

TRAFFICKING FOR FORCED LABOUR IN EUROPE:

# EMERGING CHALLENGES EMERGING RESPONSES

A collection of emerging best practice examples



**Torsten Moritz/Lilian Tsourdi (editors)**

published by the Churches' Commission for Migrants in Europe (CCME)

# Trafficking for forced labour in Europe:

## Emerging challenges – emerging responses

A collection of emerging best practice examples

Torsten Moritz/Lilian Tsourdi (editors)

published by the Churches' Commission for Migrants in Europe (CCME)



Published by

Churches' Commission for Migrants in Europe (CCME)

174 rue Joseph II

B 1000 Brussels

T. : +32 2 234 68 00

F. : +32 2 231 13 14

[info@ccme.be](mailto:info@ccme.be)

[www.ccme.be](http://www.ccme.be)

with the financial support of the Church of Sweden, Finn Church Aid and Norwegian Church Aid

Brussels, 2009

Printed by Gemmapress, Prague

## CONTENT:

Foreword Combating trafficking for forced labour: from denial to action !.....	4
1. MAPPING THE PROBLEM.....	7
1.1. “No Way Forward, No Going Back” – mapping trafficking for forced labour in Ireland .....	7
1. 2. The Romanian National Integrated System to Monitor and asses Trafficking in Persons .....	11
1.3. Exploratory Study on Trafficking for Labour Exploitation Purposes in Spain.....	14
2. PREVENTING AND COMBATTING TRAFFICKING FOR FORCED LABOUR.....	18
2.1. ITUC Human trafficking for labour exploitation and exploitative conditions in the working environment: Best Practices in combating the phenomena through the Work of Trade Unions .....	18
2.1.1. Case studies: .....	18
2.1.1.1. Sri-Lankan Migrant Workers .....	18
2.1.1.2. Jordan’s Textile Industry .....	19
2.1.1.3. Human Trafficking for Labour Exploitation in Romania .....	21
2.1.1.4.Trade Unions in Spain Fight for Migrants’ Rights in the Country.....	22
3. ACHIEVING COMPENSATION .....	24
3.1. Compensation for Trafficked Persons .....	24



# **Foreword Combating trafficking for forced labour: from denial to action !**

## **Foreword**

### **Combating trafficking for forced labour: from denial to action!**

The debate on trafficking in human beings has received wide attention over the last two decades, both in media debate and political discourse. While there was always an understanding that the crime of trafficking in human beings is comprised of various forms of exploitation, most attention was devoted to the area of trafficking for sexual exploitation.

Although the debate on trafficking for sexual exploitation has often been confusing, e.g. by applying little or no differentiation between trafficking, prostitution, migrant smuggling and irregular immigration, and has seldom generated lasting policy results, hardly anyone would nowadays doubt that trafficking for sexual exploitation DOES exist and that it indeed IS a problem and outrage.

Governmental actors have – at least in theory – established various mechanisms in order to prevent trafficking, to prosecute traffickers and to protect trafficked persons in the area of sexual exploitation. The number of local, national or international civil society organizations active in addressing trafficking for sexual exploitation is so manifold that it is barely possible to keep track of who does what.

In the area of trafficking for forced labour the situation is dramatically different: only in recent years a few actors began to acknowledge that trafficking for forced labour is an everyday reality in today's Europe. Even nowadays, there is a widespread assumption that trafficking for forced labour is a marginal phenomenon in Europe or rather a marginal side-effect of undeclared migrant labour. Official statistics for most European countries seem to confirm this trend: the vast majority of reported cases of trafficking in persons are cases of trafficking in women for the purpose of sexual exploitation. While in most European countries cases of trafficking for forced labour would, at least, theoretically, be punishable, evidence shows that only in a few countries cases are brought to court, and only in a minority of those cases convictions are attained.

Evidence from the field however suggests that both the perception and statistics on trafficking for forced labour as well as the jurisprudence reflect rather the lack of

adequate mechanisms for identification of victims and investigation of instances of trafficking for forced labour than the reality. Wherever state or civil society actors have begun to seriously investigate if and where trafficking for forced labour takes place, the evidence gathered has suggested that the problem was real and dramatic both in its extent and in its nature. This analysis has however rarely generated responses of state or civil society actors, such as specific programmes as they are known in response to trafficking for sexual exploitation. Indeed, there does not seem to be a clear understanding of the institutional framework and working methods by which states and the civil society can address trafficking for forced labour. At the same time, there is some concern about the political will to address trafficking for forced labour<sup>1</sup>.

As the ecumenical agency of the churches in Europe on migration and integration, asylum and refugees, and against racism and discrimination CCME has, since it started its first activities against trafficking in human beings, underlined that the fight against trafficking needs to adequately address all forms of trafficking. The CCME General Assembly in 2008 confirmed that "CCME sees its commitment against trafficking in the tradition of the Christian commitment against slavery, which led to the declaration of the abolition of the transatlantic slave-trade some 200 years ago. CCME (therefore) in its work against trafficking seeks to address all forms of trafficking."<sup>2</sup>

This booklet is a first, and certainly modest, effort by CCME to take stock of existing and developing initiatives to address trafficking for forced labour. It aims at highlighting the evolving efforts to address labour trafficking and it is written in the hope of encouraging further debate on how to respond to trafficking for forced labour as well as further action. These activities range from mapping the problem to seeking ways to compensate those affected by it. The activities which are presented in this booklet have been and are being implemented by a variety of actors: trade unions, state institutions, NGOs. Not all of the activities have been welcomed by every stakeholder, and their initiators are constantly reflecting on the effectiveness of these responses, also under the critical eyes of partners. With its members and partners, CCME will continue to develop activities against this newly visible form of slavery.

---

<sup>1</sup>Cf. [http://www.osce.org/documents/odihr/2009/10/40208\\_en.pdf](http://www.osce.org/documents/odihr/2009/10/40208_en.pdf)

<sup>2</sup> CCME Commitment paper So if the Son sets you free, you will be free indeed (John 8,36) adopted at the CCME General assembly 2008

We hope that this book will inspire further reflection, debate and – most importantly – action. We would be grateful to hear of your experiences and best practices so that the common struggle against this contemporary form of slavery can be taken forward.

Doris Peschke  
General Secretary

CCME - Churches' Commission for Migrants in Europe  
rue Joseph II 174  
B-1000 Brussels  
Tel: + 32 2 234.68.00  
Fax: +32 2 231.14.13  
email: [info@ccme.be](mailto:info@ccme.be)

# 1. MAPPING THE PROBLEM

## *1.1. "No Way Forward, No Going Back" – mapping trafficking for forced labour in Ireland*

Provided by Migrant Rights Centre Ireland

From the mid 1990s Ireland's exceptional economic performance created an unprecedented demand for labour, which caused a reversal of Ireland's migration history, and it is now a country experiencing inward migration. In 2005 non-Irish nationals accounted for 8% of the labour force<sup>3</sup>. But this dramatic change in the composition of the workforce has not occurred without difficulties. NGO's trade unions and media reports have provided evidence that some migrant workers are experiencing a combination of exploitative and abusive conditions. While awareness of exploitation and abuses of migrant workers in Ireland has been growing, awareness of human trafficking to Ireland has only recently begun to be acknowledged. NGO's have been arguing that a problem affecting the rest of Europe was unlikely to have passed Ireland by. However, there are no official statistics on trafficking in Ireland and a lack of research in this area has meant that available information is largely anecdotal<sup>4</sup>. In addition, Ireland follows the general perception that where trafficking occurs it is usually women who are trafficked for sexual exploitation.

The Migrant Rights Centre Ireland (MRCI) and Dublin City University (DCU) conducted research on trafficking for forced labour during 2005 and 2006 which resulted in a report *"No Way Forward, No Going Back."* The report provides an overview of the situation with regard to trafficking for forced labour in Ireland. It aims to explore the existence of trafficking for forced labour in Ireland and to identify effective policies necessary to support people trafficked into forced labour. The research methods involved a combination of questionnaires, interviews, and case studies analysis. One hundred questionnaires were sent to relevant institutions, agencies, NGOs and individuals who were likely to come into contact with migrant workers and forty-six completed questionnaires were returned. Semi-structured interviews were conducted with fifteen

---

<sup>3</sup> This rose to 11% in 2007

<sup>4</sup> Since the publication of this report two other significant pieces of research on trafficking for sexual exploitation have been conducted Wylie, G and Ward E (2007) *The Nature and Extent of Trafficking of Women into Ireland for the Purposes of sexual exploitation 2000-2006* and Immigrant Council of Ireland (2009) *Globalisation, Sex Trafficking and Prostitution: The Experiences of Migrant Women in Ireland*



trafficked people<sup>5</sup> (ten men and five women) and five professionals (Two case workers from a migrant support organisation, a community development worker in an area with a large migrant workforce, an employer from the Sikh community and a trade union official). This small-scale research project does not claim to be definitive or exhaustive. It did not attempt to quantify the numbers trafficked into Ireland and much work remains to be done around the problem. Nevertheless, from the research a profile of trafficked victims and their experiences in Ireland is emerging. The problem clearly exists and appears to be located predominantly in certain sectors such as the restaurant industry, agriculture, domestic work and construction industry.

The analysis highlights the complexities of the experiences of migrant workers trafficked for forced labour. The definition adopted in the United Nations' Palermo Protocol Trafficking in Persons (2000) makes trafficking in persons an international criminal offence. However, there are still difficulties in defining trafficking and conflicting interpretations of what does and does not constitute trafficking still exist. The findings show that physical abuse, confinement, coercion, deception and exploitation can and do occur to people trafficked for forced labour. However, it was also found that in many cases of trafficking coercion is subtle, involving late payment of wages, confiscation of papers, constant threat of not renewing work permits or threats of denunciation to the authorities followed by deportation.

Motivations for migrating varied according to the country of origin and personal circumstances but overall a dream to secure a better future for themselves and their families created the motivation to migrate. Although most of the workers were coming to jobs that would be categorised as 'low skilled' this does not mean that they were unqualified, many of them had post second-level education. The chance of earning good money means they were prepared to work in jobs that they were clearly overqualified for.

The participants were promised work in agriculture, construction, restaurants, nursing, circus, childcare and food production. They were all told they would be earning good money, in most cases their accommodation would be provided and they believed that would be in a position to send money home to their families. With one exception all of the participants entered the country legally and with valid work permits. The participants

---

<sup>5</sup> For the purposes of the research 'trafficking' and 'forced labour' are defined in accordance with the Protocol to Prevent, Suppress and Punish Trafficking in Persons and the International Labour Organisation conventions on forced labour. The six indicators of forced labour as suggested by the ILO were also used.

paid substantial sums of money (ranging from £300 to £10,400) and travelled voluntarily. In addition, none of the participants identified themselves as having been trafficked. They believed the false promises of traffickers, intermediaries, agencies or future employers.

The reality of the working and living conditions was very different from that portrayed by the intermediary or the agency. The majority of the workers worked excessive hours and their living conditions were often extremely poor, with overcrowding, lack of privacy, lack of sanitary facilities and poor heating being the main problems. Caravans, converted sheds and old farmhouses were used to house workers on farms and on construction sites. The majority of the participants in the study had deductions made to their wages. These were used to explain the difference in the promised wage at the recruitment stage to the actual wage they received. Deductions were made to repay debts, for work permits and for accommodation.

The most serious demonstration of forced labour is the immediate use of coercion or violence in order to retain a worker. In general, however, employers/traffickers were able to exert control over the victims in subtle ways. Traffickers routinely told workers that they would not renew their work permits; some had passports confiscated and threats made regarding their families back home. In many cases they were verbally abused. Some workers were compliant with the traffickers' demands because they believed they could not return to their home countries until they had paid off their loans and there was no other way to provide for their families. These threats forced workers to put up with ever-deteriorating working conditions. However, no presentation of facts and figures can convey the horror of the stark reality of the trapped individual. A common thread between all those interviewed is fear; fear of their employers and fear of officialdom. In the case of employers the fear is not only for themselves but can also be for their families back home. Fear of officialdom in many cases can be a culturally related issue but it is primarily fear of being regarded as illegal with the ultimate sanction of being deported.

The majority of migrants interviewed expressed dismay at what they saw as the States unwillingness to protect them. The Department of Justice, Equality and Law Reform is preparing legislation that will transpose, into Irish law, EU directives in relation to trafficking, including trafficking for forced labour but they are not in a position to say

when the legislation will be enacted<sup>6</sup>. Consequently, in the absence of formalised procedures or structured approach the victims can be viewed, by State agencies, as undocumented workers and are in danger of being deported to their country of origin<sup>7</sup>. Furthermore, as undocumented workers they have to live without access to social protection such as social welfare, housing etc. This lack of formalised procedures impacts on the work of NGOs and trade unions as victims can need access to visas, accommodation, financial assistance, medical assistance, education (language classes) etc<sup>8</sup>.

The research indicates that measures to address trafficking in human beings fall into three distinct areas, those which address our response to and protection of victims, those which address our understanding of trafficking and those aimed at preventing trafficking. The problem is not just one of punishing the traffickers; it is also a matter of protecting and assisting the victims. The previous UN High Commissioner for Human Rights Mary Robinson emphasised the need to place human rights at the centre of any measures taken to combat trafficking. But under the terms of the Palermo Protocol States are not obligated but encouraged to protect and assist victims. It is vital that the human rights elements of the protocol are implemented by the Irish State if the problem of trafficking is to be addressed and the needs of trafficked victims are to be met.

---

<sup>6</sup> The Irish State enacted legislation to criminalise human trafficking; the Criminal Law (Human Trafficking) Act 2008. This act does not contain any protections for trafficked people. Limited protections will be contained in a new Immigration, Residence and Protection Bill, shortly to be enacted. The government has also created an Anti-Trafficking Unit and they have just published a National Action Plan to prevent and combat trafficking.

<sup>7</sup> The new trafficking legislation does not address this problem as it does not define the elements involved in forced labour. In practice this means most trafficked people will not fit the necessary criteria and won't be eligible for protection by the State. The Immigration, Residence and Protection Bill, proposes summary deportation which will allow people to be deported without proper investigation into their circumstances. Trafficked people will also be subject to this.

<sup>8</sup> The MRCI and other NGOs are working with the Anti Trafficking Unit to establish agreed and useful procedures for all involved and continue to highlight the types of protections needed.

## ***1. 2. The Romanian National Integrated System to Monitor and assess Trafficking in Persons***

Provided by the Romanian National Anti trafficking Agency

Romania is among the first countries to officially document a significant number of persons trafficked for forced labour. See:

<http://anitp.mira.gov.ro/en/trafic/rapoarte/raport%202007%20engleza.pdf>

The social reality generated by the existence and implications of trafficking in persons led to the necessity of designing and developing a centralized national data system on the phenomenon, which includes statistical data on both anti-trafficking measures and measures focused on prevention and assistance to victims with respect to their social reintegration. The national system was entirely developed by the National Agency against Trafficking in Persons (ANITP) and became fully operational in January 2007.

The operation of the monitoring and assessment system enables the agency to:

- receive and process trafficked victims' personal data with a view to their identification and expeditious referral to specialized support services;
- monitor the assistance provided to victims;
- understand the size and dynamics of the trafficking in persons phenomenon.

From a technical point of view, the national system is a multilevel IT system, using a central database, a data interrogation application and a user web interface.

Access to the National Data Base is granted to ANITP personnel only, respectively the Monitoring, Assessment and Research Service and the Regional Centers, as well as users from the institutions with which ANITP concluded collaboration protocols (Directorate General for Combating Organized Crime, within the Inspectorate General of the Romanian Police and the Inspectorate General of Border Police). The users from the above-mentioned partner institutions are provided access to the database to input indicators relating to their specific activities. They can access only the data which are necessary in performing their legal responsibilities; access is restricted as to the number of indicators and the number of persons. In this way, personal data shall be accessed only by the user who stored the respective information and statistical information concerning specific indicators shall be accessible, on the chain of command levels. In order to better control the information and the coherence of the statistical data, the right to delete or modify data is provided to a limited number of users and all operations on data are kept in journal type tables.

The data contained in the data base can be collected from other partner institutions as well, for example from NGO's. These data are collected by operators from the Regional Centers monitoring trafficked victims during the assistance process or, according to the case, the criminal procedures. ANITP is a personal data operator, registration number 4916 with the National Authority to Supervise Processing of Personal Data and all users of the system have access clearance to classified data. Once all partner institutions had been connected to the national system, ANITP organized the training of the system users regarding the operation and utilisation of the application.

In order to obtain relevant information regarding the dynamics of the phenomenon a tool kit has been developed containing:

1. a victim's initial evaluation chart;
2. a victim's assistance chart.

Following the completion of the two charts the information obtained is confidential and classified as service secret. A set of 70 indicators is laid down in the charts indicative of the multivariable analysis of the trafficking in persons phenomenon in Romania. Twenty-eight of the indicators are conjointly reported by specialized police structures, which can input information directly into the data application, thus avoiding identical data requests from the interviewed persons.

The intended indicators are divided into 6 categories:

- personal identification data, in order to avoid identical copies of case reports and to enable monitoring of the victim's situation ;
- pre-trafficking period indicators aimed at identifying individual social and family factors (for example educational background or family status);
- recruitment and transportation data which aim to identify methods of the victim's recruitment and transportation (for example recruitment method or trafficker's social and demographic details);
- duration of the exploitation period , in order to identify issues related to the type of exploitation;
- assistance period indicators, with a view to the identification of referral methods and the case associated risk, or type of assistance the victim benefited from;

- post-assistance period indicators, which assist in collecting information about the identified and/or assisted person's situation after the assistance period is completed.

The interface of the program enables the operational completion of the fields containing specific information obtained by professionals in their anti-trafficking and victim assistance activities. The quantitative and qualitative cross analysis of the information obtained through responses from authorized operators provide the ANITP specialists with a regular and complete picture of the dynamics of the trafficking phenomenon based on which they can develop conclusions and recommendations to prevent victimization and provide assistance to victims. Most of the information contained in the present report has been supplied by it.

At the same time, the system has been a model of best practice in the field of the implementation of monitoring information systems; the National Agency for the Family Protection (ANPF) showed interest in following the model in order to develop its System to Record, Monitor and Manage Cases of Domestic Violence.



### ***1.3. Exploratory Study on Trafficking for Labour Exploitation Purposes in Spain***

Provided by ACCEM

Integral Programme combating Trafficking in Human Beings and Smuggling of Migrants<sup>9</sup>

Accem is an NGO that dates from 1951. The purpose of this organization is to provide for social services and to perform the social and legal actions that will benefit asylum seekers, refugees, displaced people and migrants in Spain.

The social services and the legal counselling offered at Accem intends to assure a complete and personalized assistance to all those who might need our services.

Our main office is in Madrid, but this organization has offices in different geographical areas of the Spanish territory. These offices are located close to the Refugee Reception Centres, Migrant Shelters and other assistance programmes.

Accem, presented, on 9<sup>th</sup> October 2008 in Madrid, the first research on Trafficking for Labour exploitation edited in Spain about the country situation concerning this phenomenon.

The research elaborated by Accem with the support of the Spanish Ministry of Labour and Immigration, emerged from the total lack of specific information about trafficking of human beings for labour exploitation in Spain and from the need of analysing deeply the dimension and characteristics of this phenomenon. The initiative was launched to analyse the current situation in Spain referring to this form of trafficking, taking into account the fact that we are facing a multifaceted problem that must be faced from various approaches and different scopes. Specific objectives of the research could be summarised in the following:

- Analyse the pre-existing legal framework at national, European and International level concerning this form of trafficking.
- Go into the current situation of the phenomenon in depth regarding their extension, elements and characteristics.
- Get to know the institutional responses to tackle the phenomenon.

---

<sup>9</sup> “Programa de Actuación Integral contra la Trata y el Tráfico de Personas de Accem”, supported by Spanish Ministry of Labour and Immigration (Ministerio de Trabajo e Inmigración).

- To elaborate recommendations referring to the most urgent necessities in the fight against trafficking.

The structure and methodology of this publication was thought in the first part of the study to clarify the difference between trafficking and smuggling; labour exploitation and forced labour and other forms of degrading labour conditions for human dignity. In the second part, the research seeks to analyse all the elements included in the definition of trafficking and international approach of this phenomenon. The third part provides an approach to legal framework on this form of trafficking both at national and European level. Finally the fourth, fifth and sixth chapters are respectively focused on the results of the research, to analyse the institutional responses existing to deal with the problem and the conclusions about the necessary steps to be taken combating trafficking in human beings for labour exploitation. Among the methodological and structural aspects, several difficulties should be taken into account concerning the use of the term trafficking which in Spanish is frequently confused with smuggling (“trata y tráfico de personas”) and the criteria to determine the limits between trafficking for labour exploitation and severe labour exploitation. Obviously, these facts conditioned the responses given by the consulted actors and therefore the results and conclusions obtained with the research. Additionally, the less interest showed traditionally by the national institutions in this form of trafficking, although the concern was increasing at international level, provoked at the time of consultations that many agents would be reluctant to cooperate due to their lack of information about the phenomenon.

Spain is a transit and destination country of trafficking for labour exploitation. The relation between this increasing phenomenon and other trends such as the competition within global economy, flexible labour markets and migratory fluxes is undisputed.

In the last years, Spain has become in one of the main migrant reception countries in Europe. Immigration has risen to 10% of the Spanish population, keeping the numbers of socio-economic indicators above the European average.

Migratory process experimented by Spain in the recent years and globalisation process in world economies, are not isolated elements from trafficking for labour exploitation. Moreover, the increasing internationalisation of migratory phenomenon shows that trafficking in human beings can not be assumed only as a responsibility of the origin country, nor by the destination country of migrants, but the maximum cooperation between states must be promoted.

One of the main areas, of great relevance for the integration of immigrants and where most has been detected the impact of migration phenomenon, is the labour market. When, in the majority of the cases, one of the most important motivations to migrate is based in economic reasons, the access to the labour market of the destination country is fundamental to reach the success when facing the migratory project.

According to the study the growth in the last years of the volume of submerged economy in Spain, and the lack of availability of native workers in specific sectors such as agriculture, domestic service and construction, has led to an increasing number of cases of trafficking for labour exploitation. Moreover, trafficking in human beings is an occult phenomenon that remains in secrecy, which makes highly difficult to identify the victims.

The lack of capacity to create regular migratory fluxes and the fact that many immigrants look for work out of their countries of origin not as a way of improving their way of living but as a question of survival, increases the vulnerability of the so called "labour migration", which become them in potential victims of trafficking for labour exploitation.

One of the main findings of the research is the lack of reported cases due to the fear and threat situations that the victims experience. The lack of conscience of their rights, the ignorance of the language in the destination country, the image of the police and security forces derived from the one of their own country of origin, the fear to lost their work, the debt, the threats and the coercion are only some of the elements that discourage victims of trafficking to report their situation before the police.

While exclusion and discrimination situations of migrants are reaching important levels in Spain and in the European Union countries in general, there is still a lack of knowledge and visibility of this human rights violation. Moreover, the awareness in this issue is extremely important in order to advocate in favour of legal and social reforms against trafficking, contributing to guarantee an integral protection mechanisms for victims of trafficking for labour exploitation.

The analysis of the Spanish legislation in trafficking performed by the authors of the study has been a very difficult task, taking into account that all the existing norms are related to the crime of smuggling of migrants. Such confusion in both phenomena not only affects the application of law but also the creation of assistance and protection resources for victims. The availability of specific resources according to the necessities of victims of trafficking is extremely important for their recovery. Since the publication of the research study in 2008, many law reforms have been promoted by the Spanish government in

order to adapt the Spanish legislation against trafficking to international standards. Thus, a draft bill of the Spanish Penal Code is currently at debate in order to include a specific crime of trafficking of human beings according to Palermo Protocol, missing in today's Penal Code.

The study analyses the main sectors where the exploitation is more likely to occur and the profile of the persons who are more vulnerable to trafficking situations. According to the data provided by the Ministry of Interior derived from the reported cases, the restaurants and hotels industry, the construction and domestic service are the most relevant sectors. However, according to interviewed actors and the news appearing in the press, most of trafficking cases are taking place in the agricultural sector, tailoring, construction and domestic service.

Finally, one of the main objectives sought with this research work was to compile a number of conclusions and recommendations to provide with to all the actors involved in the fight against this form of trafficking and consequently foster a number of necessary measures. However, since the elaboration of the study, some of the most relevant recommendations have been achieved, as for instance, the ratification of the European Convention against Trafficking of Human Beings, came into effect in Spain the 10th September 2009 or the amendment of the Spanish Penal Code for its adaptation to the international instruments against trafficking, being currently debated in the Spanish Parliament.

All these steps given in Spain against trafficking of human beings did not address still one of the main challenges and essential demand of the civil society organisations which is the conditionality to make a complaint before the authorities. Thus, this is at present one of the main obstacles to provide victims of trafficking an integral protection.

Eventually, we would emphasize as one of the main conclusions of this study the necessity to create cooperation mechanisms among public institutions, organisations providing support to the victims, and other actors, in order to establish an integral protection system that facilitates in a parallel way the integration of victims in the society.

## 2. PREVENTING AND COMBATTING TRAFFICKING FOR FORCED LABOUR

### *2.1. ITUC Human trafficking for labour exploitation and exploitative conditions in the working environment: Best Practices in combating the phenomena through the Work of Trade Unions*

Provided by ITUC

Trade unions are one of the actors that have been mobilized in combating the phenomenon of human trafficking for labour exploitation. The involvement of trade unions takes place on several levels. Trade unions in the country of origin inform workers who are about to migrate about their rights and conclude agreements with NGO's and trade unions in the countries of destination in order to ensure the well-being of the migrant workers. Trade unions in the country of destination organize migrant workers and intervene with the local government and national employers in order to improve working conditions and put an end to exploitative practices. Four case studies illustrate in practice how the work of trade unions has contributed to the fight against trafficking for labour exploitation and exploitative conditions in the working environment.

#### 2.1.1. Case studies:

##### 2.1.1.1. Sri-Lankan Migrant Workers (source ITUC, Report *Union View - Sri Lanka:*

*Trade Unions Hard at Work*, October 2008, available at:

<http://www.ituc-csi.org/spip.php?article2498>)

Each year, over 200,000 Sri Lankans set off to work abroad, hoping to find a decent job to help their families. All too often, however, they encounter exploitation and humiliation. Thirty-one migrant associations organised by the National Workers' Congress of Sri Lanka (NWC) are working to prevent such bad experiences.

In a bid to improve the chances of successful migration, the NWC union has developed a programme to support and help migrant workers. This programme begins prior to departure with training organised by a network of 31 migrant workers' associations. "Unlike government training, which focuses on the development of migrants' professional skills, our training focuses on their rights, the working conditions that they can expect and demand, the culture of host countries, HIV prevention and so on", explains P. Samaranayake, one of the programme's coordinators. "Around 2,000 migrants attended our training courses in 2007."

The NWC also seeks to conclude agreements with trade unions and NGOs in host countries in order to help Sri Lankan migrants in difficulties. Gerald Lodwick, deputy secretary general of the NWC: "We have such agreements with ITUC affiliates in Jordan, Mauritius and Cyprus, and we hope to sign another one soon with Kuwait, with the help of the ACILS." (1) These contacts are useful, for instance, when migrant workers send no news after their departure, often because they are prevented from doing so by their employer. This silence obviously causes great anxiety amongst their relatives. The latter are generally poor people, with no experience of international relations and speaking only Sinhalese or Tamil, so it is very difficult for them to take the necessary steps themselves to trace the migrant worker. The NWC tries to help such families track down their relatives.

At least \$2.7 billion of remittances Money remitted by migrant workers to their families in 2006 accounted for 8.7% of Sri Lanka's GDP. In 2007, remittances totalling \$2.7 billion were recorded, and the amount would certainly be greater if it included payments made via informal channels (2). However, these impressive figures should not make us lose sight of the fact that, even after years of hard labour, some migrants find themselves with nothing once they return home, either because their wages have not been paid, or because their families have already spent them all. "We are therefore developing activities to support migrants returning to Sri Lanka", explains Gerald Lodwick.

Finally, as Chandra Kasturiarathi, NWC's migrant worker programme in Kurunagala explains another important aspect is taking care to help the children of migrants in order to prevent trafficking." We do our best to ensure that the children of parents who are migrants don't drop out of school: sometimes, when a child's mother is abroad, the children lose interest in their education. We organize activities with these children so that they won't feel alone, and we explain to them why their mothers had to leave. This is also a way to prevent the trafficking of the children, who would otherwise be at a higher risk of being recruited – for instance, as domestic workers in the cities if they drop out of school.

**2.1.1.2. Jordan's Textile Industry** (source: ITUC Report *Union View: Migrant Workers in the Middle East*, December 2007, available at: <http://www.ituc-csi.org/spip.php?article1694>)



Accused in 2006 of shameless exploitation and forced labour, Jordan's textile industry is now trying to shake off its bad reputation. The union on the ground is informing and organising migrant workers, who are confronted with a whole range of abuses.

Textile production represents over 90% of Jordan's total exports. Most is exported to the United States, which absorbs over a third of Jordan's total exports, placing it second only to Saudi Arabia. "The Jordanian textile sector is a political product, a bargaining chip, a gift made to Jordan for its role in the peace agreements between Israelis and Palestinians, for its role as a mediator and as a stabilizing force in the region," explains Fathalla Omrani, president of the Jordanian textile union and vice president of the General Federation of Jordanian Trade Unions, GFJTU. But the announced job benefits for Jordanians have not materialised. "These are dismal jobs, in terms of both wages and job security. Whether it be in the form of wages or taxes, the returns expected to benefit the Jordanian economy and population are very disappointing," continues Fathalla Omrani. Abusive commission fees pocketed by recruitment agencies, inadequate information provided by the sending countries, employment contracts signed in a language foreign to the workers, poor and sometimes unpaid wages and, above all, infernal production rates with frequent underpaid overtime... the Asian workers in these factories face countless difficulties. In its latest annual survey of trade union rights violations around the world, the ITUC reports on several strikes mobilising Asian workers from garment factories, resulting all too often in their deportation.

In 2006, the National Labour Committee (NLC), a US organisation for the defence of workers' rights, published a damning 162-page report, based on a one-year study in over 25 factories, detailing the often appalling working conditions of migrant workers in Jordan's export processing zones. According to the report "tens of thousands of immigrant workers are being held under conditions of involuntary servitude". The Jordanian Labour Ministry reacted to this report by taking a series of measures. It has increased the number of work inspectors, has set up hotlines to receive complaints from migrant workers, and has fined a number of employers. At least seven factories have been closed down. The number of employers withholding workers' passports has since considerably diminished, as have the cases of exorbitant fees charged by recruitment agencies.

The trade unions, for their part, urgently called on the authorities to reform the labour law, to bring it into line with international labour standards, which should apply to Jordanian and migrant workers alike. The government agreed to the GFJTU's demand to

permit the establishment of union offices in the industrial zones. "The government finally agreed to let us organise migrants. They can become union members, but cannot hold elected positions," explains Mohammed Al-Adede, head of the union office in the Ad-Dulayl industrial zone. "The union has managed to organise 3000 migrant workers and 300 Jordanians out of the 30,000 workers in the zone. Thanks to word of mouth, this figure is constantly rising. The union dues are JD 0.50 (euro 0.50) a month, which is deducted directly from their pay by the unionised companies," continues Mohamed Al-Adede, whose union office is sometimes open 24 hours a day so that it can attend to the three successive teams of workers from the factories that produce around the clock.

**2.1.1.3. Human Trafficking for Labour Exploitation in Romania** (source: ITUC Submission to the UPR on Romania, February 2008, available at: [http://lib.ohchr.org/HRBodies/UPR/Documents/Session2/RO/ITUC\\_ROM\\_UPR\\_S2\\_2008\\_InternationalTradeUnionConfederation\\_uprsubmission.pdf](http://lib.ohchr.org/HRBodies/UPR/Documents/Session2/RO/ITUC_ROM_UPR_S2_2008_InternationalTradeUnionConfederation_uprsubmission.pdf) )

Romania is a country, as many Eastern European countries, confronted with a shortage of labourers caused by an exodus of Romanian workers to Western Europe. This shortage on the labour market is often filled by Asian workers accepting low wages and working conditions. Chinese represent the third largest community of migrant workers in Romania after Moldovans and Turks. Several thousands work in the textile, agriculture and construction sectors and their numbers are still growing.

There are no statistics for the wages paid to foreigners working in Romania. According to the national legislation, employers are compelled to pay the minimum wage, as they should for Romanian workers. However, this provision was only adopted in the summer of 2007. Until June 2007 employers had to pay workers from other countries a wage at least equal to the average industry wage and additionally provide food and accommodation.

Chinese workers coming to Romania are not always fully informed about their rights. Unfamiliar with the Romanian culture, unable to speak the language and lacking any social network, Chinese migrant workers in Romania are highly if not completely dependent of the goodwill of their employer and their recruitment agency, which are often one and the same. This leaves them vulnerable to exploitation and the violation of their human rights. Some of these practices may be defined as cases of human trafficking in the sense of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against

Transnational Organized Crime (2000), ratified by the Romanian Government on 4 December 2002. Indeed, often foreign workers are deceived, recruited and transported for the purpose of exploitation

Trade unions assist the government in solving the most pressing problems affecting migrant workers' rights, such as the signing of labour contracts, payment delays, health and safety at work, social security, training, career promotion and legal aid. BNS and the Chinese ACFTU (All-China Federation of Trade Unions (not affiliated to the ITUC), decided to start cooperating on the theme to better meet the needs of migrant workers abroad and to inform them of their rights both in the country of origin and destination.

**2.1.1.4. Trade Unions in Spain Fight for Migrants' Rights in the Country** (Source: Spotlight interview with Mohammed Haidour, Spain – CCOO, Interview by Natacha David, ITUC, available at: <http://www.ituc-csi.org/spip.php?article2161>)

Brussels, 27 May 2008: Mohammed Haidour, a worker from Morocco who came to live Spain more than 20 years ago as an undocumented migrant, is now on the national executive of the Spanish trade union centre CCOO, responsible for migrant workers' issues. Assisting legalization, a policy of integration into society and the trade unions, trade union cooperation with the country of origin, he describes the challenges unions face in defending the interests of migrant workers.

**How has the trade union approach to migration evolved over the last 20 years in Spain?**

The composition of Spanish society and the Spanish labour market have changed a lot. Trade unions' work with migrants has steadily grown and become more complex. In less than a decade the proportion of immigrants in Spain's population has reached 8 or 9%, which is very close to neighboring countries. The difference is that in Spain the process is much faster, which creates challenges for society and the trade unions. Immigrants came here, and continue to come, to meet a real demand, concentrated in a few areas of the country and in a few sectors, such as building, agriculture, the hotel trade and domestic services. This geographical and sectoral concentration makes integration and combating discrimination all the more challenging, in society and in the trade unions.

**What specific steps do you take to reach out to migrant workers?**

To inform migrant workers and show them the benefits of union membership, to contact undocumented workers despite the fact that this is illegal, we have created the

Information Centers for Immigrant Workers (CITE), many of which are run by migrants themselves. There are 177 of them across Spain, and they play a very important role in terms of information, vocational and language training, administrative and legal advice, and liaison with the sectoral trade union federations concerned. The important thing is that the migrant does not have to be a union member or legally documented to benefit from the CITE's services.

**What progress has been made with the political authorities regarding the defence and integration of migrants?**

The new socialist government has taken a lot of initiatives to encourage integration and harmonious relations between the different immigrant populations and the rest of the Spanish population. The decision to move the issue of migration from the Ministry of the Interior to the Ministry of Labour and Social Affairs was an important step forward. Migrants aren't a security issue; they are assets who contribute to the economy and society. Installing tripartite social dialogue between the employers, governments and trade unions within the "regularisation" process is also positive. We know that employers are in favour of granting legal status because for the employers it is a means of "whitewashing" the exploitation of undocumented workers. It is not a game of equals. The worker does it out of need, the employer for profit. But the unions' demand for permanent legal status for all immigrant workers who can prove they have had a job and a place to live in the country for two years has been met. In the fight against human trafficking and the mafias, we have also won the right for migrants to denounce a network or an employer that has been exploiting them, either directly or via a trade union, together with the prosecution of the exploiter and the regularisation of their employment.

### **3. ACHIEVING COMPENSATION**

#### ***3.1. Compensation for Trafficked Persons***

Three year European project to mainstream remuneration in national and international anti trafficking policies and practises

Provided by Anti Slavery International and La Strada International

La Strada International and Anti Slavery International have set up a 3 year project that will improve the access to compensation for trafficked persons in 12 European countries and that will mainstream remuneration in national and international anti trafficking policies and practises.

Recent research from GAATW, Anti Slavery International and OSCE concluded that although there is an emerging right to compensation for trafficked persons and despite the existence of several compensation mechanisms, the actual receipt of a compensation payment by a trafficked person is, in practice, extremely rare. Although it is generally acknowledged that trafficked persons are entitled to compensation, and although in all European countries procedures for victims of crime to claim compensation for material and immaterial damages are in practise, it remains one of the weakest rights of trafficked persons when it comes to accessibility.

#### **The need for compensation**

La Strada International and Anti Slavery believe that remuneration is an important instrument in the fight against trafficking in human beings. It would do justice to trafficked persons; recognise their right to redress for damage done as well as for unpaid labour. Further, confiscation of the assets of traffickers would make trafficking less of a high-profit, low-risk crime. It will also reduce the risks of re-trafficking as people do not return home empty-handed and so provide them with the means to regain control over their lives and build a future, increasing their chances of successful reintegration into their society.

#### **Inaccessible compensation measures**

Under the present national laws, majority of the countries do provide victims of crimes (which the trafficked persons certainly are) with possibilities to claim compensation. The administrative and court proceedings are diverse, according to the national legal systems – the claims are either pursued through courts as a part of the criminal or civil

proceedings, through labour laws or through special bodies (compensation funds) responsible for compensation of victims of crime.

In reality, the chance for a trafficked person to obtain compensation is minimal. The experience from the ground shows, that there are flaws in the national compensation measures regarding trafficking cases.

- The trial can take very long, there is much uncertainty for the trafficked person not only about compensation but also whether the trafficker will be sentenced at all,
- some countries state compensation funds may exclude groups on moral grounds (such as illegal migration and prostitution,)
- often the traffickers that are arrested do not have large assets
- and last but not least often trafficked persons are deported before they are identified as victims.

Next to these systematic obstacles within the compensation measures there are also many barriers for trafficked persons to apply for compensation:

- often trafficked persons are not informed about their rights
- unavailability of legal aid,
- lack of knowledge by authorities but also NGO's and legal representatives to apply the existing measures to the trafficked persons
- trafficked persons intimidated and fear for their or their relatives safety
- trafficked persons want to forget and not relive the exploitative situation

### **International recognition**

Fortunately, in recent years the attention by governments and intergovernmental organisations to the human rights aspects of trafficking, including legal rights and compensation, is growing. It is encouraging that the European legal framework and the Convention of the Council of Europe on Action against Trafficking in Human Beings, adopted in May 2005, contains several provisions about compensation. Among the obligatory measures to protect and promote the rights of trafficked persons, compensation and legal redress are mentioned in the Convention (*Chapter III, Article 15*):



- *Each Party shall provide, in its internal law, for the right of victims to compensation from the perpetrators.*
- *Each Party shall adopt such legislative or other measures as may be necessary to guarantee compensation for victims in accordance with the conditions under its internal law, for instance through the establishment of a funds for victim compensation or measures or programmes aimed at social assistance and social integration of victims, which could be funded by the assets resulting from the application of measures provided in Article 23*

The Handbook on National Referral Mechanisms by the Office on Human Rights includes guidance on the importance of compensation as a means of redressing the rights violations experienced by trafficked persons and its important restorative and preventive effect.<sup>10</sup> Other international standards on trafficking, labour rights, migrants' rights and the rights of victims have developed the right to compensation. They have also established the principle that the profits made by traffickers through their exploitative activities should be used to benefit the trafficked persons either individually or collectively. In this regard the OSCE Action Plan to Combat Trafficking in Human Beings recommends that States should:

*'consider legislative provisions for confiscation of the instruments and proceeds of trafficking and related offences' and that the 'confiscate proceeds of trafficking will be used for the benefit of victims of trafficking.'*<sup>11</sup>

### **COMP.ACT EUROPE Action for compensation**

The project by La Strada International is called COMP.ACT EUROPE and aims to mainstream remuneration into the national anti trafficking measures and into the international anti trafficking debate and to develop tools and instruments for the implementation of these measures.

### **European Coalition**

In order to reach this goal the project aims to form a European coalition consisting of various stakeholders – NGOs that offer direct assistance to trafficked persons, legal community, labour unions, migrant workers rights' organisations and academics – that will:

---

<sup>10</sup> *National Referral Mechanisms: Joining Efforts to Protect the Rights of Trafficked Persons, A Practical Handbook*, OSCE-ODIHR 2004 pp83-87 ("NRM Handbook").

<sup>11</sup> Chapter III, s1.5

1. on a national level initiate practical research and projects to create a system that would enable trafficked persons to access compensation
2. on international level to advocate for mainstreaming compensation into the agenda of international bodies and national action plans and ensure the commitment of governments to guarantee access to the right to compensation for trafficked persons in practice.

#### *National level*

The project will be conducted in 12 European countries in which a 'member' of the European coalition will set up national compensation coalition consisting of NGO's, legal community, migrant workers' rights organisations, unions and academics to create a sustainable compensation system for trafficked persons. Although all countries will have a working plan, based on the national circumstances and state of affairs concerning compensation, there is a common program that consists of analyses of existing compensation schemes available for trafficked persons and in depth case studies to identify reform needs and good practises; practical national handbooks on compensation for NGOs, lawyers and prosecutors that describe the different national compensation schemes and test trials to provoke attention for the subject, to test the national legal system, and gather experiences.

The common program in the different countries creates the opportunity for the national coalitions to exchange experiences and share best practises. The international coalition will support the national programs by developing a format for the national handbook and trainings. The result will be that the program is comparable, replicable and sustainable.

#### *International level*

The coalition aims to work together with Intergovernmental Organisations such as the ODIHR the Council of Europe, the United Nations and the European Community to raise international awareness for the right to compensation for trafficked persons by (amongst others) organising events and a international conference on the issue of compensation. Next to awareness raising the coalition will lobby for the development and implementation of international guidelines, decisions and actions plans for compensation measures.

## **International cooperation**

The work on the national and international levels support and strengthen each other. The national analysis and in dept case studies will provide best practises and most effective measures that can be used to strengthen the international awareness campaign. At the same time, the international awareness campaign will stimulate national governments to invest in and cooperate with the national compensation coalitions.





**Churches' Commission for Migrants in Europe**

Commission des Eglises auprès des Migrants en Europe

Kommission der Kirchen für Migranten in Europa



Published by

**Churches' Commission for Migrants in Europe (CCME)**

174 rue Joseph II, B 1000 Brussels, T. : +32 2 234 68 00, F. : +32 2 231 13 14, [info@ccme.be](mailto:info@ccme.be), [www.ccme.be](http://www.ccme.be)  
with the financial support of the Church of Sweden, Finn Church Aid and Norwegian Church Aid,  
Brussels, 2009

Printed by Gemmapress, Prague