficking of Bulgarian berry-pickers (see Box 2) justified themselves in the following terms during the trial: "They [the victims] were so poor. We were sorry for them, that's why we let them follow us" (Interview with the International Public Prosecution Office). If even the perpetrators of severe forms of exploitation have such a stance, it is likely that employers responsible for milder forms of labour exploitation also consider their acts to be 'favours' rather than offences.

In previous chapters we argued that, while many migrants are deceived regarding in their terms of employment, others are actually aware of the conditions that await them in Sweden. For instance, migrants on a work visa may know that they will not get the employment or conditions stated in their offer of employment. Even so, they are willing to accept low wages, long working hours and other disadvantageous conditions as long as they have the opportunity to come to Sweden.

9.3 Difficulties in detecting and proving human trafficking for forced labour

As a result of the low number of complaints, it is difficult for the authorities to detect trafficking for forced labour (Jokinen et al. 2011, 119–125). The majority of cases of exploitation of migrant workers never actually come to the attention of the authorities. Without a doubt, if the victims agreed to cooperate, the number of prosecutions and convictions would certainly be significantly higher. For instance, none of the four cases of suspected human trafficking for forced labour in the Stockholm area in 2012 led to a conviction. They resulted in alternative judgments instead. Even so, according to a representative of the Border Police, which was in charge of those cases, they could have led to convictions if the victims of exploitation had agreed to cooperate with the police (Interview with the Border Police).

In addition, many of the experts interviewed for the study agreed that the police, prosecutors and judges in Sweden lack knowledge regarding trafficking for forced labour, as opposed to trafficking for sexual exploitation, for which Sweden has renowned expertise. The crime of trafficking for forced labour has only recently been introduced in the Swedish legislation and more experience is needed for the various actors involved to be able to recognise it (Interviews with the International Public Prosecution Office and National Police Board). Beside the lack of experience, the crime is also difficult to identify due to the

complexity of the concept of forced labour and the absence of a clear definition in the legislation.

Perhaps the major difficulty with the concept of forced labour relates to defining the boundary between a voluntary and a forced employment situation. The complexity lies in the coexistence of some form of coercion and voluntarily agreed employment arrangements. The prosecutor interviewed for the study raised this question:

> There are many poor people who come and work in Sweden. They can conclude really bad [employment] deals and be exploited, but where is the limit between a really bad deal and human trafficking? This limit is difficult to identify (Interview with the International Public Prosecution Office).

She gave the example of a case of suspected human trafficking involving berry-pickers, where she could not demonstrate that the victims had been deceived. The court finally deemed it to be a bad "deal" rather than trafficking. A representative of the National Police Board discussed the issue in similar terms:

> Where is the boundary regarding forced labour? Is it a civil rights matter that concerns the trade union and is dealt with in the labour court? Or is it a human trafficking crime, thus falling under the responsibility of the police? (Interview with the National Police Board).

In addition, human trafficking is rather difficult to prove in the courts due to the high standard of proof required in criminal procedure. As mentioned earlier, Swedish legislation requires the presence of three elements – the act, the means and the purpose – for a crime to qualify as trafficking. However, it is rather difficult to prove a purpose. The prosecutor interviewed for the study mentioned a case of suspected trafficking in the berry industry which did not lead to a conviction because it was not proved that the purpose of the offender had been to exploit the victims. As she explained, a purpose is an intention, a thought, and it is very difficult to prove that someone's intention is to exploit another person (Interview with the International Public Prosecution Office). It is also difficult to demonstrate that threats had been used to limit a victim's freedom because, contrary to physical violence, threats do not leave material traces. Coercion through the use of threats is sometimes described as an 'invisible prison' from which the person cannot escape (Interviews with the National Police Board and the International Public Prosecution Office).

According to those we interviewed at the Police, there is also a discrepancy between the view of the police and the courts regarding trafficking for forced labour. The courts would tend to compare the working conditions of the victims with the prevailing conditions in home country, arguing that they do not experience worse conditions in Sweden than those they had at home. This would, according to the police, contribute to the low number of convictions for trafficking for forced labour in Sweden (Interviews with the National Police

Board and the Border Police). This attitude of the courts may explain why the crime of human trafficking was discarded in a number of judgments.[37]

9.4 Lack of accountability in the berry industry

The last challenge that we identify, which particularly relates to the berry industry, regards the lack of accountability of different economic actors. There are a high number of actors involved in the industry (Figure 6.) and the question of who bears the responsibility for the pickers' working conditions remains largely unsolved. In the case of the unregulated workers, who travel 'freely', there are no employers at all, and in the case of the regulated workers the formal employer is the Asia-based recruitment agency. Both of these systems lead to a situation where the Swedish berry buyers or companies, as well as the merchants, cannot be held accountable for the pickers' situation.

As repeatedly argued by the Swedish NGO Swedwatch (Wingborg, 2011a; 2011b; 2012) a higher degree of the responsibility has to be taken by the berry industry, in particular by the merchants, who are the most powerful actors in the industry in Sweden and those who earn the highest amount of money.

One merchant interviewed for the study expressed a willingness to take more responsibility when it comes to the conditions of regulated workers. In this regard, he mentioned a recent initiative of a 'Round table', involving the two largest merchants and actors from the retailer side, aiming to establish a code of ethical conduct for the berry industry. He has also developed information material for the pickers, written in Thai. In order to avoid problems with the lack of reading skills on the side of the workers, the merchant intended to travel to Thailand before the following season and personally inform all berry-pickers who would work for him about their work conditions and rights.

When it comes to the responsibility towards the unregulated workers, however, the merchants see no problems connected to them in the first place. The two largest merchants in Sweden buy around 50–85 % of their berries from unregulated pickers. A smaller merchant buys berries only from unregulated workers. Economically, therefore, a large part of their income comes from unregulated workers. According to the merchants, these workers are 'free pickers', guest workers who travel on their own account, in need of money, selling berries to independent berry buyers. For this reason there would be no moral problem involved in buying their berries. One merchant argues that the important thing for him is to follow rules and regulations. He means that organised attempts to bring berry-pickers from Bulgaria and Romania are just rumours that have not been substantiated in the investigations that have been conducted so far. He also means that the berry-pickers have to assume their

[37] A similar point was made in an article in the Swedish newspaper 'Dagens Nyheter' regarding court decisions on human trafficking for sexual exploitation. The article argues that victims with a poor background tend to be distrusted by the courts, which consider that they may lie in order to collect damages (Carlsson 2013).

own responsibility for the situation. Furthermore, the merchants mean that it is problematic to try to distinguish among workers depending on their country of origin, for instance buying berries from workers from all countries but Bulgaria, since this would constitute discrimination. Instead, one of the merchants consider that it is the authorities that are responsible for informing the workers regarding the Swedish berry industry and the precautions that they should take. The other merchant claims to have taken steps in order to prevent workers from being exploited, in that he has introduced a system with direct payment to the individual berry-picker instead of to a group leader. The problem, however, seems to be that the berry buyers do not always follow these guidelines.

Not only the merchants, but also the berry buyers and berry companies often take little responsibility for the rights of the workers. The interviewed berry companies do not consider there to be problems with the unequal power relations that exist between them and the workers on a daily basis. Some companies even argue that the workers are powerful, since they can talk to the media, or sell berries to other berry buyers, both practices that harm the business.

Lastly, berry buyers who mainly buy berries from unregulated pickers also take little responsibility for the pickers' working conditions and well-being. The situation can be particularly problematic when buyers buy berries from a group of pickers that includes a group leader acting as a middleman (as in the case explained in Box 2). Some buyers buy the berries from the group leader instead of paying each individual worker. This may result in some workers not receiving any payment for their work. Although we must assume that berry buyers are aware of abuses, they do not act upon this.[38]

[38] According to the prosecutor in charge of the case which led to a conviction (see Box 2), the berry buyer was also liable for not having known that trafficking was occurring and not doing anything about it. Yet he could not be prosecuted because the Swedish legislation on human trafficking requires intent (Sw. direct uppstår) or the willingness to exploit someone, not indirect intent (Sw, indirect uppstår).

10. Summary and recommendations

10.1 Summary

Although Sweden is renowned for its high labour and employment standards and adherence to human and labour rights, migrant labour exploitation is a significant problem. Analysing cases from the restaurant and berry industries, this report explores various forms of labour exploitation and forced labour. A particular focus is put on exploitative practices emerging in the context of recruitment. The report also provides an overview of Swedish labour immigration policy and the legislative background of trafficking for forced labour in Sweden, and discusses the challenges in the prevention of migrant labour exploitation. It is based on interviews with authorities, trade unions, immigration lawyers, employers and migrant workers. Fieldwork, media material and court judgments are also used.

Legislative and policy background

The issue of trafficking for labour exploitation has received relatively little attention in Swedish policy discourse, where the emphasis instead has been on trafficking for sexual exploitation. Since the crime was introduced in the Swedish Penal Code in 2004, few cases of trafficking for labour exploitation have reached the Swedish courts, with only one case leading to a conviction.

In December 2008, Swedish labour migration policy underwent a major reform and shifted from being very restrictive to becoming one of the most liberal policies among the OECD countries. Within the framework of this new policy, any worker from outside the European Union who has been offered employment in Sweden can be granted a work permit, provided that a number of conditions are met. The assessment of the need to recruit labour from outside the EU is thus made by employers rather than by a public authority. In addition, the new policy does not impose any skills requirements or quotas. After four years, the labour migrant becomes eligible for permanent residency status. Since 2008, the Swedish Migration Board has issued 58.000 work permits to non-EU citizens, with a majority being employed within agriculture, the IT industry and the hotel and restaurant industry.

Following the introduction of the new policy, it appeared that a number of labour migrants had been exposed to low wages and poor working conditions. In order to assess the seriousness of employers and protect the workers against various forms of exploitation, the Swedish Migration Board introduced, in January 2012, stricter requirements for the granting of work permits in a number of sectors. This measure has most likely contributed to a decrease in the number of cases of abuse, but it has not eradicated the problem.

Recruitment practices and working conditions

In this report, labour exploitation is conceived as a continuum, ranging from milder to more serious forms of exploitation, with trafficking for forced labour constituting the most severe form of exploitation. In addition, exploitative practices are considered both in the context of recruitment and at the workplace.

With regards to recruitment, it is a common practice that migrants in the restaurant and berry industries pay high fees to recruitment agencies and middlemen, which in some cases results in the migrants becoming indebted. In the restaurant industry, employers sometimes request a payment in exchange for an offer of employment, which is the basis for obtaining a work permit. Sometimes migrants fall victims to unscrupulous employers or middlemen, who charge them fees for fictitious jobs. These workers arrive in Sweden to find out that the company that supposedly hired them does not exist. One existing practice is the creation of "shell companies" for the purpose of applying for work permits which are then declared bankrupt. This 'trade in work permits' is described as a new form of abuse to the immigration system, because contrary to human smuggling, the person travels legally and with valid documents.

Migrant workers are also subject to various coercive practices in the context of their recruitment and/or at the workplace. Two main issues must be highlighted with regards to coercion. First, coercion does not necessarily involve the use of physical force. Usually, milder and more subtle methods are used to limit the freedom of individuals, such as the use of threats, isolation, surveillance and the confiscation of documents. Second, it appears that in the vast majority of cases coercion does not imply that the person was forced to enter an employment arrangement, but rather that they were prevented from exiting it. An acceptable work situation can thus deteriorate into forced labour.

Low wages and long working hours are the most common forms of migrant labour exploitation. According to Swedish labour immigration policy, the terms of employment offered must be in line with the collective agreements prevailing in the profession. However, the conditions stated in the offers of employment, on the basis of which the Swedish Migration Board assesses the work permit applications, seldom correspond to the conditions that the workers actually receive. In many cases, not least in the restaurant industry, they are paid significantly less and work longer hours. Many workers are required to repay part of their salary to their employer in order to cover potential recruitment fees. Some are even requested to pay the social contributions and insurance that are normally paid by the employer by themselves. However, since the offer of employment is not legally binding, migrant workers cannot use this document as proof against an abusive employer.

In the berry industry, regulated workers from Asia have been entitled, since 2011, to a guaranteed monthly wage, irrespective of the amount of berries they have picked. However, this safeguard may not entirely protect workers from indebtedness since it is believed that recruitment agencies sign double

contracts, with the contract in Thailand stating that they will not receive the guaranteed wage. A berry merchant also argues that, in case of a bad berry season, there is the risk that the whole industry goes bankrupt and that the berry companies will not, in practice, be able to pay the guaranteed wages. Unregulated pickers from the EU, who can 'freely' circulate within the union, are perhaps in an even more precarious situation since they do not have an employer and must bear all risks by themselves.

Our study suggests that certain migrants are deceived by unscrupulous employers or middlemen regarding the earnings, work and living conditions. In many cases, however, the migrants are aware that the conditions stated in the offer of employment are only intended to help the work permit application succeed and will not be met in reality.

A number of factors increase the likelihood of migrant labour exploitation. First, migrants often enter into debt in order to work in Sweden, which sets them in a situation of dependency towards their employer. In addition, many migrants are particularly vulnerable to exploitation because they come from a very poor economic background, they have a low level of education or they are members of a minority group that is discriminated against in the home country.

Challenges

The report highlights a number of challenges in preventing and combating migrant labour exploitation.

A first challenge stems from Swedish labour immigration policy, according to which work permits for non-EU citizens are tied to the employers. That is, labour immigrants must remain with the same employer during the first two years, or find a new employer within three months, and in the same occupation during the first four years, or else they can be deported from Sweden. Arguably, this requirement places the employees in a situation of dependency towards their employer. Workers who are exploited by unscrupulous employers may be reluctant to complain for fear of losing their employment and thereby their right of residence in Sweden.

The second challenge stems from the fact that many migrants who are subject to exploitation do not always consider themselves to be victims. Working in Sweden often represents an opportunity to escape poor economic circumstances and improve the living standard of themselves and their families. Therefore, many labour immigrants are willing to accept poorer working conditions than those enjoyed by the local population.

A third challenge relates to the lack of experience in regard to trafficking for forced labour in Sweden. The police, prosecutors and judges in Sweden may fail to detect cases of forced labour due to a lack of knowledge about the crime. Additionally, the concept of forced labour is rather complex – the distinction between a voluntary and a forced employment situation is difficult to define – and the legislation lacks a clear definition.

The low number of convictions for trafficking for forced labour in Sweden may also be a result of the courts' tendency to compare the working conditions of the victims with the prevailing conditions in the home country, considering that they do not experience worse conditions in Sweden than those they had at home.

A fourth challenge, related to the berry industry, highlights the lack of accountability of the various economic actors involved. Unregulated workers from Europe are considered to be self-employed and 'free movers', and regulated workers from Asia are formally employed by Asian recruitment agencies, leading to a situation where the actors in Sweden – berry buyers and merchants – do not need to assume the full responsibility for the pickers' labour conditions.

10.2 Recommendations

This report has highlighted various forms of exploitation faced by migrant workers in the restaurant and berry industries in Sweden, ranging from milder to more serious forms. These constitute violations of the rights of workers, tarnishing the image of Sweden's supposedly well-functioning labour market. In the remaining part of the report, we propose a number of recommendations in order to prevent migrant labour exploitation and trafficking.

Recommendations for policymakers

The exploitation of migrant workers in Sweden suggests a failure of the 2008 policy reform to guarantee decent working conditions for all. The stricter requirements introduced in January 2012 by the Swedish Migration Board have succeeded in reducing the cases of abuse but they have not eradicated the problem. At the same time it must be stressed that acknowledging the shortcomings of the new liberal labour immigration policy does not imply that it should be entirely rejected, but rather that it should be improved. What follows are some suggestions for doing so:

Post-arrival controls should be introduced to verify that the migrant worker receives adequate working conditions. At present, no authority has the mandate to conduct controls after the worker's arrival. In order for the police to control a workplace there must be a suspicion of crime. In addition, in order to prevent unscrupulous actors from deceiving migrants by hiring them for 'fictitious' jobs, it should be verified that the persons who are granted a work permit are actually working at the workplace which hired them.

Migrant workers should receive the salary and working conditions that they are entitled to. Therefore, the **offer of employment,** based on which the Swedish Migration Board assesses work permit applications, **should be legally binding.** More specifically, the terms of employment should be at least as good as those stated in the offer. Binding offers of employment give the possibility to

Swedish authorities to verify if the conditions that formed the basis for the work permit are actually applied in reality.

There should be **clear sanctions** for employers who do not follow the rules, which could have a dissuasive effect on all employers. For instance, they should pay **a fine and financial compensation** to the abused workers. At present, an employer who does not fulfil the terms of employment stated in the offer has little to lose, although they might not be able to hire non-EU workers in the future. In contrast, the workers risk losing their right of residence and the possibility of applying for an extension of their work permit (after two years) or for permanent residence (after four years).

Workers who lose or resign from their employment should be given a **longer grace period to find a new employment.** One possibility would be that the workers are allowed to stay during the entire period, or at least for six months, of their work permit. With the current regulation, they only have three months to find new employment in the same sector, or otherwise they lose they work permit and the right to reside in Sweden. The fear of losing their employment and residence permit prevents many migrants who are exposed to unacceptable working conditions from protesting against or reporting their employer.

Related to the previous point, the requirement to remain with a specific employer for a two year period and within a specific occupation for four years should be removed because it puts migrant workers in a situation of dependency towards their employer and makes them vulnerable to exploitation by unscrupulous actors. It also limits their freedom of choice and possibility to develop professionally.

Various studies (Axelsson et al. forthcoming; Nordlund & Pelling 2012, 19–20) suggest that migrant workers on a temporary residence permit are most exposed to low wages and excessive working hours, while their conditions seem to improve once they have obtained a permanent residence permit. Hence, **the shortening of the period for becoming eligible to apply for a permanent residence permit** is likely to have a positive effect on reducing migrant labour exploitation.[39] For instance, this period, which currently amounts to four years, could be reduced to two years.

Currently, non-EU migrants can only apply for work permits from their country of origin. Those who lack contacts with employers in Sweden often make use of middlemen who charge high fees for their services, leading to the indebtedness of the migrants. Arguably, this would not be the case if the migrants could **reside in Sweden for a limited period of time in order to look for a job.** This is already possible for EU citizens, who can come to

[39] At the same time, however, it is also sometimes the case that the acquisition of a permanent residence permit results in a worsening of the migrants' conditions. For instance, some workers have lost their job after being granted a permanent residence permit because they could then demand better working conditions (Axelsson et al. forthcoming).

Sweden for a three-month period. It might be envisaged that this rule is extended to non-EU citizens, under certain circumstances.

One possible way to prevent unscrupulous middlemen from abusing migrant workers would be through a **certification system for recruitment agencies and middlemen.** Actors who have been proved to abuse or deceive migrants would have their certificate removed and would no longer be allowed to represent migrants in the process of applying for a work permit. Such a system should be developed in cooperation with the migrants' countries of origin, since a large share of recruitment agencies are based in those countries. Developing such a certification system is no easy task for several reasons. First, middlemen usually take payments cash-in-hand, which makes them difficult to control. There is also evidence that some Asian recruitment agencies sign double contacts with berry-pickers, stating different conditions than those required by the Swedish Migration Board.

All berry-pickers should enjoy good **accommodation** standards. The respective municipalities should monitor the living conditions provided by berry companies to regulated pickers. They should also ensure that unregulated pickers are living in adequate and healthy conditions. Municipalities should be able to apply for financial assistance at the national level.

The **information** provided to migrant workers about their labour rights and the functioning of the Swedish labour market should be improved. Information could be sent to prospective migrants by the Swedish Migration Board together with their work permit. Additionally, Swedish embassies abroad could play a more active role in the spreading of information. The Work Environment Authority should also continue its information campaigns towards migrant workers. It is very positive that both the restaurant (in 2012) and the agricultural and forestry sectors (in 2013) are or have been the targets of such campaigns. However, it is vital to realize that many workers have poor readings skills, and therefore information might better be passed on orally than in written brochures. Improved information presupposes that sufficient resources are allocated for that purpose.

It would also be advisable to **broaden the role of the Work Environment Authority.** At present, the authority conducts workplace inspections on work environment and safety issues but, unlike many of its counterparts in other countries, it lacks the mandate to review wage-related issues.

Additional **training and capacity building programs** on trafficking for forced labour are needed for police officers, prosecutors and judges.

There is scope to enhance the **cooperation between different governmental agencies** involved in the prevention and combating of trafficking for forced labour and migrant labour exploitation. Cooperation between governmental agencies and **civil society actors** such as NGOs and trade unions also needs to be further developed. The mandate of the National Coordinator against Trafficking should be expanded to all forms of trafficking (today it only covers trafficking for sexual exploitation).

Forced labour and migrant labour exploitation occur in a transnational setting, and are not limited to the boundaries of a particular state. Therefore, **international cooperation** is crucial for preventing and combating those crimes. This implies the sharing of information and experiences with governmental institutions and trade unions in the migrants' countries of origin, for instance in the form of round table discussions. Cooperation is also particularly important among EU countries that are part of the Schengen area, since the victims and perpetrators can freely move within the area.

Recommendations for employers and other economic actors

Employers are key actors in the prevention of labour exploitation. In the berry-picking sector, there are no employers in Sweden – since regulated pickers are employed by Asian recruitment agencies and unregulated pickers are considered to be self-employed – but there are other economic actors involved: the merchants, the berry companies and the berry buyers.

Employers should follow the Swedish legislation and collective agreements on wages and working conditions.

When it comes to **wages**, employers should accurately report their payment of wages and social contributions. In the berry industry, it is crucial that berry buyers, who purchase berries from unregulated pickers from EU countries, should keep precise 'sales lists' for each picker. These **'sales lists'** should be closely monitored by the Swedish Tax Authority. It follows that berry buyers need to **pay each picker individually**, and that the delivery of berries should be checked against their passports to ensure that each picker receives the payment that he or she is entitled to (and avoid that a middleman or 'group leader' receives the money for several pickers and keeps it for himself or herself.) Merchants should also be required to transparently account for the amount of berries that they have bought and from which berry buyer.

Working hours tend to be excessive both in the restaurant and the berry industries. According to Swedish legislation, each restaurant should keep a record (Sw. personalliggare) with the working schedules of the employees. This record should always be available for consultation by the trade union, the Work Environment Authority and the Tax Agency. In the case of the berry industry, the situation is more complex because the workers come during a short period of time and are willing to work long hours in order to increase their earnings.

Large companies should take up the issue of migrants' working conditions in their corporate sector responsibility (CSR), notably by developing, and thereafter closely monitoring, **a code of ethical conduct.** For instance large restaurant chains could develop guidelines that are distributed to their different branches. A code of ethical conduct should also be developed in the berry industry by the various economic actors involved. According to our data, such a roundtable initiative is currently on-going among merchants in cooperation with the retail industry, which is a positive step. Even though the berry-pickers

have no employers in Sweden, the Swedish actors in the industry need to take responsibility for the working and living conditions of both regulated and unregulated berry-pickers. Merchants in particular should play an active role in ensuring decent working conditions for the pickers, since they are the most powerful actors and make the largest profits in the berry business.

Employers also have the **responsibility to inform** migrant workers about their rights as well as about safety requirements. In the berry industry, the berry companies that host regulated pickers should provide such information, in cooperation with the Asian recruitment agencies that employ them. Since 2011, the provision of information has become a requirement to hire pickers from outside the EU, which is a positive development. When it comes to informing unregulated pickers from Europe the situation is more complex, because they do not have an employer. However, berry buyers, who are in contact with the pickers, could play a more active role in providing them with information, including in their own language and in both oral and written form.

Recommendations for consumers and the civil society

Well-informed and aware consumers can play a significant role in ensuring that the human and labour rights of migrants are respected. Consumers should be alert about (migrant) labour exploitation and should seek information about the products or services they purchase. Also, the retail industry can help consumers by providing easily detectable **certification standards** about social conditions of their products.

Civil society actors, researchers and the media need to keep **raising awareness** about the issue of migrant labour exploitation. Nonetheless, it is important that labour immigration is not subjected solely to a negative image, but that also its various positive aspects are highlighted, thereby reflecting the complexity of the issue.

Trade unions should play a key role in the prevention of migrant labour exploitation. The Swedish Municipal Workers' Union (Kommunal), which is responsible for berry-pickers, should strengthen its collaboration with labour unions in Thailand, which is a major source country of berry-pickers. Trade unions could also improve the information provided to the workers that they represent, including oral information.

Immigration lawyers should refuse to assist employers with labour permit applications if they do not show a serious commitment to following the regulations. They should also inform the prospective migrant if they suspect that an employer lacks seriousness.

Policy considerations regarding the berry-picking sector

This report highlights a number of problems related to the fact that regulated berry-pickers from Asia are employed by Asian-based recruitment agencies, notably their high recruitment fees and the existence of 'double contracts'.

Therefore, a **less important role for recruitment agencies** would be desirable. However, if the pickers are directly employed by berry companies in Sweden, they would be subject to taxation in Sweden. A likely result would be that the berry companies would shift towards buying berries solely from unregulated pickers from the EU. The latter, as argued in this study, are particularly vulnerable since they pick berries as self-employed or so-called 'free pickers'.

It could be envisaged that a **quota** be introduced on the number of berry-pickers who are allowed to enter Sweden each season. The high number of berry-pickers is a serious threat towards the financial security of berry-pickers who pick berries in Sweden.

References

Articles, reports & statistics

Andrees, B. (2008): Forced Labour and Trafficking in Europe: How people are trapped in, live through and come out. Working Paper. Special Action Programme to Combat Forced Labour. Geneva: ILO.

Axelsson, L.; Hedberg, C.; Malmberg, B. and Zhang, Q. (forthcoming): Chinese restaurant workers in Sweden: policies, patterns and social consequences. International Organization for Migration.

Björklund, B. O. (2012): När det bär åt skogen in E Romani Glinda, Nr 4, juli-augusti 2012.

CBSS (2013): Actors against Trafficking for Labour Exploitation. The Council of the Baltic Sea States, January 2013.

Government Bill 2007/08:147. Nya regler för arbetskraftsinvandring [A new policy for labour migration]. Stockholm: Ministry of Justice.

Hedberg, C. (2013): "Grapes of Wrath"? Power Spatialities and Aspects of Labour in the Wild Berry Global Commodity Chain Competition and Change 17(1): 57–74.

Hedberg, C. (forthcoming): Restructuring global labour markets: Recruitment agencies and work relations in the wild berry commodity chain. In: Bonanno, Alessandro and Cavalcanti, Josefa Salete Barbosa (eds.). Labor Relations in Global Agri-Food. Emerald Publishing.

Hotel & Restaurant Workers´ Union (HRF) (2012): Till vilket pris som helst? En uppföljning av arbetskraftsmigranters villkor i hotell och restaurangbranschen.

ILO (2005): Human trafficking and forced labour exploitation. Guidance for legislation and law enforcement. Special action programme to combat forced labour. Geneva: ILO.

ILO (2009): Indicators of trafficking of adults for labour exploitation. Geneva: ILO.

Jokinen, A. and Ollus N. (2011): Trafficking for Forced Labour and Labour Exploitation – Setting the Scene in Jokinen, A., Ollus N. and Aromaa, K. (eds.) Trafficking for Forced Labour and Labour Exploitation in Finland, Poland and Estonia, Publication Series No. 68., 11–30, Helsinki: HEUNI.

Jokinen, A., Ollus, N. and Viuhko, M. (2011): Work on Any Terms: Trafficking for Forced Labour and Exploitation of Migrant Workers in Finland in Jokinen, A., Ollus N. and Aromaa, K. (eds.) Trafficking for Forced Labour and Labour Exploitation in Finland, Poland and Estonia, Publication Series No. 68., 31–164, Helsinki: HEUNI.

Ministry of Employment (Arbetsmarknadsdepartementet) (2008): Människohandel för arbetskraftsexploatering m.m. kartläggning, analys och förslag till handlingsplan. Ds 2008:7.

NAT (2010): Labour Trafficking: The 2009 Bilberry Fiasco in Sweden Bangkok: Network Against Trafficking and Exploitation of Migrant Workers, Thai Labour Campaign, Migrant Workers' Union.

National Police Board (Rikspolisstyrelsen) (2012): Lägesrapport 13 Människohandel för sexuella och andra ändamål. RPS Rapport 2012.

National Police Board (Rikspolisstyrelsen) (2011): Lägesrapport 12 Människohandel för sexuella och andra ändamål. RPS rapport 2011.

National Police Board (Rikspolisstyrelsen) (2009): .Lägesrapport 10 Människohandel för sexuella och andra ändamål. RPS rapport 2007–2008.

Nordlund, V. and Pelling, L. (2012): Den nya vägen in, ett migrantperspektiv, Global Utmaning, November 2012.

OECD (2011): Recruiting Immigrant Workers: Sweden 2011', OECD Publishing.

Pelling, L. (2013) 'Arbetskraftsinvandring på arbetsgivarnas villkor: ingen framtidsstrategi, Blogg transnationella tankar, http://transnationellatankar.wordpress.com/

Phillips, N. and Mieres, F. (2011): The issue of poverty in global policy debates on forced labour: A critical perspective. Chronic Poverty Research Centre, Working Paper no. 178, July 2011.

Swedish Agency for Economic and Regional Growth (Tillväxtverket) (2012): 'Företagare med utländsk bakgrund'

Swedish Migration Board (Migrationsverket) (2013a): Four years of the new labour legislation. Available online http://www.migrationsverket.se/info/6586_en.html (Accessed 25 June 2013).

Swedish Migration Board (Migrationsverket) (2013b): Beviljade arbetstillstånd 2012.

Swedish Migration Board (Migrationsverket) (2013c): Certain industries are subject to more stringent control. Available online: http://www.migrationsverket.se/info/5189_en.html [Accessed 25 June 2013].

Swedish Migration Board (Migrationsverket) (2013d): Arbetstagare 2012 och 2013.Swedish Migration Board (Migrationsverket) (2012) 'Beviljade arbetstillstånd 2011'.

Swedish Migration Board (Migrationsverket)(2011a): Beviljade arbetstillstånd 2010.

Swedish Migration Board (Migrationsverket) (2011b): Working or interning: information for current and former asylum seekers. April 2011.

Swedish Migration Board (Migrationsverket) (2010): Beviljade arbetstillstånd 2009.

TCO (2012): Bättre kontroll för bibehållen öppenhet – Så kan reglerna för arbetskraftsinvandring förbättras.

Wingborg, M. (2011a): Mors lilla Olle. Så exploateras asiatiska bärplockare i de svenska skogarna. Swedwatch, Rapport, Peace and Love Foundation, Svenska kyrkan.

Wingborg, M. (2011b): Mors lilla Olle 2. Swedwatch, Rapport, Peace and Love Foundation, Svenska kyrkan.

Wingborg, M. (2012): Mors lilla Olle 3. Swedwatch, Rapport, Peace and Love Foundation, Svenska kyrkan.

Woolfson, C., Thörnqvist, C. & Herzfeld Olsson, P (2011): Forced Labour in Sweden? The Case of Migrant Berry Pickers. Council of Baltic Sea States.

Yimprasert, J. (2010): The on-going struggle of Thai berry pickers in Sweden. Migrant Workers Union Thailand.

Media

Aftonbladet (2012a): McDonalds-härvan med sålda arbetstillstånd växer. Aftonbladet, 2 december 2012.

Aftonbladet (2012b): Facket: Det är en slavrelation. Aftonbladet, 4 december 2012.

Bergsell, T. (2012): Hanteringen av bärplockare strider mot EU:s regelverk. Dagens Nyheter, 1 augusti 2012

Bengtsson, J. & Ojanne, K. (2013): HRF: Folk nyttjas som slavar –med lagen som stöd. Aftonbladet, 6 februari 2013.

Carlsson, M. (2013): Offren för fattiga för att bli trodda i rätten. Dagens Nyheter, 14 januari 2013.

Ekelund, M. & Sköld, J. (2013): Tjänade 25 miljoner på nya regler. Aftonbladet, 30 januari 2013.

Ekot (2012): Chefer på Mc Donalds misstänks ha sålt jobb. Ekot, 2 december 2012.

Fröberg, J. (2011): Jurist i Sverige hjälpte kineser bluffa. SvD, 24 juni 2011.

Kalla Fakta (2013): Den nya människohandeln. TV4, 31 mars 2013.

Larsson, M. J. (2013): Billström lovar stoppa slavkontrakten. Dagens Nyheter, 15 februari 2013.

Mannheimer, L. (2012): Människohandel – vinstgivande och riskfritt. Dagens Nyheter, 10 juni 2012.

Mårtensson, J. (2013): Uppehållstillstånden såldes på hemliga möten. Metro, 30 januari 2013.

Nandorf, T. (2013): Bara ett av tre tillstånd går till specialister. Dagens Nyheter, 29 januari 2013.

Nandorf, T. & Petersson, J. (2010): Priset för ett jobb I Sverige: 30 000. Dagens Nyheter, 5 maj 2010.

Nia, E. & Pelling, L. (2012): McDonalds-avslöjandet – bara toppen på ett isberg. Aftonbladet, 5 december 2012.

Persson, A. (2013): Mutbrottshärvan växer. Dagens Nyheter, 25 mars 2013.

Ruth, A. (2012): Romer utnyttjas i bärskogarna. Dagens Nyheter, 17 september 2012.

Saltmarsh, M. (2010): Asian Migrant Workers See Exploitation in Sweden. New York Times, 7 September 2010.

SvD (2013): Tjänstemän gripna för mutbrott. Svenska Dagbladet, 29 januari 2013.

SVT (2013): Här grips Hallikainen, 23 februari 2013.

The Economist (2012): Foreign workers in Sweden. Berry pickers, unite!, 4 August 2012.

Interviews

The interviews marked as * were conducted by Charlotta Hedberg, the interviews marked as ** by the think-tank Global Challenges (Global Utmaning) and the remaining ones by Louisa Vogiazides.

Berry Merchant 1,* Gothenburg, 8 March 2013.

Berry Merchant 2,* by telephone, 19 March 2013.

Border Police (Gränspolisen), Stockholm, 17 January 2013.

Confederation of Swedish Enterprise (Svenskt Näringsliv), Stockholm, 5 February 2013.

Editor of a magazine on Romani issues, Stockholm, 6 February 2013.

Employers' organization in the Swedish hospitality industry (Visita), Stockholm, 13 February 2013.

Foundation against trafficking, Stockholm, 23 January 2013.

Hotel & Restaurant Workers´ Union (HRF), Stockholm, 14 January 2013.

Immigration lawyer 1, by telephone, 4 February 2013.

Immigration lawyer 2, Stockholm area, 5 February 2013.

Immigration lawyer 3, by telephone, 19 February 2013.

International Public Prosecution Office (Internationella Åklagarskammaren), Stockholm, 21 January 2013.

National Police Board 1 (Rikskriminalpolisen), Stockholm, 10 January 2013.

National Police Board 2 (Rikskriminalpolisen), by telephone, 23 January 2013.

Researcher studying the working conditions of Chinese restaurants workers in Sweden, Stockholm, 24 January 2013.

Restaurant worker from Iraq,** Stockholm, 2012.

Swedish Migration Board (Migrationsverket) 1,* Stockholm,

Swedish Migration Board (Migrationsverket) 2, Stockholm, 8 March 2013.

Swedish Municipal Workers' Union (Kommunal),* November 2011.

Tax Agency (Skatteverket),** Stockholm, 12 February 2013.

Work Environment Authority (Arbetsmiljöverket), Stockholm, 29 January 2013.

Meeting

National meeting on human trafficking for labour exploitation in Sweden, Stockholm 29 November 2012.

Court judgments

Hudiksvalls District Court, 31 October 2011, judgment B 1834-11.

Hudiksvalls District Court, 15 June 2012, judgment B 2220-11.

ESTONIAN MIGRANT WORKERS AS TARGETS OF TRAFFICKING FOR FORCED LABOUR AND LABOUR EXPLOITATION

Kadri Soo and Anna Markina

1. Introduction

The last two decades have been a period of increased migration between Estonia and other European Union countries. The process started after the independence of Estonia in 1991, intensified with the accession of Estonia to the EU in May 2004 and has continued since then. The main driving force in this process has been the large difference in income levels between the ”old” and “new” European countries. The economic crisis, accompanied by a high level of unemployment, has contributed to the process of labour migration from Estonia even more. While for the majority of persons labour migration has been a successful experience, this has not always been the case. Each year brings more and more stories about the bad experiences some persons have had in the entire process of migration – starting from dishonest job facilitators and ending with tragic stories of slavery-like working conditions. This experience, however, has been so new that people have been left alone with their problems. It becomes clear that the topic of exploitative labour and trafficking for labour exploitation needs the attention of practitioners, victim assisting NGOs and researchers.

In 2009−2010 Tartu University together with HEUNI and Warsaw University conducted an EC funded research project entitled FLEX: Trafficking for Forced Labour and Labour Exploitation. While discourse on human trafficking at that time was primarily focused on trafficking in women for sexual exploitation, the FLEX project was the first attempt to move beyond a narrow understanding of the phenomenon. The research confirmed the existence of the problem of trafficking for forced labour and labour exploitation from Estonia to other EU countries and, to a lesser extent, from third countries to Estonia (Kask & Markina 2011.)

When the FLEX research project was conducted, one of the main challenges encountered by the research team was lack of awareness, usually expressed as little interest towards the topic of forced labour and labour exploitation. The researchers experienced this lack of awareness among experts as well as among Estonian people who met with problems while working or seeking employment abroad. The research found that among the general public the level of knowledge regarding human trafficking as well as regarding exploitation, labour rights and human rights in general is rather poor. This strongly influences their behaviour as migrant workers. (Kask & Markina 2011.)

The report also concluded that the low level of interest in the topic among the relevant experts could be attributed to a number of reasons, including the lack of trafficking-specific legislation. Cases that involved features of human trafficking that have reached the court were usually prosecuted as facilitation of prostitution, and most of the cases that might be related to labour exploitation or forced labour end up in court as fraud cases, even when they involve trafficking elements. (Kask & Markina 2011.)

In respect of Estonia as a destination country for labour trafficking, the report found that the main reason that authorities do not identify cases of trafficking for forced labour and labour exploitation is that law enforcement institutions lack relevant jurisdiction. In 2010, no institution had jurisdiction or a legal obligation to control the factual situation at workplaces, and the interviewed experts demonstrated no appreciable interest in changing the situation. (Kask & Markina 2011.)

This overall lack of awareness resulted in a situation where on one hand people who have been exploited while working abroad were not identified as victims by the state authorities and, on the other hand, they felt ashamed and blamed themselves for ending up in the exploitative situation. It was nearly impossible to find respondents with first-hand knowledge. As a result, the FLEX research was mostly based on interviews of experts and mass media accounts on trafficking for labour exploitation. (Kask & Markina 2011.)

1.1 Aims of this report

This report was prepared as part of the ADSTRINGO project: Addressing trafficking for labour exploitation through improved partnerships, enhanced diagnostics and intensified organisational approaches. The project is implemented with the financial support of the Prevention of and Fight against Crime Programme European Commission – Directorate-General Home Affairs.

The objective of the present study is to analyse existing evidence on forced labour and labour exploitation more systematically, looking into the elements of labour exploitation, which are the coercive recruitment and employment practices in certain labour market sectors.

The project seeks to answer the following questions:

- What are the main sources of evidence when studying labour exploitation and trafficking for forced labour in Estonia?
- What are the target sectors and countries for migration?
- What are the main problems leading to labour exploitation in the recruitment process?
- What kind of exploitative situations do Estonian nationals face abroad?
- What are the main mechanisms of exploitative employment practices?

- What are the main risk factors for labour exploitation?
- How do current legislative and institutional means respond to labour exploitation situations and trafficking for forced labour to and from Estonia?

Taking into account our experiences with the FLEX project, the problems referred to above were addressed while planning the research for the current ADSTRINGO project. First, we widened the spectrum of official documents that could be used as a source of information for research on labour exploitation. For example, we did not limit our search to criminal cases only but included also labour dispute cases, documents related to the revoking of licences of labour exchange agencies. Second, while there are still no relevant court cases in Estonia on trafficking for labour exploitation, we read through all fraud cases in order to identify those court decisions that are relevant to issues of labour exploitation. Thirdly, we used our local network as well as the network of our international partners to access people who have experienced different forms of exploitation. Because for Estonia, as a source country in the trafficking process, labour exchange and recruiting are important issues, we also decided to give voice to labour exchange agencies and recruitment firms.

1.2 Existing laws and actors dealing with labour trafficking in Estonia

The existing legislation regulating the sphere of human trafficking was analysed in detail as part of the FLEX report (Kask & Markina 2011, 261–268). The main problem regarding the legislation on trafficking was that until 2012 Estonia lacked a trafficking-specific law. Existing laws did 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. In April 2012 the enslavement provision of the Estonian Penal Code was amended to include the notion of trafficking in human beings. The Penal Code was amended by adding new paragraphs criminalizing trafficking in human beings. These paragraphs are:

> § 133. Trafficking in human beings
>
> (1) Placing a person in a situation where he or she is forced to work under unusual conditions, engage in prostitution, beg, commit a criminal offence or perform other disagreeable duties, or keeping a person in such situation, if such act is performed through deprivation of liberty, violence, deceit, threatening to cause damage, by taking advantage of dependence on another person, helpless or vulnerable situation of the person, is punishable by 1 to 7 years' imprisonment.
>
> (2) The same act, if: 1) committed against two or more persons; 2) committed against a person of less than 18 years of age; 3) committed against a person in a helpless situation; 4) committed in a torturous or

cruel manner; 5) serious health damage is caused thereby; 6) danger to life is caused thereby; 7) committed by two or more persons; 8) committed by taking advantage of official position, 9) serious consequences are caused thereby; is punishable by 3 to 15 years' imprisonment.

(3) An act provided for in subsection (1) or (2) of this section, if committed by a legal person, is punishable by a pecuniary punishment or compulsory dissolution.

(4) For the criminal offence provided in this section, the court shall impose extended confiscation of assets or property acquired by the criminal offence pursuant to the provisions of § 832 of this Code.

(5) For the purposes of this section, vulnerable situation is a situation where a person lacks an actual or acceptable opportunity not to commit any of the acts specified in subsection (1) of this section.

§ 133. Support to human trafficking

(1) Transportation, delivery, escorting, acceptance, concealment or accommodation without prior authorisation of a person placed in any situation specified in subsection 133 (1) of this Code, or aiding without prior authorisation his or her forced acts in any other way, is punishable by up to 5 years' imprisonment.

(2) The same act, if: 1) committed against two or more persons; 2) committed against a person of less than 18 years of age; 3) committed against a person in a helpless situation; 4) committed by taking advantage of official position, shall be punished by 2 to 10 years' imprisonment.

(3) An act provided for in subsection (1) or (2) of this section, if committed by a legal person, is punishable by a pecuniary punishment or compulsory dissolution.

(4) For criminal offence provided in this section, the court shall impose extended confiscation of assets or property acquired by the criminal offence pursuant to the provisions of § 832 of this Code.

§ 175. Human trafficking in order to take advantage of minors

(1) A person who influences a person of less than 18 years of age in order to cause him or her to commence or continue commission of a criminal offence, begging, engagement in prostitution or working under unusual conditions or to appear as a model or actor in the manufacture of a pornographic or erotic performance or work, but it does not contain the necessary elements of an offence provided for in § 133 of this Code, and a person aiding the above-mentioned activities of a person of less than 18 years of age, shall be punished by 2 to 10 years' imprisonment.

(2) The same act, if committed by a legal person, is punishable by a pecuniary punishment or compulsory dissolution.

(3) For the criminal offence provided in this section, the court shall impose extended confiscation of assets or property acquired by the criminal offence pursuant to the provisions of 83^2 of this Code.

In addition to three paragraphs that define human trafficking precisely, there are several paragraphs that contain certain elements of trafficking. As the results of legislative changes, Estonian laws now cover all elements of human trafficking set out by article 2 of EU directive 2011/36/EU.

According to the Estonian Penal Code, trafficking in human beings refers to "placing a person in a situation where he or she is forced to work under unusual conditions, engage in prostitution, beg, commit a criminal offence or perform other disagreeable duties, or keeping a person in such situation, if such act is performed through deprivation of liberty, violence, deceit, threatening to cause damage, by taking advantage of dependence on another person, helpless or vulnerable situation of the person". This new definition covers various forms of human trafficking: sexual exploitation, forced work, begging and forced criminal exploitation. The issue of consent that was often a matter for discussion is also explicitly stated in the definition: the consent is irrelevant if the trafficker took advantage of the helpless or vulnerable situation of the person. The new Estonian definition of human trafficking has no reference to migration. This is in line with the recommendation of ILO and EU experts group on trafficking in human beings, according to which the main focus in identifying trafficking should be on the situation of exploitation rather than on the movement element (European Commission 2004).

Estonia has a national action plan on reducing violence, which includes preventing and combating human trafficking as one of its four objectives. In 2009, Estonia issued official guidelines for practitioners on human trafficking victim identification. The guidelines have served the purpose of awareness raising among law enforcement agents and other practitioners. Today the guidelines are being updated according to the changes in Estonian law.

In the following is a short description of the agencies which are the most likely to come across cases of trafficking for forced labour and labour exploitation.

The Labour Inspectorate is a government agency operating under the Ministry of Social Affairs.[1] The Labour Inspectorate arranges for the exercise of state supervision in the working environment and labour relations, resolves individual labour disputes and implements state measures on the basis and to the extent prescribed by law. The Labour Dispute Committee subordinated to the Labour Inspectorate solves disagreements under private law over an employment contract between an employer (registered in the Republic of Estonia) and an employee. If the basis of the claim is a contract for services, an authorisation agreement or some other agreement based on the Obligations Act, then the labour dispute committee does not proceed with the application. The employee may turn to the labour dispute committee if he/she wishes the

[1] The official webpage of the Labour Inspectorate: http://www.ti.ee/index.php?page=10&

committee to rule on the nature of the contract, i.e. to recognise the contract as an employment contract.

In 2012 labour inspectors visited 539 enterprises with the aim of inspecting labour relations (Labour Inspectorate 2013). The number of applications submitted to the Labour Dispute Committees was 2,983 for the same period, out of which 335 were from employers and 2,648 from employees. The majority of applications were submitted by construction workers and the most frequent claim was non-payment of wages (1,207 times). Unfortunately, the cases related to migrant and local workers were not distinguished in the statistics of the Labour Inspectorate, nor were incidents that can be considered to be labour exploitation.

The role of the Police and Border Guard Board, more specifically the Division of Citizenship and Migration, in respect of human trafficking, is to control labour migration on the border and detect illegal migrant workers. The division conducts random raids in enterprises that may employ foreign labour in order to check that these persons have the necessary residence and work permits. The police also conducts crime investigations in cases of human trafficking and fraud, among others.

Estonian embassies and missions play an important role in helping Estonians who have gone to work abroad and face labour exploitation. According to the Consular Act, the missions provide consular services to Estonians in foreign states and protect them abroad. They shall provide consultation and assistance to Estonians in distress due to an accident, falling victim to a crime or other circumstances in order for them to contact their families, return to Estonia or in order for their rights to be protected. A consular officer or an honorary consul shall assist a person who has fallen victim to a crime in finding medical and legal assistance. If necessary, they organise communication between that person and the law enforcement authorities of the receiving state. However, there is no information about the number of Estonians who have turned to the embassies for assistance in the case of labor exploitation.

Living for Tomorrow (LFT) is an NGO with the aim of preventing human trafficking and providing victim assistance, including hotline services. The hotline provides information to individuals who plan to go abroad to work or assist those who have been victimised. The LFT professionals help people exposed to labour exploitation or trafficking to prepare a statement for the relevant authorities and provide some legal help. In 2011 the LFT identified 20 cases of labour exploitation (4 women and 16 men). In 2012 the number was 14 (all men) (LFT 2011; 2012).

The Estonian Trade Union Confederation (ETUC) represents the interests of employees in collective agreements and protects the rights of employees in employment relations, consults employers on developing a sustainable labour market and the government on developing a socially sustainable economic

model.[2] The ETUC comprises 20 branch unions that represent state and municipal government officials, education workers, health care workers, transport workers, industrial workers (including energy, light industry, food industry, timber and metal industry) and people employed in the service sector (postal, communication, trade, hotel and cleaning sector workers, etc). However, the role of trade unions is relatively unimportant in respect of the human trafficking cases of migrant workers.

1.3 Definition of human trafficking for forced labour

The notion of trafficking for forced labour needs clarification. In the definition of forced labour, most often the list of indicators suggested by ILO is used. These indicators are (ILO, 2012):

- Abuse of vulnerability
- Deception
- Restriction of movement
- Isolation
- Physical and sexual violence
- Intimidation and threats
- Retention of identity documents
- Withholding of wages
- Debt bondage
- Abusive working and living conditions
- Excessive overtime

ILO notes that the presence of a single indicator may in some cases imply the existence of forced labour, while in other cases several indicators should be examined together in order to point to a forced labour case. Anti-Slavery International, one of the leading organisations combating forced labour (2006, p.8), notes that indicators of forced labour are often present in combinations of two or more. It is recommend that even when at least one indicator listed by ILO is identified, an investigation should be initiated, and when there are two and more indicators present, the case should be identified as forced labour.

It is not always clear whether an individual case could be identified as exploitative labour conditions, forced labour or a trafficking case. As many authors note (Lisborg 2012; Skrivankova 2010), for working people there is a

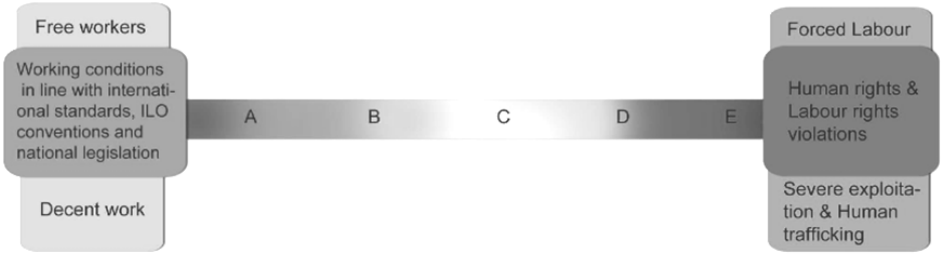
[2] Official website of Estonian Trade Union Confederation: http://www.eakl.ee/index.php?pid=418&lang=7

continuum of experiences ranging from decent work to extreme exploitation in the form of forced labour.

According to Skrivankova (2010), trafficking is a sub-set of forced labour rather than a synonym of forced labour. The author notes that if forced labour is punishable only when linked to trafficking, those in non-trafficked forced labour find it even more difficult to seek justice. She argues, therefore, that the idea of a 'continuum of exploitation' is useful in order to understand the situations of forced labour in its complexity. There is decent work on the one (positive) extreme of the spectrum, and forced labour on the other (negative) extreme.

Lisborg (2012), in defining trafficking for forced labour, also presents working conditions on a continuum, ranging from free workers and decent work on one side of the spectrum and forced labour on the other side (Figure 1).

Figure 1. Working conditions on a continuum – from decent work to human trafficking



A. **Workers in decent work conditions. General good standards including good living conditions and fair wages.**
B. **Workers who knows the type of work they are recruited for and the working conditions, but who experience relatively hard conditions and low wages – all within the limits of national labour law and international standards and legislation.**
C. **Workers / victims, who knows the type of work and working conditions they are recruited for, but do not have sufficient information, insight or experience that allows them to predict unreasonable pay and working conditions, and who may feel that they are trapped in the given situation on account of limited options and limited knowledge of their rights. Here, the working relationship involves actual labour exploitation and breaches of labour legislation.**
D. **Victims of false information (misapprehension) in the recruitment process, who, during the work, may also be subjected to threats of reprisals (e.g. redundancy without pay, etc. to which they are entitled). Their vulnerability is being exploited, and they may be sent to do work other than that which they were promised and/or forced to work under other conditions. They cannot leave the place without reprisals.**
E. **Victims who have been forced and severely exploited including victims who have experienced kidnapping, confinement (locked-up) and physical violence. Here, the working relationship is purely human trafficking and forced labour.**

Source: Lisborg (2012).

Migration, as has already been mentioned, is not the crucial element in trafficking for labour exploitation. Instead, it is the migrant status that puts a person in a vulnerable situation that could be easily abused. Haynes (2009) argues that not only are migrants likely to be economically vulnerable during the relocation, migrants often face a situation where they cannot rely on the protection of the state they left behind and also have not yet procured the protection of the state in the destination country. Therefore, Haynes suggests, the protection granted by law should be extended not only to those whose

situation fits the definition of trafficked persons but to all cases of exploitation of migrants.

Different situations of exploitation need different interventions provided by law, in particular criminal and labour law. According to Skrivankova (2010), "within the complex environment of causes and contributing factors, forced labour should be addressed both as an issue of labour (human) rights as well as through the criminal justice system" (ibid., 21).

The approach applied in the current research reflects this understanding. We looked at the working conditions on the continuum and while collecting data we paid attention to all ILO indicators. Moreover, and, rather differently from the approach we had in the FLEX project, we broadened our understanding and the scope of the data collection from criminal law to other areas of law, particularly labour law. Bearing in mind that the issue of forced labour does not necessarily involve moving from one country to another, for the purpose of the current project we concentrate on cases of labour exploitation involving migrant workers. Usually, these are migrants from Estonia seeking employment in EU countries, mostly Finland.

In this report the terms "human trafficking for forced labour", "work-related human trafficking", and "labour trafficking" are used interchangeably, bearing in mind the theoretical concept of the continuum between decent work and severe exploitation and trafficking. The terms used refer to situations where various elements of exploitation are present.

2. Data and methods

In this study different sources have been used to obtain an overview of the patterns in, and of the victims and perpetrators of, work-related human trafficking and labour exploitation, and also the court judgments of cases involving labour exploitation. The main data of the study comes from qualitative interviews and various documents, which are further described below. In addition, we used media reports and expert opinions of professionals (collected during seminars and personal communications) who are closely engaged with labour exploitation problems.

2.1 The interviews

2.1.1 Interviews with migrant workers

n the winter and spring of 2013 we conducted nine semi-structured interviews with persons who have experienced labour exploitation. The aim of the interviews with the victims was to examine their experiences of exploitation during the recruitment period and while working in a foreign country. First we planned to find the victims using social media and personal contacts. We posted an invitation to participate in our study to our personal Facebook account walls both in Estonian and in Russian and asked our friends to share it. In the invitation we avoided labelling such persons as 'victims' because those who have experienced labour exploitation may not identify themselves as victims. The Estonian version of the invitation was shared about 40 times, the Russian version was not shared once. In addition, information about the study was forwarded via emails and we wrote to a person who warned others in his/her social media pages about dishonest employers based on his/her personal experience. However, these methods were not successful, since no one contacted us.

The recruitment of respondents using social media is used in various areas of sociological, marketing or health research. It has been successfully employed in studies of hidden populations, for example in a study of illicit drug users (Miller & Sønderlund 2010). Encouraged by these examples, we hoped for success in our research. Looking back at the attempt, we can see several reasons for the failure of this strategy in the case of the project at hand. First of all, recruitment of vulnerable respondents on a non-systematic, voluntary basis could be best described as snowball sampling. For this approach it is crucially important to establish the first contact that would create an atmosphere of trust. As we did not begin with personal contact with a migrant worker, we missed the chance to start the chain of recruitment. The second reason for the failure of our strategy would be that we did not take seriously the fact that social networks of female researchers working at the university would be different from those of migrant workers. Hoping that at some point the networks will overlap was not a fruitful strategy. It would be wise to reach the networks of migrant workers via middlemen who have important contacts with persons who

have experienced labour exploitation. The third reason is that we took for granted that at least some considerable part of migrant workers use social media (particularly Facebook) for communication. Although no specific question on social media was asked, the respondents we finally recruited for the interviews never mentioned using social media for communication or information search.

Next we turned to a non-governmental organization (NGO), called 'Living for Tomorrow', in order to find interviewees. This NGO offers counselling for victims of human trafficking and labour exploitation. With the help of this NGO we managed to contact three migrant workers. Another seven participants were found via the Finnish project partner, HEUNI. HEUNI used the help of the Labour Inspectorate of Finland and the Umbrella Organization for Multicultural Women's Associations (Monika-Naiset Liitto). To be more precise, the specialists working in these organisations informed their clients (who came from Estonia and Russia) about the possibility of participating in the study. The researchers got in touch with those who provided the approval for participating in the study and found a suitable place and time for the interview to take place. In Finland, the interviews with workers were conducted in Helsinki and in Estonia in Tallinn. In both cities the interviews were conducted in places that where convenient to reach for the respondents and also guaranteed a safe environment for conversation. In Tallinn interviews were conducted in cafes or in the office rooms of the University of Tartu, in Finland either at the HEUNI office or at the Monika-Naiset Liitto office. The same thematic interview template developed in the ADSTRINGO project and used in Finland was used in our study. In the interviews we focused on the following themes: the duration of work in the foreign country, getting information about the work advertisements, the process of recruitment, the description of the employer, living and working conditions, the format and signing of the employment contract, the experiences of labour exploitation, asking for and obtaining help, suggestions for other victims of labour exploitation and how to prevent these cases in the future.

The interviewees participated in our study voluntarily and were guaranteed anonymity. During the interview they had the option of not responding to question(s) which were uncomfortable or traumatising for them. In addition, we promised to ensure the confidentiality of any personal and sensitive information provided. The length of the interviews ranged between 20 and 90 minutes. The interviews were conducted either in Estonian or in Russian. Out of nine interviews, eight were individual interviews and one was a group interview. In total we interviewed ten persons who had experienced labour exploitation. Of the interviewees seven were females (two of Russian and five of Estonian origin) and three were males (all of Russian origin).

Six of the interviews (with persons who had worked in Finland) were translated into English by a translation firm and also used as data in the Finnish national study under the auspices of this project. The Finnish and Estonian researchers

met in Tallinn in May 2013 to discuss the use of the interviews in order to avoid overlap.

2.1.2 Interviews with agencies and employers

We planned to involve the employees of labour recruitment companies and labour exchange agencies in our study as experts who could tell us about their practices in labour exchange services and about their experiences regarding labour exploitation. For that reason we conducted a search on the internet and in databases and found eleven companies which declared that their main activity was personnel services, i.e. labour exchange services and renting labour to foreign countries, and which advertised these activities also on their internet homepages. We sent an email introducing our study to these companies to invite them to participate in individual interviews. In the email we stated that the aim of our interviews was to find out experiences and practices regarding labour exchange services and the recruitment of foreign labour. We did not emphasize that the focus of the project is to examine also patterns of labour exploitation.

Four companies responded to the email. Three of them agreed to participate in the interviews and one refused. A second email was sent to the other companies, and we followed up by telephone. We managed to get in contact with five companies by phone, but they refused participation due to a busy schedule and because they felt that they did not fit the profile we were looking for. We were not able to contact the remaining two companies at all.

Of the three companies which agreed to participate in our study, two were involved in both renting labour and in labour exchange services; and one only with renting services. Two companies provide labour exchange services for workers with Estonian citizenship mainly to Finland and to a lesser extent also to other EU countries; one company imports foreign labour to Estonia rather than providing labour exchange services. By profession, two persons we interviewed were personnel consultants and one was a manager.

In the interviews we focused on themes such as how to find and evaluate appropriate labour and clients; the procedures of labour renting and labour exchange services; regulations and responsibility concerning ensuring the safety of the workers; problems arising in their everyday activities; and also the description of those companies which engage in illegal activities.

All the interviews were conducted in March or April 2013. One interview was a personal interview; another two interviews were conducted via Skype. The duration of the interviews ranged from 35 to 90 minutes. Participation in the study was voluntary. We promised to ensure anonymity to them, and therefore we refer to their opinions in the analysis as those of ‘labour exchange or rental companies’.

2.1.3 Interviews with experts

The first set of expert interviews was conducted already in the first stage of the project, during the preparation of the first national meeting in August–October 2012. The interviews were conducted before the main part of data collection (migrant workers and labour facilitators). Because the national meeting was prepared in co-operation with the national rapporteur on Human Trafficking and NGO Living for tomorrow, all three representatives were involved in the interviews. The aim of the interviews was to become familiar with the particular field of expertise, to look at possible issues related to trafficking for labour exploitation and to ensure co-operation with the experts. The interviews were carried out as group discussions with several participants, and included:

1. two meetings with the national rapporteur on Human Trafficking and a representative of the NGO Living for Tomorrow;
2. a meeting with the national rapporteur on Human Trafficking, a representative of the NGO Living for Tomorrow and a representative of EURES;
3. a group interview with the national rapporteur on Human Trafficking, a representative of the NGO Living for Tomorrow and two police officers from the Economic Crime division;
4. a group interview with the national rapporteur on Human Trafficking, a representative of the NGO Living for Tomorrow and two representatives of the Labour Inspectorate;
5. a group interview with the national rapporteur on Human Trafficking, a representative of the NGO Living for Tomorrow and a representative of the Ministry of Social Affairs, licensing division.

These first interviews were conducted in the form of a free discussion. In order for the participants to speak freely, the discussions were not audio recorded. However, extensive notes were taken during the discussions.

During the data collection phase, a formal semi-structured (using thematic interview template) group interview with two Labour Inspectorate lawyers was conducted. The aim of the interview was to find out which types of cases they have handled in their practice and what type of help is provided to the exploited persons. The characteristics of victims and perpetrators, and the mechanisms in which labour exploitation can occur, were topics covered also during the interview. This interview was audiotaped and transcribed.

2.2 Administrative documents

Decisions of labour dispute committees. As an additional source of data we planned to use applications to labour dispute committees and the decisions concerning the applications. The aim was to find out about problems related to labour exploitation abroad as described in applications made to the committee, and what are the decisions in these cases.

We applied for a permit from the Labour Inspectorate to access the labour dispute documents. During the application process it turned out that the identification of those cases which are related to labour exploitation in foreign countries is very complicated and we therefore had to limit our scope. This was caused by the fact that around 3,000 applications are sent to the labour dispute committees a year, and in more than 2,000 applications a decision is made. This would have meant a large amount of work for the officials of the Labour Inspectorate to find the relevant documents for us and to make them anonymous. In addition, they do not register applications and decisions based on the country where the work was done and this needs to be checked separately for each document. Therefore we applied to obtain access to 20 applications (concerning the non-payment of wages) that had ended with a decision by the labour dispute committee in 2012. To be more specific, we asked for decisions which concern persons who had not been paid their wages when working abroad.

Of the 20 decisions, 14 were included in our analysis. The reason for excluding six decisions was the insufficient amount of information about the case or the case had been withdrawn by the applicant during the proceedings.

The decisions of labour dispute committees include information about the claims and clarifications of the employees, the comments and demurrals of the employers to the claims, the rationale of the committee, the legal basis and the resolution. The objects of the claims were mainly related to unpaid wages, holiday pay and remuneration and additional wages concerning business trips; in some cases also claims concerning the identification of an employment contract.

Decisions to delete agencies from the Register of Economic Activities. In order to obtain an overview of the illegal practices of agencies we applied to the Ministry of Social Affairs for access to decisions made by the Ministry regarding the withdrawal of licenses to provide labour exchange services. The Ministry of Social Affairs is responsible for registration of private legal entities and self-employed employers as labour exchange services providers. On the basis of the Labour Market Services and Benefits Act (TTTS, §12 section 2), service providers are prohibited from collecting fees from job seekers. Fees can be collected only from the employer or another private legal entity. If the service provider asks for a fee, then the Ministry of Social Affairs can begin an administrative procedure (based on the application of the person) to clarify the details and to reach a decision concerning the deletion of the company as a labour exchange service provider from the Register of Economic Activities.

From the Ministry of Social Affairs we manage to identify six decisions made between 2009 and 2012. The decisions include the description of the applicant concerning the actions of agencies, requests for and payment of illegal fees and the amount of the fees, the description of the service providers, the evaluation of the Ministry of Social Affairs, and the decision regarding deletion from the Register of Economic Activities.

2.3 Media materials

To gain additional information about labour exploitation and human trafficking, we collected articles published in major Estonian newspapers from 2011 to 2013. We used web archives of the newspaper dailies Postimees, Eesti Päevaleht ja SL Õhtuleht and the weekly Eesti Ekspress. The articles were searched using different keywords and also combining the keywords. The keywords were: human trafficking, labour rental, agency, working abroad, mobility of labour, foreign labour, fraud, enslavement, forced labour, and slave labour.[3]

Since the aim of the analysis of the media was to find specific cases as told by victims or specialists, we excluded articles which were focused on the topic of human trafficking and labour exploitation in general or focused on the introduction of laws, policies or possibilities of getting help. During the period of study, we were able to identify only eight published articles covering one or several cases of human trafficking and labour exploitation.

[3] In Estonian: “inimkaubandus”, “töövahendus”, “töövahendusfirma”, “töötamine välismaal”, “tööjõu mobiilsus”, “võõrtööjõud”, “pettus”, “sunnitöö”, “orjatöö”, “orjastamine”.

3. The target countries and sectors of labour migration

According to data from the 2011 Population and Housing Census (REL 2011), 24,907 permanent residents of Estonia went to work abroad. This is 4.4 % of all employed persons. The main destination countries were Finland (15,140 migrant workers), Norway (1,872), Sweden (1,532), Russia (1,357), the United Kingdom (732), and Germany (616). In line with the data from the Census, in the current study the most popular target country was Finland. This appeared not only from the interviews with the employees (most of whom have been identified through the Labour Inspectorate of Finland and the organisation helping the victims) but also from the decisions of the labour dispute committees and the statistics concerning phone calls to the help line of the NGO 'Living for Tomorrow' (LFT 2013). According to our data, and in addition to Finland, Estonian migrant workers have been working also in Norway, Sweden, Germany, the UK and the Russian Federation.

Finland is the favourite target country for Estonian workers because of its geographical proximity; travel between Estonia and Finland is relatively cheap and simple. A key factor is also the small language barrier, since Estonian and Finnish are relatively similar languages; a large community of Estonians in Finland helps in spreading information concerning different work possibilities (see also Krusell 2013). A large proportion of companies which focus on renting labour and on labour exchange services are oriented towards the Finnish market, thereby increasing migration to this neighbouring country. The Border Interview Survey conducted in Finland (Statistics Finland 2013) shows that in 2012, there were around 30,000 persons working in Finland whose permanent residence was in Estonia.[4]

Based on the interviews, the decisions of labour dispute committees and the media analysis, we conclude that the main sectors where people have experienced labour exploitation were the construction and cleaning sectors, and the restaurant sector. There were also examples from the fishing and forest industry, agriculture, accommodation services and transportation. Men who went to Finland and Sweden worked mainly in the construction sector, while women worked mainly as cleaners, dairy workers, kitchen staff or in agriculture. Those who went to Norway worked in the fishing industry, the construction sector or cleaning services.

3.1 The reasons for going to work abroad

The interviewed workers stated that the main reasons for seeking a job in a foreign country and going there for work were long-time unemployment due to the economic recession, or a part-time or temporary low-paid job which does

[4] http://www.stat.fi/til/rajat/2012/rajat_2012_2013-05-30_en.pdf

not make it possible to cope satisfactorily and support their families. The motives also included difficulties in paying bills and loans (mainly mortgage). Since for them finding a job with satisfactory wages in Estonia had not succeeded, then a solution was seen in going to work abroad to earn better wages. Other studies have also indicated that an important factor for labour mobility is a significant difference in wages between the home and the target country (Krusell 2013). Other motives for going to work abroad were earning and saving money to buy some large item (for example, buying a car) or going to live with someone close who was already working abroad. These factors are illustrated in the following quotes from interviews with migrant workers.

> And since all the jobs I had in Estonia had disappeared. I had perhaps less than a half-time job left from all the jobs, so the choice was simple. It was like either go or keep on suffering want in Estonia.
>
> It wasn't possible to find a job in Estonia. […] I mean, a normal job. A well-paid one. Because they had been holding back wages [...] in Estonia since 1998. (Quotes from interviews with the migrant workers)

4. Recruitment

Mostly the persons who had experienced labour exploitation were recruited already in Estonia. Very often the job was found using personal relationships and networks. For example, the interviewees described how they heard about vacancies from acquaintances, (former) colleagues from Estonia or Finland. Information about new jobs spread like wildfire as in the example below:

> It goes so that one person tells someone and another person tells someone else. She goes to a hairdresser in Pärnu. She tells her hairdresser. A lot of women go to the hairdresser. From there word is passed on. (Interview with a migrant worker)

The data demonstrate that getting a job using social networks does not guarantee that labour exploitation would not happen. Several interviewees told about cases where the new employer who had been recommended by acquaintances did not follow the agreements or regulations and laws. This was manifested, for example, in not making a written employment contract, not paying wages, manipulating agreements on wages and work conditions, demanding overtime work and not paying for such work.

In addition to using acquaintances, jobs were sought also from the internet using certain keywords (i.e. “cleaning company in Finland”), sending one’s CV to labour exchange portals (CV-keskus, CV-online) or just browsing job advertisements. Preferred sources were the portals focused on advertisements. The respondents were sceptical about the CV portals as there was usually a lack of feedback to their applications:

> Why those portals? Because there everything happens fast. Either a positive or a negative answer but there you get faster feedback compared to official channels. Because if you search using CV-keskus or Cv.ee then, as much as I’ve tried, sending my CVs, a few employers answer my application. And if they answer, then after waiting a week, a month until someone answers. Mostly they do not answer at all. You just sit and don’t see any point in all of that. (Interview with a migrant worker)

The interviewees mentioned that the advantages of advertisement portals are rapid feedback and direct contact with the employers. This helps to prevent long waiting times without any work and a situation where it is not clear what will happen next. While the feedback through advertisement portals was quick, the information provided and the work respondents found via portals was often not what was promised. For example, the same migrant worker who described the advantages of advertising portals was victimised three times after accepting job offers through the portals.

The experts who have dealt with cases of labour exploitation said, and also the court judgments and the decisions to delete labour agencies from the economic registry confirmed, that recruiting in a hurry, when the person is not provided an opportunity to see the contract, and the legislation of the target country or

the work responsibilities and obligations are not specified, is a factor indicating possible exploitation.

4.1 Getting a job via agencies

A few employees had experiences with finding work abroad via agencies. However, those who had such experiences stated that their contact with those companies were not without problems. For one woman a good first impression was made based on a preliminary phone conversation and a job interview but she was then requested to immediately travel abroad and start working on a farm, and the information given about the further activities was not satisfactory. For example, when she arrived there was no representative of the company waiting for her and the woman did not know where she should go. Another interviewee found a job advertisement in a newspaper and contacted the recruitment company. Initially the agency promised to send her to work in the fishing industry in Norway, and after that offered a similar job in Sweden. Finally, the agent found for her a cleaning job in Finland, even though the woman did not want to be employed in the cleaning sector. She had to pay a fee of 100 euro for the services of the company.

By law, labour exchange services involve giving information about the situation in the labour market, about personnel services and benefits, career counselling and labour exchange. Labour exchange services are defined in TTTS (§ 12) as for an unemployed person or a person seeking a job finding an appropriate job and for the employer finding appropriate employees. In other words, the agency helps to bring together job seekers and employers. Not all labour exchange services engage in illegal conduct, but for those who do, the illegal activity mostly involves asking for a fee for labour exchange services from the job seekers. This is prohibited by both the Labour Market Services and Benefits Act (TTTS, § 12 section 2) and also International Labour Organisation Convention no. 181 on private employment agencies.

Next we describe the actions of law-abiding labour exchange services.

4.1.1 Description of the activities of law-abiding agencies

The representatives of the interviewed agencies assured us that they do not charge a fee for any of the services that they provide to the job seekers. They considered it very important to provide high quality services, which means a good contact with the potential employers and also when finding and evaluating the future workers. To ensure that the job seeker is not exploited by the employer, the intermediary examines the background of the employer using different registers and the internet. They exclude collaboration with companies which have debts, and who pay minimum or illegal (i.e. not taxed) wages.

To find a suitable worker, the companies publish advertisements about vacancies in labour exchange portals and on their homepage, or they search for people in databases using suitable parameters. First they conduct a phone

interview in which they try to find out the experiences and interests of the person. Then they meet for a real-life interview. Depending on the job, the applicant may also be tested or background information may be requested about companies where the job seeker had been or is currently working. The companies emphasized that a relevant criterion is good knowledge of foreign languages, which is a basis for good coping abroad and for preventing labour exploitation.

The agencies note that finding accommodation for the person is not their responsibility but if necessary they inform the job seeker about the possibilities. They instruct the job seeker on how to register him/herself in a foreign country to be able to work legally, how to apply for an ID and a work permit, how to fill in documents, and other formalities. They provide the person with a guide prepared by the company which contains important information for people going to work abroad. The guide also contains information about getting help, and contact information regarding the relevant authorities and instances.

4.1.2 Examples of illegal recruitment practices using agencies

We now turn to analysing more in depth the decisions to delete agencies from the Register of Economic Activities, linking it with the interviews conducted with the workers and also with the representatives of agencies. Figure 2 shows the pattern of action of agencies, from contacting the job seeker to giving explanations to the Ministry of Social Affairs. The activities, including illegal and irregular practices of the agencies, are described next.

Making contacts between an agency and a job seeker. As a rule, the job seekers found a job advertisement on the internet or through the work exchange portals. The ad had been published by the agency. More specific information about the job and the employer was usually missing. The job seekers then contacted the agency in order to obtain more information. In some cases the job seekers had to send or to fill in their CV on the company's home page before getting information about vacancies abroad. In other cases, the agencies could contact the job seekers and made suggestions concerning jobs. For instance, the agency may have found the CV of the job seeker and the description of the preferred job from a labour exchange portal and then contacted him/her.

Conclusion of contract to provide (agency) services. As the next step the agencies concluded a contract to provide labour exchange services concerning finding a job. It is noteworthy that the agencies did not term the contract and the services as 'labour exchange services'. They considered the contract to be an agreement on the provision of information and/or consultancy services. They defined the services provided as the giving of information about job possibilities, legislation and conditions in the target country; help in writing a CV and filling out visa applications; and arranging job interviews with potential employers. The services listed in the contracts also included 'discussion with the job seeker', helping to fill in the necessary applications

and forms, forwarding information about the job seeker to the employer, and guidance in travelling and coping abroad.

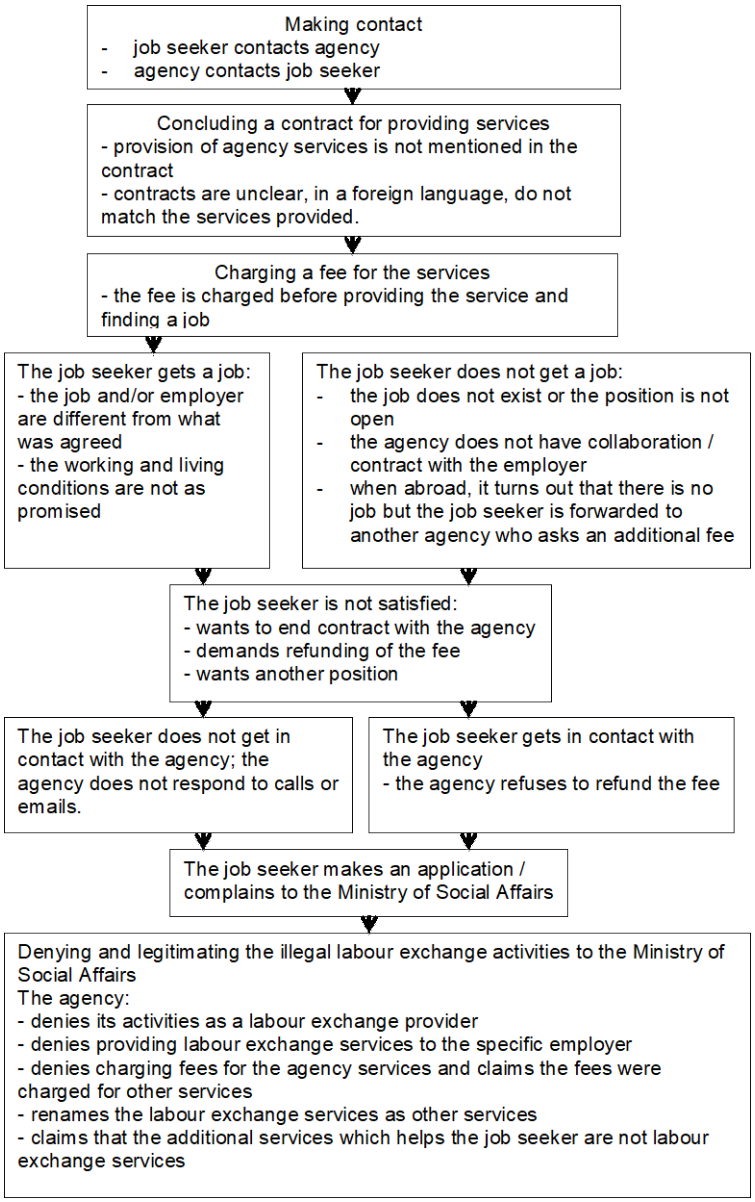
The analysis of the data indicated that the employment contracts were not legally correct. These might be 'standard contracts' or contracts meant to provide some other services and not adjusted to the real activities. There were situations in which the job seeker had to sign a contract written in English, a language that they did not know.

Charging a fee for recruitment services. The aim of the agencies engaging in illegal practices is to charge the job seekers a service fee or fees. Some of the agencies (which have already been deleted from the Register of Economic Activities) had demanded a fee even before signing a contract. One agency had asked first for a 'consultation fee' of 7 euro and after reaching an agreement, a fee (386 euro) for the main services (Decision 14.2-2/2105-3, 08 May 2012). Another agency used a two-part payment system – first the job seeker had to pay a part of the fee as a non-refundable deposit and the rest just before starting to work (Decision 14.2-2/1183, 08 April 2010).

According to the analysed decisions, the agencies asked the job seekers for a fee for their services which ranged from 190 to almost 400 euro, and some agencies required that this be paid in cash. In charging a fee the agencies took advantage of the job seekers' poor knowledge of the law and also their helpless situation. A person who has been unemployed or working for low wages is in a helpless situation because of economic difficulties. The person may be willing to pay a relatively large service fee (perhaps even knowing that this is not legal) in order to get a steady and well-paid job abroad (Decision 14.2-2/2105-3, 08 May 2012).

Service fees were requested for forwarding data about vacancies, consultation, arranging a job interview, preparing a CV and making appropriate tests. The job seekers had to pay separately or with some other services also for introductions or the arrangement of transportation, arranging for a person who would meet the job seeker in the target country, buying a telephone card, and assisting in visa applications. There were situations where the job seekers were told that the service fee includes the office costs.

Figure 2. The illegal and dishonest behavioural patterns of agencies



Getting a job with the help of an agency. The illegal activity of agencies does not only include charging a fee for the labour exchange services but also cheating job seekers and exploiting them in getting the job. Paying the service fee to the agencies does not guarantee that the job seeker will be provided with the job. The analysis of the decisions to delete agencies from the Register of Economic Activities indicated that some job seekers actually received a job. However, they experienced several problems with those jobs. For example, a job seeker was promised a job in the food industry in the UK, but after arrival it became obvious that this job had already been taken and that she was expected to work on a farm (Decision 14.2-2, 16 June 2009). Not receiving the

promised job, the job seeker had to return to Estonia, and was deprived of the already paid fee.

It also turned out in some cases that the employer was another company and that the work and living conditions were not as agreed in advance. Two persons who made a joint complaint to the Ministry of Social Affairs stated that an agency had arranged for them a job in a hotel in Greece (Decision 14.2-2/1183, 08 April 2010). The job seekers paid the agency fees and signed the employment contracts, and brought them in order to have them signed by the employer in Greece. Because of problematic living and working conditions (e.g., longer working days and not receiving the three meals a day agreed in the contract), the job seekers looked up the representative of the hotel, upon which it turned out that the second party in the contract was not the hotel but instead a Greek recruitment bureau. They failed to find a new job or get in touch with the agency in Estonia.

Other agencies used similar methods. One job seeker stated that when he/she arrived in the UK to work in a hotel it turned out that he/she was sent to another agency which demanded an additional fee of 100 pounds for finding a job (Decision 14.2-2/4216, 15 September 2010). The job seeker phoned the Estonian agency who advised him/her to turn to another agency and pay an extra 50 pounds, but the job seeker refused and returned home.

Some job seekers could not go to work abroad because of incorrect information given by the agency. For instance, in accordance with the advice of the recruiter, a person applied for a type B visa from the embassy of the USA to go to work there as a constructor (Decision 14.2-2/2105-3, 08 May 2012). However, the embassy refused to issue such a visa because the type B visa is a tourist visa which does not allow the person to seek employment. There was also an example where the agency had forwarded to the employee incorrect details of the employer (e.g., phone number and name of contact person) as a result of which he/she could not contact anybody or get a job (Decision 14.2-2/134, 19 March 2010). Later it turned out that the agency had no collaboration with that employer.

Dissatisfaction with the agency and submitting a complaint. It is not known how many persons have gone to work abroad and paid illegal fees for services. Only a few will make an application to the Ministry of Social Affairs to control the activity of the agency. There is a low level of knowledge about the regulations, and the possibility of becoming a victim of fraud is large. An official in the Ministry of Social Affairs said that only those people who have had serious problems with their job or in getting a job lodge a complaint; similar findings emerged also in respect of the decisions regarding the deletion of agencies from the Register of Economic Activities.

The people who had lodged the complaints were not satisfied with the quality of the services provided by the agencies. Those job seekers who realised, once they were abroad, that the job or the employer was not as agreed, asked the agency to find a new job for them. But generally also the new job dissatisfied the applicants, because it did not correspond to their demands. People

understood that they were cheated and demanded the cancellation of the contract and the refunding of the service fee. Some of the job seekers were no longer able to get in contact with the agency, and those who could contact the agency came to realise that the company was not planning to refund the money. One agency promised to pay back the service fee but ultimately did not do so. The cheating and the refusal to refund the service fee motivated people to make complaints to the Ministry of Social Affairs.

Denying and 'legitimating' illegal labour exchange activities. After a job seeker lodges a complaint, the officials in the Ministry of Social Affairs initiate an administrative procedure to control the activities of the agencies. Concerning all analysed cases, the results of the procedure indicated that the recruitment agencies had in fact provided labour exchange services. In addition, the agencies presented their activities as labour exchange services on their internet home pages. When the authorities of the Ministry asked for an explanation for why the agency had charged job seekers a fee, the representatives of the companies responded with denials, renaming their activities and making excuses. They generally explained that the object of the contract with a job seeker was not labour exchange but education, consultation, providing information about the situation in the labour market, or even counselling on how to go abroad, how to behave and how to manage in a foreign country. They considered the contract to be a general agreement which they used in providing different services, including consultation concerning how to apply for a visa (e.g., Decision 14.2-2/2105-3, 08 May 2012). The agencies claimed that if there is no direct reference in the contract to a certain employer or position, then the activity cannot be regarded as labour exchange services (e.g., Decision 14.2-2/2105-3, 08 May 2012). Furthermore, they did not consider 'booking a job position' or assisting in labour recruitment activities (e.g., booking flight tickets, providing training) to be labour exchange services but rather supporting and providing consultation for a job seeker, activities for which they believed a fee could be charged (e.g., Decision 4.2-2/3991, 11 September 2012). Using the tactics described above, the recruitment agencies sought to demonstrate that their activities were legal and not exploitative of the job seekers.

In sum, the explanations of the agencies reflect manipulation using concepts related to labour exchange services. According to the Ministry of Social Affairs, labour exchange services involve a practice where an employer forwards to the agency a request to find an employee and the agency then (using different channels) finds a worker to fill that position. By the judgment of Tallinn District Court no 3-10-2781, consultation, arrangement of transportation abroad and a job interview, and other management services are elements of the labour exchange process. Also the arrangement of the reception of a job seeker in the target country is a component of labour exchange. How the contract is named between the parties is irrelevant.

The prohibition against charging job seekers a fee is implemented in order to protect them against possible fraud attempts. A job seeker who is in a

vulnerable situation due to unemployment may be willing to agree with the agencies' conditions and pay a fee. For the purpose of earning easy profit, the agencies may exploit the job seekers by demanding a fee, but then provide low quality services or even cheat the job seeker. The experts from the Ministry of Social Affairs said that the recruitment agencies which provided illegal services do not end their activities after being deleted from the Register of Economic Activities – they continue their activities, including charging recruitment fees, even when they are no longer allowed to be in business and do not have a valid licence. It is also common to register the company using another name and to continue with similar fraudulent activities.

4.2 Problems concerning posted workers

Our data indicated that several employees went to a foreign country to work as posted workers or were working abroad for some local personnel rental company. In the interviews, they told us about their positive and negative experiences working as posted workers, including cases concerning labour exploitation. Their experiences are described in more detail below. However, first we provide an overview of the issues of rented labour, based on the interviews with the representatives of labour rental companies.

Posted work is a new trend in the labour market. The posted labour company hires workers with certain qualifications and forwards them to work with their clients. The idea of the service is that the employer saves personnel costs by buying personnel services from a labour rental company. From the point of view of the worker, it is the rental company that is the employer, in that he/she concludes the employment contract with the rental company, and it is the rental company that pays the wages and holiday pay as well as the necessary taxes. According to the Estonian Employment Contract Act (§ 6 section 5), posted work can be considered a situation where the employee makes a pre-contract with the employer (i.e. the rental company) to work temporarily for a third person (the client company) and is controlled and managed by the client company. Using posted labour is considered a reasonable solution mainly in rapid or seasonal work and to replace workers during holiday periods.

For posted labour companies, recruiting and checking the background of the workers is quite similar to the procedures of labour exchange agencies. The difference between the posted labour companies which participated in our survey, and the labour exchange agencies, was mainly in their consideration of knowledge of foreign languages, and awareness of the regulations of the target country while hiring the labour. The representative of one company said that they recruit mainly persons who know foreign languages well, have work experience abroad and know the tax system of the destination country. Because of the higher demands on the personnel, they had had no problems with the suitability of the employees or the quality of the work.

In terms of the posting of workers, the company mostly concluded an employment contract with an employee in Estonia and then posted the person

to work abroad. Concerning the contract conditions, the employers took into account regulations implemented both in Estonia and in the target country. An interviewed employer said that parallel compliance with Estonian and Finnish legislation and the directives of European Commission is complicated because of differences and partial incompatibility between them. The interviewee did not specify the nature of the incompatibility but said that Finland had had long practice in using posted labour, and it is more precisely regulated in Finnish legislation. In Estonia, services involved in the posting of workers are not so common yet, and the Employment Contract Act regulates the domain only on a superficial level. One interviewed employer explained the differences between Estonia and Finland.

> To work in Finland legally the employment contract has to be made according to Finnish laws but *at the same time it has to comply with* Estonian legislation as well. Here a major controversy has been programmed in. If these laws do not match and both parties will demand their own things, what is the connecting point? /…/ In Estonia it is a question of contracts. We are dealing with this area all the time and there are still such nuances which are not one or another. /…/ In Finland, the things are more concrete. If there are certain issues then they know exactly what to do in the situation, what these regulations are. In Estonia, here is… It is said that it goes according to the Employment Contract Act but by using the Act the thing cannot be done directly. (Interview with an employer)

The interviews with the employers showed that different practices were used in respect of the payment of labour taxes. One employer described the system they used as follows. If the worker is a resident of Estonia and working in Finland then his/her social security contribution should be withheld by the employer and paid to the Estonian Tax and Customs Board; however, the income tax has to be paid to Finland since the income was earned there. The employers pay the net wages, including the income tax, into the employee's bank account. The employee's responsibility is now to pay the income tax to the Finnish Tax Board. The task of the employer is to inform the employee about this tax payment system. The employees have to confirm by their signature that they understand this issue. However, there are situations where the employees do not understand the complex income tax system of Finland, forget to pay the taxes or neglect this issue. The employer claims that paying taxes are *an issue between the employee and the state*, and the employer is not responsible.

By Finnish law, the wages of posted (or leased) employees are subject to Finnish income tax. If the employer of the posted workers has no permanent establishment or other entity in Finland, it does not have to collect the tax in

Finland for the Finnish tax authorities. Instead, the employee must him/herself make sure that s/he pays income tax on the wages earned in Finland.[5]

The interviewed employers are in different positions concerning responsibility for the documentation of workers and the formalisation of work permits. For example, one employer considered it to be its task to ensure that the employee has all the necessary documents and that these are appropriately formalised. The representative of another company thought that getting the necessary documents is the person's own responsibility; and that the role of the labour rental company is to inform the workers. They tell the workers which documents should be applied for and how and where this can be done. If needed, for example if the employee's foreign language skills are poor, the employer can help or accompany the employee in these formalities.

The employers try to find accommodation for the posted workers, mostly in the rural areas for those working outside of Helsinki. In case the accommodation is provided by the employer, then the employees have to pay rent for this. If the employee has found the place him/herself, then the employers can help in the payment of the deposit, for example by paying the deposit to the employee as an advance on wages.

4.3 Connection with the companies exploiting foreign labour

The companies using illegal methods are problematic for the interviewed employers because they damage the image of labour rental companies. A good reputation is very important to legally operating businesses, including the employers we interviewed, because it increases the degree to which customers and employees have confidence in them, and contributes to success in the business world. Next is an overview of how the employers we interviewed described problematic companies and their impact.

The interviewed employers do not have connection with those companies but they have heard of them mainly from their employees who have worked for these companies. Based on the descriptions given by the interviewees, these companies do not make employment contracts with their employees, pay less wages than agreed, do not pay wages legally or do not pay it at all. In addition, they do not pay state taxes correctly. These companies operate as long as they do not have any problems with the officials. When problems emerge (for example, the Labour Inspectorate officials intervene), these companies shut down their business and start again using another company name. According to the interviewees, those acting illegally are generally registered in Estonia rather than in Finland.

The illegally operating companies create unfair competition on the market. By avoiding taxes they can offer higher wages for the workers and lower prices for

[5] http://www.vero.fi/en-US/Precise_information/International_tax_situations/Employees/Leased_employees__taxation_in_Finland(15345)

the companies buying their services. However, such a practice can result in fines for the client company, and in such a way undermine the reputation of the whole labour facilitation sector in Estonia.

> The client takes the one who offers the least. Cheapest prices. The market is ruined by those who dump prices but do not pay taxes. They can ask more. If the person says that I was paid this much then legally this sum of money cannot be paid. (Interview with an employer)

The employers were of the view that in the construction and cleaning sector there are more companies acting illegally. Their action also influences the activity of legal labour rental companies. For example, job seekers and client companies are sceptical towards them and do not wish to use their services. The job seekers think that "it is robbery and theft" because the labour rental companies make a large profit from the workers. The interviewees said that in order to create a more positive image they and some other labour rental companies had established the Estonian Staffing Association[6]. Through the Association, attempts are made to control labour rental companies and increase the quality of the services. Also, through the Association the companies try to have their say in the drafting of legislation and in promoting the collection of financial reserves among the companies involved in personnel services. The reserves are necessary when "their client company enters into bankruptcy or cannot pay the wages because then it would be guaranteed that a rental worker can have his/her wages from the labour rental companies". (Interview with an employer)

A couple of the interviewed employers have had problems with client companies which did not pay for the services (on time). In a situation such as this the labour rental company withdrew their workers immediately from that company and sent them to another client company. To the employee they pay the agreed wages but from the client company they demand the amount of money owed; if necessary then applications are made to the court.

> Say we send our rental worker to work at a company and this company does not follow the labour legislation and does not pay some wages. In that case we always pay the payments from our own pockets and later fight with the client. When we can get the money afterwards, then we will have it; and if not then this is our risk. In this sense being in a rental relationship is more secure for the worker. (Interview with an employer)

If a client does not provide the employee work in the amount that had been agreed then the rental companies intervene immediately and forward the employees to another client in order to prevent lower wages due to the smaller amount of work. The interviewees did not consider working on the weekends and overtime suitable, except in the agricultural sector where, due to weather and also seasonal work, sometimes longer working hours are justified. In case the employee wishes to work longer hours than agreed, then employers allow

[6] The webpage of Estonian Staffing Association: http://www.505.pages.presego.com/_eng

this to happen only when it is agreed with the client company. They want to be sure that the client company accepts overtime work and is willing to pay for it.

Previous examples describe how law-abiding employers try to protect their posted workers and prevent unfair and exploitive activities by the clients. However, the practices of employers using dishonest methods are quite different. Next we present instances of forms of exploitation that the migrant workers have encountered.

5. Forms of labour exploitation

5.1 Problems related to concluding employment contracts

The interviews with workers and the decisions of labour dispute committees showed that people going to work abroad have encountered several problems concerning the conclusion of employment contracts. However, exploitation of migrant labour can begin already at the stage of recruiting and entering into an employment contract. Victims of forced labour are often recruited with promises of decent and well-paid job and good working conditions (ILO 2012). Later the victims are faced with working conditions that differ from what had been agreed, and what they would never have accepted. Our data revealed cases where abuse of the poor knowledge of the employee and deception by the employer while making the contract lead to further labour exploitation.

A quite frequent practice, particularly in the construction sector, is that individuals are recruited and told that the contract would be concluded immediately in the target country. However, after starting work, the conclusion of the contract is delayed for various reasons, and the result may even be that no contract is ever signed. As a rule, the employers apologize for the delay with the pretexts of a heavy workload, being on a business trip, or having some issues in their personal life. A decision of a labour dispute committee (No 4.1-2/398-2012, 28 March 2012) dealt with a case where an employee was sent for forest work to Russia and promised conclusion of an employment contract after arrival, with a company registered in Estonia. The employer explained the delay in signing a contract by saying that he had forgotten to bring it from Estonia and proposed to sign it as soon as the employee completed the work and returned to Estonia. However, the agreement was not concluded even after the employee's return to Estonia. When the worker requested it, the employer refused to do so and accused the employee of blackmail. The employer stated to the labour dispute committee that the employee had been on a trial work period. Because the worker had failed in that trial period, the employer decided not to conclude a contract with him. The labour dispute committee established that an oral employment contract had nonetheless been concluded between the parties and ordered the employer to pay the outstanding wages.

The interviewed workers perceived ways in which the employers *were playing with them* by delaying in signing the contracts and by deliberately adding infringing provisions into the contracts. Although the workers realised that they were being treated unfairly, they still signed the contracts because they found themselves trapped in an abusive situation. Otherwise they would not have had any more work or even those rights that they would have by signing the problematic contract. The following quotation describes a case of a woman who worked as a cleaner in Finland.

> I told them right away: "Let's do the employment contract". "Well, first we have to see how you work. Let's wait a little bit". It was the end of April. And they were telling me: tomorrow, tomorrow, they were playing for

> time. […] In summer, in July, we entered into an employment contract, but it wasn't done correctly. The minimum wages here that allowed us to get documents like our ID-card, it was required that we make nine hundred euro per month. He indicated eight hundred for me. I was cheated, and I went to the police department for foreigners to register. They said it wasn't enough. But I wrote everything down, submitted documents. (Interview with a migrant worker)

According to ILO (2012) deceptive recruitment practices can also include giving false information about the employer. The interviews and the decisions of labour dispute committee indicated that it is not rare for the employee to remain unsure about who his/her employer is in fact. For example, an agency tells a job seeker that he/she will work for a Finnish or Swedish company, but on the spot it appears that the agreement will be concluded with a subcontractor registered in Estonia. Alternatively, an employee answers an advertisement for a job and agrees to the working conditions. He/she is promised that a written contract will be concluded at the workplace, but the name and contact information of the employer are not specified. According to a case that came before the labour dispute committee, a man was invited to work as a builder in Sweden by showing him a business card and timetables of a Swedish company (4.4-2/1251 Decision, 02 July 2012). At first, the man believed that he was working for this Swedish business, but later it became clear that his "employer" was just a worker of the company. Because no written contract had been concluded, it was difficult for him to prove the existence of the employment relationship, protect his rights and request the payment of outstanding wages and compensation.

Another way of cheating the workers is by making a contract for services instead of an employment contract as agreed. An employee may be asked to sign a contract in a foreign language (e.g., in Finnish or German) which he/she does not understand; or he/she is pressured to sign the agreement very rapidly without having time to examine it. Later, the employee cannot verify that the type of contract and the agreed conditions were different. The employers mostly deny their earlier promises. Such an incident was described in the Eesti Päevaleht newspaper (Ibrus 23 April 2012). There, an employer asked a worker to sign a contract just shortly before the departure of the ferry to Helsinki. Being in a hurry, the employee signed the document without reading it through. After it turned out that she had signed a contract for services, in this case she could not get help from the labour dispute committee.

One of the workers we interviewed who went to Sweden for construction work noticed that he was presented the internal rules of a company for signature. The document was titled an employment contract but its content consisted solely of fines to be paid if late for work or if property of the employer is destroyed. However, there were no provisions about working conditions and payment of wages. Because the employee was able to understand English, he detected the fraud and did not sign the document. Some of his colleagues who did not know English and could not understand the contents of the agreement signed it. Their

colleagues were later exposed to serious incidences of labour exploitation, including being indebted to the employer as a result of fines.

> When I had worked for almost a week, they brought me a two page long contract in English. On the top of the page in big letters it was written contract and below, in small letters, there was a subtitle: internal rules of the company. As I understand English, I read and understand colloquial English, therefore I read it through and I understood that was not the working contract that we agreed, but just the internal rules. The substance of the rules was such that there were two pages full of fines. Let's say you are late for work – you will get fined. The fine was crazy – hundred, two hundred, five hundred euro. For loud music, property damage. (Interview with a migrant worker)

The lawyers of the Labour Inspectorate said as well that they had been contacted by migrant workers who had entered into contracts which were similarly employer-centred. This means that the duties and responsibilities of employees were covered in detail in these contracts but not those of the employer. In such contracts, all types of contractual penalties permitted by the Employment Contract Act are listed, which the employer can use in case of any misconduct on the part of the employee.

Some workers we interviewed also mentioned that their employers had not given them back the signed contract but rather "*took care of it"*. There were also errors and provisions in their contracts that were not consistent with the law. One of the most common problems was that the requirements of the collective agreements were not followed. Mostly the contracts conflicted with the provisions of the collective agreements for the construction or cleaning sectors in Finland. As a rule, the hourly rate was lower than the official minimum remuneration and no extra compensation was to be paid for overtime or work on holiday. One interviewee who had worked as a cleaning lady told us that according to their employment contract she and her colleagues were made responsible for paying labour taxes themselves. According to her, the authorities of the Labour Inspectorate of Finland considered this tax payment system incorrect.[7] It seems that the tax rules and obligations remain unclear for the migrant employees. The lack of awareness regarding the tax system may cause them problems in the payment of their taxes and facilitate the dishonest and illegal activities of the employer.

> But everybody was paying their vero [tax] themselves. He [employer] had it set up so cunningly that the unemployment insurance and social security contribution were paid to Estonia but everybody had to pay their vero themselves in Finland. So that's what the system was like. Of course, it

[7] Foreign workers in Finland are responsible for paying their own tax if they are posted workers. When the employer is Finnish, it is the employer who deducts the tax from the salary. However, if the employer is a non-Finnish company, the worker is not taxed in Finland (unless s/he is a posted worker). See: http://www.vero.fi/en-US/Precise_information/ International _tax_situations/Employees/Employees_arriving_in_Finlandbulletin_fo(21275)

was forbidden so you couldn't do that. But as far as I know it's still going on. (Interview with a migrant worker)

In addition, there were also other problems related to the contracts. In the case of one interviewee, the job description and the amount of wages marked in her contract did not conform to the work that she really did. So she earned less than she could have received.

> I was actually working as a cleaner with my animal husbandry contract. So that was a big violation as well. They did not even draw up a new contract. He asked what's wrong with that contract. I said that I am working as a cleaner with my animal husbandry contract and that I would also like to get a cleaner's wages then. (Interview with a migrant worker)

Based on our data it can be concluded that people can be invited to work abroad by promising them official employment contracts and good wages. However, the employers may exploit the trustfulness, low legal awareness and poor language skills of migrant workers and neglect to conclude the contracts, or conclude contracts that do not abide by the law. These activities described enable the employer to exploit workers and make an easy profit.

5.2 Problems related to payment of wages and extra pay

Applying working conditions (including the payment of wages) in a manner which does not comply with statutory national regulations can be considered as exploitation of migrant labour (Lisborg 2012). However, systematic and deliberate withholding of wages, excessive wage reduction that violates previous agreements, or refusing to pay wages at all, constitute forced labour (ILO 2012). Next we deal with issues related to payment of wages and their relationships with labour exploitation and forced labour.

The most common work-related human trafficking and labour exploitation indicator is problems with the payment of wages (Jokinen, Ollus & Aromaa 2011). All the interviewed employees mentioned that issue. This was also a topic covered by the experts, representatives of the labour rental companies and agencies, and also Labour Inspectorate lawyers. Also several newspaper articles were written concerning manipulation with the wages. Taking into account the previous sources and the decisions of labour dispute committees, the following tactics to control the employees can be identified regarding the payment of wages.

Paying wages which are smaller than stated in the legislation. When going abroad for work, people are frequently not aware of the local legislation and minimum wage rates, and therefore they can not demand wages which are fair. One contributing factor is that the range of wages in Estonia differs largely from in the Nordic countries and Western Europe. Several interviewees said that they had heard after having been some time in a foreign country that their wages were lower then for locals working in a similar position or the wages stated in the collective agreements. For instance, one interviewed woman who

worked as a cleaner for a Finnish company stated that she with her colleagues were paid 6 EUR per hour according to the contract. Later she heard that according to the Finnish collective agreement the minimum wages for this position was 8 EUR.

In several interviews it was stated that discrimination based on nationality was taking place. Although the interviewees did not use complex terminology when speaking about this problem, they told about situations in their or their acquaintances' work places where persons from one nationality got significantly lower wages than locals or persons from some other nationalities. Mostly these cases were told about Roma people and persons with an African background.

> For instance, at the moment my husband is working at [name of company], it's run by Austrians. This is how they pay wages: they have Romanians and Austrians working there. There are Germans, Estonians, Russians, Finns. Everybody else gets 11 euro an hour, but those they call the Romanians gypsies, they get 7 euro. And everybody does the same work. (Interview with a migrant worker)

Paying lower wages can be caused by the fact that the employer is applying to the posted worker[8] the rates of wages prevailing in Estonia but not in the destination country. For example, the employer has signed the employment contract with the employee in Estonia and the wages are paid according to the criteria in place in Estonia, but then when the person is posted abroad the wages remain the same as if the person was working in Estonia. Eesti Päevaleht (Ibrus 23 April 2012) reported a similar case where an Estonian company concluded an employment contract with a woman and posted her to work as a cleaner in Finland. The wages were paid according to the amount provided in the agreement which was similar to the Estonian wage rates. The employee worked some months in Finland before she detected the violation of law, and she applied to the labour dispute committee. The employer explained to the labour dispute committee that the Finnish Collective Agreement does not apply to an Estonian recruitment agency and that he/she did not need to pay the employee according to Finnish wage rates because the person can be (as well) posted to Pärnu to do the same job.

Concerning this case, the directive of the European Parliament and Council (96/71/EC) requires that the employer has to ensure that the working conditions applied to the posted employee (wages, working and resting time) are those which are applied in the country where the employee has been posted. Therefore, the company had to pay the minimum wage rate applied to workers in the Finnish cleaning sector.

---

[8] According to the Posting of Workers Directive of the European Parliament and Council (96/71/EC), a posted worker is a person who has been sent to work in another Member State on a temporary basis by his/her employer. The employer has to guarantee to the employees at least the minimum standards and working conditions implemented in the host state or those which are more favourable to workers.

The data indicates also that employers are keen to ignore the work experience or professional experience of foreign labour, and pay wages which do not match their qualifications. Because of economic pressure and lack of alternatives, the employees had to be satisfied with the wages which were offered to them. Fearing the loss of their jobs, the employees continued working in the exploitative conditions.

> Well, then he [employer] increased it to 8,30, but well, the work that we did was (.) I asked about the wages that we should get, that since trainees get nine and we, since we have already done some work and been trained, we should get around 10. But he laughed at us, "Are you kidding! There is a line outside my door. (Interview with a migrant worker)

Not paying wages when being 'on hold'. There were cases where the employer did not have any work to offer to the employees, as indicated by the interviewees and also by the decisions of the labour dispute committees. As a result the employees had to work shorter work days or go home. The time when they were 'on hold' was not paid, although this is a breach of labour legislation. According to the Employment Contracts Act, the employer has to ensure that the employee has work (28). Should the employee not be working because the employer has no work to offer, then average wages should be paid to the employee who is capable and willing to do the work (35).

The following case, taken from decisions of the labour dispute committees, is an example of the exploitative behaviour of the employer (Decision no 4.3-2/882, 25 May 2012). A person went to Finland to work as a full-time constructor. The employer promised a written employment contract but in the end no written contract was concluded. The employer offered him work for some months and paid the wages for this, but then the work ended and the employee was sent home to Estonia. In Estonia, the employee waited for a call from the employer for some months and even took a holiday. When he came back from the holiday the employer still did not have any work to offer and the employee signed his resignation from the post. The employer refused to pay wages for the time that the employee had been 'on hold' and denied not providing work. In addition, the employer stated that he had not sent the employee home but instead the employee had left by himself because he did not wish to work there. In this case, the labour dispute committee decided that the request of the employee for the payment of wages for the time that he had been 'on hold' was justified and in line with law. The committee stated that the employer did not produce any documents relating to the absence of the employee and it was suspicious that the employer would accept the employee not being at work for so long without doing anything to maintain discipline over the employee.

Not paying for overtime work, national holidays and working on weekends. One sign of labour exploitation is the fact that an employer does not pay supplementary wages for overtime, work done at nights or on the weekends, and on national holidays that the employer are entitle to. As a rule the remuneration for unusual working hours matches the rate of regular working

hours[9]. In a case reported by Eesti Päevaleht (Ibrus, EPL 23 April 2012), some employees who were working in Finland turned to the Labour Inspectorate because their employer had made them sign a document according to which they declared that they were willing to work overtime during the weekends or outside of regular working hours, at the rate of regular working hours. The authorities of the Labour Inspectorate had replied that it is improper to plan doing overtime in advance in such an abstract way.

The women employed in Finland in the cleaning sector told us in the interview how they had often worked 12 to 14 hours a day, even during the weekends, without any day(s) off. When they asked to be paid for overtime, the employer stated that he/she was aware of the regulation but was not willing to pay for it. Other interviewees in our sample also experienced the unwillingness and disinterest of the employers in paying for overtime work or they were even threatened with being fired from work when they asked for the extra money. "When you went to ask, then you were told that you can go to Estonia, the ferries are running."

Not paying the holiday pay. The employees also had problems with receiving their holiday pay. For example, an employee who worked in Finland wished to leave his/her employer and terminated the contract. The employer refused to pay the holiday pay, claiming that not only does he/she not want to do so, but also that he/she is not obliged to do so (Ibrus, EPL 23 April 2012). However, by law on the termination of the employment contract, the employer has to pay the employee an amount of money (holiday pay) which is proportional to the time that the employee was working for the employer.

One migrant employee we interviewed who worked as a cleaner for an Estonian company in Finland was disturbed to find that the employer calculated the holiday pay into the regular wages so the employees who went for a holiday or did not use their holiday at all did not get any holiday pay. At the same time the wages were very low, so in total they did not get any holiday pay. "He even had holiday pay included in those 8 euro, so that we did not get any separate holiday pay."

Wage reduction. Our data included incidents that are more serious than described previously and where migrant labour was deceived in the recruitment process, paid times less wages than agreed and involved involuntarily in fraudulent schemes. Mostly those employees had made an oral employment contract when leaving Estonia. The oral employment contract enables the employer more easily to manipulate the amount of working time, the content and the wages, or even to deny the existence of the contract at all. In one case, men who had been working as construction workers under the direction of an Estonian company in Norway had wages which were only a small proportion of what had been promised by the employer. Specifically, they received 68

[9] According to the Wages Act (§ 12, 14–17), an employee is entitle to additional remuneration or compensation for overtime, unscheduled work on days off, work performed on public holiday, and evening and night work.

euro per day instead of the 267 euro that had been agreed (Nergi, EPL 03 May 2013). When officials from the Norwegian Labour Inspectorate came to check on the working conditions, the men had to lie that their wages were higher. The employer had ordered them to withdraw a part of the wages from an ATM after the pay day and pay it back in cash. The men turned to the trade union of construction workers when they found out the official level of wages for construction workers in Norway.

This is not an exceptional case. There were similar cases also in Finland. Delfi reported (Laugen, Delfi 25 April 2012) that the Central Organisation of Finnish Trade Unions had identified cases where the employer had gone together with an Estonian worker to an ATM in order to force him/her to withdraw the previous month's wages and return the money to the employer (see also about returning wages in Jokinen, Ollus & Viuhko 2011). Such employees have started being calling 'Estonian ATM machines'. There was referred briefly to a case in the construction sector where "the wages of around twenty employees which had been raised to the Finnish level were reduced in the port of Tallinn. […] These amounts were almost two thousand euro per men."

Delayed and partial payment of wages and refusal of payment. A frequent problem was a (chronic) delay in the payment of wages. The delay can be from several days to several weeks. From the data an interesting trend emerges – for the initial period after the employment began the payments were on time, then they start to be late, and in the last month the wages were not paid at all. Some interviewees noted that the employers can manipulate the payment of wages to those workers who are less knowledgeable of the law and do not assert themselves. A woman told us that she had looked at the local regulations and calculated herself the work hours and the amount of wages she should earn, and checked this with the accountant. Because she did this, at first her wages were paid regularly to her but not to other employees. However, later on also her wage payments started to be made late.

> At first, the wages came through fine. I received the wages on time for a long time because I was the kind of person who was pedantic about the details. The accountant understood that I knew the system very well. And with me, there wasn't [any problem]. But men started to talk that they don't receive their money at the right time and they only get paid in part. And then the same started for me. (Interview with a migrant worker)

The analysis of the materials indicated that postponing the payment of the wages frequently leads to payment only in part or to total non-payment of the wages. This was prevalent among employees who worked without a (written) employment contract. In a quote below the interviewee who had been a cleaner in the construction sector in Finland describes a tricky wage payment system at her workplace. According to the interviewee the employer's intention is to divert the attention of the workers by paying full wages in one period and only a part of them in the next. The aim of this tactic is to create a false impression among the employees, since they (more or less) receive the wages. Those

employees who do not themselves calculate the amount of wages they should receive are easier to trick.

> One time, I got the wages correctly and then received about two or three hundred euro. We had paydays twice a month. And then I became truly scrupulous. I had the time sheets. Then I started to check what hours I had and what had been paid for. I discovered that it was done cleverly, a partial amount was transferred, then came the new wages, this was transferred correctly, and then the next one was incomplete again. And then these men who don't follow the numbers like I did, they may be owed and not paid at all. He sees that some kind of money came, but doesn't look deep into it. [...] And finally, no money came. (Interview with a migrant worker)

Postponing, reduction and withholding the wages made the workers angry and caused problems in coping, for example difficulties in buying food, paying rent and paying for transportation. People presented their demands to the employer who reacted with various excuses and promises. For example, it was claimed that the company which had ordered the work had not yet paid for the work; the employer or his/her family member had personal problems; the employer or the book-keeper is on holiday. The employers promised to pay the wages in a couple of days but this did not happen. Usually the employees had to remind the employer several times to pay the wages.

There were cases where the employers refused to pay the full wages or wages in line with the collective agreement, reproaching the workers that they were overpaid or did not deserve to be paid higher wages, as in the next quotation from a cleaner working for an Estonian employer in Finland: "But well, at the beginning I got 8 euro before taxes, but later it started to dwindle. Then they started to say that you were overpaid and what exactly do you want." Some employees were subjected to threats when they asked the employer to pay wages or for overtime.

It is quite common that the employers preferred not to respond to the demands of the employees and remain unreachable. By paying wages in part, not in full, the employers make their employees dependent on them. First, the employees keep going to work for some time after the problems (in the payment of wages) have occurred and hope that the employer keeps his word and pays the wages soon. Second, their difficult financial situation requires that they go to work even for half wages.

5.3 Problems related to working hours and leisure time

Imposing working hours and days beyond the limits prescribed by law and regulations may be treated as exploitation of labour (Lisborg 2012), but when the situation includes some forms of coercion and deception it can be considered to be forced labour (Andrees 2008).

For many employees involved in our study, constant overtime was the rule rather than the exception. Their workday began very early and often lasted 12 hours. There were also workers who had worked 21 hours a day. Generally the employers determined the length of working day and forced the employees to work longer. Some of the interviewees said that at first they wanted to work extra hours in order to earn more. But later their employers took this for granted and expected them to work overtime constantly. In addition to long working days in the week, they had to work on weekends and sometimes even at night. Therefore, the interviewees had 6 to 7 day working weeks from month to month with only single days off. The FLEX study also showed that the obligation to work excessive hours, seldom getting a day off, is a quite common practice in labour exploitation (Jokinen & Ollus 2011). In the following quote, two women who participated in a group interview counted their working hours per month.

> Interviewer: How many extra hours of work did you do per month?
> Interviewee 1: I had around 258 or 264.
> Interviewee 2: That's not a lot! I had 367 hours. I had my own car, I could get to another place more quickly. (Interview with migrant workers)

The migrant workers said that they had problems with the recording of working time as well. Generally the working time was calculated according to the worked hours reported by the employees. The results indicated, however, that the actual number of working hours was greater than what the employer took into account or promised the employees to mark on the worksheets. For example, an interviewed worker told us that her employer had cut her working hours in order for it to remain within the limits prescribed by law, and there was no need to pay as much wages. The employer also calculated considerably less time for doing certain work and did not take into consideration the actual time worked.

> Sometimes she cut down the hours, she said: "We won't pay you for that, it's too much. You were cleaning the restaurant for too long. You were supposed to do it in three hours, but you were cleaning it for five-six hours". (Interview with a migrant worker)

The control and abuse by the employer also appeared when the migrant workers asked for permission to go on holiday. When the workers wanted to get a day or a weekend off, then the employers frequently responded with a refusal or even a threat of dismissal. Fearing to lose their job, the employees continued working without days of rest. A participant who had been a cleaner in Finland mentioned that she had worked for 40 consecutive days without receiving any days off.

One quite typical method of exploitation of migrant labour is not counting the time spent commuting between work sites in the total working time although the new salary agreement for the cleaning sector in Finland stipulates that the

time spent between locations should count as working time.[10] The participants who had been employed primarily as cleaners in Helsinki had to work in many sites located far away from each other, and so they could spend hours each day for travelling. The workers who had a private car were in a better situation because they could save time by driving from one place to another faster than those who had no car and had to use public transport.

Our data shows that employers did not pay for overtime, or for work on weekends and holidays, nor did they compensate the time spent going from one site to another, and travel expenses. In this way the employers exploited the workers' lack of knowledge of their rights to receive the compensation in question.

> According to the law, you also have to get paid for commuting from one site to the other. But she [employer] did not do it. She considered it so that here in that school you have 2 hours. At the next school, to where you drive about an hour, you have 3 hours. 2+3 is 5. But that hour that you commute in between, that she did not consider. At the beginning it is difficult if you do not know any laws and such. You believe your boss. I thought that everything was all right. (Interview with a migrant worker)

Commuting the long distance between the workplace and the accommodation provided by the employer also reduced the free time of the employee. In some cases, the employer provided the employee an apartment located far away in another town or village. One man working in construction in Sweden each day spent a few hours commuting. Since he also drove the co-workers, he told the employer that he was working also as a driver after the main job, but the employer neither recognised it and nor wanted to pay compensation. In another case, the employer gave his car to the employee for commuting, thus creating a multiple dependency and indications also of human trafficking for forced labour. Specifically, the employer began to require in return that the employee would perform tasks that in fact did not belong among her work duties and forced her to work overtime without receiving days off. The employee, who was in serious financial difficulty, felt herself deadlocked and unable to control the situation.

> He [employer] fobbed me off with his car for me to drive him to his place and then to pick him up in the morning. But in the morning I pick him up not at ten to work, but at seven. Because at seven [place X] opens. We go to X, than we heat the ovens, then we make salads. And in such a way, all this crap, in such a way everything was being done! And at the end as well! It was not at twelve that I finished my work! […] In principle, I had to: hand over to him what I drove and that's all. But no! I count the cash register receipts, I clean the kitchen; I do housecleaning at his place; I wash his car! (Interview with a migrant worker)

---

10 http://www.pam.fi/fi/tyo/kiinteistopalvelu/Sivut/Uusipalkkausjarjestelmajaansiokehitysohjelma.aspx

5.4 Living conditions

Forced labourers may also be subjected to substandard living conditions, including overcrowded and unhealthy accommodation without any privacy (ILO 2012). Bad conditions alone do not prove the presence of forced labour, but the workers may be placed in a situation where they voluntarily accept these conditions because of the lack of any alternative living place and job. Accommodation provided by the employer may make the worker dependent on his/her employer and easily controllable.

It appeared from our data that many employees who lived in accommodation their employer had provided for them complained about low housing quality. The employees often had to live in an apartment where they would share a room with two or even more people. In addition to the lack of privacy and space, the sanitary conditions were problematic. Migrant workers can also be targets of deception, as in the next example where a man went to work in the transportation sector in Germany. That employee was promised decent accommodation, but in Germany it turned out that the living place was an abandoned hotel which had been turned into a workers' dormitory with rooms without windows, and for which he was asked an enormous rent and 600 euro cash in advance. In some cases, the migrant workers lived in a crowded derelict basement apartment or an office. A woman working in the cleaning sector lived in an apartment which was actually an old office, and where other people would walk through your room to get to their own. Due to the lack of space some people had to sleep on the sofa or even under the table.

> It was a former office building. Toimisto [office]. And then there was some kind of communal building with a kitchen corner and fridge. [...] We lived in those rooms and that which was in between, that was used jointly. It was a bigger room that was open between those rooms. The kitchen had been extended and more cupboards had been installed. And there was a dining table. [...] At the beginning there was one room for each worker. But then there were suddenly two per room. And in the summer when there was a lot of work, I for instance got a third roommate.
>
> Four rooms were walk-through. We were in the farthest ones. And there was an African man sleeping on the sofa. […] And there was one refugee there too. […] He was sleeping under the table in one of the rooms. (Quotes from interviews with migrant workers)

In the cases described above, the workers had no rights in respect of their living conditions. The employer was entitled to add more workers to a room, send them off or move them between different places. There was also one case where the employer preferred to provide a room for those who was willing to pay more rent than the amount that had been paid so far. Then the persons who had previously lived in that room had to pack their things and move on to another place also provided by the employer. Once the employer needed to accommodate their relatives, forcing some employees to live together with other workers, so they were not able to rest in such extreme circumstances. The

employees were deeply disturbed by such *tossing from one place to another*; it caused uncertainty.

> Her parents came to visit. And she [wife of the employer who had arranged the accommodation] had to show them that she was living in a posh way. That the three-room apartment was all hers. And she moved the three women who had been staying in that apartment to live with us, for a week! And this is how we were living for some time: we were sleeping in twos; some of us were sleeping on a sofa or in an armchair. (Interview with a migrant worker)

It seems a common situation of labour exploitation that the rent is high and does not depend on the number of people living in an apartment (Jokinen, Ollus & Viuhko 2011). Our data revealed one case in the cleaning sector, where the employer arbitrarily put a new worker in the room where the interviewed worker already lived with another woman, and continued collecting the fixed rent from all three. When the interviewed worker complained about such behaviour, the employer started sanctioning her by taking work away and reducing her wages. Using such coercive methods was probably intended to weaken the resistance of the workers and maintaining the exploitative relationship.

> But then the abuse began. It began when that third person was put in my room. […] But I was not told anything, a bed was simply put in the middle of the room and another person moved in. I think such things should be discussed first. I did not owe any rent to her and I was not unable to pay. I might have been late by a couple of days because working all the time makes you lose all sense of time. But I did not leave the rent unpaid. Then I said that this is not how things are done. And then she thought that she would give me less work, if I dared to speak up. Then she started to pay me minimum wage. (Interview with a migrant worker)

Through the accommodation, the employers can control the employees and keep them dependent. The workers who lived together with their employer in the same housing may experience particularly serious monitoring by the employer. These workers experienced the situation as the employer having more rights to arrange his/her private life than they had. The employer could host guests, drink alcohol and have pets without taking into account the wishes of the employees, including their need for privacy and rest at night. Moreover, the employer used to check on their leisure-time activities, movements, relations, shopping and clothing, which was most frustrating and frightening for the workers. For example in the case of a cleaner, the male employer did not like the female employees to wear skirts and dresses even on warm summer days and made them change their clothes. The power and control that he exerted over the workers even included elements of sexual harassment (more about this in the next section). Control of personal life and movements inside and outside the workplace is a strong indicator of forced labour (see also ILO 2012).

5.5 Violence

Violence committed by an employer toward an employee is a clear indicator of forced labour (ILO 2005). Psychological, physical and sexual violence are means by which a worker can be recruited and forced to stay in an exploitive employment relationship. Violence can also be used to make a worker undertake tasks that were not part of the initial agreement (ILO 2012).

5.5.1 Psychological control and threats

The use of threats is a quite common method used by employers to control migrant labour and hold them in an exploitative relationship. According to the FLEX study (Jokinen & Ollus 2011) and our data, threatening the workers is quite typical. Mostly the employees were threatened with the loss of their job in order to pressure them to work for lower or part wages, and putting in longer work days. Based on the interviewees, the most common ways in which the requests and demands regarding working conditions and wages were made, were “there is a queue behind the door,” “ships are sailing, go to Estonia” and “You are free, go!” The employers threaten the workers with the knowledge that there are many other employees who would willingly take their jobs.

The employers also threatened to take revenge on the employees and to make their further life and career difficult should they try to leave the employer and let the officials know about their illegal treatment. The workers were afraid that they had no chance of finding a job in a certain field because the employer can slander them and damage their reputation. The employers have said to the employees that they had contacts in different organisations and money to pay for good lawyers, so the employees would have no chance when trying to make an application to the officials.

> Interviewer: Have they ever threatened you or not?
> Interviewee: Yes, all the time! Especially [the girl-friend of the employer]. She would tell me all the time: "Don't even try! They will grind you into the dust! You won't even remember your name! Don't even try! He is very powerful! Everything is under his control here, he's paid for everything! Don't even try!" (Interview with a migrant worker)

The employees described the situation so that besides using threats, the employers also humiliated them, made insulting remarks and created the feeling that they were useless, dull and incapable of doing proper work. With this aggressive, insulting and patronising communication style the employers tried to force the employees to work overtime, prevent disclosure and increase their sense of vulnerability.

> She [employer] really liked to abuse you. You were dumb, you had a limited perspective, you were from Estonia. You could not talk to anybody or do anything. If you said something to her, she immediately stated the opposite. She never agreed with what you told her. (Interview with a migrant worker)

5.5.2 Physical violence

In general, physical violence as a mean to control the workers was not used. An interviewed male described his experiences of physical violence with the owner of the accommodation who was included in the foreign labour exploitation scheme. The employee had discovered in the foreign country that the future employer had deceived him when offering a good job, immediate employment contract and proper accommodation. When he reached the destination it turned out that the employer was a non-reliable agency, the accommodation was too expensive compared to its quality and the contract was in a foreign language and suspect. The man decided not to sign the contract and not to get exploited any more. He stayed the night in the corridor of the accommodation. The owner of the accommodation did not like it and tried to get his documents and personal belongings by using force.

> There was no place to stay. And I went down to the hall to spend a night there. To sleep in the car would not be possible because of the cold […]. I spent the night there and did not noticed when the owner of the hotel arrived, something around six o'clock in the morning. When he saw me, he immediately attacked me. Tried to get my passport. When he could not get the passport, he took my laptop. My laptop was on the table, charging. Altogether, I had to fight him to get my things back. He was threatening me and telling he will call some people to get my documents unless I pay for spending the night in the hall (laughing). I managed to get my stuff and I left, went to the car. (Interview with a migrant worker)

5.5.3 Sexual violence

Victims of human trafficking for forced labour and labour exploitation may also be targets of sexual violence, although previous studies indicate that this is uncommon (Jokinen, Ollus & Viuhko 2011). However, the lack of information on sexual violence may also be due to the sensitive nature of the issue. Our data revealed a few cases. Two interviewed women in the cleaning and restaurant sectors had experiences of sexual violence on the part of the employers which ranged from verbal and physical components, various remarks concerning clothing, up to involuntary touching and sexual intercourse. As told by the women, who had been working in Finland, the male employer with a migrant background was touching them involuntarily, touching them in an intimate way and trying to undress them.

> Yes, he was harassing us as well, but we stepped back to a safe distance. For example, he used to do something like that: just approached us and unzipped our cardigans, and then zipped them up again. It was like a joke! He just wanted to see if we were wearing something underneath or not. (Interview with a migrant worker)

The forms of sexual harassment also included threatening employees with sexual intercourse and demanding sexual intercourse in return for the payment of wages. For example, a worker told us that she had not been paid her wages

for a while and when she reminded the employer of this issue, the employer had said: “Why, let’s take care of it in bed. You will come to my place… and then you will get the money”.

The data demonstrated that employees who were in a difficult economic situation were forced into sexual intercourse. An interviewee told us that the employer treated her as his property, considered her to be his debtor, and at the same time paid her wages infrequently. The employee felt cornered, and in order to pay her debts she did not see any solution other than to bend to the employer’s sexual demands.

Sexual violence by the employer gave the employees very unpleasant feelings and damaged their self-integrity. They felt fear and humiliation, and tried to avoid situations which could lead to sexual harassment. Due to this problem, the personal relationships with their partners suffered. One employee was so devastated by the violence that she needed psychiatric help.

5.6 Other features of labour exploitation

5.6.1 Controlling by providing or not providing work

One way to control employees was by manipulating with the provision of work. For example, when an employee complained about irrational and violent working or living conditions, then the employer for some time provided that employee less work to do. With this behaviour employers try to force employees to submit to their will, to inhibit the employees’ demands for better treatment, and to dispute the exploitive behaviour of the employer. For the employee, a decrease in the work load meant smaller wages and difficulties in coping. Since the employer knew that the employees have family to support in Estonia, this method helped to influence the employees in the desired direction. The employees perceived that they were in a vicious circle – they saw how the employers were exploiting them but they could not do anything for fear of losing their work and wages.

> It was so that if you opened your mouth and said that something is not to your liking, then you were immediately influenced through work. You were not given any work until you said to everybody that yes, yes, this is how it should be. Then you got lots of work. But when you said that you are tired and want to leave earlier on that day, then for five weeks several jobs were taken away. (Interview with a migrant worker)

By decreasing the amount of work and threatening employees with termination, the employers also tried to inhibit communication with family members in Estonia and not to invite them to live abroad. One woman who worked in the cleaning sector in Finland told us how she wanted to bring her underage child to live with her in Finland but the employer was against this idea. When the employer heard about the employee’s plan, the employer gave the woman less work to do and later announced that he/she will end the working relationship. The woman was not given any chance of negotiation. It

is possible that the employer perceived that when also family members move abroad, this will decrease the vulnerability of the employee and help them to cope better, since the everyday costs were lower, and the employee was no longer as easy to control.

> My quarrel with her [employer] started because I brought my daughter here. My family consists of only three persons: me and my two kids. […] I said that I will go to Estonia. My son will finish school in Estonia and I will come back with my youngest. She knew all of this. She did not like it. And then she also took away work. I was cleaning at a school and she came in one day, "That's it! You're done. Now you will leave. By morning the room has to be empty!" And then she disappeared. If we could have sat down and talked things through. (Interview with a migrant worker)

5.6.2 Fines and creating debts

Debt bondage is an indication of forced labour (ILO 2012). Applying an unfair system of fines and creating obligations which may lead to debt bondage is also a sign of labour exploitation and possible forced labour. Employers have imposed fines in the workplace even for small errors. The possibility of withholding fines from the wages had been included in the foreign language employment contract that the employees had been forced to sign. The contract gave the employer the right to deduct different sums of money from their wages. This unfair fine system only served the interests of the employer and was not meant to direct the employees' attention to their improper behaviour.

The amount of fines is large as a rule, and therefore the employees earn less due to their smaller wages. Sometimes they were even in debt to the employer. This obligation kept the employees in the exploitive relationship and made it difficult for them to leave. Also, the employees were afraid to argue with the employer and to challenge the sanctions.

> But, well, for instance my husband worked at a business, also from Estonia […]. They took such big sums out of their pay when someone somewhere had said that they had broken some chairs, it was even a sum of 300 [EUR]. We even turned to a lawyer. Believe it or not, even the lawyer could not get that money back. Eventually, they sent my husband a letter saying that a man with a name like that has never worked in their business. (Interview with a migrant worker)

5.6.3 Social isolation

Isolation of migrant workers, both physical and social, is an indicator in human trafficking for forced labour (ILO 2012). It can consist of the migrant workers being kept confined or denied contact with people around them and even with family members. Our data did not indicate any situations of physical isolation but there were cases of restriction of social communication (see also Jokinen,

Ollus & Viuhko 2011). It was shown that employers tried to inhibit the social network of the workers and also better coping mechanisms in the foreign country. They emphasised that the employees were not tolerated in the foreign country because of their nationality or work status. The interviewees told us how the employers suggested to them that local people (Finns) had negative attitudes towards Estonians, they are doing 'the dirty work' and therefore their reputation among the locals is low.

Employers forbid the employees from contacting their neighbours in the apartment. In the case of a cleaner, the employees were not allowed to talk about payment of rent or even to chat. The interviewee assumed that the employer feared that his exploitive activities toward workers could come to light when roommates talked openly with one another. Sharing their experiences may bring employees together, encourage them to stand up for their rights and seek help. In another case, the employer did not allow the workers to have a conversation with their colleagues, job managers or representatives of the client company. This limitation disturbed the employees in doing their job.

> Then she did not promise. Well, if you cleaned the toimisto [office], then she said that you must not talk to anybody. Firstly, you are Estonian; secondly, you are a cleaner. They do not like you. Then I said that I was invited for coffee and asked what I should do. "Don't drink. Well, go quickly and drink your coffee and then leave right away. Just don't talk!" Well, she was also somewhat afraid. That when you talk to people, then it comes out how things are in reality.

> First of all, we were not allowed to talk while we were working. […] Only among ourselves, and, well, only about work. If he heard us talking about something... well... it was forbidden! Especially to talk with the staff: for example, with waiters, or with a headwaiter. I said: "How can we not talk to them if, for example, we've run out of napkins, or paper, where can we get it from?" "You must sort it out on your own, you mustn't talk! (Quotes from interviews with migrant workers)

The employers may have made it difficult for the employees to learn the language of the target country in order to inhibit possibilities of communicating with locals and thereby getting more information about their rights and in this way finding another job. For example, an interviewee who was working in Finland started to attend a Finnish language course but in a month she had to cancel her studies since her employer had intentionally reorganised her work so that it overlapped with the time of her language course.

6. Description of labour exploiters and mechanisms of fraud

In the analysis of the data, some mechanisms were identified that were used to exploit migrant labour, engage in work-related human trafficking and mislead the state authorities. The interviewed workers and experts in our sample described such schemes, in particular, in the cleaning and construction sectors.

6.1 Hierarchical sub-contracting schemes related to labour exploitation

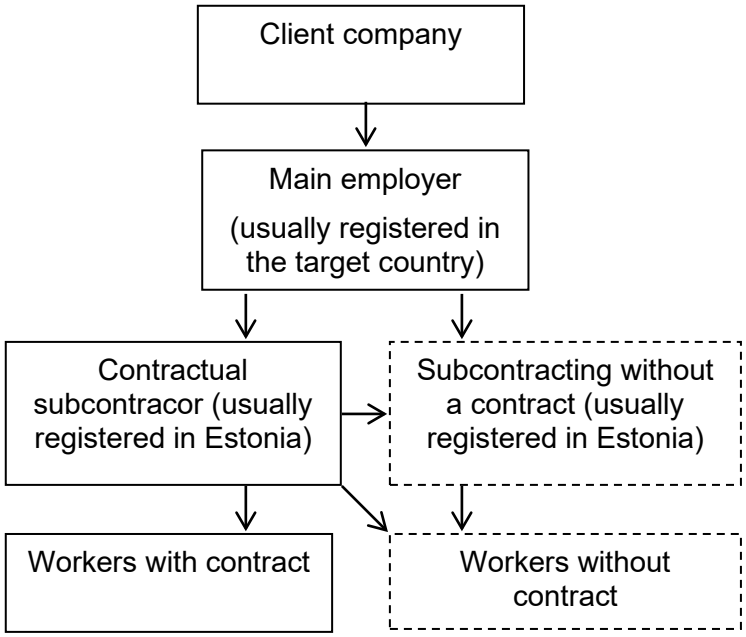
The schemes included hierarchical employment and agency relationships between different companies (or persons) who try to make a profit by exploiting migrant labour. According to the scheme, the work is not done by the main employer from which the client company had ordered the work but by subcontractors (see Figure 3). According to the contract, the main contractor has an obligation to do the work but delegates the task to different subcontractors from which the necessary services are bought. The subcontractors (which in turn may have their own subcontractors) hire the necessary employees, make agreements with them and organise the work.

It is noteworthy that according to the interviewees the main employers were mostly companies registered in the target country while the subcontractors tended to be companies registered in Estonia which were also licensed to engage in labour rental services. Also the previous FLEX project indicated that the perpetrators were often of the same nationality as the victims. In this way they were usually more aware of how to exploit and control people of their nationality (Jokinen & Ollus 2011). In rare cases the subcontractor may be registered in a foreign country (e.g., Finland).

The system described above is not often legal or transparent. First, the interviews of workers revealed that the main contractor may have no right to employ subcontractors but was supposed to do the work itself. The purpose of passing on the obligation to do the work is not to increase the quality of the work in the area by employing a more competent company, but to make a profit through a process of passing down the labour. If prohibited by the client company, the main contractor may employ subcontractors by making legally binding contracts with them. Also companies which act without the (necessary) contracts can be involved in the scheme. So the main contractor and even contractual subcontractor may employ non-contractual (fraudulent) firms. In the next quotation a person who worked as a cleaner in a construction company belonging to an Estonian described the complex chains of subcontracting companies which try to profit from the exploitation of workers and economic control over them. The employer of the interviewee was a subcontractor who delayed in the payment of wages, and ignored work and rest time requirements.

These are quite common schemes, in which the main contractor is a Finn. A Finnish company in any field, either in construction or cleaning. And in turn, an Estonian company is under it, offering a kind of service to them. […] It was a big company and many levels of sub-contractors. The scheme is such that there is one main contractor, sub-contractors, and those without a contract, so the company isn't even listed. So this company in turn takes someone else that you cannot identify. The Finns asked us in the first place why we were working when we hadn't got paid, we should have notified the union. The men [employees] still believed what they were promised. And when now and then some money came through, they believed it was going to be fine. So it came about that I noticed that the money hadn't come. (Interview with a migrant worker)

Figure 3. Migrant labour exploitation scheme.



Based on the results of interviews and the decisions of labour dispute committee it can be argued that fraudulent firms (persons) and subcontracting companies are engage in the exploitation of migrant labour, forced work and tax offences. The activity of such persons is difficult to control and their employees also have difficulties in pursuing claims for the payment of their wages. Such employers are looking for workers by promising them an employment contract with the local company (e.g., with the main contractor) and proper work conditions. No contracts are in fact signed with the recruited employees, they are not paid the wages, they are not offered suitable and secure work and living conditions, and the necessary taxes are not paid on their behalf (see the examples above in the sections on problems related to the payment of wages and extra pay, the conclusion of contracts, work and leisure time, and living conditions).

The persons working under exploitative conditions are recruited for a short period of time. Mostly this practice is used in the construction sector. From the decisions of the labour dispute committees it can be seen that the employees who had worked for a month or two without a written contract or payment of wages, left the job when the employer did not fulfil promises related to working conditions (e.g., decisions 4.1-2/1170-2012, 18 June 2012). In another version of this scheme, the employers did not offer more work to do or did not contact the employee any more after sending the worker on holiday, as a result of which the employees missed payment of their (last) wages (e.g., decision 4.2-2/2033, 08 October 2012). These methods enabled the employer to earn a profit with minimal expenses.

Some migrant workers in our sample, who had signed employment contracts with Estonian subcontractors, were annoyed about the large profit the main contractor and subcontractors earned. The employees were usually paid the minimum wage, a sum below the minimum, or not paid wages at all. The interviewed workers described the subcontractors and main contractor(s) usually as greedy and well-off; to achieve this they made the workers work overtime for which they received no pay. As an example, one employer said to a participant and her colleagues that "work, women, I need to buy an apartment".

> I wanted to add on the subject of the money that a person who gets a lot of money goes crazy. That Finn [the main employer], who gave her [the Estonian subcontractor] work, he bought himself an apartment in Pärnu. Then he had a small house and then he bought a big house near a lake. Then he bought a new car. So he could take on an enormous amount of work. He passed the work on. But he already took a bit of the money from in between. Then the next one [Estonian subcontractor] took some money. There was nothing left for the workers. Everybody wanted a big bite out of it. (Interview with a migrant worker)

Several interviews with the workers and the decisions of the labour dispute committees indicated that at first employers paid the wages on time (although less than what employees from the target country were paid) but then delays started to occur in the payment of wages, and finally no wages were paid at all (see the section on problems related to the payment of wages and extra pay). Also, employers did not pay the proper labour taxes, leaving the employees with tax debts in the foreign country.

> I hear from here and there that taxes have not been paid. Like what that [Estonian] business did. All the employees had to pay their own vero [tax] but he did not even give them their receipts and many had such a high vero [tax] debt, even I paid over 1000 euro. (Interview with a migrant worker)

6.2 Patterns in concealing the illegal and exploitive activities

The employers used different methods to cover their illegal activities (see figure 4). One option was that the employers forbid the employees from communicating with the locals and other persons working at the place of work and made it difficult for them to integrate into the community. They threatened those who asked for help with sanctions, derogated organisations that provide help or lied about them. As shown in next quotation, the interviewed workers did not turn to the trade union for the service sector in Finland (Service Union United, PAM) for help because their employer had lied about the function of this organisation and criticised it.

> Interviewee 1: At the beginning it is difficult if you do not know any laws and such. You believe your boss. I thought that everything was all right. It was she who said the PAM [trade union] was no good. "Oh, there is no point, it won't help you". I was stupid and believed it.
> Interviewee 2: It was said to be a business run by thugs. They would only squeeze you. Then when you learned that it was actually a trade union and that they protect workers, then everybody was like, "What did she say? That it was a business run by thugs?" (Interview with migrant workers)

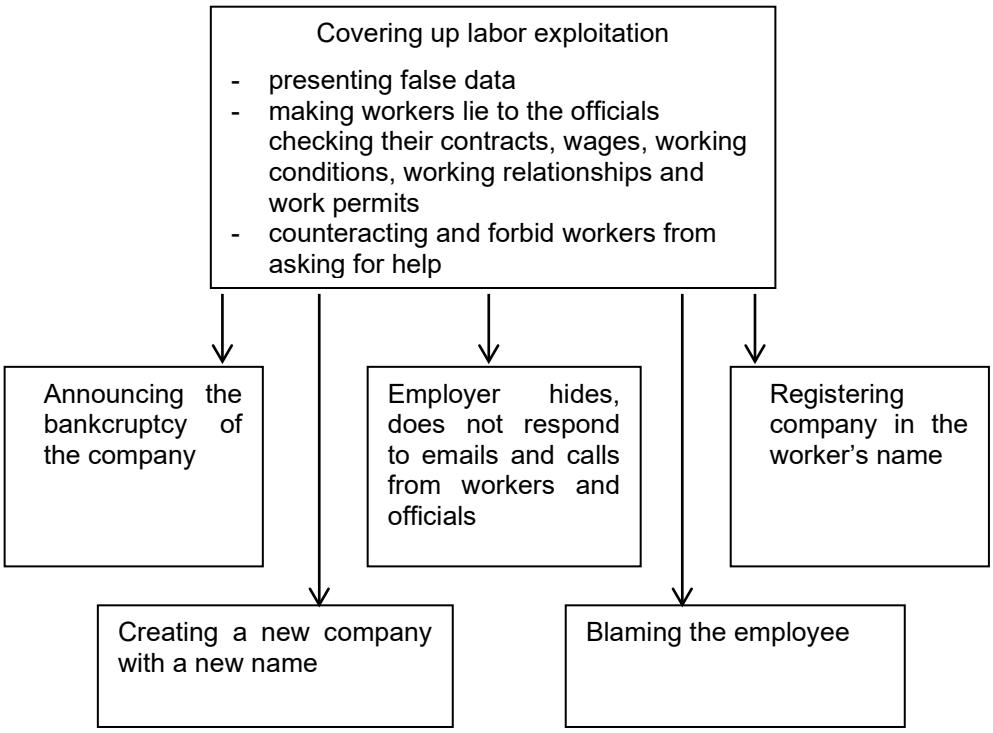
On the other hand the employers tried to mislead also the officials who supervised work conditions. In order to do so, the employees were forced to lie about the amount of their wages, their working conditions and their subordination, in order to give the impression that the activity of the company was legal (see also the example given in the section on economic control about the men working in Norway who received only a fraction of their wages because they were forced to give part of the money back to their employer). For instance, in order to cover up the scheme, the interviewees working in the cleaning sector had to say to the supervising officials from the labour inspectorate that they had employment contracts with the main contractor registered in Finland and not with the Estonian subcontractor which had hired them.

> The city called and said that this school needs to be cleaned. The Finn said, "Yes, I will clean it." But then he gave it to [name of the Estonian company] who was a subcontractor and then we did the work. [...] [the Estonian employer] made it clear to us, "You must not tell there that you work for [name of the Estonian company]. If somebody there comes and asks then you must say that you work for [name of the Finnish company]." Because there was no subcontracting allowed, it had to be done directly. There was a lot of this kind of fiddling. (Interview with a migrant worker)

In order to deceive the controlling officials, employers applied more complex schemes. In one case the employer demanded that the employees say to the supervisory officials that they have came to Finland to visit friends but not to work. The employer even got the employees travel cards or let them acquire the relevant documents by compensating only a part of these expenses. By using this method the employer wanted to hide the fact that the employees in that company did not have the necessary documents and working permits.

> They [colleagues] said that once there was a full inspection in all restaurants. They were checking documents and trying to catch hookers, I don't know. And they were even checking all cleaners and waiters to make sure that the documents and work permits were OK. And he [employer] said: "If there's an inspection like that, you need to say that you've come here to visit a friend". (Interview with a migrant worker)

Figure 4. The mechanisms used by employers to cover up and "legitimate" illegal activities.



According to interviewed workers, when information about the illegal activities and labour exploitation had reached help-providing organisations and law enforcement authorities, and their fraudulent activities were no longer successful, the companies rapidly ended their activities, declared bankruptcy and/or formed a new company using some other business name. The assets of the old company were transferred quickly before the bankruptcy or liquidation to the new company. By letting the company go bankrupt, they hoped to escape the obligation to pay wages to their workers and also to pay state taxes.

In the next example, an interviewee described the reaction of her Estonian employer who had not been paying wages in accordance with the law, when she had turned to the trade union in Finland.

> X [a worker in the trade union] worked there and then I showed it [the timesheets] to her. She immediately took a calculator and started adding them up. That's not possible! She made a call and from then on things started to move. Then they started inspecting [name of employer] and then, out of fear, it changed its name. [...] But it still goes on like that

there. She [employer] is lying about her data. (Interview with a migrant worker)

Another aim in creating a new company was to avoid a large tax burden, as mentioned in the interviews. Using Finland as an example, the interviewed workers told about companies which had been in business for two years and then ended their activities in order to avoid the need to pay the higher taxes which apply to companies which have been in business for a longer period of time. After a couple of years in business, a new company is created. Respondents said that not only companies registered in Estonia, but also companies registered in Finland use this scheme.

> There was something, everybody says that after two years some kind of tax burden would increase. That for the first two years the tax is lower. It is not simply Estonians who have come from outside but Finns were also supposed to do it the same way, that for two years they have one name and the next two years they have another name and a new business. (Interview with a migrant worker)

According to our data, it was very common for the employer to hide and try to avoid contacts with the employees, the police and the officials of the Labour Inspectorate. The decisions of the labour dispute committees revealed several cases in which the employers had not responded to the employees' claims and had not come to the session, even though, according to the Individual Labour Dispute Resolution Act §17 section 2, "the person against whom the claim is made has to state in writing whether the person recognises or does no recognise the claim and support his/her claim with evidence".

The interviewed workers said that employers had been declared fugitives in the foreign country after they had informed the police and the Labour Inspectorate. In addition, it turned out that some employers had a criminal record, and the labour exploitation case was not their first one. Some employers had even been prohibited by the court from engaging in business activities. The workers were surprised how it was possible that persons with a criminal background could establish a company so easily and that the control over their activities was so weak.

> And finally I heard, when the company was in bankruptcy, that over 20 people had submitted this application for pay security. [...] And then they were being sought. The pay security and everyone were looking for them. I talked to that lawyer. And they turned it over to the police because they were fugitives. They didn't pay taxes either. [...] They had set up a new company. This was already when they went bankrupt. They transferred the money to that company. It was somehow wood-related. The funniest thing about it was that both company founders, a man and a woman, were criminal fugitives in Estonia. (Interview with a migrant worker)

The persons who acted illegally and exploited labour typically blamed the employees and denied the labour exploitation. For example, when giving explanations to the labour dispute committee, employers denied the existence

of an employment relationship or that certain working conditions had been agreed on (e.g., decisions 4.1-2/398-2012, 28 March 2012; 4.3-2/66. 21 February 2012). They explained their behaviour by claiming that the employees had been behaving improperly, had not been present at work, did not fit the position, had behaved in a disorderly manner, did poor quality work, and used alcohol (e.g., decisions 4.3-2/882, 25 May 2012; 4.2-2/1357, 31 August 2012).

6.3 Setting up companies in the worker's name

A serious form of labour exploitation is registering a company in the worker's name without the permission of the worker or by giving false information concerning the purposes of the company. There were a couple of cases (both with Russian-speaking participants) in which the employers had the employees working in the cleaning and catering sector sign documents in a foreign language without understanding the content, but with which a company or two were registered in the worker's name. The aim in establishing such companies had been to earn a profit by not paying the necessary taxes and by not themselves being liable for any tax offences. According to the fraudulent scheme, the employer had the client company transfer money to the worker's company bank account. After that the employer told the worker (who was legally the owner of the company) to withdraw the money from the bank account in cash, and the worker was then paid the wages in cash. The employer did not pay the state income tax; however, the employer could offer a small fee to the workers to persuade them to participate in this crime. Besides that, fear of the employer was a factor explaining why the workers had agreed to go along with this illegal activity and not stand up against the employer. As related by one interviewee, the employer had threatened the employee with sexual violence.

One interviewee mentioned that she found out about the bogus firm made in her name. When she turned to the employer and demanded rapid closure of the company, then they started to threaten her and told her not to go to the police. As a result the employee let the police know anonymously about the crime that had been committed, and closed the company in secret because she was afraid of revenge. However, some other co-workers with the same experience did not dare to turn to the police or to anyone else.

> I didn't know Finnish at that time. Of course, I signed some documents. […] And then it turned out... And his [employer] girlfriend just said one thing. […] She said: "Your company has got such a funny name!" I stiffened with astonishment. I said: "What company?" She said: "Yours!" I said: "Mine!" […] Well, I didn't start making a big fuss out of it at that time. The only thing I said was: "Well, he should be able to shut it down as easily as he set it up!" But she got mad and shouted: "Don't even try that! He will grind you into the dust! Don't you know that he has the best lawyers? Don't even try doing anything!" (Interview with a migrant worker)

Owning such companies created large tax obligations and debts to the victims. Because the obligations were not paid then the workers had problems when applying to banks for a bank card; they also had difficulties afterwards getting a loan from a bank. In the quote below the worker (in whose name the company was registered, and the tax debt of the company had risen up to a thousand euro) describes her colleague's case:

> There is one woman here, too. […] As far as I know, about six companies are registered in her name, or maybe even more. I don't know how the situation could get as absurd as that! I don't understand that! When I found out about it, my hair stood on end! I was shocked! What about taxes? What if the tax police start checking? […] They can take away your flat! If you have a car, they'll take that away, too! People go to prison for not paying taxes nowadays! Yes, some people say that it's good to be in prison. But I don't want to go there! And if I start working, they'll be deducting those amounts from my wages. I don't know how I'm going to pay back that thousand euro. But six companies! (Interview with a migrant worker)

7. Risk factors of forced labour and labour exploitation

7.1 Vulnerability

The interviews with employers, employees and the lawyers of the Labour Inspectorate noted several features which indicate that migrant workers were exposed to forced labour and labour exploitation. In general, they were characterised by high vulnerability which was related to their difficult socio-economic situation prior to migration. However, being in a vulnerable position because of poor economic condition does not necessarily lead a worker into forced labour (ILO 2012). It may emerge when an employer takes advantage of the vulnerable position of a worker. In the next quotation the lawyers of the Labour Inspectorate described how the employers can exploit the vulnerable position of workers.

> Interviewee 1: The basis of labour exploitation is exploiting vulnerability and lack of knowledge. […] People are very trusting, they do not search the background of the employer, do not search what the employer has managed. The employers abuse the difficult situation. Those who go abroad to work, they do not have there a normal income or work. The employers exploit it and also use coercive methods, for example make them doing overtime work.
> Interviewee 2: If the person pushes back then he/she is told not to come at all, I have a queue waiting behind the Säästumarket [relatively cheap Estonian food chain], I'll take the next one from there. (Interview with experts)

As mentioned above and also by the experts from the Labour Inspectorate, the reasons for going to work abroad are usually a long period of unemployment, occasional and low wages jobs which are manifested in financial difficulties. In addition, several interviewees had to support their families in Estonia and also had obligations to banks. In the hope of finding permanent work abroad and thereby improving their life and the life of their families, people accepted the first jobs offered. Since the socio-economic pressure to find a job was large, people were accepting the working and living conditions offered by the employer, which could be different from what was expected or promised in advance. The employees accepted having to work for lower wages and without an employment contract, or signing a contract only after having worked for some time.

The necessity to earn even a minimum wage in order to meet their own needs and the needs of their families rendered the employees vulnerable to employers who were prone to labour exploitation. The difficult financial situation of the employees made it possible for employers to force them to work overtime and on the weekend, and to control them by paying the wages only in part or not paying wages at all. Delay in the payment of wages, partial payments or not paying wages at all made it even more difficult for the employees to cope. One employee said that her wages were delayed and thus there was no money to

buy a monthly card for transportation. Luckily, her apartment neighbour worked on the other shift so she could borrow her transportation card. There were also situations where the employees did not have money to send to family members in Estonia.

> The first money was paid in advance. I had very little money when I came. But the first payday, when it came, was one week late. Thanks to having a room-mate who worked at a different time, I could use her bus card. I didn't have money to ride a bus, to buy food. I didn't have anything.
>
> At [name of company], they also paid us late. [...] Anyway, the wages came in three business days. This, again, wasn't right. We had to pay bills in Estonia as well. We had families. My son was also studying at that time. It was horrible when you had to tell your son that you cannot send him money, that he should manage somehow. I called my mother and asked her to pay my son's lunch money from her pension. (Quotes from interviews with migrant workers)

A difficult economic situation very easily makes the employee dependent on the employer, which makes exploitation of the worker even easier. Those workers are most exploitable who owe money to the employer and who do not have money and social networks that would help them leave the employer. Employees who cannot find a new job and accommodation are forced to stay longer in the exploitative work relationship. For example, the victims who lived in an apartment provided by the employer felt that they were in a vicious circle. Leaving the job would mean that they would immediately have to find a new place to live. In order to be able to rent a new place, they had to pay a deposit which was over the limits for the employees, since the employer had not paid their wages in full and in time. According to the lawyers of Labour Inspectorate some victims did not even have enough money to return to Estonia. They had suggested in these circumstances that the victims turn to the embassy.

> Well, it is not so easy to get a separate apartment. I can speak from experience. I know people who submitted an application here to Sato or VVO [large Finnish housing and rental companies] and the next day or the day after that there is a letter in their mailbox saying that their apartment is waiting for them. I wrote many such letters. Here with Sato and VVO the rent is high. And here you have to pay a deposit of 250 euro as well. But most companies take two months' apartment rent as a deposit. Well, you can get a two-room apartment for 700. That is a good catch. But you have to have at least another 700 and in the better cases even three times 700. But who has 1500 to 2000 euro readily available to pay it right away. […] It was like you were running in a circle. To get away from that toimisto [office] and to get a new job, you need your own place to live. But you can't get it. To get a new place to live you also want a new job right away. (Interview with a migrant worker)

7.2 Poor awareness of rights and labour regulations

Poor awareness of rights, labour regulations and options for getting help may increase vulnerability and lead the migrant workers to experience labour exploitation and forced labour. Our data showed that persons who went to work abroad were often not aware of the working conditions and legislation of the target country, which created a good opportunity for their exploitation. On the basis of the interviews it became evident that the employees were not aware of the minimum wage rates, the system of collective agreements on wages (in Finland), the necessary documents etc (see the examples in the section on economic control). The employees admitted that they had heard about their rights and the unlawful behaviour of their employer only when they had turned to the Labour Inspectorate, the union or some other help-providing organisation. However, people even did not know where they could get help in the case of unlawful behaviour on the part of the employer.

Our data showed a difference in awareness of rights between language groups. Knowledge of work-related regulations among migrant labour speaking Estonian was poor, and among those speaking Russian it was even poorer. Probably the language barrier is a reason why the Russian-speaking workers are less aware of the laws and assistance opportunities. This issue was borne out from the interviews with employees and with the employers. In addition, ILO (2012) states that minority ethnic groups are especially vulnerable to exploitation.

> In our estimation many Russians are applying. Russians living in Estonia who want to work in Finland. Their knowledge is near zero. […] They have no idea of this tax system, living conditions, deposits which have to be paid when renting an apartment. (Interview with an employer)

Employees mentioned in the interviews that they were in a hurry when they went to work abroad and they did not have time to find information about the living conditions and regulations in the target country. This rush probably serves the interests of employers. The less employees know of their rights, the easier it is to exploit and threaten them, and this increases the probability of the employees not standing up for their rights and seeking help.

7.3 Trustfulness and lack of language skills

In addition to the factors above, the lawyers of the Labour Inspectorate identified the trustfulness of employees as a factor in their exploitation. This became evident also from the interviews with the employees and decisions to delete agencies from the Register of Economic Activities. The employees were too trusting in agencies and their future employers. They did not check their background and the legality of their present activity. They also believed promises concerning the future signing of employment contracts, and concerning working and living conditions.

Due to their trust in their employers and their poor knowledge of foreign languages, employees signed improper contracts and documents. By doing this they fell in a serious trap of labour exploitation and human trafficking (see the section on the description of exploiters and mechanisms of fraud). Poor knowledge of foreign languages caused problems for several employees in communicating with authorities, formalising documents and also asking for help. Since they did not speak the local language, Estonian employees preferred employers who spoke Estonian, and who often were acting illegally. The employees considered deceit on the part of their employer inevitable. In time they hoped to gain experience with working and living abroad, and to learn the local language on the job, and finally to manage by their own.

> I didn't know Finnish, I couldn't express myself and didn't have any acquaintances. I thought that when I got hurt, well, but at least I could get going. (Interview with a migrant worker)

The officials of the Labour Inspectorate mentioned that employees who know little about their rights and also had poor foreign language skills tended to accept less than what they were entitled to according to the law. They did not demand all the benefits to which they had the right to apply, and they turned to authorities only when they did not receive even the minimal wages as a result of the deceptive behaviour of the employer.

> We have had very problematic cases where knowledge is not the highest. The person (maybe) does not speak the language; hopes for the best from the employer. The person does not have high demands for getting any money for doing overtime work, or of the rights in the country. The person wishes to get his/her wages, 12 euro an hour, and maybe transportation there and back. With this they would be very happy. And when they do not have even that, then they turn [to us]. (Interview with the experts)

8. Summary

During recent years, labour migration has rapidly increased in Estonia. This has raised the need to deal with trafficking for forced labour and labour exploitation. Although since 2012, the notion of trafficking in human beings has been defined in the Estonian legislation, awareness of the problems (specifically, the part related to forced labour) tends to be low among the general public.

This study seeks to identify the nature of exploitation of Estonian workers who migrate. This analysis complements the previous FLEX project by shedding more light on deception in the recruitment process and mechanisms of labour exploitation. In the current study, a large amount of new material has been utilised, including decisions of labour dispute committees and documents for annulment of the licences for labour exchange companies, and fraud cases. In addition, this project opens up the problem from the perspective of both employees and employers.

The most popular destination country of labour migration for Estonian people is Finland; Finland is followed by Scandinavian countries, Germany and the United Kingdom. The reasons for finding job abroad are mostly related to economic difficulties due to unemployment, and temporary or poorly paying job. Primarily social networks and labour exchange portals are used to find a job abroad. The services of recruitment agencies are utilised much less.

Some job seekers can be subjected to illegal and dishonest activities on the part of recruitment agencies. Our data indicates that these activities include not only the charging of a high and illegal fee for recruitment services, but also cheating job seekers by providing jobs or working conditions that are different from what was promised, or even offering a position that is not open or does not exist. The agencies deny or conceal their illegal activities by manipulating the concept of labour exchange and renaming the services provided.

Our data shows the growing importance of posted work in the labour market. The representatives of posted labour companies state that, on the one hand, due to insufficient regulation of posted work in Estonia, and on the other hand, due to the activities of law-breaking agencies, it is difficult to operate in the area of personnel renting. Companies using illegal and labour exploitive methods damage the reputation of the field and create unfair competition in the market. Our data pointed to cases where the posted employees had been forced to work in unreasonable conditions and had been deceived in the payment of wages. The Estonian Staffing Association has been established to exercise greater control over the activities of companies in this field and improve their image. However, there is still a great need to regulate the activities of these companies at the national level and implement measures that protect the rights of posted workers and prevent their exploitation.

Our study shows that migrant workers have experienced various forms of labour exploitation with different levels of severity. There are workers who have been subjected to unacceptable and problematic working conditions which are contrary to national and international labour regulation. These cases are generally related to irregular payment of wages and to demands for overtime work and work on holidays without supplementary remuneration.

More problematic are the cases involving false promises. Migrant workers are primarily recruited by promising them a decent and well-paid job, good working and living conditions and a written employment contract. Our data indicates that many workers have been given deliberately false information about the employer, the amount of wages and other conditions. Because often no written contracts are concluded as agreed, it will be difficult for the workers to protect their rights and request the payment of outstanding wages. The migrant employees may even have signed contracts which were in a foreign language, which they did not understand, and which contained provisions on unreasonable fines. Signing these agreements, and the imposition of fines, have led them into debt bondage and forced labour.

There are also workers who have suffered from systematic, sophisticated and serious exploitation. They have been threatened with termination when they complained about long working hours without getting days off, or about delays in the payment of wages. When workers complained about irregular working hours and poor living conditions, the employers have punished them by decreasing the amount of work and wages. Their movements have been controlled and contacts with roommates, colleagues and other local people have been prohibited, probably with the aim of increasing their social isolation and preventing disclosure of the exploitive practices. Individual employees have also experienced physical or sexual violence on the part of the employer.

The results of the current study shed light on the mechanisms that employers use to earn a profit through the exploitation of migrant labour. These schemes occurred primarily in the cleaning and construction sectors, and included hierarchical and sometimes illegal employment and agency relationships between different companies. Such chains generally included a main contractor and one or several (unidentified) subcontractors, who hired the necessary employees. The lack of transparency in such systems makes it possible to recruit workers without concluding employment contracts, and to exploit them by providing substandard working and living conditions and withholding wages.

Our data showed that unfairly operating companies are prone to using a variety of ways to conceal their illegal activities and mislead the authorities. One option is that the employers threaten the workers with reprisal should they plan to ask for help, or give them misleading information about assistance organisations. The employers also pressure the workers to lie to the authorities about the amount of wages, the existence of a contract, the working conditions and even the name of the employer. One method is to declare bankruptcy, leaving wages and state taxes unpaid, and soon establish a new company using

a different business name. One serious fraudulent and labour exploitation scheme revealed in our data is registration of a company in a worker's name without his/her permission or by giving him/her false information. Employees who were victims of such a fraud ended up with large tax liabilities to the State. Threats of reprisal should the employee report to the police, and indebtedness, keep the victims in the exploitive relationship.

The targets of labour exploitation can be characterised as highly vulnerable and trustful and with a poor level of knowledge about labour regulations and assistance options. In particular, the research shows that awareness among Russian-speaking migrants about laws and local circumstances seems to be lower than that of Estonian-speaking migrants. Agencies and employers take advantage of the vulnerable situation of job seekers and workers due to their poor social-economic conditions, lack of (local) language skills and lack of awareness. As a result, workers perceive themselves as being trapped, they see no alternatives and are thus willing to agree to pay agency fees and work in exploitive conditions.

The results indicate that Russian-speaking migrant workers are more likely the targets of serious cases of forced labour than are Estonian-speaking workers. They have fallen victim to violence and extreme fraud on the part of the employers or recruiters. On the one hand, this result may reflect the greater vulnerability of Estonian ethnic minorities due to poor awareness of labour regulation and opportunities for assistance. They may also use different (less reliable and transparent) channels then the majority Estonian population when seeking jobs abroad. However, this is an issue that needs more exhaustive investigation in the future.

9. Conclusions and recommendations

The phenomenon of forced labour and labour exploitation exists but is often latent. We have found all elements of exploitation starting with the smallest violations, and ranging up to the most severe forms of violence. Although awareness has risen, many workers who have been exploited and also officials still do not recognize and, consequently, do not respond to the problem.

Employment and labour mediation firms create non-transparent relationships and subcontracting chains that make the abuse of migrant labour possible. When the dishonest activity of these companies comes to light or a ban is imposed on their activity, they declare bankruptcy, immediately register a new firm and continue their dishonest and exploitive activities. There is thus a strong need to stop systematic recurrence of unlawful activities by the same entrepreneurs.

The data indicated various risk factors of forced labour and labour exploitation, including high vulnerability, lack of language skills, and poor awareness of rights and labour regulations. Language skills determine the networks through which the people will find jobs abroad as well as seek help in case of problems. If these skills are deficient, the employees may remain trapped in an exploitative relationship for a long time.

Frequently the direct employers who are exploiting migrants are of the same nationality. The employers, knowing as they do the weaknesses of their countrymen/women, abuse their insufficient knowledge of the language and legislation of the target country as well as other vulnerabilities related to the poor socio-economic situation. Keeping the migrant workers in social isolation gives the employers extra power and facilitates exploitation.

Based on our results we present the following recommendations:

- Raising public awareness of trafficking of forced labour and labour exploitation as well as labour rights and regulations using a greater variety of media channels, social campaigns and relevant organisations (e.g., EURES, Living for Tomorrow). Greater emphasis should be given to ethnic minorities by providing information in their native language (Russian).
- Ban on economic activities or not issuing licenses to those persons who have repeatedly violated the law.
- Enhancing control over the border so the companies on which a ban on economic activities has been imposed in one country would not be able to register a company in another country.
- Establishing a register of employees in which each employer should register their workers at once after recruitment in order to reduce illegal employment and thereby exploitation of (migrant) workers.

- Regulating more thoroughly the area of labour leasing in Estonian legislation and harmonising it in line with regulations within EU in order to direct the activities of personnel rental companies at the national level.
- Implementing measures that protect the rights of posted workers and prevent their exploitation (e.g., the right to receive salary in case the client company refuses to pay to the personnel rental company).

References

Andrees, Beate (2008): Forced labour and human trafficking: a handbook for labour inspectors. Geneva: ILO http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_097835.pdf

Anti-Slavery International (2006): Trafficking for Forced Labour in Europe: Report on a study in the UK, Ireland, the Czech Republic and Portugal.

Eurobarometer (2011): Special Eurobarometer 363. Free movement of workers and regulated professional. Internal Market: Awareness, Perceptions and Impacts. European Commission.

European Commission, Directorate General, Justice, Freedom and Security (2004): Report of the Experts Group on Trafficking in Human Beings. Brussels.

Haynes, Dina F. (2009): Exploitation Nation: The Thin and Grey Legal Lines between Trafficked Persons and Abused Migrant Laborers. Notre Dame Journal of Law, Ethics and Public Policy 1(2009).

ILO (2005): Human Trafficking and Forced Labour Exploitation: Guidance for Legislation and Law Enforcement. Geneva: ILO. http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_081999.pdf

ILO (2012): ILO Indicators of Forced Labour. Geneva: ILO.

Jokinen, Anniina and Ollus, Natalia (2011): Trafficking for Forced Labour: Project Summary and Conclusions.

Jokinen, Anniina, Ollus, Natalia and Aromaa, Kauko (eds.) (2011): Trafficking for Forced Labour and Labour Exploitation in Finland, Poland and Estonia. Publication Series no.68. Helsinki: HEUNI. In: Anniina Jokinen, Natalia Ollus and Kauko Aromaa (eds.) Trafficking for Forced Labour and Labour Exploitation in Finland, Poland and Estonia. Publication Series no.68. Helsinki: HEUNI, 312−323.

Jokinen, Anniina, Ollus, Natalia and Viuhko, Minna (2011). Work on any Terms: Trafficking for Forced Labour and Exploitation of Migrant Workers in Finland. In: Anniina Jokinen, Natalia Ollus and Kauko Aromaa (eds.) Trafficking for Forced Labour and Labour Exploitation in Finland, Poland and Estonia. Publication Series no.68. Helsinki: HEUNI, 31−164.

Kask, Maris and Markina, Anna (2011): Trafficking for Forced Labour and Labour Exploitation in Estonia. In: Anniina Jokinen, Natalia Ollus and Kauko Aromaa (eds.) Trafficking for Forced Labour and Labour Exploitation in Finland, Poland and Estonia. Publication Series no.68. Helsinki: HEUNI, 246−311.

Krusell, Siim (2013): Eesti elanike töötamine välismaal. In: Anu Tõnurist (Ed.) *Pilte rahvaloendusest*, 129−146.

Labour Inspectorate (2013). Annula Report of Work Environment 2012. http://www.ti.ee/public/files/TKY_2012%20%28ing%29.pdf

Lisborg, Anders (2012): Human Trafficking for Forced Labour in Denmark? Odense: The Danish National Board of Social Services. Available at: http://ec.europa.eu/anti-trafficking/download.action?nodePath=/Publications/Human+trafficking+for+forced+labour+in+Denmark.pdf&fileName=Human+trafficking+for+forced+labour+in+Denmark.pdf

LFT (2011): MTÜ Living for Tomorrow. 2011. Aasta Tegevusaruanne. http://lft.ee/admin/upload/files/LFT%20tegevusaruanne%202011.pdf

LFT (2013): Inimkaubanduse ennetamise ja ohvrite abistamise Nõustamisliini statistika 2012. http://lft.ee/admin/upload/files/Hotline%202012%20est.pdf

Miller, Peter G. and Sønderlund Anders L. (2010): Using the Internet to Research Hidden Populations of Illicit Drug Users: a Review. *Addiction.* Vol. 105 (9), pp. 1557−1567.

REL (2011): Välismaal käib tööl ligi 25 000 Eesti elanikku (2012): Pressiteade 19 December 2012, Statistikaamet. http://www.stat.ee/67265, (03 June 2013)

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

Statistics Finland (2013): Border Interview Survey 2012. Helsinki: Statistics Finland.

Tyldum, Guri and Brunovskis, Anette (2005): Describing the Unobserved: Methodological Challenges in Empirical Studies on Human Trafficking. International Migration. Vol. 43 (1/2).

Veidemann, Brit (2010): Eesti tööealise rahvastiku väljarände-potentsiaal aastal 2010. Sotsiaalministeeriumi toimetised, 8/2010.

Press articles

Ibrus, Kadri (18 April 2012): Soomlasele üks palk, eestlasele teine. Vahel üldse mitte midagi. Eesti Päevaleht.

Ibrus, Kadri (23 April 2012): Soome töövahendaja lubas maha tappa, kui palka küsisin! Eesti Päevaleht.

Laugen, Lauri (22 March 2012): Eesti ehitajad elasid Norras alandavates tingimustes pooleli olevas majas. Selfi.

Laugen, Lauri (25 April 2012): Ajaleht: Soomes töötavatelt eestlastelt võetakse üle kantud palk pangaautomaadi juures tagasi. Delfi.

Laugen, Lauri (30 January 2013): Eesti koristaja tegi Soomes 20-tunniseid tööpäevi. Delfi.

Nergi, Ann-Marii (03 May 2013): Ametiühing aitas Oslos ehitusel petta saanud eestlastel palga kätte saada. Eesti Päevaleht.

Niitra, Sirje (16 June 2011): Välismaale tööle minnes tasub olla ettevaatlik. E24.

Niitra, Sirje (19 June 2012): Saksamaal hooldajana töötanud naine käib vahendajaga kohut. E24.

Decisions of labour dispute committees.

4.2-2/1357; 31 August 2012.

4.4-2/1251; 02 July 2012.

4.1-2/1170-2012; 18 June 2012.

4.4-2/2033; 08 October 2012.

4.2-2/2936; 01 February 2013.

4.4-2/2607; 31 December 2012.

4.2-2/385; 28 November 2012.

4.2-2/1463; 22 August 2012.

4.3-2/882; 25 May 2012.

4.1-2/398-2012; 28 March 2012.

4.2-2/1221; 20 November 2012.

4.2-2/2381; 26 November 2012.

4.3-2/66; 21 February 2012.

4.4-2/1632; 29 August 2012.

Decisions to delete agencies from the Register of Economic Activities.

14.2-2; 16 June 2009.

14.2-2/134; 19 March 2010.

14.2-2/1183; 08 April 2010.

14.2-2/4216; 15 September 2010.

14.2-2/2105-3; 08 May 2012.

4.2-2/3991; 11 September 2012.

LITHUANIAN MIGRANTS AS VICTIMS OF HUMAN TRAFFICKING FOR FORCED LABOUR AND LABOUR EXPLOITATION ABROAD

Diana Janušauskienė[1]

1. Introduction[2]

One of the potential threats faced by Lithuanian nationals seeking jobs abroad and working abroad is the possibility of experiencing labour exploitation or becoming victims of human trafficking for forced labour.

This study addresses both of these phenomena in order to find out the scope and the nature of the problem and to assess the situation in respect of prevention and victim assistance in Lithuania.

In this research, human trafficking for forced labour is understood as a situation in which two phenomena, labour exploitation and human trafficking, co-exist and overlap. Human trafficking for forced labour is analysed in the context of the broader phenomenon of labour exploitation. Such an approach is not chosen coincidently. As the primary data of this research shows, modern human trafficking for forced labour within the European Union (EU) (Lithuania included) may not bear all the characteristics of human trafficking. There are situations where the stage of victim transportation is absent and victims are persuaded to travel to the agreed point of destination themselves. This research shows that victims may be exposed to psychological and not necessarily to physical coercion. Based on the primary data of this research, it is difficult to distinguish where labour exploitation ends and human trafficking for forced labour begins.

Nevertheless, despite the gradual transformation of these phenomena, labour exploitation and human trafficking for forced labour abroad remain important

---

[1] Centre for Social Studies, Vytautas Magnus University

[2] This study was commissioned by the Ministry of Interior of Lithuania under the auspices of the ADSTRINGO project (Addressing trafficking for labour exploitation through improved partnerships, enhanced diagnostics and intensified organisational approaches). The project is implemented with the financial support of the Prevention of and Fight against Crime Programme European Commission – Directorate-General Home Affairs. The author is especially thankful for the representatives of Criminal Police, Lithuanian Labour Exchange and Vilnius Labour Exchange, Caritas Lithuania, Men's Crisis Centre, and Missing Persons Families Support Centre for participating in the research. The author wants to express her gratitude to Ms. Reda Sirgedienė, Dr. Eglė Vileikienė, Dr. Ramūnas Janušauskas and the editors of this volume for their comments and ideas.

problems globally. The International Labour Organisation estimates that 20.9 million people are victims of forced labour globally.[3] According to data of the United Nations Office on Drugs and Crime, in 2010 globally 79 % of all detected cases of human trafficking were connected to prostitution and sexual exploitation and 18 % of cases to forced labour. It was less common for cases to be related to forced begging and organ trafficking.[4] In 2012, the proportion of human trafficking for forced labour grew to 36% of all detected human trafficking cases.[5] Thus, last year approximately every third detected victim of human trafficking in the world suffered from forced labour.

The United Nations perceives human trafficking for forced labour to be one of the most serious contemporary social problems and states that at least in 2012, 136 different nationalities were trafficked and detected in 118 different countries.[6] Even though there is evidence that trafficking from Eastern Europe and Central Asia has been declining since 2000,[7] the significance of the problem remains.

Lithuania's accession to the EU opened possibilities for Lithuanian nationals to enjoy the freedom to move and work in the EU. However, these positive changes have been accompanied by some negative consequences such as a weakening of the possibilities of preventing human trafficking. When human trafficking is not limited by state borders, its control becomes harder, and recruitment and transportation of victims becomes easier. On the other hand, the more people go to work abroad, the greater the likelihood of labour exploitation.

As a rule, Lithuania is a country of origin of labour force. According to data from the most recent census conducted in 2011, "around 769 thousand people or one fifth of the population have left the country since independence in 1990."[8] In 2012 emigration flows from Lithuania decreased, yet remained high and accounted for 41,100 persons who officially declared that they have left Lithuania.[9] The major destinations in 2012 were the United Kingdom (UK)

---

3 ILO Global Estimate of Forced Labour. ILO 2012. http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_182004.pdf (downloaded 30 June 2013).

4 The Globalization of Crime. A Transnational Organized Crime Threat Assessment. United Nations Office on Drugs and Crime, 2010. http://www.unodc.org/documents/data-and-analysis/tocta/TOCTA_Report_2010_low_res.pdf (downloaded 9 May 2013).

5 UNODC, Global Report on Trafficking in Persons 2012", New York: United Nations, 2012. http://www.unodc.org/documents/data-and-analysis/glotip/Trafficking_in_Persons_2012_web.pdf (downloaded 5 June 2013).

6 Ibid.

7 Ibid.

8 International Organisation for Migration – Lithuania, Migration in Numbers, http://123.emn.lt/en/general-trends/migration-10-years-overview (downloaded 2 August 2013).

9 Ibid.

(19,857 persons), Ireland (3,523 persons), Norway (3,230 persons), Germany (3,178 persons), Spain (1,451 persons), the United States of America (1,226 persons), Sweden (986 persons), and Denmark (932 persons).[10] Presumably the unofficial numbers for emigration are much higher.

According to the data of a representative survey which was conducted in Lithuanian in 2012 and involved 3,022 respondents, 10 % of the respondents (300 persons) had worked abroad during the preceding five years. Out of those 300 persons who had worked abroad, 7 % (22 persons) stated that they had worked under inhuman conditions; 4 % (13 persons) stated that that they had not received their wages; one respondent said that his freedom of movement had been restricted; one respondent stated that violence and threats had been used; and three respondents stated that they had not been able to cancel the employment contract. 48 % of all those who suffered from the above (18 persons) experienced it in the UK; 12 % (5 persons) in Spain; 9 % (4 persons) in Norway; 9 % (3 persons) in Germany; 6 % (2 persons) in Ireland; and there were also one case each in France, Greece, the Russian Federation and Sweden.[11] As this data shows, some Lithuanian nationals experience labour exploitation abroad. It should be taken into consideration that some of those who suffered exploitation do not consider it to be exploitation, and therefore it is difficult to measure the scope of the phenomenon precisely. Also in the case of human trafficking for forced labour, there is no precise data, since only a small part of these cases are reported to the police and there is no court practice in Lithuania. Indeed, until recently, there have been no cases in court resulting in a conviction for human trafficking for forced labour.[12] On the other hand, there were 4,980 criminal acts registered in 2012 under Article 182 "Fraud" of the Criminal Code.[13] By definition this crime is closely related to deceitful employment abroad, and similar criminal acts might be registered under this Article.[14] For example, people may pay money for information about available jobs abroad, and travel only to find upon arrival that there is no job. Some of them look for a job on their own anyway and find it, others return and report the matter to the police. As groups of people are cheated in such a way, many criminal acts are recorded by the police. During this research, several randomly selected criminal acts were analysed. However, no forced labour and human trafficking indicators were traced.

---

[10] Ibid.

[11] The representative public opinion survey was ordered by the Ministry of Interior of Lithuania and conducted on 9 August – 8 October 2012. The survey was conducted by "Baltijos tyrimai". In total, 3,022 respondents aged 15–74 were researched using individual interviews in their homes in all counties of Lithuania.

[12] Source of information: Expert interview No.E2.

[13] Information Technology and Communications Department of the Ministry of the Interior. Crime Statistics. http://www.ird.lt/infusions/report_manager/crimes_lithuania.php?id3=27.

[14] Source of information: Expert interview No.E2.

As there are almost no statistics on labour exploitation involving Lithuanian nationals abroad, as well as the fact that the statistics on human trafficking for forced labour are not precise and, in general, there is little research in this area in Lithuania, the need to collect and study such data is obvious. Even though cases of labour exploitation and human trafficking for forced labour do exist within Lithuania, this study is limited to the analysis of the situation of Lithuanian nationals working abroad (mostly in the EU and Norway). The goal of this research is to analyse the situation of human trafficking for forced labour of Lithuanian nationals abroad within the broader context of labour exploitation.

This research aims at analysing the process of human trafficking for forced labour and labour exploitation, starting with the analysis of legal regulations, the scope of the problem, and measures of prevention and victim assistance, and continuing to the analysis of actual experiences of Lithuanian nationals seeking a job abroad and working abroad: how they find a job abroad, how employees are recruited, and what the models are of trafficking for forced labour and labour exploitation.

In order to achieve the aim, three research methods were applied: documentary analysis, interviews and observations. The research was conducted between March and June 2013.

During this research the following documents were analysed:

- Documents of international organisations, declarations and other documents related to human trafficking and labour exploitation;
- National and international legal documents that regulate trafficking in human beings and labour abroad;
- Research reports and statistical data of international and national organisations on trafficking in human beings and labour exploitation;
- Information of official internet sites of Lithuanian state institutions, public agencies and non-governmental organisations (NGOs);
- Public statements of leaders of NGOs;
- On-line advertisements (ads) offering jobs abroad (ad sites and the site of the Labour Exchange)

The second method used in this study is direct semi-structured and unstructured interviews. Two questionnaires were prepared (see Annex 1 and Annex 2): one was designed for people who worked abroad or were seeking jobs abroad, and the second one was for experts who, because of their professional activities, could provide interesting and valuable research information. In some cases, when the professional experience of the respondents was very specific and narrow, the unstructured interview technique was applied.

Thus, the study used the following interview techniques:

1. Semi-structured expert interviews.
2. Unstructured expert interviews.
3. Semi-structured interviews with Lithuanian nationals who worked abroad or were looking for jobs abroad.

The interviews were conducted between March and June 2013. The study took place in the following major cities in Lithuania: Vilnius, Kaunas, Alytus, and Panevėžys.

Two types of interview questionnaires were developed. The experts were asked about their experience working with victims of human trafficking and labour exploitation, as well as the general trends in labour migration. The migrants were asked about ways of seeking a job abroad and their experiences with working abroad.

The experts were selected on a target basis, while respondents who worked and looked for jobs abroad were selected using the information provided by the experts, and using a snowball approach.

The following experts were interviewed:

- Leaders of NGOs that provide help to victims of human trafficking and labour exploitation abroad, namely representatives of the Caritas Lithuania project "Aid to the Victims of Trafficking and Prostitution", the Men's Crisis Centre and the Missing Persons Families Support Centre.
- Specialists of the Lithuanian Labour Exchange under the Ministry of Social Security and Labour, and the local Vilnius Labour Exchange;
- EURES advisers based at the Lithuanian Labour Exchange under the Ministry of Social Security and Labour and at the local Vilnius Labour Exchange;
- A criminal police expert specialised in investigations of trafficking in human beings and exploitation for forced labour.

The interviews with those who worked or sought jobs abroad were with the following:

- Victims of trafficking in human beings for forced labour currently living in Lithuania;
- People who worked abroad and experienced labour exploitation;
- People with long-term work experience abroad, who looked for jobs in a variety of ways;
- People looking for jobs abroad.

In total, the empirical study included nine expert interviews and seven interviews with people who worked abroad or sought jobs abroad. On average,

an expert interview lasted half an hour. The longest interview lasted 55 minutes, and the shortest one 18 minutes. Most of the expert interviews were conducted at the place of work of the experts. One of the interviews took place in a neutral place, a café.

The interviews with people who worked abroad or who had sought employment abroad were conducted in neutral locations, usually cafes, and two interviews were conducted in university premises. The longest interview lasted 1 hour and 19 minutes, and the shortest 13 minutes.

The interviews were transcribed and the qualitative data was coded into categories. The study gathered additional information on everyday life of Lithuanian emigrants as well as activities of NGOs in Lithuania, which was not directly used in the report, but was helpful in understanding the overall context and could be used in further research.

Table 1. Description of the experts interviewed.

No.	Organization	Interview length	Interview place
E1	Caritas Lithuania project "Aid to the Victims of Trafficking and Prostitution" (NGO)	22 min.	Vilnius
E2	Criminal police	44 min.	Vilnius
E3	Lithuanian Labour Exchange, EURES	31 min.	Vilnius
E4	Lithuanian Labour Exchange	22 min.	Vilnius
E5	Vilnius Labour Exchange	18 min.	Vilnius
E6	Vilnius Labour Exchange, EURES	20 min.	Vilnius
E7	Vilnius Labour Exchange	35 min.	Vilnius
E8	Men's Crisis Centre (NGO)	43 min.	Kaunas
E9	Missing Persons Families Support Centre (NGO)	55 min.	Vilnius

Table 2. Description of respondents interviewed.

No.	Age	Gender	Length of work abroad	Country where he/she worked	Interview length	Interview location
1	26	female	6 months	UK	59 min.	Vilnius
2	34	male	11 years	UK	17 min.	Alytus
3	36	female	10 years	UK	1 hour 14 min.	Vilnius
4	32	female	9 years	UK	28 min.	Vilnius
5	20	male	1 month	Netherlands	14 min.	Kaunas
6	52	female	Did not work	Did not work	13 min.	Vilnius
7	50	male	1 month	Germany	1 hour 19 min.	Panevėžys

In addition to documentary analysis and the interviews, four observations were carried out on the Vilnius – London – Vilnius flights of two budget airlines, Wizzair and Ryanair. The Vilnius – London – Vilnius route was chosen due to the fact that the UK is one of the most popular countries for Lithuanian nationals seeking a job abroad. As the data of the representative survey of 2012 shows, in Lithuania 48 % of all respondents who had experienced labour exploitation or restriction of movement, received no wages, or "worked under inhuman conditions"[15], experienced this in the UK.[16]

While planning the study it was assumed that the most suitable way of observation would be a combination of free talks with the passengers (non-structured interviews) and observation in the form of listening to the discussions among passengers. Due to the nature of the specific observation type it was not possible to conduct more than one or two unstructured interviews with the passengers during one flight. Unstructured interviews were limited to passengers sitting nearby in the airplane. Observation opportunities were also very dependent on the conditions of the airport, since the waiting rooms at both London Luton and London Stansted airports are shared, and at the boarding gate passengers are invited to board the plane about 15 minutes before the departure. The observation conditions at Vilnius Airport were better, because passengers are immediately routed to the boarding gate, allowing for more time to monitor the passengers.

[15] The survey question was formulated as follows: "Have you been in the following situations while working abroad: Had to work in inhuman and slavery conditions? . . . "

[16] The representative public opinion survey was ordered by the Ministry of Interior and conducted from 9 August to 8 October 2012. The survey was conducted by "Baltijos tyrimai". In total, 3,022 respondents aged 15–74 were interviewed using individual interviews in their homes in all counties of Lithuania.

The observation data was recorded in diaries the day after the observations were completed.

During these four observations five unstructured interviews were conducted with persons working abroad for a long time (see Table 1).

Table 3. Description of observations.

Nr.	Flight	Airlines	Number of interviews	Length of interviews
1	Vilnius – London Luton	Wizzair	2	I - 2 hours; II - 15 min.
2	London Stansted – Vilnius	Ryanair	1	30 minutes
3	Vilnius – London Luton	Ryanair	1	20 minutes
4	London Luton – Vilnius	Ryanair	1	2.5 hours

This report is first and foremost based on primary data collected during the research. All typologies, categories, and indicators presented in the tables are based on the primary data of this research and are supported by interview quotes, observation findings or analysis of data from documentary sources.

It is important to note that the data on the scope of the problem of human trafficking for forced labour, problems of victim identification, typology of victims, ways of "bonding" of victims and victim assistance is based on a much larger number of cases of human trafficking than those 13 cases described in the study. The experts provided information about general trends and features of human trafficking, prostitution included.

2. The concept and legal regulation of human trafficking and forced labour in Lithuania

In Lithuania, human trafficking was criminalised by introducing a corresponding article in the Criminal Code on 2 July 1998. Later several amendments were made to the Criminal Code and after the recent amendments in 2012, human trafficking is regulated in the Lithuanian Criminal Code in accordance with the standards of the main international documents, including Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, replacing Council Framework Decision 2002/629/JHA [OJ L 101 of 15.4.2011][17] and incorporates criminal liability for all forms of trafficking in human beings, as well as exploitation for forced labour or services and usage of person's forced labour or services: Article 147 Human Trafficking, Article 147(1) Exploitation for Forced Labour or Services, Article 147(2) Usage of Person's Forced Labour or Services and Article 157 Sale or Purchase of a Child[18].

Article 147. Human Trafficking[19]

> 1. A person who sells, purchases, or otherwise transfers or acquires a person, or recruits, transports, or holds in captivity a person by using physical violence or threats, or otherwise depriving him of a possibility of resistance, or by taking advantage of the victim's dependence or vulnerability, or by resorting to deceit, or by paying or granting other material benefit to a person who actually has the victim under his control, where the offender is aware of or seeks involvement of the victim, regardless if the victim agreed, in exploitation in slavery conditions or conditions close to slavery, prostitution or other forms of sexual exploitation, forced labour or services, including for criminal activities or other exploitative purposes, shall be punished by imprisonment for a term of two up to ten years.

---

[17] On 26 July 2012 Lithuania ratified the Council of Europe Convention on Action against Trafficking in Human Beings No. 197 of 2005 (it came into force on 1 November 2012), on 22 April 2003 Lithuania ratified the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime, on 10 June 2004 the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography was ratified, on 26 September 1994 the ILO Forced Labour Convention No. 29 of 1930, and other main international legal instruments to combat human trafficking and forced labour.

[18] The latest amendments were enacted by law No. XI-2198 of 30 June 2012. http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=450648&p_query=&p_tr2=2. (downloaded 30 June 2013)

[19] Unofficial translation. No official translation is available.

2. A person who commits the act provided for in Paragraph 1 of this Article in respect of two or more victims, or endangering life of the victim, or by participating in an organised group, or being aware or seeking to acquire the victim's organ, tissue or cells, or being civil servant or executing public administrative functions and executing authority, shall be punished by imprisonment for a term of four up to twelve years.

3. The victim of the offence provided for in this Article may be exempted from criminal liability for the offence which he was forced to commit due to the offence against the victim provided for in this Article.

4. A legal entity shall also be held liable for the acts provided for in Paragraphs 1 and 2 of this Article."

Article 147(1). Exploitation for Forced Labour or Services[20]

1. A person who, by using physical violence, threats, deceit, or other ways specified in Article 147 of this Code, illegally forced a person to do a certain job or to provide certain services, including begging, shall be punished by a fine, or by restriction of liberty, or by arrest, or by imprisonment for a term of up to three years.

2. A person who commits the act indicated in Paragraph 1 of this Article by forcing a person to work or provide services under the conditions of slavery or under other inhuman conditions, shall be punished by arrest or by imprisonment for a term of up to eight years.

3. A legal entity shall also be held liable for the acts provided for in this Article."

Article 147(2). Usage of Person's Forced Labour or Services[21]

"1. A person who has enjoyed the work of another person or the provision of services, including prostitution, being aware of, or must or could have known that the person is doing this job or providing these services due to the fact that this person was used for the purposes of exploitation under physical violence, threats, deception, or other means referred to in Article 147 of this Code,

shall be punished by a fine, or restriction of liberty, or deprivation of liberty, or deprivation of liberty of up to two years.

2. The person who did the deed provided for in this Article shall be exempt from criminal responsibility if this person, prior to his recognition as the suspect, voluntarily informed the law enforcement authority and actively cooperated in establishing the victim of human trafficking

[20] Unofficial translation. No official translation is available.

[21] Unofficial translation. No official translation is available.

(Article 147) or of the purchase or sale of a child (Article 157), or solving any of these crimes.

3. A legal entity shall also be held liable for the acts provided for in this Article."[22]

Article 157. Sale or Purchase of a Child[23]

1. A person who offered to buy, otherwise to acquire, sold, purchased, otherwise transferred, acquired, recruited, transported, or held in captivity a child, being aware or seeking that, regardless if the child agreed, the child would be illegally adopted, exploited under slavery or similar conditions, for prostitution, pornography, other forms of sexual exploitation, forced labour or services, including begging, to commit criminal activity, or other exploitative purposes, shall be punished by imprisonment for a term of three up to twelve years.

2. A person who commits the act provided for in Paragraph 1 of this Article in respect of two or more children, or a preteen, or endangering life of the victim, or by participating in an organised group, or being aware or seeking to acquire the victim's organ, tissue or cells, or being a civil servant or executing public administrative functions and executing authority, shall be punished by imprisonment for a term of five up to fifteen years.

3. The victim of the offence provided for in this Article may be exempted from criminal liability for the offence which he was forced to commit due to the offence against the victim provided for in this Article.

4. A legal entity shall also be held liable for the acts provided for in Paragraphs 1 and 2 of this Article."

The Criminal Code also incorporates punishment for inhuman and degrading treatment, involvement of another person in prostitution, earning from another person's prostitution, etc. It also foresees strict penalties for fraud and sending abroad and leaving another person in a vulnerable situation.

In 2007, a set of indicators of human trafficking was develped in Lithuania. It consisted of two main parts: legal indicators related to the above Articles of the Criminal Code, and risk indicators which could lead to legal identification of the crime of human trafficking. The latter coincides with the ILO indicators and the other internationally used indicators of human trafficking and forced labour. An update of this set of indicators is expected by the end of 2013.

---

[22] Nr. XI-2198, 2012-06-30, Žin., 2012, Nr. 82-4276 (downloaded 13 July 2012). http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=450648&p_query=&p_tr2=2 (downloaded 30 June 2013)

[23] Unofficial translation. No official translation is available.

It is also important to mention that a systematic and multidisciplinary way to combat trafficking in human beings in Lithuania has been used since 2002. Lithuania was among the first countries in the Baltic Sea region to introduce a specialised programme to combat human trafficking. The Control and Prevention of Trafficking in Human Beings and Prostitution Programme for 2002-2004 was adopted by the Government on 17 January 2002. Most recently Lithuania has implemented the fourth national action plan adopted by the Government on 14 November 2012.

3. The scope of the problem and problems of victims identification

The 2013 Eurostat report "Trafficking in Human Beings" reports 25 identified[24] victims in Lithuania in 2008, 14 in 2009, and 3 in 2010.[25] Compared to other EU countries in 2010, the Lithuanian number was one of the smallest.

Table 4. Number of identified and presumed victims in EU Member States in 2010.[26]

Member States	**Number of identified and presumed victims**	**Number of identified and presumed victims per 100,000 inhabitants**
Belgium	130	1.2
Bulgaria	432	5.7
Czech Republic	83	0.8
Denmark	53	1.0
Germany	651	0.8
Estonia	57	4.3
Ireland	78	1.7
Greece	92	0.8
Spain	1605	3.5
France	726	1.2
Italy	2381	3.9
Cyprus	52	6.3
Latvia	19	0.8

[24] Lithuania supplied data only about identified victims in criminal proceedings.

[25] Trafficking in Human Beings. Eurostat. Luxembourg: Publications Office of the European Union, 2013, p.31. http://ec.europa.eu/anti-trafficking/download.action?nodePath =%2FPublications%2FTrafficking +in+Human+beings+-+DGHome-Eurostat_EN.pdf&fileName=Trafficking+in+Human+beings+-+DGHome-Eurostat_EN.pdf&fileType=pdf (downloaded 12 May 2013).

[26] Trafficking in Human Beings. Eurostat. Luxembourg: Publications Office of the European Union, 2013, p.31. http://ec.europa.eu/anti-trafficking/download.action?nodePath =%2FPublications%2FTrafficking +in+Human+beings+-+DGHome-Eurostat_EN.pdf&fileName=Trafficking+in+Human+beings+-+DGHome-Eurostat_EN.pdf&fileType=pdf (downloaded 12 May 2013).

Member States	Number of identified and presumed victims	Number of identified and presumed victims per 100,000 inhabitants
Lithuania	3	0.1
Luxembourg	8	1.6
Hungary	10	0.1
Malta	4	0.1
Netherlands	993	0.6
Austria	62	0.7
Poland	278	0.7
Portugal	8	0.1
Romania	1154	5.4
Slovenia	31	1.5
Slovakia	38	0.7
Finland	79	1.5
Sweden	74	0.8
United Kingdom	427	0.7
European Union: total	9528	2.0

The low official indicative number of victims in Lithuania does not mean that the problem does not exist or that it is of a small scale. According to this research, there is a set of conditions that complicates the identification of victims. First of all, these relate to victims who often do not apply for help, do not consider themselves to be victims, do not know where to complain, and do not believe that they can be helped, etc. Secondly, the police, prosecutors, judges, or the staff of consulates may have insufficient competence in this area. The problem of trafficking for forced labour is not well understood, and some victims remain unidentified and without assistance. According to the Eurostat report: "The identification of victims of trafficking in human beings is widely considered to be one of the challenging aspects in addressing trafficking in human beings. Front line officials might not always recognise indicators of a victim of trafficking in human beings and victims might not always consider themselves to be human trafficking victims."[27]

[27] Trafficking in Human Beings. Eurostat. Luxembourg: Publications Office of the European Union, 2013, p. 30. http://ec.europa.eu/anti-trafficking/download.action?nodePath =%2FPublications%2FTrafficking +in+Human+beings+-+DGHome-Eurostat_EN.pdf&fileName=Trafficking+in+Human+beings+-+DGHome-Eurostat_EN.pdf&fileType=pdf (downloaded 12 May 2013).

Some victims in Lithuania are identified when they request assistance from NGOs. Importantly, often victims are identified only when they request help from NGOs on completely different issues than trafficking, and it turns out, as if by accident, that they were victims of trafficking for forced labour.[28] Some of these victims receive NGO assistance after being directed to them by the police, or Lithuanian embassies.

On the basis of data of the NGOs, one can conclude that there might be far more identified victims of human trafficking in Lithuania, as compared to the Eurostat report. In its reports, the Missing Persons Families Support Centre says that in 2012 it provided assistance to 33 victims of human trafficking, three of whom received shelter.[29] According to the data of the Caritas Lithuania project "Aid to the Victims of Trafficking and Prostitution", since 2001, when the project started, the organisation received 620 women of whom 60 % were victims of trafficking in women abroad (in Germany, England, Spain, Greece, the Czech Republic, Italy and the Netherlands), and 40% were engaged or were forced to engage in prostitution in Lithuania. These women were 12–42 years old.[30] According to the project leader, "every year we provide assistance to some 100 victims."[31]

Since statistics on humans trafficking for forced labour is imprecise, this research tried to pinpoint the scope of the problem by consulting expert opinion. NGO experts working with such victims maintain that the precise calculation of the number of victims is impossible because, first of all, many cases remain unknown since victims do not seek assistance or do not report, and, secondly, some cases are registered abroad but are not included in the Lithuanian statistics.

The interviewed experts pointed out that in general there are not many cases of human trafficking for forced labour that become known. As one of the experts puts it:

> Well, I cannot tell anything typical because there are not many cases. Either very young or very old men, who are being exploited (they left hoping for some kind of specific job, they do not get that job or get a different job, or do not get any at all), and they suffer both physical and psychological violence. They come back and, most often through the

[28] During meetings of national experts it became evident that at times there are cases in which NGOs, seeking to guarantee the anonymity of victims, do not encourage them to turn to the police and do not provide such information.

[29] Missing Persons Families Support Centre, www.missing.lt (downloaded 20 June 2013).

[30] Caritas Lithuania project "Aid to the Victims of Trafficking and Prostitution, http://www.anti-trafficking.lt (downloaded 21 June 2013).

[31] Caritas Lithuania, http://www.caritas.lt/index.php?id=new&new=100 (downloaded 21 June 2013).

police, they get to us . . . At least 5–6 victims [come to the Caritas] a year. (Expert No. E1)

The other NGO expert that deals with the victims of human trafficking for forced labour says that:

> According to the project report [Men's Crisis Centre] we had 51 persons who suffered from slave labour in Lithuania and abroad . . . [Abroad] there were some 38–39, and 11 of our local exploitation, or maybe 9 local, something like that [number]. (Expert No. E8)

The general tendency, according to the experts, is that the number of human trafficking for forced labour is decreasing:

> Clearly, the number of cases is now reduced. Out of 20, 10 are left or so, less . . . Many are jailed for that thing, that thing is constantly in the mass media . . . it appears, i.e. these cases, prevention. Quite a few of those [criminal] groups, specifically those people who are engaged, are sentenced, while others - emigrated from Lithuania … It makes sense that the number of crimes is decreasing. (Expert No. E2)

Experts think that Lithuanian statistics are not accurate since cases that are reported abroad are not included in the statistics. As one of the experts points out:

> About 50 victims are identified . . . a year. For example, the year before the last year there were initiated 21 pre-trial investigations, if I'm not mistaken – 10 inquiries . . . In terms of scale, those numbers are identified by our police, they do not correspond to the real situation. Because these numbers do not include, for example, inquiries carried out in foreign countries, where the victims and the suspects are Lithuanian nationals. I know not one such inquiry. The last one was in England . . . there were over 30 Lithuanian victims and 6–7 suspects were Lithuanians - exploiters who are constantly doing these things. We do not see these numbers in our statistics. Further, there were inquiries in Sweden, where [there is] prostitution, in Iceland, all these numbers. All these numbers remain in those countries, that is to say they do not show in our statistics. (Expert No. E2)

The number of cases reported by the experts is not large, but, as has already been indicated, they are obviously more numerous than what is shown by the official statistics. Summarising the expert opinion, several explanations emerge as to why few victims are identified and why relatively few court cases take place in Lithuania.

The first explanation refers to the qualifications of police officers that do not allow the identification of victims:

> Here it depends on a concrete police division, which investigates, it depends on the preparation and qualification to identify a case. (Expert No. E1)

The second explanation provided by the experts is the termination of cases:

> In the cases I am speaking about, all 100 per cent of them will be terminated, but at least they have been initiated. (Expert No. E1)

The third explanation refers to the fact that in the statistics cases are classified in accordance to in which countries the legal procedures are started or victims receive assistance:

> In terms of scale, those numbers are identified by our police, they do not correspond to the real situation. Because these numbers do not include, for example, inquiries carried out in foreign countries, where the victims and the suspects are Lithuanian nationals. . . . Most often victims remain in that country. Each EU Member State should have their mechanism of directing victims to assistance. . . . I know a case where a victim is in Iceland, and did not come back to Lithuania, she has integrated there. She was in Iceland, at the beginning I think, and then she moved to Norway. She did not come back, there is such a possibility. Maybe because those countries assist victims, I don't know. These Western countries are still richer than Lithuania. (Expert No. E2)

The fourth explanation is reclassification of cases under other articles:

> [In the Czech Republic] this was the only case in which we succeeded. In reality more than 100 people were transported there. Yet we have managed to find and question about 50. Yet, finally, this case went to court not as a trafficking case. . . . And how about the abandonment of Lithuanian nationals abroad without help. . . . Penalty is a joke there, they have received financial penalties. Even though according to our deep conviction, this was a normal case of trafficking. The major problem in that case was that, I think, during the investigation, three or four public prosecutors have changed and each of them had their own opinion on the issue. And finally the last took a decision that it will not be sent to court as a case of trafficking. He lacked internal conviction, because he was not specialised in this area and he has chosen an easier way. And the case was sent under a different article, while the one hundred per cent evidence was there, and you could not simply justify this, no way. Before sending the case to court we had discussed for two hours with the public prosecutor and we tried to prove that it is necessary to send it as a case of human trafficking, let the court say what is slavery and what is what. If it corresponds to the criteria, then we would have a normal decision of court and clarification. OK, if they are cleared [of charges], they would say what was lacking in this case, but it did not happen. (Expert No. E2)

And the last explanation is that the responsible lawyers lack knowledge about human trafficking for forced labour:

> What is very strange, I later understood, the attorney does not quite understand that [trafficking for forced labour]. . . . This is why we do not have a single case which is investigated in court as trafficking for labour – all cases are trafficking for sexual exploitation, there are no questions there for anybody, everything is clear here. (Expert No. E2)

Thus, the interviews with the experts showed that the low number of identified victims cannot be explained by the reluctance of victims to seek assistance or to report or by their inability to request assistance alone. The identification of cases of trafficking in humans and the ensuing legal procedures depend on the qualifications of the police and prosecutor's office staff and on their ability to identify victims, the general understanding of humans trafficking for forced labour throughout the legal procedure chain, and adequate interpretation of the problem.

3.1 Why victims do not apply for help?

The study sought to find out why a large proportion of cases remain unknown, and via what channels information about forced labour cases becomes public. As observed by non-governmental experts, victims do not seek help themselves, and tend to deny that they have become victims of human trafficking:

> No, men really do not. Nor do women. . . . That a person himself would apply, it really does not happen. It was the case with us, the psychologist worked with us. There was a man that had suffered. An attempt was made to persuade him to report to the police, yet no, no, what do you think, somebody has tricked me. No. You need to work, there should be prevention. Until there is prevention (or maybe it has to do with gender equality) that it is not a shame for a man to cry. A man should not be ashamed to cry. (Expert No. E9)

> When you tell them, do you understand that you worked under conditions of slavery? A man at once, you know, he retreats. And says, how could you think that I, such a man, no, no, this is a simple misunderstanding. (Expert No. E8)

Summarising the information gathered, it can be said that most of the victims do not realise their own experience as human trafficking. This is often a characteristic of a lower social class and of alienated people. Yet another part is inclined to deny their experiences because the trauma and patriarchal socialisation does not allow them to admit that they have become victims of human trafficking:

> And that a man is exploited, he does not even know, he says, they cheated me. (Expert No. E9)

> This is the story of a psychological trauma. (Expert No. E1)

> Especially for men it is alien to [seek help], dignity was already humiliated, and to appeal, there is yet another humiliation of dignity. (Expert No. E1)

There are also other reasons why the number of victims is not known. Victims do not know where to turn to, they do not believe that anyone can help, or are afraid to apply because they have committed criminal offences:

> Do not know where to [apply]. (Expert No. E1)
>
> They do not trust that somebody can help. (Expert No. E1)
>
> Sometimes the owner fraternises: goes and has a drink with the local sheriff, for instance. Then where could you run to or complain? (Expert No. E1)
>
> In the Czech Republic this was a case: out of those 50 people questioned - none of them complained to the police. And we asked them, why? So, they said, they did not pay us the money, we were stealing from the shops, thus how could we go to the police, how will we complain there? They feel guilty legally, that they did something wrong: they were stealing in order to survive, they were going to steal, because they used to get (in our money) 10 litas or 100 CZK per week – how can a person survive? (Expert No. E2)

In addition, victims are bound by promises, they are frightened, convinced that they are indebted, and therefore dare not seek help.

Legal proceedings, according to the experts, start only when information on human trafficking is received from the NGOs, embassies and consulates abroad, or if the people turn themselves to the police or the police receives information about cases of trafficking from other sources. NGOs that provide assistance to victims get to know about cases when victims come for consultations on employment opportunities or other personal problems. Then it turns out that they are victims of human trafficking for forced labour. Information may come through indirect channels as well, when family members or friends call the help lines seeking help. Information about victims comes from the police as well. Victims themselves, according to the experts, tend not to seek help from NGOs.

The main channels of information about trafficking in humans are:

- The police ("They experience both physical and psychological violence, they come back, and, most often they come to us [Caritas] through the police."(Expert No. E1))
- Lithuanian embassies and consulates ("There people come to the embassy and consulate for help." (Expert No. E1))
- NGOs ("Most often they apply because of other reasons: the relationship within the family has worsened, I divorce my wife, there is violence in the family and then, as one more life story, we get to

know the painful experience of work, of such painful work." (Expert No. E8))

- Information provided by the relatives, friends and acquaintances of victims ("Tells a doctor, yes, for sure, it happens that they tell the neighbour. This is a kind of interrupted channel of information." (Expert No. E1); "Relatives or parents call [the helpline]. It happened that one left with his friend, the friend is back, while the son is absent." (Expert No. E9)

A special feature of human trafficking for forced labour is that victims themselves rarely seek assistance and often do not see themselves as victims of human trafficking.

4. Prevention and victim assistance

Lithuanian NGOs working with the victims of human trafficking and human trafficking for forced labour, in particular, note that public authorities pay insufficient attention to the issue of human trafficking. The website of the Lithuanian Caritas has a statement of the leader of its project "Aid for the Victims of Prostitution and Trafficking in Women":

> The importance of preventive education, public awareness is not completely understood. Representatives of the Ministry of Education and Science do not come to conferences and discussions organised by us. And unnecessarily so. The recruitment tactics of human traffickers are becoming more subtle, they evolve. It should be really discussed at schools, care institutions. And to be spoken in a language understandable to each group, attractively. An old truth is that prevention pays off the cost of providing assistance. It would be difficult to choose today what should be given priority – victim support or prevention. I think these are different parts of the same process. In Lithuania, assistance to victims of human trafficking was given to the non-governmental sector, but the state itself is not committed to anything specific. If there is money – we will support. Such a view does not encourage the provision of quality services; several NGOs view support for victims as one of their many implemented projects without which they would simply not survive.[32]

A big share of prevention programmes in Lithuania is conducted by NGOs on the basis of support funds or foreign embassies. The table below provides a systematic list of prevention activities and support for human trafficking victims by Lithuanian NGOs.

[32] Caritas Lithuania, http://www.caritas.lt/index.php?id=new&new=100 (downloaded 21 June 2013).

Table 5. Prevention activities and victim assistance of NGOs in Lithuania.[33]

Name of the NGO	**Date of establishment**	**Activities carried out during the last years**
Missing Persons Families Support Centre	1996 (provide victim assistance since 1997)	Preventive and educational activities (public lectures, conferences, seminars; commemorative days celebration; publicity through the mass media, posters and leaflets and dissemination; publicity of Internet threats); Assistance to victims and those potentially liable to become victims (self-help groups organisation; therapy; lectures in schools; capacity building programmes for vulnerable groups); Provision of shelter for victims and integration programmes; Food Bank program.[34]
Caritas Lithuania project Aid to the Victims of Trafficking and Prostitution	Caritas – (1926) 1988 Project Aid to the Victims of Trafficking and Prostitution - 2001	Provide assistance to women victims of prostitution and human trafficking both in Lithuania and abroad: Since 2004 there is a programme The Development of Volunteering in Working with Women Victims of Trafficking; Since 2008 there is a programme Psycho-Social Counselling of the Victims of Prostitution as an Alternative to the Administrative Penalty; A network of victim assistance has been created which is based on mobile teams of social workers and psychologists in 5 bishoprics.[35]
Women's issues Information Centre (WIC)	1996	The information website www.lygus.lt for women has been developed which, in addition to other information, provides information about human trafficking and circulates information on where victims could seek assistance; One of the main activities of the WIC is prevention in trafficking of women;

[33] The list provided in the table is not complete.

[34] Missing Persons Families Support Centre, www.missing.lt (downloaded 20 June 2013).

[35] Caritas Lithuania Project Aid to the Victims of Trafficking and Prostitution, http://www.anti-trafficking.lt (21 June 2013).

		Creation and dissemination of social advertisement; Publication of Training Guide for Working with Victims of Forced Labour (2011); Implemented project We Are Society Too: preventive billboards released, a conference organised, training conducted for women from social risk groups, Internet campaign against human trafficking and youth debates conducted.[36]
Men's Crisis Centre	2009	Assistance for victims of human trafficking; Counselling by social worker, lawyer and psychologist; in 2012, a project undertaken Complex Assistance to Help Victims of Trafficking – Preventive Education of Men and Young Men in Kaunas and Kaunas District: Complex Support for Men Victims of Human Trafficking; Preventive Programme for Young Men (aged 14–18).[37]

The Missing Person Families Support Centre is one of the oldest NGOs active in providing assistance to victims of trafficking. In 1997, the Centre began providing assistance to victims of human trafficking for the purpose of prostitution, and in 2001 founded the first shelter for victims of trafficking in Lithuania. The organisation is actively engaged in the prevention of human trafficking, educational activities and providing direct assistance to victims. The Centre runs a free helpline. The Caritas project, launched in 2001, provides assistance to victims of prostitution and trade in women. The Men's Crisis Centre targets assistance to the men, victims of human trafficking, and organises preventive programs for young people. The Women's Information Centre works with woman who suffered from human trafficking.

Assistance to victims of human trafficking is also provided by Lithuania's state organisations. The Vilnius City Municipality Crisis Centre (formerly Vilnius City Mother and Child Pension) organises and provides short-term social welfare services including for women and their children – victims of human

[36] Information website for women administered by the WIC, www.lygus.lt (downloaded 21 June 2013).

[37] Men's Crisis Centre, http://vyrukrizes.lt (downloaded 21 June 2013).

trafficking and prostitution. The centre also carries out programmes aimed at capacity building, independence and integration.[38]

The public entity body Klaipėda's Social and Psychological Support Centre also provides assistance to victims of human trafficking and prostitution. The centre provides counselling, psychotherapy, legal aid, temporary accommodation, food, emergency services, access to mediation institutions. The centre runs a free helpline, and offers consultations over the Internet.[39] There are specialized centres for men and women in the major cities and in the majority of smaller municipalities in Lithuania.

A very important element in the provision of assistance to victims of human trafficking is the International Organisation for Migration (IOM), as "one of the main ways for the return and assistance to victims of trafficking is to address the IOM's Office in Vilnius."[40] However, recently the IOM Vilnius Office does not run specialized assistance programmes for returning victims of trafficking.

Since assistance for the victims of trafficking involves several stages – assistance abroad, assistance in returning to Lithuania, and assistance in Lithuania – it is very important that a wide variety of organisations providing this assistance coordinate their activities.

Lithuanian nationals who become victims abroad receive assistance from Lithuania's embassies and consulates abroad, the IOM offices, local NGOs and the police. After a victim has been identified, assistance provided includes: protection, medical assistance, accommodation, and the services of social workers, legal counsel and the consulate. The travel expenses might be covered from a special fund operated by the Ministry of Foreign Affairs of the Republic of Lithuania once a victim of trafficking is identified at a Lithuanian embassy or consulate. Upon returning to Lithuania, the victim is transferred to one of the organisations providing assistance to victims of human trafficking.[41]

As noted by the interviewed experts, in the prevention of human trafficking for forced labour abroad what is most important is the first step, that is, the identification of the victim:

> If he applies, first of all, he must be identified as a victim of trafficking. The identification must be done by the police, if the police identify . . . he falls into the hands of the state, and he is given multi-faceted support. If he does not contact the police . . . it means that no investigation has been

[38] Vilnius City Crisis Centre, http://vmkc.lt (downloaded 21 June 2013)

[39] Klaipėda Social and Psychological Assistance Centre, www.moteriai.lt (downloaded 22 June 2013).

[40] International Organisation for Migration Vilnius Office, Migration Information Centre, http://infocentras.iom.lt (downloaded 22 June 2013).

[41] International Organisation for Migration Vilnius Office, Migration Information Centre, http://infocentras.iom.lt (downloaded 22 June 2013).

> started, there is nothing. Then maybe only NGOs [can help], because the NGOs treat it differently, and in the police all is very simple, they recognise as the victim someone who was found to be the victim in a pre-trial investigation. (Expert No. E2)

The experts believed that the standardised victim identification model in Lithuania does not work properly, assistance to victims is not coordinated, there is no proper cooperation between the different organisations that provide assistance to victims, and therefore the system of prevention and assistance to victims needs to be improved.

In the opinion of experts who participated in the study, the prevention of trafficking for forced labour abroad is a difficult task that requires complex solutions. The experts tended to consider the current situation with a degree of scepticism, but pointed out some good examples as well, such as the prevention posters on the streets and free help lines:

> When these horrible billboards were out where a woman is hanging, . . . it was that maybe the people were scared . . . Being afraid is good prevention. (Expert No. E9)

Assessing the existing measures of prevention, experts pointed out that:

- Prevention is not a state priority ("Not a priority. This is very strange, because labour exploitation is much more widespread than prostitution. . . . The State does not intervene at all, it does not pay attention." (Expert No. E1))
- There is no standardised model of identification of victims and comprehension of the problem ("We have recently done a round table in Vilnius, because we wanted to clarify [the issues] of human trafficking and labour exploitation. And what I heard from [state] services shocked me. . . . The labour inspectorate must respond from the beginning and immediately, but they [said]: no, no, no – where is the exploitation? When we all start to talk, they are: well, yes, there were some complaints from [people from place X] in 2009, some other complaints, but something somewhere disappeared. I think that [there are] those countries which in fact are not ready, and the exploitation of prostitutes shocks us. But here – as if we are fools ourselves." (Expert No. E1))
- There is almost no control of employment agencies ("Before there were licenses, so there was more control, maybe ministries could do more [then]." (Expert No. E4); "We the Labour Exchange, see, [we are] not a controlling organisation, we do not control, we only collect the statistics about them [agencies]. They provide some reporting on employed persons: where they were employed, how many. We only collect such generalised information." (Expert No. E4))

During the research, experts expressed their views on how to improve the current situation of prevention. Their main proposals were:

- Establishment of dedicated counselling centres for victims of human trafficking for forced labour;

  This is human trafficking, [so] counselling, social assistance should operate outside [the frame of] women's assistance projects. . . . A man [thinks]: well, I'm not a prostitute. Today we work with everybody – there are no other structures. We have worked and we will work, but ideally there should be separate counseling centres. Yes – separate counseling for victims of labour exploitation. And it must not be mixed with prostitution. Because there is a wholly different specificity. (Expert No. E1)

- Creation of cooperating teams of the police, NGOs and social workers;

  First of all, there must be teamwork - the police in conjunction with the NGOs. Without this cooperation there really will be nothing. I know – there is the Italian experience. They have such mobile teams composed of both the police and the NGOs and social workers. And from time to time they patrol in sensitive areas (for example, where the prostitutes are visiting, somewhere in the work sector, somewhere else...) And [there are] trained people who in such places try to identify victims. Here, as in the prevention, and in research – everything can be in one. They come, ask, they explain what could happen. Because often that same person does not realise that he is the victim ofhuman trafficking - he does not understand. (Expert No. E2)

- Enhancement of public education;

  A simple [person] from the countryside who has neither the education nor the language. He does not understand that he was the victim of a crime of human trafficking. He said: I was cheated. I was promised, they did not pay me: I was cheated, but he does not understand that he was sold. So I think that education must be in a very high position [among priorities]. (Expert No. E2)

- Improvement of cross-border cooperation through the establishment of the post of inspector of complaints;

  Being here, maybe I do not have the possibility to go and to check that location, there should be some kind of representative in that country, to whom you can apply. One who could go and respond to those descriptions, where our client is, and see how it really is out there. (Expert No. E3)

- Creation of control mechanisms of employment agencies;

  Although there is no licences of this kind now, but one should, however, control employers in the original stage – whether or not

they actually have those foreign employers, whether or not they have concluded a specific agreement with them (for what period, what jobs and for how many persons). (Expert No. E5)

A very serious normative act must be prepared on this question, in which activities [of employment agencies] would be regulated. (Expert No. E7)

This business was streamlined and now there are a lot of facts of cheating. I assess the removal [of licensing] as negative [step].” (Expert No. E7) "The matter needs to be perfected. . . . The reporting form has been approved, it [includes]: gender, age, level of education, and in what countries [the agency employed them]. And we do a summary – an analysis of the statistics and we publish [it]. (Expert No. E7)

- Control of job ads

  The elimination of such ads, ads that are harmful. . . . It is necessary that there would be at least one person who deals with this, administer, monitor, and clean those sites. (Expert No. E8)

These are important measures that could help to improve the prevention of human trafficking as well as assisting victims.

5. The mechanisms of employment of Lithuanian nationals

5.1 The legal framework of the employment of Lithuanian nationals abroad

The legal framework of the employment of Lithuanian nationals abroad has changed substantially in early 2010. According to the legal norms applied in Lithuania until 5 January 2010, the Ministry of Social Security and Labour issued licences for agencies mediating in employing people.

The previous licencing system was changed after incorporating Directive 2006/123/EB of the European Parliament and of the Council of 12 December 2006 on services in the internal market into national law. This means that since 5 January 2010, it is forbidden to charge fees for mediation services when employing, and the Ministry of Social Security and Labour no longer issues licences to engage in activities of mediation in employment.

According to the existing rules, individuals and legal entities engaged in activities of employing persons must report their status to the Lithuanian Labour Exchange and send information on their activities vie mail or fax to the local labour exchange in line with the Description of Rules on Provision of Information on Mediation Services for Job Recruitment.[42] This description was approved by the order of the Director of Lithuanian Labour Exchange at the Ministry of Social Security and Labour No. V -1 of January 6, 2010.[43]

> The Description details that those carrying out employment activities must provide the following information:
>
> 5.1. About the status (the legal form) within 1 month after the provision of mediation services in employment (Annex 1);
>
> 5.2. Information on activities and on employment mediation services provided to natural persons – on a quarterly basis, not later than the fifth day of the first month of the following quarter (Annex 2);
>
> 5.3. Cessation of activities, not later than within 5 working days (free style notification).[44]

The Description declares that subject to failure to inform about mediation in employment services, the (guilty) persons are held responsible in accordance with the law. In general, according to the Ministry of Social Security and Labour website, employment agencies are controlled by those institutions that oversee the activities of companies and act to prevent illegal work:

---

[42] Ibid.

[43] Lithuanian Labour Exchange, http://www.ldb.lt/Informacija/Apie/Documents/V-1%20isakymas_del_tarpininkavimo_idarbinant_apraso.pdf (downloaded 15 June 2013).

[44] Ibid.

- The State Labour Inspectorate under the Ministry of Social Security and Labour,[45] which carries out and coordinates the control and prevention of illegal work.
- The Financial Crimes Investigation Service under the Ministry of the Interior[46] (which carries out its operational work upon request of the institutions and bodies controlling illegal work and, upon establishing the presence of evidence of financial crime, carries out prosecution),
- The State Tax Inspectorate under the Ministry of Finance[47] (which checks for cases of people working without business certificates, of undeclared activity or unregistered company)
- The Police Department under the Ministry of the Interior[48] (which provides assistance to public authorities and bodies involved in the prevention of undeclared work activities, and also conducts operational control of prohibited, unregistered activities and of work without business certificate),
- The State Social Insurance Fund "Sodra" under the Ministry of Social Security and Labour,[49] (which controls for violations in payments of social insurance).[50]

Thus, as many as five institutions are indicated (the State Labour Inspectorate, the Financial Crimes Investigation Service, the State Tax Inspectorate, the Police Department and "Sodra") that control activities of employment agencies.

Taking into account the information gathered during the research, when it was revealed that there are cases when employment agencies charge a fee for their services, it is important to emphasise that, in accordance with the current procedures, neither direct nor indirect payments should be taken for mediation in employment. This is governed by the International Labour Organisation's Convention on Private Employment Agencies (No. 181 art. 7), enshrined in the Law of the Republic of Lithuania On the ratification of the Convention on Private Employment Agencies (Žin., 2004, Nr. 40-1291).[51]

---

[45] http://www.vdi.lt (downloaded 15 June 2013)

[46] http://www.fntt.lt (downloaded 15 June 2013).

[47] http://www.vmi.lt (downloaded 15 June 2013).

[48] http://www.policija.lt (downloaded 15 June 2013).

[49] http://www.sodra.lt (downloaded 15 June 2013).

[50] Ministry of Social Security and Labour of the Republic of Lithuania, http://www.socmin.lt/index.php?1212497384 (downloaded 15 June 2013).

[51] http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=227715&p_query=&p_tr2=2 (downloaded 18 June 2013).

The violation of requirements in the area of employment mediation is subject to a fine under the Code of Administrative Offences Article 173 (13).[52]

Both the Social Security and Labour Ministry and the Lithuanian Labour Exchange stress this and indicate it on their websites;[53] any irregularities noted in, or falling victim to, mediation in employment by natural or legal persons must be reported to the police.

It is also very important to mention the fact that the Ministry of Social Security and Labour is providing advice to those looking for work abroad. This is a good preventative measure that specifies what should be noted when looking for a job abroad. However, bearing in mind the fact that persons who more often fall victim to human trafficking and labour exploitation are more likely to be from lower social backgrounds and less educated,[54] the chance that they will read the information on the ministry's website are slim. Bearing in mind the well prepared three-step advice on "What Someone Willing to Work in Another EU Country Must Do?",[55] as well as the Short Memo,[56] this information should be spread in public access areas, particularly where there is a chance that it will be seen by people looking for job or those leaving the country.

---

[52] http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=453621&p_query=&p_tr2=2 (downloaded 20 June 2013).

[53] http://www.socmin.lt; http://www.vdi.lt (downloaded 15 June 2013).

[54] Source of information: Expert interview No. E2 and E8.

[55] "Pirmas žingsnis: renkama informacija, naudojamasi nemokama konsultacija. … Antras žingsnis: įsitikinama, ar tarpininkaujantis įdarbinant asmuo deklaravęs tokią veiklą. …Trečias žingsnis: sudarant sutartį reikia žinoti abiejų pusių teises ir pareigas" ("First step: information is collected, free of charge consultations are used. … Second step: it is ascertained that a mediating agent has declared its activities. … Third step: when the contract is being made one should know rights and obligations of both sites"). Ministry of Social Security and Labour of the Republic of Lithuania, http://www.socmin.lt/index.php?1212497384 (downloaded 15 June 2013).

[56] Unofficial translation of the "Short Memo":

- Do not trust enterprises which announce only a telephone number or email address until you check the information.
- Necessarily read all contracts, do not sign them if they are only read to you. It is not just a formality, it is a legal document!
- Do not sign contracts which do not bear clear responsibilities or different things are told or promised then in the contract.
- If you have signed a contract anyway, it is necessary to apply to the court or to the state institutions controlling labour relations.
- Before travelling abroad it is necessary in any case to clarify what institutions are responsible for controlling labour relations in that country.
- Make copies of contracts and your IDs, have them with you.
- Do not work without labour contracts, do not give your IDs to suspicious persons.

Ministry of Social Security and Labour of the Republic of Lithuania, http://www.socmin.lt/index.php?1212497384 (downloaded 15 June 2013).

5.2 The channels of Lithuanian nationals' entry to foreign labour market

The data of this research shows that both those who experienced exploitation or human trafficking, and those who have not, used almost the same channels of searching for jobs abroad. During this research only one channel of recruitment specific to the cases of human trafficking for forced labour abroad was found, mainly, direct recruitment of workers in villages. As experts interviewed in this research put it:

> They travelled through the villages themselves – simply physically searched for people and recruited. They were looking exactly for such asocial [persons]. One even told me how it happened: one was offered [a job] but refused, so was made drunk, and while he was asleep and drunk he was taken there. And he woke up already in the Czech Republic. (Expert No. E2)

> Mom, such a simple woman, maybe already an old woman [called], and began to explain that a gypsy came to the parish, and, of course, my son was such a strong guy . . . They took him and three or four others. . . . The gypsy with a minibus, put him in. . . . The mother began to explain to me: do you know they have gathered [people] from other villages too? (Expert No. E9)

It is important to note that during the research it was found that a very similar method is used for juvenile recruitment in asocial families. As one expert puts it:

> Asocial families . . . In there, to get a permit from parents [for a child] to leave [is easy], they promise that they are going to work and earn, they get permission and leave – that's it. (Expert No. E2)

As shown by the data of the representative survey conducted in 2012 in Lithuania, people who worked abroad and experienced labour exploitation and forced labour situations found their jobs via relatives and family members (22 respondents), recruitment agencies (7 respondents), found the job themselves (5 respondents), via newspaper ads (3 respondents), and via the Internet (1 respondent).[57] This quantitative survey shows that there is no absolutely "safe" way to find a job abroad. The data of this research confirms the importance of these channels, the only difference is that the interviewed respondents and experts emphasised the significance of internet ads.

As the general channels of information about the jobs abroad are concerned, the collected interview data shows that the major channel of seeking employment abroad are on-line ads. Yet, as one expert points,

---

[57] The representative public opinion survey was ordered by the Ministry of Interior and conducted on 9 August–8 October 2012. The survey was conducted by "Baltijos tyrimai". In total, 3,022 respondents aged 15–74 were researched using individual interviews in their homes in all counties of Lithuania.

> All those cases [of abuse] which I heard of, it was a job offer on the Internet. (Expert No. E1)

Thus, it could be concluded that Internet ads provide information about jobs abroad as well as serve as a tool for human traffickers and unfair employers to attract possible victims.

Based on the research, most often the search for ads offering jobs abroad is limited to Lithuanian websites and much less often a job is sought using Lithuanian websites abroad. The latter is used when already situated abroad. The Lithuanian websites abroad consist of Lithuanian émigré newspapers online as well as websites of Lithuanian émigré organisations and émigré ad websites. As one of the informants states,

> I put an ad in the Lithuanian newspaper in London, and I was surprised that so many people called me seeking a job I have offered. (Observation No.1)

There are also cases when those with a good command of foreign language look for jobs directly on foreign websites:

> I had already entered the German site where they had a job offer. . . . I have already seen that with those [local employment] firms there is not really [much result], you just have to try [abroad]. (Respondent No.7)

Press ads are used as well when searching for jobs abroad, However, since there are not many ads for work abroad in national and local newspapers, it is not one of the main ways to search for jobs abroad.

Searching for jobs via friends, acquaintances and relatives is very common. This relies on social trust and relationships, and, as a rule, is one of the safest ways. However, as the data of the survey already mentioned shows, it is not always a safe way to look for work abroad.

Personal attempts to find a job upon arrival in the country of destination is used by self-confident people who have a place to stay abroad and use foreign employment agencies and send their resumes directly to employers, or just distribute flyers offering their services. As the interviewed respondents put it:

> I did not speak English at all - I knew, well, a hundred words. I found a friend. She was Yugoslavian, a Serb from the former Yugoslavia. . . . She made me a flyer: “clean and iron”. A short one, with a telephone number. I copied those flyers in shops and would go and throw them into the doors. And so I found myself two clients. (Respondent No.3)

> We have done everything ourselves, not via agency. (Respondent No.4)

> I have asked an acquaintance to translate an ad in the post office, and then have contacted myself. There I found a job as a cleaner at a factory [in Britain]. (Observation No. 1)

Finding a job via employment agencies does not eliminate the risk of exploitation or forced labour, since all the responsibility is attributed to the

person looking for a job, and employment agencies assume almost no responsibility.

As the research data shows, those looking for a job abroad use a variety of channels of information about jobs. In Lithuania, they try to look for jobs online, search for ads in newspapers, use employment agencies and labour exchange services. Already upon arrival abroad, they use the services of foreign job agencies or try and seek work individually. In all cases, they often sought help of friends, acquaintances, or relatives.

5.3 Search for work abroad via ads

As the research suggests, many people are looking for jobs abroad through advertisements in online and print sources. The main risk in looking for jobs online and in the press is the possibility of being cheated and becoming a victim of human trafficking.

Job ads are usually placed in the most attractive way in order to attract more potential employees. The number of applications to a large degree determines the number of applicants. Ads are full of unrealistic promises, such as "high wages" or "free accommodation". However, there are no free services, and accommodation costs are subtracted from the wages, just like transportation services.

Ads about work abroad can be found online from labour exchanges and employment agencies, as well as on various advertising web sites, and in national and local newspapers. The ads are placed both by employment agencies and private persons. Some ads are posted on the Internet for a very short period of time – a day or a few hours – and they offer the most disproportionate promises.

During the research, a review of various Internet websites offering job search abroad showed that all job ads are quite similar. Various Internet sites were observed[58] for more than three months and no significant differences were noticed in regard to job ads. Therefore it was decided to conduct a case study and to investigate one website on the basis of random selection. Thus one website was thoroughly analysed in June, namely, a website offering jobs abroad and locally, Skelbiu.lt.

The website Skelbiu.lt contained most of all ads for jobs in Germany (147 ads), the UK (127), Norway (93), and the Netherlands (65). The most frequently proposed jobs in Germany were work in agriculture, construction, prostitution (expressed as a legal intimate work for girls), as well as drivers, doctors, nurses and others. Since prostitution is illegal in Lithuania but in Germany it is

[58] Recently the most popular websites in Lithuania for advertising jobs abroad have been: http://www.cv.lt; http://www.cvbankas.lt; http://www.cvonline.lt; http://www.cvmarket.lt; http://www.alio.lt; http://www.dirbu.lt; http://www.123darbas.lt: http://www.rinka.lt; http://www.plius.lt.

legalised, the question arises whether such solicitation ads in Lithuania are legal. Some experts think that it is not possible to combat these ads because the work is proposed where such activity is legal. Other experts believe that allowing the publication of such ads, and not controlling them, creates favourable conditions for human trafficking. These ads promise very good wages: "For girls 2,000 Euros per week guaranteed";[59] "Wages start from 15,000 litas per month",[60] "20,000 litas . . . no violence . . . friendly women collective . . . we help with travel."[61] It is clear that ads of this kind pose the greatest threat to the girls that are tempted by them.

On the same site there are job offers in the UK in warehouses, agriculture and construction, and there are also several ads for work in escort firms. There are also ads for jobs delivering flyers:

> Distributor(s) of ad flyers needed for company buying textiles in England. Monthly wages (approximately 200 pounds). The job is legal. Accommodation provided. We help with arrival.[62]

This ad was placed by a private person and its content and job description are very similar to the one by which respondent No.1 was tempted. Her experience is discussed in later sections.

In Norway, job offers are in agriculture and factories, and for nannies. Job offers in factories are all formulated in a rather similar way:

Advertisement 1. An example of an ad offering a job abroad.[63]

NORWAY- CHEESE FACTORY
Wages 135nor/kron=17 Euro per hour. NO NEED TO KNOW LANGUAGE.
You will work near OSLO and TRONDHEIM.
WORK IN HOT OR COLD ENVIRONMENT!!!
Cheese production line, work in 3 shifts (morning, afternoon, and night).
Specific work:
at conveyer,
at a production line,
packaging line,
loading,
cleaning of production premises.
NO NEED TO KNOW LANGUAGE.
You will work near OSLO and TRONDHEIM.
Contract for 5 months.
Transport and accommodation - 400 kron per week.
Departure in JUNE-JULY.
Already registering.

Source: http://www.skelbiu.lt/skelbimai/norvegija-darbai-vasaros-sezonui-15772158.html

[59] http://www.skelbiu.lt/skelbimai/merginoms-2-tukst-euru-garantija-savaitei-15910711.html
[60] http://www.skelbiu.lt/skelbimai/eskorto-darbas-merginoms-nuo-15-000lt-10668155.html
[61] http://www.skelbiu.lt/15568250.html
[62] http://www.skelbiu.lt/skelbimai/reikalingi-os-reklaminiu-skrajuciu-platintojai-os-16391457.html
[63] The ad was translated into English by the author of this study.

The key requirement for factory jobs is good health. It is also often indicated that work conditions are difficult – it is hot or cold, there is shift work.

In the Netherlands, work is offered in agriculture, factories and warehouses and also in a range of cargo handling work. Most of the ads state that no rent payment is needed in advance, and that the rent is later deducted from the wages. Ads about work in factories can be formulated very vaguely, without specifying the size of the wages:

Advertisement 2. The example of an ad offering a job abroad.[64]

Looking for young workers in factory in Netherlands.
The job is to package smoked fish products
Departure this or next week. No need to know foreign language.
Job starts immediately after arrival. Arrival on weekend, starting the job on Monday.
Rent of living premises deducted from wages, no need to pay upon arrival.
You need to have some money for food only.

Source: http://www.skelbiu.lt/skelbimai/fabrikui-reikalingi-darbuotojai-15961072.html

The requirement to know the language of the country to which the employee is going to work varies. There are employment agencies that require knowing the language or knowledge of English or German (e.g. such a requirement is applied by the Qbis agency in Lithuania).[65] There are also ads for ordinary farm work, where it is written that knowledge of language is not necessary. In these cases, the workers are supervised by a Lithuanian employee speaking the local language. Most commonly ads say that a foreign language would be an advantage. However, interview and other data suggest that not speaking Western European languages at all and being unable to communicate either with the employer or locals greatly increases the risk of labour exploitation and human trafficking.

Overall, it can be said that the threat of labour exploitation or becoming a victim of human trafficking through the use of a tempting job ad is significant. The most important thing that people should pay attention to is the reliability of the employer and agent; the guarantee of a job upon arrival; the precise calculation of the wages and all additional taxes and payments before departure, and the provision of social guarantees.

Thus, the key indicators showing that a job ad is unreliable are:

- Very high wages for a relatively simple job;

[64] The ad was translated into English by the author of this study.

[65] http://www.qbis.lt (downloaded 15 June 2013)

- Free housing and transportation from Lithuania to the country where the job is offered;
- If housing is offered without detailed rent/bill and description;
- The job is not specified / detailed;
- The wages are not indicated;
- No requirements for candidates;
- The job is posted by an individual whom it is impossible to verify.

Proposed work in brothels and escort firms undoubtedly poses a significant risk of getting into the trap of human trafficking.

5.4 The role of labour exchanges and employment agencies

When looking for a job abroad one could go to the labour exchange, or use recruitment agencies.

Labour exchanges provide information about free work places and offers consultations to those who seek a job. The Lithuanian Labour Exchange organises information events.

According to the experts of the Lithuanian Labour Exchange, ads offering a job abroad are placed on their website and placed on bulletin boards only after verifying that such employers exist and operate:

> We provide the proposals that come from other countries. . . . We have to verify from another country, is there such an employer who is registered, operates in another country. . . It happens that the employer himself [sends an ad], but we still have to ask for approval from the Labour Exchange or the Eures consultant. (Expert No. E3)

However, the research found that job ads by labour exchanges include potentially risky ads, and that the information in these ads is not fully checked. According to expert E8, the ad about assembling wooden houses in Norway, where gross exploitation took place, is still accessible on the Labour Exchange's ad board.

The Labour Exchange also organises information sessions, during which foreign employers carry out a selection of workers. As the Lithuanian Labour Exchange expert says:

> They do not sign contracts with people, but simply provide the information about the job, working conditions, and some give a confirmation letter. For example: you will be employed there and then, for a certain period (if you are already selected). . . . This is often seasonal work – during the summer, up to 3 months of work. And then, a foreign employer or a representative comes here and he calls all those candidates who sent in their CVs. (Expert No. E3)

In this case, the labour exchange acts as a mediator between an individual seeking a job abroad and an employer looking for workers.

After the abolition of licences for employment agencies, the labour exchange no longer has the possibility to control them and respond to employee complaints. According to the Vilnius Labour Exchange expert:

> Earlier the licences were issued, I don't know based on what criteria. Now they are not necessary. It is recorded in the register that I am acting as an intermediary firm, I submit a report, and no one controls this. . . . We put, in fact, our people into the unknown. And if something happens – nobody really can compensate [losses] to that person. (Expert No. E5)

Currently the only control mechanism of recruitment agencies is the requirement to submit a report four times a year. Reports are posted on the website of the Labour Exchange, and are publicly available. Basically, it is the only source in which job seekers through employment agencies can ascertain whether the agency operates and what are its results. However, according to one respondent:

> For example, Headex. Before going to them I called the labour exchange and asked who could provide me the information. One firm offers me a job, and didn't it have problems there or didn't it cheat someone or what? It appeared that there is such a unit. I called there and they told me that they haven't heard any complaints. And I went there and found out that they do not pay as much as they should. (Respondent No.7)

On the basis of a cursory look at recent job offers by the Headex employment agency, one can see that specific wages are not given in the notices. However, there often appear promises of "very good wages and bonuses for a very good job, all social guarantees and free accommodation." Bearing in mind that this is about unskilled workers, the probability of "very good wages" is low.

The general tendency is that the market of recruitment agencies is not stable and changes continuously. As an expert at the Vilnius Labour Exchange points out:

> 30 per cent stop their activities. They report to us in a free form and we take them off [the database]. I track these messages. Some of them cease these activities and some new ones appear. In a year, 4–5 new [agencies] appear. Here in Vilnius county, mostly in Vilnius city. In Plunge a few, you see, and here [in Vilnius] there are a lot: legal persons and individuals. But mostly legal. (Expert No. E7)

Summarising the collected data about activities of recruitment agencies in Lithuania, it is not possible to assess it from one perspective only. An interesting fact is that the majority of experts and respondents of this research, when talking about employment agencies, mentioned negative things only. The most often mentioned negative assessment was that agencies charge a fee for their services, even though they should not ("They take a fee, according to law it is clearly not allowed, but it is formalised in another way: document

management, resume writing, and other things, travel expenses and the like." (Expert No. E3)); they do not guarantee employment, i.e. they undertake to look for a job but do not necessarily find it ("The [normal] contract includes: working time, payment, but here – only cooperation. And maybe there will be a job, maybe not. There are no such guarantees here, and this is the main problem." (Expert No. E5)); they take a part of the employee's wages for themselves ("I counted that they take up to 30 per cent of your money. Although, according to everything, they should not do that. . . . I looked that there are such [companies] that promise 5 euros per hour. Accepted to work as ship insulators, [but] they have to be paid 8.5 euros, yet they paid only 5 euros a person." (Respondent No.7)); reduce their costs, customers pay themselves for many costs ("They are collecting the people in groups of three or four. And as I received in an electronic message it was written that these three – four people are travelling in one group, and preferably with their own car. They travel for their money and there was one more request, in that electronic message, it means that we should bring our food too, the basic food products. . . . Here the firm is located somewhere in Vilnius." (Respondent No.6)); or cheat in other ways, e.g. provide no job ("Other [companies] profiting from the exploitation of people, [they] collect the money, transport people but there is no work there." (Expert No. E3)); . . . In the worst case, the agencies change their name in order to mask the bad things of the past, and continue to perform the same activities.

Lithuanian nationals seeking jobs abroad use foreign employment agencies as well. While working via an employment agency abroad, part of the employee's wages goes to the agency, and the agency does not provide any social security. One respondent who found a job through a recruitment agency in London in 2002, before the country's accession to the European Union, states:

> I did not need to pay the agency anything, but they were paying the salary – minimum. . . . The agency was paying. It gave me checks, and when I went to the employer, I was like a legal employee. . . . [Those who worked not via the agency received] a little bit more, but it was not very much. . . . I worked in the Agency until 2004 maybe till September, when Lithuania joined the European Union on May 1, 2004. From the first day of accession to the European Union I immediately legalised myself, I got the National Insurance number. [Up to then you did not have either a National Insurance number or a contract?] Up to that time did not have, no. . . . With the agency there was just a contract, but it was thus: as long as you want, so you work there. . . . There was no guarantees, absolutely. (Respondent No.2)

The other respondent, No.3, has mentioned as well that if one works though an agency, an employee receives just a part of the wages, since the wages are paid not by the employer directly, but by the agency itself.

6. Labour exploitation and human trafficking for forced labour

6.1 The characteristics of labour exploitation of Lithuanian nationals abroad

As was already noted above, this study analyses human trafficking for forced labour within the broader context of labour exploitation. Therefore, this chapter starts with a short description of the characteristics[66] of labour exploitation that were identified during the research.

As the research data shows, some Lithuanian nationals working abroad are subject to labour exploitation. Very often such cases are not perceived as exploitation by victims.

During the research several characteristics of labour exploitation were identified. In most cases it is temporary work, hourly, or probation work, for which the wages are not paid or paid very little, poor housing conditions and gaining profit from the lease, incomplete payment of agreed wages, lack of social security, employment contract and overtime pay, heavy and harmful work conditions

One of the problems Lithuanian nationals face when working abroad is that they are provided only with a part time, hourly or temporary job. As one of the respondents remembers his experience in Germany:

> After 10 days I ask – so far there is nothing [no job], they say, maybe you will have to wait two more weeks . . . I worked for three days and then I found a note on the door that your services are not needed any more . . . I come to the office and it turns out that this was a temporary job. They got urgent work, called the agency and gave them an urgent order. Say, call on Monday (it was Friday then). I call and they say that there is no job. (Respondent No.7)

Very often employers apply "the probationary period", during which people are paid low wages or not paid at all:

> They were paying me exactly 15 Euros a day . . . And I understood in 4 days that they have simply cheated me and I will not earn money here. (Respondent No.7)

The other characteristic of exploitation is profiting from the lease, when employers provide housing, yet it costs more than people earn:

> They lived in those caravans, and in very poor conditions, they were very unsatisfied with both the work and the living conditions. (Expert No. E3)

Employers cheat the workers and do not pay the whole wages:

---

[66] See also ILO 2005; ILO 2009.

> One wages were mentioned, and then they paid smaller wages . . . He [my husband] had one hundred or two hundred pounds for half a year saved for himself. Only this. (Respondent No.3)
>
> They do not pay the agreed wages. (Observation No.4)

It happens as well that the contracts are not signed and people work illegally:

> No, I had no contract. They wrote something down there. My address, they took my name and second name, yet I had no contract, during those ten years I never had a contract. But it was an English agency, normal, it functioned for a long time. It still functions. (Respondent No.3)
>
> Worked in a cafe [illegally, even if she did not admit that]. After a long weekend in Lithuania she came to work and she was told that she does not work there any longer. She lost her job and she was paid only later and only because she worked at the friends of the friends. (Observation No.4)

Very often people have hard work, under conditions harmful for health. It happens that they have no health insurance as well:

> In a factory [in Britain] a shift lasts 12 hours, it is forbidden to sit, you have to stand all the time. (Observation No.3)
>
> [In the bread warehouse] there is a fridge. I stand at the door of this fridge. There [outside] +12 degrees, well, but you sit in this drought. You will get ill and will sit in that barrack. Who will pull you out from there? (Respondent No.7)

People work extra hours and are not paid for that:

> In the beginning they wrote less hours . . . yet they worked more. (Respondent No.3)
>
> Worked a lot of hours, really . . . No payment for extra hours. (Respondent No.4)

Also, the interviews have provided information about the exploitation of girls in drug trafficking, and the financial exploitation of a Lithuanian woman who took a loan, but the cash was used by a man/a friend, a third-country national.

All of the above-mentioned characteristics of labour exploitation were identified during the research (interviews and observations). These are the common practices experienced by some Lithuanian nationals abroad. It is important to note that all researched respondents have experienced at least one of the described patterns of labour exploitation.

6.2 Human trafficking for forced labour abroad

The data collected during the research confirms that the groups most frequently suffering from human trafficking for forced labour and labour exploitation are socially vulnerable persons, and, if not counting prostitution, the victims of human trafficking for forced labour are more often men than women, often

very young or older men. Yet, as the research data of this study shows, there are cases when victims are university students or people from the lower middle classes that in general do not belong to the group of socially vulnerable people.

As has already been noted, women were rarely identified as victims of human trafficking for forced labour. As experts pointed out,

> The women we work with are more prostitutes or those trafficked to carry out crimes, but labour exploitation, still, I think, is more characteristic to men. Of course, there are women too, but only men are applying so far. (Expert No. E1)

> The only woman was from Vilnius. The initial information we got from her and by accident. She was a quite educated women who understood that this is real trafficking. And she told this. Only she. (Expert No. E2)

A significant proportion of victims of human trafficking for forced labour come from asocial families and social risk groups (sentenced, without permanent residence, dependent on alcohol, etc.):

> Many of them are persons who have never been defended, these are common people that have no permanent residence or have committed crimes themselves; there could be people with certain dependencies. (Expert No. E1)

> The typical victim for forced labour is: anti-social, no education, limited language skills, prone to alcohol, perhaps a number of previous convictions. (Expert No. E2)

Experts pointed out that there is a shift in the social characteristics of victims, since now victims are not only from villages but from towns as well:

> When I worked with young boys, they were from remote villages. Now we see that this is Šiauliai, still it is not a village, this is the city, which means that there are from the larger cities too. (Expert No. E1)

As has been mentioned, modern human trafficking for forced labor can occur in many different forms:

> It is not like everyone imagines that if there is slavery, then he is kept closed in a cage. Clearly, there are somewhere countries where there is exactly like this. But in Western Europe that thing . . . is more civilised. . . There is no open violence already this time or it is very rare, but fraud, it exists in many cases. (Expert No. E2)

The data collected during the research shows that, in all cases, the victims were forced to work by the means of fraud and in some cases were threatened with physical violence.

Physical violence and humiliation of human dignity:

> And when you hear these stories and, in particular, the one about a guy who was exploited in Spain, how he was locked in chains. And as his master saw that he is not doing anything, he was made to drink alcohol.

> Then he ran away, he vagabonded for one year and then he went back to his master. And the master said, maybe let's cut his leg or an arm? And when you hear it, yes, it is very scary. As beaten, burnt, like some [animal], and it's scary because you realise that this is is linked to human dignity. (Expert No. E1)

> There were cases when they were beaten. For refusing to work . . . Allegedly, while you will not give me the money – I will not go to work. And they were beaten by the Ukrainians, because there were some kind of athletes. (Expert No. E2)

Fraud, artificial debt and not paying wages:

> A man is kept using fraud. This is the same form of violence. (Expert No. E2)

> Accommodated in the barracks there, in those awful conditions. And they are told: you are brought here, I have paid for your trip, and you owe me, it has already been announced that he has a debt. Later these debts, they do not disappear, since they invent various reasons how to punish this man, whether he is drunk or what, and the debt only increases. And he is told: you must work for three months for the debt, and then I will pay you. He – in holy faith – works again there for three months. After one month the same song again. Thus some run away, while others – believed fully. (Expert No. E2)

> If I had kept working I would be indebted to him. . . . No, nothing at all was [paid]. (Respondent No.5)

The information collected on human trafficking for forced labour abroad indicates that victims worked in Spain, the UK, Ireland, Norway, Germany, Sweden, the Netherlands, and the Czech Republic, and there were victims outside Europe as well. Of course, human trafficking for forced labour occurs more widely, and these cases are just a small part of a big problem.

Based on the research, the majority of victims of human trafficking for forced labour worked in agriculture, construction and factories. Also the research indicates some more rare cases of human trafficking for forced labour when victims collected charity items, worked in a car wash and repaired tourism inventory. Also, from a number of sources information was collected about the trade in women, forcing them to marry third-country nationals (see Table 6).

Table 6. Information collected during the research about economic sectors and states where victims of human trafficking for forced labour worked.

Countries	**Sector**	**Source of information**
Spain	Agriculture, in greenhouses and plantations Sexual exploitation	Experts No.E1, E2 and E9
UK	Agriculture, construction, factories Fictitious marriages with men from third countries	Experts No.:E1, E2 and E9 Respondents No. 3 and No. 1 Observation No.1.
Ireland	"There was no job at all. They were locked and kept for nobody knows what. They were promised a job in the factories. They ran away."(Expert No. E1)	Expert No. E1
Norway	Criminal offences: juveniles are transported to commit thefts; Construction of wooden houses	Experts No. E2 and E8
Netherlands	Criminal offences: juveniles are transported to commit thefts; Car washing	Expert No. E2 Respondent No. 5
Japan, Australia, Malaysia	Sexual exploitation	Expert No. E2
Germany	Fixing tourist inventory Sexual exploitation	Expert No. E8 and E9
Czech Republic	Agriculture, construction, metal industry, factories	Expert No. E2
Sweden	Construction	Expert No. E9
Finland	Berry gathering	Expert No.7

During the research several stories of human trafficking for forced labour were collected. These stories were collected in two ways:

- Directly: victims that participated in the research talked about their experience themselves during the interviews;
- Indirectly: stories of the victims were retold by the representatives of NGOs and the police who work with the victims and who are aware of their experiences. The indirect method was used partly because many victims did not want to speak and remember their experiences.

The summarised data about the cases collected is presented in the table below.

Table 7. Cases of human trafficking for forced labour collected during the research.

Case No.	Country	Case description	Source of information
1	Ireland	Individuals were promised a job in a factory in Ireland, were locked in a room, beaten, ran away to a police station.	Indirect – interview with Expert No. E1 (Caritas)
2	Czech Republic	For three years individuals were transported to the Czech Republic to work in various sectors and were exploited by criminal groups of Ukrainians, were not paid at all.	Indirect – interview with Expert No. E2 (Criminal Police)
3	Czech Republic	Individuals went to the Czech Republic to work via a labour exchange ad, their freedom of movement was restricted, they had to work overtime, their living conditions were terrible.	Indirect – interview with Expert No. E3 (Vilnius Labour exchange).
4	Germany	Three young men found an ad about a summer job in Germany – to scrub boats and paint them. There they were not paid, had no money to buy food (they were provided just lunch), had neither contract nor insurance.	Indirect – interview with Expert No. E8 (Men's Crisis centre).
5	Norway	Skilled carpenters go to Norway to assemble wooden houses, they are not paid, their freedom of movement is restricted, living conditions are poor.	Indirect – interview with Expert No. E8 (Men's Crisis Centre).
6	Netherlands	Men were promised a job in a farm in the Netherlands. They were not paid at all, the owner told them that it was always like this: somobody comes and works for food and shelter.	Indirect – interview with Expert No. E8 (Men's Crisis Centre).
7	UK	Young individuals worked in the UK, they received no salary, were beaten and forced to steal, they ran away and went to the Lithuanian embassy.	Indirect – interview with Expert No. E8 (Men's Crisis Centre).
8	Germany	A man worked in Germany for two months, he was not paid at all. He ended up in a hostel for the poor.	Indirect – interview with Expert No. E9 (Missing Persons Families Support Centre)

9	Sweden	A Lithuanian man used to invite his acquaintances to come to work in Sweden and exploited them, did not pay them anything.	Indirect – interview with Expert No. E9 (Missing Persons Families Support Centre)
10	UK	Individuals worked in the UK, were moved from place to place, they did not know where they were, their documents were taken. They were brought to the UK by direct recruitment in their villages – someone with a bus came to their villages and persuaded them to go to work in the UK.	Indirect – interview with Expert No. E9 (Missing Persons Families Support Centre)
11	Netherlands	A young boy aged 16 found an ad about a job in the Netherlands. He went were, worked in a car washing industry, and was not paid at all.	Direct – interview with Respondent No.5
12	UK	A young couple found an ad about work in a post office in the UK, they came by plane, were locked in a room and then moved to an unknown area. They worked 12 hours and more a day, were paid just a few pounds that was not enough to buy food, living conditions were terrible. One girl lost 25 kg in weight. After half a year she arranged a seat on a bus going to Lithuania and her parents paid the driver when he arrived in Lithuania.	Direct – interview with Respondent No.1
13	Finland	Workers were sent by an individual labour provider to Finland to gather berries. There was no job, people were not paid and had no money to return home.	Indirect – interview with Expert No. E7 (Vilnius Labour Exchange)

In total, 13 stories about human trafficking for forced labour in Ireland, the UK, Spain, the Netherlands, Sweden, Germany, Norway and the Czech Republic were collected during the research. These stories show that people fall into the trap of forced labour tempted by ads about well-paid jobs, through friends, or are recruited in villages. The data also shows that victims of trafficking might not necessarily be people from the lowest social classes, since there are other cases, though very rare, and the case of the respondent No. 1, who is a resident of Vilnius, a woman (which is less common in cases of human trafficking for forced labour), coming from an orderly lower middle class family.

7. Conclusions

Summarising the results it can be stated that:

1. The legal framework of recruitment abroad of Lithuanian nationals changed essentially on 5 January 2010. Until then the Ministry of Social Security and Labour issued licences to employment agencies. In accordance with the current procedure, natural and legal persons engaged in the activities of the recruitment/employment must give notice about their status and activities to the territorial labour exchange.
2. Human trafficking for forced labour and the exploitation of foreign workers remains a topical problem in the Lithuanian society. This research has collected 13 stories about human trafficking for forced labour to Ireland, the UK, Spain, Netherlands, Sweden, Germany, Norway and the Czech Republic.
    - It was found that in most cases victims of human trafficking for forced labour are very young or elderly men, asocial persons, and those socially at risk, mostly rural residents, although it also occurs in cities, and it rarely affect the women.
    - Information was collected on trafficking for forced labour abroad to the EU Member States (Ireland, the UK, Spain, the Netherlands, Sweden, Germany, the Czech Republic) and Norway, as well as cases outside of Europe.
    - It was established that the freedom of victims of human trafficking for forced labour is restrained using the means of fraud, by not paying wages and forming artificial debts, degrading human dignity, and using the threat of physical and psychological violence. The victims are defrauded about the status of their future job, work and living conditions, they work overtime (sometimes not having a single day of rest, while the workday lasts from early morning till late night), have no social security, are isolated and encounter difficulties when living in unfamiliar environment. These are all features of human trafficking for forced labour.
    - It was found that the majority of victims of human trafficking for forced labour worked in agriculture, construction, and in factories. In the less common cases of trafficking the victims collected charity, worked in car wash and tourism inventory maintenance businesses. A number of sources reported about the trade in women, forcing them to marry third-country nationals.

- The data shows that most victims do not seek help and tend to deny that they have become victims of human trafficking. Most of the victims do not realise their own experience as human trafficking for forced labour, and view it as cheating or fraud. For this reason there is the possibility of repeated victimisation. This is more common among lower social classes and alienated people. Others tend to deny their experiences, since the trauma and patriarchal socialisation does not allow them to admit that they had become victims of human trafficking.
- It was found that even when victims realised that they were in a situation of labour exploitation, they do not seek help by themselves, they do not know where to turn to, do not believe that anyone can help them, or are afraid to apply for help because of previously committed criminal offences.
- It was found that the cases of trafficking for forced labour are often made known indirectly when the families of victims seek assistance or victims come to NGOs with other problems.
- According to the experts interviewed in this study, the small number of identified victims cannot be explained solely by the reluctance of victims to seek help, or by the lack of possibilities to seek assistance. Identification of cases and the following legal procedures depend on the qualifications of the personnel of the police and prosecutor's office and their ability to identify the victims, the understanding and adequate treatment of the problem by all those involved in the legal procedures related to human trafficking for forced labour, which experts currently miss.

3. In the opinion of experts, the prevention of trafficking for forced labour abroad is a difficult task that requires complex solutions. The experts tend to view the current situation with a degree of scepticism, albeit they noted some good examples, such as the prevention posters on the streets and free help lines.

8. Recommendations

- Enhance training on human trafficking for forced labour and labour exploitation abroad for the consular staff of Lithuanian embassies:
  - It is worth organising a short one day long training of all consular staff posted abroad. This training could be organised by the Ministry of Foreign Affairs jointly with the Criminal Police and other experts (scientists, researchers, representatives of the International Organisation for Migration, NGO experts);
  - It is necessary to train all local staff working at the Lithuanian consulates who can potentially come into contact with victims of human trafficking for forced labour and labour exploitation.
- Organise periodic training for the police and prosecutorial staff who can potentially come into contact with victims of human trafficking for forced labour. Training could be organised by experts in various areas, experts from NGOs included.
- All universities and colleges should also be offered to include a few lectures on human trafficking for forced labour and labour exploitation into law programs.
- Create a mechanism for monitoring and control of online advertisements of jobs abroad:
  - It is worth recommending the special unit of the Criminal Police to monitor ads offering jobs abroad on the Internet, with the authority to delete dangerous ads;
- Look for possibilities to create a monitoring mechanism of activities of employment agencies.
- Make public the issue of human trafficking for forced labour, indicating where the victim can apply for help.
  - Create and disseminate public service advertisements (e.g. hanging posters with telephone numbers and addresses where to apply for help);
  - Create a database of non-governmental and other organisations that provide assistance to victims. Disseminate publicly a short list with names, addresses and telephone numbers of the organisations.
- Encourage periodic meetings of the police, NGOs and social workers.
  - Since during the research it turned out that not all NGOs cooperate with the police, and actions of prevention and victim assistance are not coordinated, the Ministry of Interior could

host quarterly meetings of all those working with victims of human trafficking.

- Create a single, brief and clear description of the victim's identification. Encourage interested organisations to use ready-made tools, such as for example, the Training Manual when Working with Victims of Forced Labour (2011).[67]
- Strengthen the role of the Labour Exchange and in particular EURES in controlling job ads received from abroad, and recommend activating international cooperation in all of the EU Member States.
- Take advantage of the good practice of the Ministry of Social Security and Labour and disseminate the paper version of the Memo[68] available on the Ministry's website in labour exchanges, municipalities and neighbourhoods, and in all other places accessible to the public. It is advisable to translate the Memo into Polish and Russian and distribute it in the areas populated by ethnic minorities.

[67] "Mokymo vadovas dirbant su priverstinio darbo aukomis". Homotraffickens, Moterų informacijos centras, 2011. http://www.lygus.lt/wp-content/uploads/Traininghandbook_vertimas1.pdf (downloaded 27 May 2013).

[68] Lithuania's Ministry of Social Security and Labour, http://www.socmin.lt/index.php?1212497384 (downloaded 15 June 2013).

References

Caritas Lithuania project “Assistance to the Victims of Trafficking and Prostitution”, http://www.anti-trafficking.lt

Caritas Lithuania, http://www.caritas.lt

Council Framework Decision of 19 July 2002 on combating trafficking in human beings (2002/629/JHA), http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2002:203:0001:0004:EN:PDF

Departmental Registre of Criminal Offences, http://www.ird.lt/infusions/report_manager/report_manager.php?metai=2012&menuo=12&idAta=4&rt=1&oldYear=2012&id=198&idStat=10&regionas=0&id3=1

Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims. http://europa.eu/legislation_summaries/justice_freedom_security/fight_against_trafficking_in_human_beings/ jl0058_lt.htm

European Commission, http://ec.europa.eu/anti-trafficking/section.action?sectionPath=Citizens%27+corner%2FTrafficking_Explained

Financial Crimes Investigation Service under the Ministry of the Interior, http://www.fntt.lt,

Gilham, Bill. Research Interviewing. The Range of Techniques. Open University Press, 2005.

ILO (2005): Human trafficking and forced labour exploitation. Guidance for legislation and law enforcement. Special action programme to combat forced labour. Geneva: ILO.

ILO (2009): Operational indicators of trafficking in human beings. Results from a Delphi survey implemented by the ILO and the European Commission. Revised version of September 2009. Geneva: ILO. http://www.ilo.org/sapfl/Informationresources/Factsheetsandbrochures/lang-- en/docName--WCMS_105884/index.htm

ILO Convention No. 29: Convention concerning Forced or Compulsory Labour (1930) in Refugee Protection and Human Trafficking Selected Legal Reference Materials. First Edition, December 2008, Protection Policy and Legal Advice Section (PPLAS), Division of International Protection Services (DIPS), UNHCR. http://www.unhcr.org/4986fd6b2.html

ILO Global Estimate of Forced Labour. ILO 2012. http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_182004.pdf .:

International Organisation for Migration - Lithuania, Migration in Numbers, http://123.emn.lt/en/general-trends/migration-10-years-overview

International Organisation for Migration Vilnius Office, Migration Information Centre, http://infocentras.iom.lt.

Klaipėda Social and Psychological Assistence Centre, www.moteriai.lt

Lithuanian Labour Exchange, http://www.ldb.lt/Informacija/Apie/Documents/V-1%20isakymas_del_tarpininkavimo_idarbinant_apraso.pdf

Marshall, Gordon. Oxford Dictionary of Sociology. Oxford and New York: Oxford University Press, 1998.

Men's Crisis Centre, http://vyrukrizes.lt

Ministry of Social Security and Labour of the Republic of Lithuania, http://www.socmin.lt

Missing Persons Families Support Centre, www.missing.lt

Mokymo vadovas dirbant su priverstinio darbo aukomis. Homotraffickens, Moterų informacijos centras, 2011. http://www.lygus.lt/wp-content/uploads/Traininghandbook_vertimas1.pdf .

Police Department under the Ministry of the Interior, http://www.policija.lt

Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime, http://www.uncjin.org/Documents/Conventions/dcatoc/final_documents_2/convention_%20traff_eng.pdf

Refugee Protection and Human Trafficking Selected Legal Reference Materials. First Edition, December 2008, Protection Policy and Legal Advice Section (PPLAS), Division of International Protection Services (DIPS), UNHCR. http://www.unhcr.org/4986fd6b2.html

State Labour Inspectorate under the Ministry of Social Security and Labour, http://www.vdi.lt.

State Social Insurance Fund "Sodra" under the Ministry of Social Security and Labour, http://www.sodra.lt.

State Tax Inspectorate under the Ministry of Finance, http://www.vmi.lt.

The Globalization of Crime. A Transnational Organized Crime Threat Assessment. United Nations Office on Drugs and Crime, 2010. http://www.unodc.org/documents/data-and-analysis/tocta/TOCTA_Report_2010_low_res.pdf

Trafficking in Human Beings. Eurostat. Luxembourg: Publications Office of the European Union, 2013. http://ec.europa.eu/anti-trafficking/download.action?nodePath =%2FPublications%2FTrafficking+in+Human+beings+-+DGHome-

Eurostat_EN.pdf&fileName=Trafficking+in+Human+beings+-+DGHome-Eurostat_EN.pdf&fileType=pdf

UNODC, Global Report on Trafficking in Persons 2012, New York: United Nations, 2012. http://www.unodc.org/documents/data-and-analysis/glotip/Trafficking_in_Persons_2012_web.pdf

Vilnius City Crisis Centre, http://vmkc.lt

Women`s Issues Information Centre, www.lygus.lt

Internet websites for job seekers:

http://www.skelbiu.lt

http://www.cv.lt;

http://www.cvbankas.lt;

http://www.cvonline.lt;

http://www.cvmarket.lt;

http://www.alio.lt;

http://www.dirbu.lt;

http://www.123darbas.lt:

http://www.rinka.lt;

http://www.plius.lt.

ANNEX 1: INTERVIEW QUESTIONNAIRE

1. Tell me please how you decided to look for a job abroad. How did you look for it and how did you find it? Did you look for a specific job? Did you look for a job abroad only? How long have you been looking for a job abroad? How did you decide to take the job you have found?
2. Have you used services of employment agencies / recruitment agencies? Please tell me more about your experience. Did you have to pay (e.g. a mediation fee) to get the job? Who has paid the fee?
3. Has anyone met you abroad at the airport/railway station/harbour, etc.?
4. Did and how the employment agency / recruitment agency / people that promised you a job take care of you abroad?
5. Have you signed a contract with your employment agency / recruitment agency? Tell me please about your communication with the employment agency / recruitment agency / people who have offered a job.
6. Did you need a work permit? How did you get it?
7. How did you travel to Country X? Who paid for the travel? Have you travelled alone? Who accompanied you? Who have paid for the tickets?
8. Did you have money with you? How much?
9. Tell me please what kind of job did you get, and how did you like it. How long did you work? Did the work/employment correspond to what you were promised at recruitment?
10. Have you signed a contract with your employer? If not, why?
11. How did employers and colleagues treat you?
12. What were the working conditions like? What was your work schedule? How many hours did you work?
13. How was the salary paid (in cash, to bank account etc.)? How often? By whom? Did you ever have problems getting the salary? Can you tell how much salary did you receive? Was the salary the same as promised? Where you satisfied with the salary? Did you have to pay any part of your salary back to the employer? How much did you get a week / a month?
14. Did you speak the language of Country X? How did you communicate?
15. Were you forced to work overtime? Were you forced to keep working even when you would have wanted to terminate working?
16. Did you have your passport/identification papers with you at all times? If not, why not?
17. Where did you live? How many people did share one room / one apartment? How much does your room cost?
18. What and where did you eat? Did you have money to buy food?

19. Did you have your money with you?
20. Were you threatened? Have you experienced any violence? By whom and how?
21. If you have experienced violence, have you looked for any help? Did you tell anyone about your situation? Why and how did you decide to tell or not to tell anyone about your situation? When and how did you understand that you are exploited / your rights violated / etc.? Who and how did help you? Did you know where could you look for a help?
22. Do you know if your case has been investigated and/or prosecuted? If so, do you know how the case is proceeding?
23. What did you learn from your situation? Do you know now where could you get help? Do you have plans to work abroad again? Why? What would you advise for other people that are looking for a job abroad?
24. Could you please tell me how old are you, how old were you when you had started working abroad, what is your education, profession, what kind of job have you got prior to going abroad, are you married / have a partner, etc., where have you lived prior to going abroad?

ANNEX 2: EXPERT INTERVIEW QUESTIONNAIRE

1. Tell me please how your professional practice and experience is related to the issue of human trafficking for forced labour and labour exploitation of Lithuanian nationals abroad?
2. What is the mission of your organisation and how it is connected to the issue of human trafficking for forced labour and labour exploitation? What does your organisation do in this field?
3. What kind of cases of human trafficking for forced labour and labour exploitation are you familiar with? How did you get to know about these cases? How did victims come to your organisation?
4. What is the scope of the problem of human trafficking for forced labour and labour exploitation?
5. What are social characteristics of victims? What kind of people are exploited and become victims of human trafficking for forced labour? How do they end up in such situations? Did victims, that you are familiar with, speak the language of the Country X?
6. Which economic sectors are especially affected by labour exploitation and human trafficking for forced labour? Why?
7. What are the reasons of labour exploitation abroad? What is the role of employment agencies / recruitment agencies?
8. How do victims of labour exploitation and human trafficking for forced labour enter a foreign labour market? How do they find a job? What is the role of employment agencies / recruitment agencies?
9. Do victims of exploitation understand that they are exploited? If not, why?
10. What kind of differences if any do exist within the EU countries concerning the situation of labour exploitation and human trafficking for forced labour?
11. What are the possibilities for victims to apply for help in Lithuania and the country they work? How the system of assistance should work? What would you suggest? What is your experience concerning victims you have met: did they apply for help, how and where did they apply?
12. What should be done in order to prevent ant stop trafficking for forced labour and labour exploitation? What measures should states, international organisations, NGOs apply in order to prevent and stop trafficking for forced labour and labour exploitation?