

# **COMBATING TRAFFICKING FOR FORCED LABOUR IN EUROPE!**



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Combating trafficking for forced labour in Europe !

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## 1. Introductory remarks: Combating trafficking for forced labour in Europe: on the way to best practices !?

### *Background of this booklet*

The debate on trafficking in human beings, which over the last two decades has focused on trafficking for sexual exploitation, has in recent years increasingly been broadened to include trafficking for forced labour.<sup>1</sup> The progressive adoption of the provisions of international and regional instruments (such as the UN Palermo Protocol, the EU Framework Decision on Trafficking of 2002 and the Council of Europe Anti-Trafficking Convention) into national law has created a legal situation in Europe where there is no doubt that trafficking for forced labour is a crime and that protection should be offered to those affected by it.

The Churches' Commission for Migrants in Europe (CCME) as the ecumenical agency of the churches in Europe on migration and integration, asylum and refugees and against racism and discrimination has, since starting its first activities against trafficking in human beings, underlined that the fight against trafficking needs to adequately address all forms of trafficking. As the CCME General Assembly in 2008 stated, "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>.

However, experiences from the field seem to suggest that few organisations have practical experience of investigating and prosecuting cases of trafficking for forced labour. Civil society organisations maintain that those trafficked for forced labour are only in exceptional cases receiving the support which they would need.

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<sup>1</sup> The term "trafficking for forced labour" has in recent years become predominant in the debate on trafficking with the aim of exploiting the work of others. It is therefore used in this guide. According to the ILO forced labour convention (ILO convention no. 29) of 1930 forced labour is "work or service exacted from a person under threat or penalty, which includes penal sanctions and the loss of rights and privileges, where the person has not offered him/herself voluntarily". It has to be noted that the terminology is incoherent: national legislation often only speaks of "trafficking for labour".

It should also be noted that many of the cases discussed do not necessarily include all elements of FORCED labour and would therefore be more accurately be described as trafficking for labour exploitation.

In this booklet the term "labour trafficking" is used for simplification. It is used to signify 'trafficking for forced labour' unless otherwise indicated.

The term "trafficking" in this booklet refers to trafficking in human beings, unless otherwise indicated.

<sup>2</sup> Churches' Commission for Migrants in Europe: So if the Son sets you free, you will be free indeed (John 8,36) CCME's commitment against trafficking in human beings

([http://www.ccme.be/fileadmin/filer/ccme/20\\_Areas\\_of\\_Work/10\\_Slavery\\_\\_\\_Anti-Trafficking/2008-10-11\\_CCME\\_Pos\\_-\\_against\\_trafficking.pdf](http://www.ccme.be/fileadmin/filer/ccme/20_Areas_of_Work/10_Slavery___Anti-Trafficking/2008-10-11_CCME_Pos_-_against_trafficking.pdf))

It was against this background that CCME and its partners<sup>3</sup> in 2009 launched the project “Combating Trafficking in Human Beings - going beyond! Mapping and strengthening civil society capacity to protect and support victims of trafficking - beyond trafficking for sexual exploitation” (The so-called GOING BEYOND project).

The project, which gained financial support from the EU’s ISEC programme, had two aims:

- To map existing capacity in civil society to combat trafficking (outside sexual exploitation)
- To develop existing capacity further by sharing best practice and developing a best practice manual

CCME and its partners throughout 2009 and early 2010 researched labour trafficking (and initiatives against it) in 12 European countries (Bulgaria, Cyprus, Czech Republic, Greece, Ireland, Italy, Moldova, Poland, Romania, Spain, UK and Ukraine) and met with civil society partners from the respective countries for exchange.

*What this booklet seeks to achieve....*

The research in most countries confirmed that few cases of labour trafficking were documented, despite strong indications that labour trafficking is a reality in the countries examined during the research. It equally became clear that little or no specialised support was available for, and accessible to, persons trafficked for forced labour in any of the countries examined. A summary of the research can be found in chapter 2 of this booklet; the detailed research papers are available at [www.ccme.be](http://www.ccme.be).

The exchange of information between civil society practitioners has highlighted two areas of central importance, among the many different areas in which further work of civil society organisations would be needed:

- The importance of correctly and speedily identifying persons who have been trafficked;<sup>4</sup>
- The importance of interagency cooperation as a prerequisite for the success of efforts to combat labour trafficking.

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<sup>3</sup> The initial partners were AIDRom (RO), Caritas Prague, the Federation of Protestant Churches in Italy (FCEI), the International Trade Union Confederation, KSPM (GR) and the Migrants Rights Centre Ireland,

<sup>4</sup> This text uses both the terms of “victim” and “trafficked person” to describe persons who have been trafficked. It has correctly been argued that the term “victim” may lead to stigmatization and might objectify the trafficked person and should therefore be avoided, it is however in the context of identification essential that trafficked persons are indeed identified as victims of a crime. The term victim is therefore used in this context.

Readers will therefore find a number of considerations for these areas described in this booklet. While one is tempted to use the terminology “best practice” for them, several of the partners have cautioned and underlined that, given the initial stage and limited scope of some of the activities, this term might be too ambitious. It is the intention of this booklet to encourage and stimulate additional actors from civil society to engage practically with the issue of labour trafficking, so that best practice may develop on as broad a basis as possible.

The activities described in this publication have been undertaken by a variety of actors: trade unions, churches, state institutions, independent bodies and NGOs. Not every activity has been welcomed by every other partner: there are constant, often controversial discussions on the effectiveness of the responses, and sometimes there is a critical exchange among partners. CCME and its members and partners will continue to document interventions against this worrying phenomenon; we hope that doing so will clarify the challenges involved and aid the development of best practices by civil society organisations.

*...and the need to go beyond a “good practice” guide*

While an exchange of good practice will hopefully help civil society to better address labour trafficking, it is evident that sustainable progress will depend on several other factors. Whilst not all cases of trafficking involve migration, it is clear that migration policies have a major impact on trafficking. It is equally clear that labour relations in general have an impact on exploitative labour and forced labour.

Intentionally or not, the continued logic of restrictive (or extremely selective) migration policies in Europe over the last decade has exposed many migrants to very high risks in the various parts of their journey. Many migrants facing marginal routes of legal migration resort to networks of smugglers to achieve their goal. The need to pay those smugglers for their “services” can often create vulnerability and lead migrants to accept any kind of employment. Indebtedness makes undocumented migrants particularly vulnerable to exploitative forms of labour. Undocumented migrants are afraid of denunciation and often (and with good reason) reluctant to deal with public officials. This makes the identification of those who have been trafficked for forced labour very difficult. For others who have valid residence papers, the linking of these papers to specific employers or job placements creates dependency, which in turn makes them vulnerable. CCME, together with many of its



project partners, therefore believes that a holistic approach to address trafficking must include the revision of current migration policies.

While trafficking for forced labour is an extreme phenomenon, it is also connected to general trends in labour relations. Decreased job security, weakened trade unions, the increasingly accepted notion that ANY job is acceptable in a time of crisis, and prevailing high rates of unemployment contribute to an environment in which society appears more willing to accept certain forms of exploitative labour. The notion that some forms of exploitation are acceptable is reinforced by the tendency towards a divided labour market in many European countries: a labour market which consists of one formal/legal segment in which agreed standards and conditions are respected and another one, often informal which is increasingly liberalised and where few or no rules and standards apply. Partners from across Europe describe an increasing tendency for workers to increase their hours for no additional pay, or to accept unpaid 'training' or 'internships'; frequently, they are expected to accept these conditions with no questions asked. Additionally, the economic crisis has made it increasingly risky for workers to organise into trade unions or to make use of other forms of representation. In many cases, workers have lost their job as a direct or indirect consequence of their activism. This tendency will clearly affect any workers organising against exploitation, in particular migrants.<sup>5</sup>

It is in view of these more general preconditions that a "best practice" guide will encounter limitations. It is clear that a thorough and integrated response to trafficking would make changes in policies necessary.

We however hope that the suggestions and considerations included in this booklet will inform and improve the future activities of civil society and partners against trafficking for forced labour.

Our thanks go to all project partners for the important thematic contribution to the project as well as to the European Commission, Church of Sweden, FINN CHURCH AID and NORWEGIAN CHURCH AID for their financial support to the project.

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<sup>5</sup> As Andriasevic and Anderson note: "workers, migrant or not, cannot be divided into two entirely separate and distinct groups – those who are trafficked involuntarily into the misery of slavery in an illegal economic sector, and those who voluntarily and legally work in the happy and protected world of the formal economy. Violence, confinement, coercion, deception and exploitation can and do occur within both legally regulated and irregular systems of work. How to draw a line in the sand between 'trafficked' and 'not trafficked but just-the-regular-kind-of-exploitation' migrants? (cf. Andriasevic, Rutvica/ Anderson, Bridget. Anti-Trafficking Campaigns: Decent? Honest? Truthful? In: Feminist Review (92):151-155, p. 154).

We would also be grateful to hear readers' own experiences and best practices, so that the common struggle against this contemporary form of slavery can be taken forward.

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## 2. Trafficking for forced labour in Europe and responses to it- a snapshot

While trafficking for forced labour is increasingly becoming an issue in European political discussions, there still is little consolidated expertise on the phenomenon; its extent, patterns of exploitation and jurisprudence are largely unknown. Knowledge on state and civil society responses remains equally scarce.

In the context of the GOING BEYOND project, it was therefore essential to undertake an initial assessment on the situation across Europe. Partners from five countries (Czech Republic, Greece, Ireland, Italy and Romania) undertook both desk research and expert interviews in their respective countries and neighbouring countries. Guided by a set of questions (on the legal situation, case law, victim protection mechanisms, assistance in practice as well as on institutional actors), national reports were compiled giving an insight into how various states understood and addressed labour trafficking in various parts of Europe.

While several general tendencies can be observed, a number of national or regional particularities remain.<sup>6</sup>

### 2.1. Legal situation

All of the countries examined, except the Czech Republic, have ratified the Palermo Protocol.<sup>7</sup> Most have also ratified the Council of Europe Convention against Trafficking; in addition, all EU member states are bound by the 2002 EU Framework Decision on trafficking. As a consequence, national legislation contains definitions on trafficking, which would in theory include labour trafficking. While some countries have adopted broad anti-trafficking legislation at a fairly early stage (e.g. the Romanian Law no. 678/2001 or the Italian law 228/03 of August 2003), others adopted such legislation only recently (cf. the Irish Criminal Law (Human Trafficking) Act of June 2008 or the Cypriot law L. 87(I)/2007). In some countries, the broader legislation on trafficking was preceded by legislation that addressed trafficking for the purpose of sexual exploitation (e.g. in Cyprus where law 3 (I) of 2000 focused on trafficking for sexual exploitation and was later revised by the aforementioned law L 87 (I) of 2007, which contains broader concepts). While definitions of the crime of trafficking are particularly nuanced from country to country, most national legislation fairly closely follows the definition of the Palermo Protocol. Criminal sanctions in most countries range between 2 and 10-15 years of imprisonment; in some countries, cases with aggravating circumstances can receive stronger penalties:

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<sup>6</sup> Research was carried out between March 2009 and March 2010. While some country studies also included later developments, the situation is described as of March 2010.

<sup>7</sup> In full the "Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children" (Protocol to the UN Convention against Transnational Organised Crime).

between 15 and 25 years' imprisonment in Romania, and imprisonment up to a life term in Ireland.

Among the countries researched, Greek law also makes it possible to punish those who accept the trafficked person's labour or services knowing that the victim is in a disadvantageous position.

A particularly problematic area in the legal system of several countries is the understanding of what labour trafficking entails. The distinction between slavery, simple labour exploitation, and labour exploitation as one element of trafficking in human beings can be unclear. In Italian law, reference is made to "slavery" or "power corresponding to property" in order to qualify trafficking. In practice, this reference to slavery often seems to discourage the use of the anti-trafficking framework, because key actors (for example in the judiciary or law enforcement) have no or limited understanding of what slavery means in its contemporary forms.<sup>8</sup> Equally problematic are fairly wide concepts such as the one applied in Romania, which among several other options defines forced labour as the "execution of work or services...or by breach of labour conditions, payment/ remuneration, health and safety" (law 678/2001). In countries where breaches of official labour conditions are a reality in large parts of the economy, such a wide concept equally seems to discourage decisive actions.

National researches highlighted the inadequacy or absence of official guidance on the interpretation of the respective provisions: the notions of "exploitation", "forced labour" and "slavery" remain vague or ambiguous in many countries.

All research in individual nations reports that legislation on labour trafficking is set in a larger context of potentially relevant legislation, in particular regarding irregular employment, but also legislation on work relations such as laws on working time, minimum wages or health and safety standards.

## *2.2. Case law*

Little seems to be known about case law on labour trafficking. It has been suggested that this is because legislation on the subject is fairly recent. However, research in several countries indicates that prosecutors and courts have a number of difficulties in identifying, prosecuting and judging cases of labour trafficking. From several countries, evidence from the field suggests that neither police nor other governmental actors are particularly keen to investigate cases of labour trafficking and bring them

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<sup>8</sup> It has equally been argued that the debate on trafficking often hinders the prosecution of forced labour as a stand alone clause (cf. Skrivankova, Klara: Between decent work and forced labour: examining the continuum of exploitation, York 2010)

to court; often this is a consequence of the under-resourcing of specialised units that deal with trafficking cases (see below).

It appears that inadequate understanding of the problem, inadequate resources, and a lack of clarity in organisational responsibilities are all contributing to the lack of documented case law on trafficking for forced labour.

In some countries, official data on trafficking cases is not disaggregated according to areas of exploitation. This obviously makes it very difficult to monitor the development of particular areas of exploitation. Even among those countries which disaggregate data on victims according to areas of exploitation, few maintain a centralised overview on how cases are followed up, including convictions/court cases. Phil Woolas MP, the then Minister of State for Borders and Immigration, commented on the situation in a House of Commons debate on 12 January 2010: *"Tracking victims beyond the reflection and recovery period is limited if there is no longer a risk to their safety or health and they have the right to remain in the UK (UK and EEA victims in particular)."* This points to many of the difficulties encountered in documenting cases of labour trafficking. In those countries where data is available, the number of cases remains low. For example, in the Czech Republic, 10 prosecutions for labour trafficking were launched in 2008, with 3 sentences being pronounced. In Cyprus, 2, 5 and 3 cases respectively were reported each year between 2007 and 2009. In the UK in 2009, 82 arrests for labour trafficking resulted in only two convictions.

### *2.3. Areas and patterns of exploitation and groups affected*

Trafficking for forced labour exploitation can, as research shows, be found in almost any area of economic activity. However, a number of key sectors have been confirmed as being of particular relevance. Generally, these sectors require hard manual labour but do not offer sufficient revenue or status to be attractive enough for regular domestic employment. Such sectors are often generally characterised by informal labour arrangements, especially in those sectors characterised by seasonal work carried out mainly by (often undocumented) migrants. Informal labour arrangements with "gangmasters", recruiters, middlemen and others (sometimes bordering organised crime arrangements) have often been prevalent in these economic sectors for generations. While sometimes there is considerable overlap of personnel with organised crime groups, it is also important to point out that not all such cases can be considered as trafficking.

Sectors such as agriculture, construction and tourism/hotels/restaurants seem to be of concern in all countries. Other sectors appear to be more

worrying in some cases than others. Research in Greece suggests that the cleaning industry is an important area of exploitation, with public contractors and private employers alike procuring labour from organisations that exploit trafficked persons. Meanwhile, exploitation in industrial production seems to be of concern in the Czech Republic. Research in several countries (e.g. the 2006 MRCI study: “No Going Forward, No Going Back”) indicates the domestic service sector is also strongly characterised by the exploitation of trafficked labour. Research also indicates that the trafficking of persons for forced begging takes place, with children being particularly affected.

Patterns of exploitation seem to vary considerably: cases exist in which victims are brutally treated, harassed, falsely imprisoned, or subjected to non-payment or violence directly after their arrival at their workplace; but such cases are rare. Patterns of exploitation mainly seem to take a more “subtle” form: often the exploitation develops over time in what might be called a “slippery slope”. Initial employment conditions may seem tolerable, if not ideal: initially wages will be paid, and violence or coercion will be rare. However, the situation will typically deteriorate gradually. Sometimes migrants arriving with legal work contracts find that the job they came to perform no longer exists; they are therefore left with no choice but to accept another, sub-standard work contract. Research from several countries underlines this point: it is extremely difficult to draw a clear line between sub-standard working conditions in certain areas of the (informal) economy and cases of trafficking, as the differences between both are often only marginal. In this context, trade unions have also pointed to the link between the increasingly accepted precarisation<sup>9</sup> of work and working conditions and forced labour, including trafficking into forced labour, as one of its most extreme forms.

Another pattern is the abuse of the trafficked person’s vulnerability to extract work by way of menace or false promise: an example often mentioned in this context is that of an employer who promises to arrange for regular status or a work permit for undocumented migrants who are willing to accept little or no payment, or unfavourable and illegal working conditions. Research from Cyprus and Ireland, for example, highlights the problem of legislation linking work permits to a single specific employer, and the vulnerability this creates for the workers.

Another pattern of exploitation that has been analysed in recent years is the practice to counterbalance a trafficked worker’s salary with exorbitant

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<sup>9</sup> “Precarisation at work means a growing transformation from guaranteed, permanent employment to less well paid and more insecure jobs” (The Frassanito Network: Precarious, Precarisation, Precariat - Impacts, traps and challenges of a complex term and its relationship to migration, 2006)

costs for services rendered by the employer or trafficker. Such costs might include accommodation, food, water, electricity, transport or even the provision of a workplace. As it is usually the exploiter “providing” these “services”, the exploited persons do not receive any or only minimal payment, but the exploitation is far more difficult to prove in case of any investigation. In other cases the exploited persons may arrive at the location of exploitation with a significant debt for the smuggling (e.g. for transport, false documents, etc.) and are expected to work off these debts. This is particularly likely to be the case when a difficult irregular border crossing was involved.

Research in several countries highlights that the common practice of subcontracting (in sectors such as construction, cleaning or agriculture) makes it very difficult to establish responsibility in cases of labour trafficking. Subcontracting arrangements are therefore used to conceal legal responsibility, sometimes deliberately.

Groups which are affected by labour trafficking differ from region to region, and it is once again difficult to draw generalisations. Official statistics are limited in scope, if they exist at all.

Civil society organisations are generally able to draw on fragmentary field evidence at best. These preliminary observations suggest similarity between the general migrant population in a country and the groups most affected by trafficking. It is any case noteworthy that labour trafficking affects both EU citizens and those from outside the EU. Numerous cases of Polish, Bulgarian and Romanian workers exploited in Mediterranean countries and the Czech Republic have caught the attention of the media and indeed seem to suggest a wider problem. Exploitation of non-EU citizens seems to follow geographical proximity or historical ties, and in many cases corresponds to general migration routes: for example, whereas Ukrainians are among those most affected by labour trafficking in the Czech Republic or Poland, North Africans are prominent among those exploited in Italy. Citizens from countries experiencing civil war, natural disaster or unrest (like Afghanistan, Iraq, Somalia, or Pakistan) are usually to be found among those trafficked in countries in which there is a significant refugee population.<sup>10</sup> There are reports about trafficking of Chinese citizens, but little detail is known about this.

#### *2.4. Victim protection and assistance in practice*

Provisions for the protection of victims in most countries are made by anti-trafficking laws, or in the broader context of social protection.

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<sup>10</sup> Refugee-supporting organisations have argued that the destitution of asylum-seekers (particularly those who have been denied refugee status) creates a high vulnerability for trafficking.



Access to any form of protection is conditional on the correct identification of the person affected. Reports from across Europe signal that identification remains a critical challenge across all the countries surveyed (see chapter 3).

It has to be noted that so far, residence permits and assistance to trafficked person which are, if at all, accessible to person trafficked for forced labour are provided in the context of general measures against trafficking and not result of specific legislation on labour trafficking. So far, there seems to be little knowledge and specialisation on the particular needs (e.g. housing) of persons trafficked for forced labour.<sup>11</sup> In legal and social counselling, some specialization is beginning to emerge. Legislative and practical arrangements vary considerably between countries, some of which have traditionally been countries of origin, while others have traditionally been countries of destination for trafficked persons.

#### *2.4.1. Residence permits*

All countries examined do – either in theory or practice – foresee that persons identified as victims of trafficking should be provided with an initial, temporary residence permit. The temporary residence is intended to allow victims to reflect and decide whether they would agree to cooperate in criminal proceedings against traffickers.

The period granted for reflection varies between one month (Czech Republic), 60 days (in Ireland, under specific conditions) and 3 months (Greece, Romania). Italian legislation is remarkably distinct from this general trend. A specific reflection period is not foreseen in Italian law.<sup>12</sup> Italy however offers more long-term protection (with a permit for six months, renewable for one year) in situations where the person affected has faced violence, serious exploitation or may face a serious threat to their safety. It is also noteworthy that Italy grants social protection to the victims of trafficking, even if they are unable or unwilling to cooperate with justice.

The reflection period is not always respected by the relevant authorities (national research indicates that this is for example the case in Poland). Instead, victims are interviewed by the authorities as soon as possible, with the intention of gathering evidence without delay.

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<sup>11</sup> Some practitioners would argue that the needs of persons trafficked for forced labour are similar to those trafficked for other purposes. Others even go as far as claiming that there are no particular protection needs for the majority of those trafficked for forced labour.

<sup>12</sup> The European Commission has noted this situation critically in its report on the transposition of the short-term residence permit directive (European Commission: Report from the Commission to the European Parliament and the Council on the application of Directive 2004/81... , Brussels 2010 (COM (2010) 493 final)), but also underlines that a reflection period is usually granted in practice.



Trafficked victims who have no existing right to stay in their destination country, are generally dependant on their willingness to participate in criminal proceedings against those who trafficked them. In a very small number of cases, humanitarian considerations may influence the decision on whether they can stay. In rare cases, victims of trafficking are given access to witness protection programmes, based on the evidence they have provided in court.<sup>13</sup>

#### *2.4.2 Housing and social assistance for victims*

Arrangements for accommodation are usually based on some kind of specialised, centralised safe housing, e.g. specialised shelters. These are based on arrangements originally conceived for women trafficked for sexual exploitation. However, Ireland, for example, foresees that victims of trafficking should be accommodated in standard reception centres for asylum seekers.<sup>14</sup> In Romania, shelters are so far almost exclusively oriented towards returning Romanian nationals, and are often provided by private, non-profit associations. While there are a number of (high) quality standards guiding assistance in Romania, provision is uneven, and practical problems like underfunding are the general rule. This pattern prevails in all other countries.

In a number of countries, it is unclear if accommodation for victims of labour trafficking is in fact available. The UK House of Commons Home Affairs Committee noted in 2009: "In its Report into Human Trafficking in October 2006, our sister Committee, the Joint Committee on Human Rights, concluded: "there is clearly insufficient capacity in the system to provide shelter and specialist support services for the [victims] who need them, and we urge that capacity be expanded as a matter of priority. The evidence we received was that the situation has not altered since then .... The situation for victims of forced labour, including migrant domestic workers, is even worse: until the Government's announcement in March of extra funding for the Poppy Project, there was no dedicated accommodation for such victims The evidence we received was that the situation has not altered since then."<sup>15</sup> While this statement is only addressing the situation in the UK, research suggests that the situation is similar in other countries. According to information of the immigrant-supporting Cypriot NGO, KISA, victims of a high-profile case of labour trafficking in Cyprus were refused access to the state-run shelter, on the grounds that it was only designed for victims of sexual exploitation.

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<sup>13</sup> As mentioned above, the Italian legislation follows a different logic.

<sup>14</sup> These centres have also in general been criticised, see: Free Legal Advice Centres (FLAC): one size does not fit all, A legal analysis of the direct provision and dispersal system in Ireland, 10 years on, Dublin 2009

<sup>15</sup> House of Commons Home Affairs Committee : The Trade in Human Beings: Human Trafficking in the UK, London 2009, points 139-141

Social assistance is usually divided into two kinds: emergency short-term assistance (e.g. medical emergencies, translation, psychological crisis intervention) for those in the reflection period and more comprehensive assistance (long term psychological support, social integration) for those assisting in criminal proceedings for the period of these proceedings, or with an even more long term residence perspective. Comprehensive assistance varies in that it is sometimes provided for as long as criminal proceedings are active, and sometimes for a longer period.<sup>16</sup> Several researchers have pointed out that it is difficult for persons whose documents have been lost or stolen (as is often the case for victims of trafficking) to access all the benefits which would in theory be available to them. It is noteworthy that so far there seems to have been no consideration by states of whether specific types of assistance might be needed for persons trafficked for forced labour (e.g. particular legal assistance in claiming withheld wages).

In a number of countries, victims with the right of long-term residence have access to the social security system under the same rules as nationals of those countries (e.g. access to health services in the Czech Republic). In other countries, special funds or programmes have been set up to help trafficked persons access various services.

Little is known about specific return programmes for persons trafficked for forced labour. Indeed the emergence of labour trafficking as an area of public concern coincided with a general reduction of assisted return programmes for trafficked persons in Europe<sup>17</sup>. As far as the research was able to identify return programmes accessible to trafficked persons, these were general programmes of assisted voluntary return or non-specialised programmes of victims' return.

#### *2.4.3. Institutional actors*

##### *a) Governmental actors*

Given that trafficking for forced labour constitutes a crime (according to International and EU legislation), it seems logical to assume that police would treat the issue either as part of their general mandate, or with specific specialised units. In theory, this is the case in most of the countries in which research took place.

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<sup>16</sup> These more generous provisions for persons with a residence permit however mainly seem to be discretionary – the European Commission noted that no member state has in its legislation explicitly decided to offer a broader range of services for victims, who are holders of a residence permit, cf. European Commission: Report from the Commission to the European Parliament and the Council on the application of Directive 2004/81... , Brussels 2010 (COM (2010) 493 final), p. 8

<sup>17</sup> The reduction in assisted return programmes – both oriented towards trafficked persons and returnees in general – was on the one hand a result of reduced funding for such programmes. It also was a consequence of EU enlargements and the associated freedom of movement and residence for countries to which organisations such as IOM used to organise assisted return.

In practice, some countries have opted to mainstream trafficking awareness – including on labour trafficking - into police training (UK and Ireland), others have set up specialised agencies with police competences (Romania); other still have mandated sub-units or task forces within the existing police structures (Czech Republic, Cyprus, Greece) entrusted with investigating additional areas of exploitation (e.g. sexual exploitation). However, many actors expressed a strong concern that these agencies/units/task forces have not been given sufficient resources to pursue their remit. In addition, the existence of specialised bodies entrusted with the investigation of trafficking cannot be taken for granted, owing to financial and other considerations. In some cases specialised units such as the UK Metropolitan Police Human Trafficking Unit have even been threatened with closure; in others, they have undergone constant restructuring (as shown by the example of the Romanian anti-trafficking agency ANITP).

Much of the national research also indicated that police are often not adequately supported in their efforts to investigate labour trafficking by other governmental bodies with specific expert knowledge. As outlined above, even the most basic tools for mapping the problem such as disaggregated statistics looking at fields of exploitation are not in place in several countries researched.

A particular concern is communication between the different governmental actors that are active in labour issues. Some cooperation bodies exist at governmental level (e.g. the inter-ministerial committee established since 1999 in Greece, the anti-trafficking group of experts in Cyprus). Elsewhere, separate coordination bodies are intended to ensure communication between different branches of government. One such example is the Irish Anti Human Trafficking Unit (AHTU). Elsewhere there are national referral mechanisms for the support of trafficked persons. Yet a clear and structured exchange of expertise between those responsible for labour issues and the police seems to be rather the exception than the rule.

Italy has in many ways combined the aspects of police and labour inspection with the work of the Command for Labour Protection of the Carabinieri<sup>18</sup>. The work of this command of the Carabinieri seems to have led to detection of various cases of trafficking. It however needs to be noted that the work of the Carabinieri is not always focused on the protection of those exploited, and has often led to the deportation of the exploited person as a result – with all negative consequences deriving from this for the trafficked person.

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<sup>18</sup> The Carabinieri Force (Italian: *Arma dei carabinieri*) is the national gendarmerie of Italy, with a dual role as part of the armed forces and in policing (cf. [www.carabinieri.it/Internet/Multilingua/EN/InstitutionalDuties/07\\_EN.htm](http://www.carabinieri.it/Internet/Multilingua/EN/InstitutionalDuties/07_EN.htm)).

In other countries, labour inspection is so far not part of the daily work of police organisations working against labour trafficking. Labour inspectorates are often, by design or operational direction, chiefly interested in detecting and sanctioning undeclared work or in mitigating the consequences of labour disputes, rather than in discovering exploitation. In addition, inadequate staffing appears to affect labour inspectorates across the different countries surveyed. Concern was expressed in various countries that victims of forced labour trafficking often do not have effective access to employment tribunals in order to claim withheld wages. This may be the result of their irregular residence status, which often prevents the exploited persons from accessing courts. It may also derive from the position of some courts that the work performed by trafficked persons is part of an illegal work contract.

#### b) Civil society

While a fair amount of criticism is due to the reluctance of governmental actors to adequately map and address labour trafficking, it is equally fair to say that civil society actors are also slow to address trafficking. The field of civil society organisations working in this area remains limited. In a majority of the countries researched, there seemed to be only one or two organisations dealing with labour trafficking.

In all the countries covered by the research there was some initial, often *ad hoc*, involvement of non-governmental actors and some trade union activity to be reported. Non-governmental actors addressing trafficking included organisations, which have started to analyse and address trafficking with a focus on migration (e.g. the Irish Migrants Rights Centre or the UK Migrant helpline) as well as organisations that have been active on trafficking for sexual exploitation (e.g. Romanian AIDRom, La Strada in Poland or the Czech Republic). In both cases, a migrants' rights perspective informs the work against trafficking. There is an increasing awareness of the issue of trafficking in trade unions. Some early experiences in addressing the concerns of trafficked labour through the traditional channels used by the labour movement have been described in this booklet.

An important role is played by civil society organisations in housing and sheltering trafficked persons, and also in providing them with psychosocial support. Such organisations also help with assisted return, often informally. Based on the conclusions of the national and regional research, it however seems that the services provided are those which either (in the case of anti-trafficking organisations) were previously offered to persons trafficked for sexual exploitation or which are part of

the mainstream support offered. In other words, a specialised service for victims of labour trafficking is still in its infancy.<sup>19</sup>

A central concern for all civil society organisations is the correct and speedy identification of trafficked persons (see chapter 3). In many cases, civil society organisations are only able to assist victims of labour trafficking very late, if at all. There is a strong consensus that pro-active identification outreach work needs to be developed further (see chapter 3 in this booklet). In addition, civil society organisations have argued in various countries for better legislation to identify and protect trafficked persons. This would involve changes in labour and migration law. In several countries, there is a cooperation mechanism between governmental and non-governmental actors in place - for cooperation on trafficking in general and also on labour trafficking.

Trade Unions play an essential role in combating trafficking. Bilateral agreements on transferable membership between unions in different countries do, where they are in place, help to strengthen the position of those potentially affected by trafficking. Depending on national legislation, trade unions can play an important role in labour tribunals, but also in workplace inspection and identification; social dialogue can play an important role in preventing trafficking. In recent years, there have been encouraging developments in the trade unions' willingness to organise and defend the rights of undocumented migrants. Important support in this respect has come from the ITUC General Council in 2007, which adopted the declaration "Towards a Global Trade Union Alliance against Forced Labour and Trafficking".

On the occasion of the 90th anniversary of the Greek General Confederation of Labour in November 2008, ITUC, along with its European counterpart ETUC and the Greek GSEE, organised a high-profile International Trade Union Conference on Combating Forced Labour and Human Trafficking.

In 2009, ITUC published a best practice guide on combating forced labour and trafficking, describing ITUC's role in coordinating the Global Trade Union Alliance to Combat Forced Labour and Trafficking. It has encouraged many trade unions in the membership of ITUC to address the issue.

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<sup>19</sup> Some organisations would however argue that a mainstreaming of migrants' rights is the best anti-trafficking policy anyway.

### 3. Identification – crucial issue for combating trafficking for forced labour

Identification of trafficked persons is THE essential element of any attempt to address labour trafficking. It is in particular essential for the access to rights for those trafficked. It is self-evident that someone not recognised as a trafficked person will neither be able to benefit from specific support and protection mechanisms nor be able to access his/her rights as a victim of a crime, e.g. to claim compensation. Identification is also a precondition for law enforcement and judiciary to investigate and punish the traffickers.

While this is true for any form of trafficking, the chances of correctly identifying those trafficked for forced labour are currently marginal at best.

As the Migrants Rights Centre Ireland (MRCI) notes

“For victims of trafficking for forced labour identification has and continues to be problematic. The burden of proof being placed on the individual to prove their exploitation has become prohibitive. Without proper identification the person’s rights are not protected and they are often left in a limbo situation. Part of the difficulty is that the person is often seen as an irregular migrant and not as a victim of a crime. MRCI has come across individuals who have been charged with immigration-related offences, imprisoned and in some cases deported.”<sup>20</sup>

The observations of MRCI are echoed and confirmed in reports from all over Europe. Many among those trafficked for forced labour are not protected by state institutions, usually due to their immigration status or lack of work permits. Even worse, state activities against irregular migration and undeclared work often make them more vulnerable. State actors which could potentially identify persons trafficked for forced labour give priority (often for political reasons) to detecting infractions of immigration or work permit legislation; they then prosecute rather than protect trafficked persons.

As CCME has outlined at the OSCE’s 2009 Human Dimension Implementation meeting:

“the failure to recognise trafficking aspects in irregular migration too often means that the trafficked person is out of the country of exploitation before the exploiters can even begin to worry about the consequences of their deed. They do not need to fear legal prosecution nor will they ever be held accountable by the victim....

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<sup>20</sup> MRCI: Forced Labour and trafficking, (MRCI website: <http://www.mrci.ie/Forced-Labour-and-Trafficking>, last retrieved on 17<sup>th</sup> February 2011).

There is ... evidence that in the exploitation of labour force, immigration assumes a part in the strategy of exploiters not to pay salaries to workers without proper documentation: the workers are deliberately hired because they are undocumented and once they have worked on a job for several weeks or even months, as they demand that the promised wages be paid, they are by the exploiters reported to financial control or immigration. Usually the main preoccupation of these authorities is to investigate the lack of residence permit and work permit, i.e. the penalisation of the workers. State actors in this way become accomplices in a process which is characterised by the exploitation of the migrant work force, often people who have been fraudulently deceived about their future by those who received or recruited them – something which clearly constitutes trafficking.”<sup>21</sup>

A successful identification process will therefore depend on comprehensive political commitment and operational change by state actors.

Within the existing context, civil society organisations will continue to play an essential role in advocating for better policy framework for identification.

Despite these limitations, a number of suggestions derived from emerging good practice can help to increase the chances that trafficked persons will be identified. The following suggestions will probably not seem very original or ambitious. However, they will at point help to avoid mistakes and maximise the impact of organisations starting to work on the issue of labour trafficking.

### *3.1. Identification – developing (y)our own organisation for identification*

When developing the capacity of civil society to identify persons trafficked for labour, it is essential to mobilise and involve existing organisations (e.g. the organisation you belong to) with an existing mandate or affinity towards labour issues or related issues. Many of these organisations will be interested in playing a role in identification. However, despite these organisations being non-specialists in the area of trafficking, they can still play an essential role thanks to their broader mandate, by increasing the chances of identifying trafficked persons. In order to fulfil this role, certain organisational development is needed.

A number of suggestions for organisational development are the following:

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<sup>21</sup> Torsten Moritz: Introductory remarks from the humanitarian issues session of the OSCE's Human dimension Implementation Meeting Warsaw 2009, (<http://www.osce.org/node/12366>).



### *3.1.1. Developing outreach work*

In the area of trafficking for forced labour, finding and developing points of outreach to people affected by trafficking is indispensable. Often, the locations where the exploitation takes place will be remote or initially unknown. (Labour trafficking is also different in this aspect from trafficking into sexual exploitation, which by definition makes it necessary that the trafficked person can be contacted).

It is therefore essential that organisations provide a low-threshold contact point, to which people (potentially) affected by labour trafficking can turn. Given that many people affected by labour trafficking will initially not consider themselves as trafficked, a contact point would preferably have a broad enough appeal (beyond the limited notion of “trafficking”) to be of interest to trafficked persons. This will also ensure that the contact point will become known through “word of mouth” information in the wider migrant community.

#### Drop in centres

There have been positive experiences with “drop in centres” – centres in which e.g. migrant workers are able to find different kinds of specialist advice, such as legal advice on residence status or labour legislation, preferably in the language of their country of origin and without having to disclose their identity.

There have also been positive experiences with groups in which migrants (self) organise – the Migrants Rights Centre Ireland for example is the meeting point of “action groups” of migrant workers, who have organised according to their profession: as domestic workers, as restaurant workers, agricultural workers. In other instances, church parishes play an important role as meeting points and venues of self organisation...

A drop-in centre would necessarily have to be in a place that can be easily reached by migrants (e.g. be within reach of public transport). The location of such a centre should also in other aspects allow for easy access. Consideration should be taken as to whether the neighbourhood will influence the accessibility and desirability of the centre, to name one example.

Opening times should also be considered. While it may be difficult to arrange exceptionally long opening hours, the centre should be accessible outside ordinary working hours at least once a week, to allow access to those migrants not able to do so within ordinary working hours. If possible, the centre should also allow for childcare facilities in order to allow effective access for mothers. (Security considerations need to play



an important role in organising a drop in centre. For further information, see below).

#### Proactive outreach work

If you have any indications as to where the exploitation of trafficked persons might take place (e.g. factories, places of work of cleaning companies) or where persons trafficked for forced labour live, you can obviously also arrange for visits to that location. However, careful consideration is needed regarding the potential impact of such a visit on those trafficked or on the visitor, as most of the visits will be carried out with the persons involved in the exploitation being present. It could be useful to explore whether there are specific places where you can meet those potentially affected by trafficking in a more protected or less supervised setting. Sometimes you may know a person in this setting, which will allow you to be present as a “guest” without arousing suspicion. Small token gifts (e.g. a box of matches) on which some information and/or details of your organisation may be printed, could be useful in a context where you only have a short moment to make contact. Obviously, material and information should be in as many languages as will be of relevance. Preferably, you would indicate how and where to make further contact with your organisation (e.g. through the aforementioned drop in centre or hotline).

#### Hotlines

In many cases, it will be difficult or even impossible to physically visit all the locations of exploitation. A phone hotline is therefore of crucial importance. Again, it may be a good idea to promote the hotline not only in a narrowly defined context of “anti-trafficking”, but more in the context of a hotline providing support and legal assistance to migrant workers. This could therefore have a broader appeal. The persons operating/staffing the hotline should have a broad range of competences in legal and social issues as well as having training in counselling.

Many important pieces of information can be shared via a hotline, but often it will be important to be able to refer to a real point of contact, e.g. a drop in centre. In addition, an outreach visit can be planned to gather more information and provide better advice on the respective situation. It would therefore be helpful if your organisation could develop clear guidelines on how to respond to queries, as well as information submitted via the hotline and how collect it.

It is highly desirable that a hotline would be free of charge for those calling – if possible both from within the country and abroad. As outlined above, it is important that the hotline number would be advertised as widely as possible, e.g. through information materials, small gift items.

A free of charge newspaper may be an additional space to advertise your services to your target group.

In order to further target your outreach, it might be useful to ask those contacting you via the hotline how they got your coordinates. Staff and volunteers working at the hotline should be offered, or even obliged, to have regular counsellors' supervision – both to protect their well-being and to enhance the capacity for professional support by the counsellor.

#### Principles of outreach work

As mentioned above, outreach work services should be preferably delivered in the languages of origin of the visitors to the drop in centre. Often cultural mediators from these specific countries will act as bridge-builders between staff at the centre and its visitors. Often staff and volunteers will cover a certain range of languages, but you will rely on external interpreters or others helping as well.

However, a degree of caution needs to be applied when selecting interpreters: can you exclude the possibility that the interpreters may in one way or the other be involved with the side of the exploiter? If the person seeking support comes with a friend or relative, who facilitates all the communication, it will be particularly important to arrange for some independent interpretation and the possibility to meet this person on a one-to-one basis. This will help to exclude the possibility that the "friend" is in fact involved in exploitation.

#### *3.1.2. Responding to hearsay/rumours*

As you develop your outreach work, you will hopefully start to receive information/hints from outsiders alerting you to exploitation/trafficking and asking you to intervene. Sometimes the media will report on presumed cases of trafficking.

These pieces of information are extremely important and yet they can be somewhat problematic: in the best case, they will help you to discover cases of trafficking and thus enable you to identify and assist trafficked persons, in the worst case you will waste time & resources and might even unwittingly make the difficult situation of persons already in difficulties (e.g. undocumented migrant workers) worse.

It is therefore essential that you have as an organisation or team, agreed to a standard pattern that you will follow when receiving such information.

Often the person informing you (e.g. through a hotline call) of a suspected case of trafficking will be very convinced that s/he has discovered an alarming case of trafficking, which needs to be stopped

immediately. In some cases, this person will try to convince you or even pressurise you to take immediate action. While this is usually well-intended, it is worthwhile to remember that often the person informing you might only have a fragmented picture of the situation and sometimes may not understand all the complexities of (suspected) cases of trafficking.

While it may be self-evident, it is important to underline that hearsay/rumours received from third parties alone should never lead you to initiate to any kind of far-reaching intervention, even if there seems to be a strong time-pressure.

The “W”s of any investigation (who-what-where) of course need to be asked in order to be able to ensure follow-up. It is particularly important that the person informing you explains how s/he has obtained the information which s/he is now sharing.

As a first step, you would need to judge the information according to its source: is the person or the institution known to you, has s/he submitted other information and how relevant/correct was this information. If the source is or could be trustworthy you may want to look further into the alleged case of trafficking. Depending on this you may decide that it is advisable to do your own verification e.g. by personally going to the place where the trafficking is supposed to have taken place. In this case, your own security, as well as the situation of those presumably trafficked, will play important roles. In some cases you may decide to involve another actor (e.g. an official of a governmental agency or the police) at this point.

As pointed out however, you should consider what unintended side effects any intervention from your side might have (e.g.: if you decide to visit a workplace where trafficking allegedly takes place together with the police, you may find that there is no case of trafficking, but police may discover undocumented migrants and pursue/ detain or deport them). Your decision whether to involve other actors should therefore also take into account which other actors - in particular governmental - may share your motivation to combat trafficking or be closest to your mandate in the area of trafficking. In some countries, certain civil society actors will have access to places of work – e.g. trade unions might have a more formal role in inspections of the workplaces and NGOs may have a role in the social audit of enterprises. There also can be a variety between different governmental actors. Labour inspectorates may for example be mainly interested in combating the exploitative aspects but not necessarily have the intention to punish and detain irregular migrants.

A more detailed inspection of the suspected trafficking case will inform you as to whether a follow-up is needed.

### *3.1.3. Security*

While most work against trafficking is not particularly dangerous, you should be aware that safety issues may arise, particularly for staff/volunteers working in direct contact with the public. As a result, it is better to anticipate these issues beforehand and establish a safety plan.

A serious safety plan would start with a risk assessment – undertaken by a specialist (you might ask the police if they would be willing to advise, but also experts from like-minded organisations might help). Often there will be little or no experience of an organisation working exactly on the same issue but lessons to be learnt from similar fields of work - such as outreach work on trafficking for sexual exploitation. Experiences from outreach work with other target groups (e.g. homeless people) might also be useful.

A safety plan would consider different kinds of possible threats to your organisation and its staff/volunteers.

- How you can respond if staff/volunteers are subject to physical attack, e.g. when working in the drop-in centre or in outreach work
- How information on your clients and their cases is recorded in your office and how to ensure that this information cannot be obtained by third parties. This includes reflection on the safety of your data/file management, but also a consideration of how to minimise the number of people in your organisation, who know about details of a particular client/case. In any case the “need to know” principle should guide you
- You should exercise a healthy amount of caution when recruiting new staff or integrating volunteers into the organisation: are you able to verify the background and credentials of people prior to their employment or start of work? You will not in all cases be able to run such checks, or you might also find that this disturbs an atmosphere of trusting cooperation. In this case it would be wise to exercise caution and only gradually entrust new staff/volunteers with tasks of a more sensitive nature.

Some practical training on how to avoid or deal with risk situations will in most cases be helpful.

Particular care should be exercised when your organisation is running a shelter. While experiences with shelters for persons trafficked for forced labour are so far limited, some have been gathered in the sheltering of women trafficked for sexual exploitation. Such experiences will also apply in this area.

CCME and partners have already in 2005 described some important security considerations on running shelters for trafficked women in the updated “action-oriented guide for awareness-raising and social assistance”.(cf.

[http://www.ccme.be/fileadmin/filer/ccme/20\\_Areas\\_of\\_Work/10\\_Slavery\\_Anti-Trafficking/2005-04-25\\_CCME\\_Bro\\_-\\_CAT\\_II\\_Action\\_oriented\\_guide\\_for\\_awareness-raising\\_social\\_assistance.pdf](http://www.ccme.be/fileadmin/filer/ccme/20_Areas_of_Work/10_Slavery_Anti-Trafficking/2005-04-25_CCME_Bro_-_CAT_II_Action_oriented_guide_for_awareness-raising_social_assistance.pdf), page 21ff.) .

It will for example be of great importance and yet equally difficult to keep the location of your shelter secret – this requires an enormous amount of discipline by both staff and inmates of the shelter. It should be a policy that persons who are using the shelter have to declare in a binding form (e.g. in writing) not to disclose its location to any third party. Access to such shelters should be limited to those working or living there. However if the location of a shelter has been compromised, it would be advisable to have a contingency plan: can the shelter be moved (e.g. in the case of decentralised accommodation in apartments). It is advisable that an organisation clarifies with responsible police institutions if and how the police can help to protect the shelter and trafficked persons in this accommodation when the need arises. A common understanding of procedures (preferably written) in cases of imminent danger/threat and clear assignments of contact persons (both in the police and the assistance organisation) are necessary for a swift handling of situations posing such a danger.

#### *3.1.4. Documenting and mapping the problem*

A great difficulty in combating forced labour is the widespread lack of reliable information about it: where does it occur, what are its patterns, how many cases do occur?

It is important, both for your own organisation but also for a wider public, to map labour trafficking.

This can on the one hand consist of presenting the situation at the national level or at least at a regional or local level on the basis of the available information.

On the other hand this may consist of efforts trying to sketch the situation by using the information that an organisation has acquired through its own activity.

Studies undertaken by civil society organisations in countries like Ireland or Spain (MRCI study: “No going forward, No going back” of 2006 and ACCEM’s “Exploratory Study on Trafficking for Labour Exploitation Purposes” of 2008) have been instrumental in bringing the problem to the attention of the broader public. This kind of attention can also be

instrumental in raising your organisation's awareness, and contribute to an organisational culture where identification becomes a reality.

Mapping the problem in an initial phase consists of:

- On the one hand systematically gathering the operational knowledge which you have acquired during your work.
- On the other hand, proactively investigating with other actors who might be knowledgeable about labour trafficking, and inquiring about their findings
- Last not least it may include direct, targeted research of the problem by investigating situations and locations where you suspect trafficking might take place.

In all three cases it is essential to clarify in which areas of work trafficking is most likely to happen, where (geographically), and in which economic sectors or industries it takes place. It will also be useful to identify the characteristics of victims, e.g. ethnic origin, and accurately analyse the modalities and patterns of exploitation which are prevalent. Examples could include: people trafficked into forced labour and not paid any wages at all, people paid but later deprived of their wage by traffickers invoicing them exorbitantly for board/lodging, trafficked persons exploited by being declared as "independent"; and other common types of abuse.

In any case you should try to summarise and publicise your mapping of the problem. Preferably this would be illustrated by a number of cases of trafficking, which you will describe in more detail (obviously taking due care of protection of privacy of the persons concerned). At the same time, you might use a publication as an occasion to encourage other people to report (suspected) cases of trafficking to you, thus also increasing the chances of identification.

### *3.1.5. Raising awareness within your own organisation*

In most cases, your own organisation will not be a single-issue organisation focussing on labour trafficking – often it might have been involved in addressing other forms of trafficking (e.g. sexual exploitation) or other labour issues. This provides a large potential, but also means that you will often have to inform and raise awareness of this form of trafficking inside your own organisation.

It might be a good idea to connect internal awareness-raising with a broader, external activity.

The General Confederation of Greek Labour hosted a big international conference on trafficking in Athens in November 2008 and used the publicity around it as an occasion to inform their members of trafficking.

Inside your staff/volunteer team it may be a good idea to organise a thematic seminar in which those working on labour trafficking give some impression of their work.

Depending on the style of your organisation, this might also take a more informal format, e.g. you could organise a “tray lunch” during the lunch break. In some cases using artistic forms of expression may be useful – e.g. an exhibition of pictures taken by trafficked persons. Often tools of internal communication such as newsletters will provide a format for informing people about your work.

The Finnish Ecumenical Council used its annual week of responsibility not only for external communication, but also to raise awareness among its members to the issue of trafficking.

Often the overall leadership of your organisation will not be informed in detail about your specialised work. This can lead to slightly difficult situations e.g. when you want your organisation’s leadership to speak out in public. It might therefore be good to suggest thematic input on your work e.g. at a board meeting.

An important point in raising awareness both within your own organisation AND a wider public is to address the misconceptions about trafficking. On the one hand there is the misconception that trafficking is exclusively related to sexual exploitation. On the other hand there is also the notion that trafficking is modern slavery – a notion which is correct, but which may let people assume that trafficked persons are indeed all physically locked up and held like slaves 200 years ago. While this may be the case, often the mechanisms to hold trafficked persons in captivity will be less obvious and therefore need closer examination.

### *3.1.6. Gender sensitive services*

Gender is a very crucial aspect of development and transformation of those organisations, which already have been active in combating trafficking for sexual exploitation, into organisations also addressing labour trafficking.

Many of the organisations, which are addressing trafficking for sexual exploitation, have been founded as women’s rights/feminist organisations. This will pose a number of questions when the organisation’s mandate is to include services to men<sup>22</sup> who are trafficked. This may involve specific reflections by the organisation on the principles and foundations of its work. Neither these principles nor foundations will

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<sup>22</sup> It needs to be noted that the specificities of counselling women who have been trafficked for forced labour may pose specific challenges – however the challenges of counselling men trafficked for forced labour currently seem to be greater, as very little is known about it.



necessarily have to be changed, but a thorough reflection on what they will mean in practice will most probably be necessary.

In practical terms, it will mean that your organisation will have to review whether its staff should include men and whether its working methodology needs to change. It certainly should be said that so far there is little consolidated knowledge on the specific needs of men who are victims of labour trafficking. However, first-hand experiences show that men deal differently with vulnerability and the situation of being a victim than women. There are indications that labour trafficking can have traumatising effects on those concerned (men and women), but it seems that signs of trauma among men are more difficult to detect than among women who had been trafficked for sexual exploitation. As a result of gender roles in general, particularly in countries of origin, men who have been trafficked will often have serious problems in self-identifying as a victim or in acknowledging the fact that they have been a victim. Some argue that this might be aggravated if their counsellor is a woman. It will in this context be worthwhile to have male specialised staff, preferably with knowledge of the cultural backgrounds and language(s) of the trafficked person's country of origin. In some countries, there are specific men's organisations dealing with gender roles. It might be worthwhile to make contact and see if they could advise on the design and methods of your organisation's work.

You should be aware that branching out your organisation to include services to men will need time and resources. The risk of offering services without adequate additional funding arises in two ways. Firstly the services could be of poor quality, and secondly you may lose sight and neglect the initial mandate of your organisation.

### *3.1.7. Self-organisation of persons (potentially) affected by trafficking*

In the discussions on best practice on support and advice to persons affected by trafficking, one very important type of organisation is often overlooked - the organisation of those (potentially) affected by trafficking themselves. This is both surprising and problematic, as it will often be exactly these organisations that contribute an enormous amount of knowledge and an indispensable perspective to the debate. NGOs in several countries have had good experiences with providing space for groups of migrant workers to meet and self-organise (see above) and report about very important information and insights received. These insights have covered aspects such as patterns of recruitment for trafficking from those groups, situations creating vulnerability and ways to strengthen migrants in their ability to deal with this. Equally positive, though limited, experiences have occurred with groups, in which victims



of trafficking have organised. In both cases an essential contribution to the debate has occurred, not through allowing organisations to speak on behalf others (those affected by trafficking) but rather through enabling those (potentially) affected to speak on their own behalf.

Meetings and associations of migrants are an important aspect of self-organisation, meeting and sharing of information. Churches and faith groups are, in many countries, playing an important role in housing the diaspora of their own or other churches and communities, thus providing a chance and a space for self-organisation. In a number of countries, trade union chapters have been organised specifically for migrants, in some cases from one specific country. Very often such branches and meetings will provide important insight into where migrants might be exposed to situations of vulnerability – it might exactly be here that trafficking takes place.

### **3.2. Developing partnerships for identification of persons trafficked for forced labour**

#### *3.2.1. Institutional/Inter-institutional responses at national and local level*

While the development of (y)our own organisation for the purpose of identification is crucial, it is clear that a relevant response should be formulated in partnership with state actors. Cooperation between civil society and the state is therefore essential, even though often difficult. While a separate chapter in this booklet describes the general considerations for such cooperation, a number of topics should be highlighted in view of the issue of identification. Often the areas of developing one's own organisation and external partnerships go hand in hand.

#### **Labour inspectorates**

Labour inspectors can potentially play a very significant role in identifying victims of trafficking for labour exploitation. However, it is important to analyse their legal mandate and role according to national legislation, as their role is often mainly that of a mediator, who tries to ensure that labour regulations are being respected and that any violation will cease in the future. To this end, they are mainly vested with administrative powers and can impose fines on employers, but in most countries lack jurisdiction to initiate criminal investigations or to formally identify victims of trafficking. In addition, there are further limitations to their role through the mere fact that the resources of the inspectorate units are often scarce and they lack the means to perform wide-spread controls.

Another obstacle is that the exploitation can take place in remote or inaccessible locations, as is often the case with exploitation in the

agricultural sector and in domestic work in private persons' homes. Thus, often further practical as well as legal barriers hinder labour inspectors from identifying victims of labour trafficking in specific sectors. Therefore, it is essential that labour inspectors are, where possible, encouraged to co-operate with different actors in order to increase the effectiveness of their work.

One important partnership that can increase the impact of labour inspectors' work is that with national or local police forces. These bodies, unlike the labour inspectorates in most countries, have the legal mandate to initiate criminal proceedings, including anti-trafficking legislation. Therefore, they can ensure that appropriate investigation into exploitative conditions will take place and consequently criminal charges can be brought against alleged perpetrators of labour trafficking. Moreover, they can guarantee that victims of trafficking can be formally identified<sup>23</sup> and can have access to protective measures as well as benefit from assistance and support measures. It has to be noted however that these benefits for trafficked persons will only be achieved if the police is mandated to prioritise the investigation of trafficking and protection of victims over other issues, such as investigation of irregular immigration.

In Italy, the Command of Labour Protection (CTL - Comando Tutela Lavoro), a specialised police force, has been mandated to work jointly with labour inspectors in implementing controls at workplaces. The CTL is a special body of the Carabinieri force that operates at a provincial level throughout Italy. The labour inspectors have an enhanced role and are responsible for writing a report, after carrying out a control. This report, the so-called "verbale", can be used as a piece of evidence before a court in the eventual judicial examination of a particular case. The CTL has on its part the power to initiate further criminal investigations. Although the formal identification remains under the responsibility of the local police - the so-called "Questura" - such controls create the possibility of uncovering situations of exploitation and abuse and result in the formal identification of victims.

One should note that the formal referral by the CTL of a potential victim to the police after a control is made, combined with the "verbale" which is written up by the labour inspectors in respect to the same inspection, constitutes a procedure which in most cases leads to the formal identification of the victims. As outlined in general, the benefit of such operations for trafficked persons has mainly been achieved in those operations targeting trafficking and not prioritising investigation of irregular migration.

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<sup>23</sup> Either labour inspectorates can officially decide that a person is to be considered a victim of trafficking or they can refer to the competent authorities.

Another crucial partnership is the one between trade unions and labour inspectors. Trade unions can play the role of an early warning mechanism for identifying workplaces with exploitative working conditions. This way, the obstacle created by having limited resources for inspections can be at least partly overcome, as controls can be targeted to workplaces where concerns through trade union representatives have been raised.

In Greece, it is common practice that labour inspectors and trade union officials together visit workplaces that have been deemed suspicious and inquire into the working conditions, through interviewing both workers and employers. Where a certain amount of evidence of exploitative conditions emerges the burden of proof falls on the employer. However, labour inspectors are authorised only to impose administrative sanctions such as fines, in the form of compensation that can be paid back to the workers, but lack the ability to initiate criminal proceedings.

### Local cooperation

Given the local aspect of the phenomenon of labour trafficking and the often remote location of the places where exploitation for forced labour occurs, it is vital that local cooperation structures are formed and regional departments of state institutions, e.g. police, are actively involved in the identification of victims (also see separate chapter 4 in this book).

Local cooperation initiatives should involve actors such as civil society organisations, state institutions, regional agencies, trade unions as well as local business unions. Firstly, a broad composition of a cooperation structure can help with raising awareness regarding the phenomenon and organising a response with the broadest network of stakeholders possible. Local actors have knowledge of the situation on the ground and are in the best position to effectuate on the spot visits and investigations as well as to provide assistance to victims. Moreover, through these kinds of initiatives personal contacts among the relevant stakeholders are established, a fact which in itself facilitates a coordinated approach. Another benefit in the implication of a multitude of local actors is that it constitutes a safety-net against corruption. This can be an answer to the challenge posed by widespread exploitation concentrated in one geographic location, which is frequent in areas where exploitative working conditions support the local economy in sectors such as agriculture or tourism.

In Romania, at the regional level (in each of the 47 provinces of the country) an inter-institutional team consisting of both governmental and civil society actors has been set up. Each team reports to the national anti-trafficking agency (ANITP) every 6 months and during the meetings there is an exchange of information regarding both the situation on the ground and the efforts to tackle concrete cases of trafficking. In addition, this inter-institutional team is the forum where activities such as “training the trainers” sessions and the planning of joint prevention campaigns take place.

### *3.2.2. Involving non-specialised organisations and services*

Apart from establishing and/or developing the capacity of specialised non-governmental organisations and governmental agencies, it is important to raise awareness and involve non-specialised organisations and services in the identification of victims. (A separate chapter in this booklet describes how your own organisation could be transformed in order to be responsive to labour trafficking).

The importance of raising awareness and involving such actors in order to ensure the effective identification of victims cannot be stressed enough. Often those who are experiencing exploitation do not have access to specialised services either due to their imposed isolation and/or because they do not know of such organisations and services and are not aware of their respective rights. A speedy referral by non-specialised actors is therefore often the only chance for trafficked persons to be correctly identified.

This involvement of non-specialised actors could either take the form of mainstreaming identification capacities for organisations that deal with migrants and/or labour issues, but that had so far not worked specifically in the field of labour trafficking. In addition, it could consist of raising the awareness of staff of non-specialised organisations that, due to the nature of their occupation and role, do however come into contact with (potential) victims of trafficking. Institutions and organisations that belong in the first category are e.g. trade unions and the general police force (not the special anti-trafficking police units) and border guards. The second category includes medical/health personnel, travel and transport companies and their staff as well as church clergy.

#### **Trade unions**

Trade unions have promoted workers' rights for more than a century and have fought against exploitation and forced labour through providing direct assistance, actions in courts, organising social dialogue and advocacy for a protective legal framework. It is self-evident that they are excellent partners in the struggle against trafficking. However, their

involvement in the field of labour trafficking is more recent. In order to be able to engage effectively with trafficked persons, trade unions must adopt an inclusive policy towards migrant participation and recognise the need to protect undocumented migrant workers. This would include targeted awareness raising and provision of information on the realities of labour trafficking, training on the identification of potential victims, and information-sharing on the specific role trade unions can play to protect trafficked persons. As mentioned above, trade unions can provide crucial assistance to labour inspectors in their work by acting as an early warning mechanism of potential abuse, with their work being deeply rooted in their convictions on the rights of all workers.

The International Trade Union Confederation ITUC has in recent years undertaken efforts to take stock of and strengthen its members' involvement against trafficking for forced labour. The ITUC adopted a "Framework of Action for the Global Trade Union Alliance to Combat Forced Labour and Trafficking" in 2007. Later, on a regional level a Declaration was adopted by the participants of the International Trade Union Conference on Combating Forced Labour and Human Trafficking, organised jointly by the ITUC PERC, the ETUC and the GSEE in Athens on 21-23 November 2008.

The publication of the ITUC guide "How to Combat Forced Labour and Trafficking - Best practices manual for trade unions" has inspired and strengthened activities of many national trade union federations and sectoral trade unions. (<http://www.ituc-csi.org/ituc-guide-how-to-combat-forced.html>)

Joint projects which the ITUC undertook in cooperation with NGOs, churches and other civil society organisations have enabled growing cross-sectoral cooperation between trade unions and civil society organisations, both on international and national levels (cf. Guide: ITUC/Anti Slavery International: Never work alone. Trade Unions and NGOs joining forces to combat Forced Labour and Trafficking in Europe, Brussels 2011, <http://www.ituc-csi.org/never-work-alone.html>).

#### Police force/Border Guards

On a national level, specific anti- trafficking units of the police might exist. However, they are rarely given enough resources to tackle the phenomenon on the ground and they are mainly based in the urban centres with potentially one or two more branches in other parts of each country. Labour trafficking however often takes place in remote, rural areas. Therefore, it is crucial that the frontline police force across the country receives adequate training that will enable them to identify exploitative situations and interact with victims. This way, they will be

able to identify and immediately assist victims while they at the same time refer the case to the specialised units. Those units can then take up coordinated criminal investigations and formally identify victims, depending on the legal framework of identification established in each national context. Joint training by specialised police and civil society has proven to be a useful element in supporting such work carried out by frontline police.

Equally important is the training of border guards who might be a first point of contact for victims, both at exit and entry points of a country. The activities should not take the form of denying entry/stopping persons at the border on the pretext of stopping trafficking<sup>24</sup>. Rather, border guards could, based on a number of indicators, such as falsified documents, composition of the group etc. make information (e.g. on labour rights of migrants) available to potential victims of trafficking and, if appropriate and the affected persons so desires, refer to specialised assistance organisations.

#### Private Actors/Health Personnel

The private sector actors that will most frequently come into contact with trafficking victims, who are migrants, are travel and transport companies. Whilst they are not linked to the trafficking network they could, if prompted to look out for certain indicators, help with the identification and referral of (potential) victims both by providing information on assistance organisation, or through the notification of the responsible national authorities or specialised NGOs (see chapter 3.1.2.).

Frontline health personnel should also be trained, as they are very likely to come into contact with victims. Even when the victims are otherwise isolated, they might be allowed to access health facilities, in some cases even on several occasions. Health personnel will often immediately perceive the signs of physical and psychological abuse or at least elements which might indicate trafficking. If they are informed about further indicators signalling a possible case of trafficking (e.g. social isolation and complete lack of knowledge of the local language) they will be in an excellent position to identify victims or to offer appropriate support/referral to specialised organisations to the presumed victims.

#### Churches and communities of faith

Churches (and increasingly communities/parishes of other faiths) are actors that can play a vital part in the identification of victims even when the victims have not identified themselves as such. Persons who are

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<sup>24</sup> Cf. Aim for Human Rights and others (ed.): The Right guide - a tool to assess the human rights impact of policies against trafficking in persons, Amsterdam 2010

being exploited are often not able or (e.g. due to cultural factors) do not want to make contact with a specialised anti-trafficking NGO or a trade union. However they may still be allowed to go to church or other places of worship and feel the need to confide in priests/clergy, who have a spiritual guidance role, and this way can inform others about their reality of life and their working conditions. Therefore, priests/clergy in particular (including those in diaspora parishes and, where appropriate, other leaders of religious communities) should have an understanding of the phenomenon and the reality of such forms of exploitation. They should know how to react and how to make contact with specialised organisations or the responsible authorities when they receive such information or when they form suspicions about potential exploitation. Obviously any formal referral or report to a third party should only happen if the trafficked person so wishes.

### *3.2.3. Involving informal networks*

Apart from organised structures and service providers, the role of informal networks in identifying victims of trafficking for labour exploitation can be crucial. It is often the case that victims might not be able to access formal assistance structures or come into direct contact with law enforcement bodies. This could be the result of either their isolation due to the nature of the exploitation, or of cultural and/or other factors, e.g. gender barriers. However, informal networks such as the migrant community and self-organisation initiatives can provide a link with those (potentially) affected by trafficking. In addition, family members and relatives and even members of the wider public can play a crucial role in the identification of (potential) victims of trafficking. Therefore, measures to inform and raise awareness among the wider public around the phenomenon of trafficking are of great importance. This may help to establish an easier access for, or referral of, trafficked persons to specialised service providers and responsible state authorities in both countries of origin and destination.

#### **Migrant communities**

The involvement of migrant communities is not only important in general terms and as a matter of principle, but more specifically will be beneficial for identification. Informal networks, for example groups of compatriots, can often be the only source of information regarding assistance that victims have access to. Potential trafficking victims might either come into contact with migrant community members on an informal and personal basis or through organised migrant community associations. These associations, which usually bring together migrants from a specific national or ethnic background, can be focused on culture, religion, or may



be organised along political or social interests. Such associations, whether formal or informal, can be an important partner in prevention campaigns and identification initiatives, in referral as well as during the reintegration period.

Members of migrant communities/associations often have valid information regarding the places and methods of exploitation for forced labour, which if shared with assistance organisations can be the basis of pro-active work on identification (see chapter 3.1.).

However, reaching migrant community networks and involving them in local initiatives to combat trafficking can sometimes prove to be extremely difficult when there is little previous contact with such communities (e.g. due to linguistic, cultural or religious barriers). In such cases it might take a certain amount of time before trust is built and barriers are to an extent overcome. In addition, one must be cautious in one's approach towards such informal networks, where it is important to know who is who. It is equally true that members of migrant communities might in some cases participate themselves in the trafficking networks and facilitate the recruitment or exploitation of victims. As a result, their involvement could significantly hinder and even jeopardise the identification and protection of victims.

#### Work with family and relatives

Family members and relatives of persons who have been trafficked for forced labour often play a decisive role in their identification. In practice, civil society organisations as well as police authorities are often contacted by persons whose relatives or family members have gone missing after taking up work abroad or elsewhere in the country. This can be a warning signal indicating potentially exploitative working conditions or a migratory process gone wrong, even if the victim is him/herself unable to ask for help. Of particular significance in this regard are help-lines/hotlines that can be reached free of charge (both within the country and from abroad) and which can be contacted by relatives who suspect that a family member has been trafficked.



The so-called “Green-Line” TELVERDE 0800 800 678, in Romania is a toll-free line (both for internal and external calls and most importantly – calls from mobile phones). Operational since 2006, it is used by persons interested in working or studying abroad and their relatives to obtain information regarding the reliability of potential employers, on labour rights and visa/work permit requirements.

It is also often used by family members of those who left for work abroad, in order to report on missing relatives. In some cases trafficked persons themselves have contacted the number. Thanks to its direct link with the national anti-trafficking agency (which itself has a network of national and international contacts) it can help to trace the persons which might have been trafficked.

### Raising awareness among the wider public

Informing the wider public of the realities of persons trafficked for labour can lead to the identification of such victims and also serve as an effective prevention tool. To that extent, well-targeted and specialised information campaigns launched by governmental and/or civil society actors are of central importance<sup>25</sup>. It is essential to target young people, as they are often most affected by unemployment and find themselves in search of alternatives, including migration opportunities. In addition, campaigns should also aim at the provision of reliable information to the media, so that a campaign can achieve a more realistic depiction of what constitutes the crime of trafficking for forced labour. The often polarised and extreme terminology and images used to report about trafficking in the media often hinders identification, as only the most heinous and extreme exploitative conditions are described. This way, public opinion often only perceives the most extreme case as corresponding to the notion of this crime. An educated campaign will therefore be non-sensationalist in its message and images and, while specifically targeting the issue of trafficking, also take stock of the larger context contributing to trafficking (e.g. restrictive migration policy and deteriorating labour standards).

The current economic crisis presents itself as both a challenge and an opportunity regarding awareness-raising among the wider public. On the

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<sup>25</sup> It should, in the context of this text, be noted that the messages and imagery of anti-trafficking campaigns need to be very carefully considered before they are implemented.

For a critique of some of the existing campaigns cf.: Andrijasevic, Rutvica/ Anderson, Bridget. Anti-Trafficking Campaigns: Decent? Honest? Truthful? In: *Feminist Review* (92):151-155, 2009 as well as Schatral, Susanne: Awareness Raising Campaigns against Human Trafficking in the Russian Federation: Simply Adding Males or Redefining a Gendered Issue? In: *Anthropology of East Europe Review* 28(1) Spring 2010

one hand, the negative economic climate can lead to an increased acceptance of and justification for exploitation by private employers, as this becomes considered as a necessity to some extent. In addition it contributes to a negative general attitude towards migrants, who may be perceived by the local population as a threat and as unwanted competition to the meagre economic opportunities. At times of economic downturn, this negative perception includes even those that have been victimised through exploitative conditions.

On the other hand, the current economic crisis could be seen as an opportunity since some parts of the population will develop solidarity towards vulnerable or victimised groups by relating to their situation. An element of solidarity may be important. Many citizens might realise that it is important for everyone to fight against situations of extreme exploitation and trafficking, as under the conditions of economic crisis, such situations might expand to include further sectors of the population. Consequently citizens could potentially realise that in the long run they, or their family members, might become affected as well.

#### 4. Cooperation between civil society and state actors to combat trafficking for forced labour

It is widely acknowledged that civil society actors and state institutions both play an important role in combating labour trafficking. There is also an increasing recognition that they can, based on their respective competences, aims and knowledge, gain enormously from effective and consistent cooperation. Yet there are surprisingly few examples of working cooperation between civil society actors and state institutions in this area. This chapter aims to give some hints about the “do’s” and “don’ts” of civil society–state cooperation that goes beyond a one-off or occasional cooperation. While being far from exhaustive or very specific, it may offer a number of considerations, which could be of value across Europe.

At the outset, we should stress that such forms of cooperation, where successful, can lead to a meaningful exchange of information, as well as to effective joint action to address labour trafficking. Indeed there are several examples at local and national level where cooperation initiatives have led to a better process for identifying and assisting victims of labour trafficking. Joint initiatives in many countries have raised public awareness on the issue. It is therefore worthwhile pursuing such cooperation in countries or regions where this has so far not been taken up on a more permanent basis.

However, it should be noted that the outcome of such initiatives will depend on a multitude of factors, many of which are external and go beyond the issue of trafficking. Any meaningful cooperation will depend on the genuine political will of authorities to address trafficking in its own right, the level of commitment of both the institutions and the individuals in responsible positions, the availability of funding and other factors.

Civil society organisations in many countries have been asking whether their participation in structures of cooperation on trafficking in human beings does more good than harm. To many organisations, it appears as if civil society actors involved in cooperation structures with state actors are a mere window-dressing for a larger policy context, in which rights of migrants and workers’ rights are undermined by state policies. To others, participation in such structures of cooperation is a first step towards having different voices heard in the policy debate, and therefore a first step towards changing the policy context.

It could therefore well be the case that the policy context, divergence of opinion and the manifestly unequal distribution of power within such

initiatives could render them meaningless and devoid of content. If this turns out to be the case, even though mediation and dialogue efforts between the actors have taken place, there is of course no point in continuing to pursue such a cooperation that exists only “on paper” or serves as a justification for a broader context that is unacceptable. In addition, a further point to be kept in mind is that the joint activities will encompass only certain aspects of the work of each of the organisations/actors, who will continue to undertake a broader spectrum of initiatives beyond the scope of the joint engagement in the field.

#### *4.1. Setting up structures of cooperation<sup>26</sup>*

An obvious question at the beginning is: why do you want to undertake joint cooperation? What kind of common activities should be happening? What are the common aims you would like to pursue, but also: what limits will such a cooperation structure most likely have? Is the political context one which will allow for a meaningful cooperation, or is there a danger of your cooperation being window-dressing for a policy, which you consider unacceptable?

Having clear expectations about the project from the beginning will play a crucial role in assuring its sustainability. In order to get a structured cooperation started, some consideration should be given as to who will initiate the cooperation, what is the best way to initiate it as well as who should be involved in it.

#### *4.2. Taking the initiative*

When starting a cooperation structure it might be wise to give some thought to who can be a convener of the initial meeting. This consideration is particularly important if you have reasons to believe that some of the potential partners, whom you would like to see around the table, might be hesitant to join in this initiative. A person of public esteem and influence may be in a position to convene a meeting, even with reluctant partners – this could be an academic, a writer, an active networker or in some cases a local clergy. The initiative might also be taken by a state actor. This could either be a governmental actor, possibly implementing a national action plan in combating labour trafficking, or a body such as the anti-trafficking agency acting on a national or regional level. Finally, it could be the case that a single non-governmental organisation or a coalition of non-governmental organisations active in the field decides to initiate such an action in order to deepen the cooperation with all relevant actors.

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<sup>26</sup> The term “structures” of cooperation is used as an overarching term for any continued cooperation between state actors and civil society actors – in practice this cooperation will sometimes take the form of a multi-actor platform, sometimes it will consist of multi-lateral or even bi-lateral arrangements of cooperation.

### *4.3. Moving the initiative forward*

Another issue to be considered is the appropriate timing of starting such a cooperation effort. The smooth and effective running of the first meeting, as well as a sense of timeliness and dynamism, could play a central role in the continuation of such a project. Often an exchange of knowledge event, e.g. a conference, can set off such initiatives. In addition, a specific event, e.g. Anti-Trafficking Day, launch of a local or national anti-trafficking campaign or memorial anniversary (e.g. as it was the case with bicentenary of the abolition of the trans-Atlantic slave trade) can be used as an occasion for a first meeting of the different actors. Moreover, relevant policy developments, such as the enactment of new/revised legislation or the publication of an administrative circular or a local council initiative, could serve as the ideal opportunity for the establishment of more formalised cooperation.

The Bristol Counter-Trafficking Coalition is a multi-stakeholder platform that was set up in 2009. Its members are NGOs, local Council authorities, academics and researchers, IOM officials, local government and police representatives.

The Coalition was set up as result of a round-table on trafficking organised by the Bristol City Council. Although at the beginning, this round table was conceived as an ad-hoc event, the issues that were raised were of great importance and the City Council decided to hold a "Community Cohesion and Safety Scrutiny Commission meeting on trafficking". This scrutiny meeting brought together practitioners, local government authorities and academics and resulted in a series of concrete recommendations in order to combat trafficking on human beings. One of the recommendations was that the City Council should adopt "a multi-agency approach to coordinate work on human trafficking". In addition, it was agreed that a human trafficking project worker post should be created and that awareness-raising should be undertaken, both through public campaigns and through the training of all local council staff on identification.

As a result it was decided that the cooperation between the several actors active on combating trafficking in human beings should be formalised and meetings should take place on a quarterly basis. The meetings are structured around an NGO platform model but there is a clear governmental presence and participation.

#### *4.4. Involving parties in the initiative*

Another matter for careful consideration is the question of which parties should participate in the cooperation structure. It is essential to try to include partners with knowledge and skills in the cooperation structure who have an understanding of the subject and who are already working in this area. In addition, you should involve the actors that have decision-making power and jurisdiction to act in this field - even in cases where so far they have not been actively involved in combating the phenomenon. Especially at the beginning, expectations in terms of numbers of participants should be realistic. It is preferable to start with fewer members and then grow progressively. One can also use the option of drawing in the specific expertise of individuals on an ad-hoc basis without making them fully-fledged members of your cooperation structure.

Potential governmental and civil society partners can be found in various sectors. Depending on the national or local context, state actors could include civil servants or partners of relevant ministries involved in implementation. Governmental departments whose functions are connected to the area of labour trafficking include those dealing with migration, social affairs, education, child protection, labour, equality, health and internal affairs.

It is also important to consider the “level” on which the cooperation structure should take place. In some cases meaningful local cooperation has been possible, at a time when relations between civil society actors and central government were so strained that no cooperation between them was possible. If the cooperation structure is established on a local/regional level, the participation of local/regional councils and similar local authorities should be sought. In addition, representatives of operational departments such as law enforcement bodies tasked with combating trafficking of human beings as well as labour inspectors should also be encouraged to join in the initiative. Prosecutors and members of the judiciary could also be possible parties, as long as their duty to preserve impartiality is not affected. Finally, specialised anti-trafficking bodies, where such bodies have been established, are instrumental partners.

Regarding civil society representatives (apart from non-governmental organisations active in this particular or in closely linked fields) one should also seek to include advocacy groups, migrant organisations, self-organised groups of trafficked persons as well as churches or church-related agencies. Moreover, thematically involved academics and

researchers can also make a valuable contribution in the cooperation effort. Taking into account the specific nature of labour trafficking, trade unions, as well as local business or private business associations, are additional valuable partners that can enhance the effectiveness and inform the action of the cooperation structure.

Finally, one should consider the involvement of the media in the cooperation effort. The benefits and risks of their presence should be carefully considered and will often vary between different national and regional contexts. In some cases, a non-permanent media presence can ensure that media are kept informed and that at the same time an atmosphere of trust can be created and that the different interlocutors feel confident in exchanging information on an informal and confidential basis<sup>27</sup>.

The ARIADNE network in Romania is a network of professional journalists with a clarified mandate and a specific interest in anti-trafficking issues. Based on trust, which has developed over years of cooperation, civil society actors and governmental agencies have a regular exchange of information on particular cases, which are then publicised in a non-sensational manner through the ARIADNE network. In this way public opinion is being made aware to the point that in several cases, civil society organisations were able to exercise political pressure thanks to the ARIADNE reports, and state institutions were more inclined to offer a practical solution to the given cases.

#### *4.5. Common understanding of the problem, contentious issues and conflict*

When setting-up a cooperation structure, it is necessary for all actors to acknowledge that inevitably there will be cases of disagreement on both perceptions and definitions as well as on an operational level. The motivation of engagement, the areas of engagement, as well as the understanding of basic terms, criteria and practice of the different actors are diverse, particularly between state and non-state actors but even within each of these sectors.

All parties should aim therefore to find common ground and points of shared interest, in order to take up joint activities and meaningfully exchange of information. At the same time, efforts should be made to engage in a productive dialogue on the contentious issues. It is clear that

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<sup>27</sup> For a number of important considerations on media and security cf: Christian Action and Networking against trafficking : Update: action-oriented guide for awareness-raising and social assistance, Brussels 2005, p. 24 ([http://www.ccme.be/fileadmin/filer/ccme/20\\_Areas\\_of\\_Work/10\\_Slavery\\_\\_\\_Anti-Trafficking/2005-04-25\\_CCME\\_Bro\\_-CAT\\_II\\_-Action-oriented\\_guide\\_for\\_awareness-raising\\_\\_\\_social\\_assistance.pdf](http://www.ccme.be/fileadmin/filer/ccme/20_Areas_of_Work/10_Slavery___Anti-Trafficking/2005-04-25_CCME_Bro_-CAT_II_-Action-oriented_guide_for_awareness-raising___social_assistance.pdf))



reaching a common understanding will not always be possible and there will be points where one/several of the parties will feel disillusioned or frustrated with the procedure, especially when their proposals are not taken up. The matter of how to establish mutual trust, and some ideas on how to tackle such set-backs will be addressed underneath (chapters 4.6.-4.9.).

It is first important to assess the factors that can lead to divergences in the approach towards the issue of trafficking. Divergent approaches and understanding will to an extent be due to the varying areas of engagement of the different actors. It could first of all be related to their organisational mandate, e.g. law enforcement agents and social assistance providers will necessarily have different competences and aims in dealing with labour trafficking. Directly linked with this issue is the possibility for actors to be flexible about their mandate. State actors as a rule have, compared to most non-state actors, fewer possibilities to alter their mandate and there is a stricter procedure in order for them to engage in new areas of work. This will of course differ depending on the nature of the state actor - e.g. local council authorities may have a greater flexibility than a national police authority.

A further question is that of the conceptual approach towards the issue of trafficking and the motivation to combat it. It will often be the case that state actors will deal with the matter from a criminal justice/security perspective whereas civil society actors will adopt a human rights-based approach. In practice, civil society actors will be more focused on safeguarding the victim's rights and assuring their protection, whereas law-enforcement and further state actors' efforts will be centred on the detection and investigation of organised crime and prosecution of criminals.

Another factor to be taken into account is whether the main area of activity of the particular actor, whether governmental or non-governmental, is tackling trafficking for sexual exploitation or labour trafficking, or whether the actor is equally active on both fields.

Another contentious area concerns how terms are understood and how applicable criteria are formulated. Particularly in the area of trafficking for forced labour, there is great uncertainty on the part of all actors involved on what constitutes slavery, what constitutes forced labour, what degree of exploitation is necessary for a person to be formally identified as a "victim of trafficking for forced labour", and which norms are applicable in specific cases. Obviously, the matter is of great importance as it has an

impact on formal victim identification, which results in a person benefiting or not from a certain number of rights and safeguards. Different understandings of particular situations and different types of analysis are the largest and most common source of frustration. This occurs when civil society actors deem that governmental actors apply a too strict or incorrect interpretation of definitions, which hinders trafficking victims from accessing rights and protection.

It is vital to discuss terms in practice and to try to reach, as far as possible, a common understanding, particularly as the different approaches to definitions and applicable criteria are likely to lead to contention. This is an area where relevant external expertise on the part of practitioners and academics may also help to clarify the issues.

Analysing the national application of norms, especially in the fields of identification and prosecution, identifying gaps as well as comparing practice with other European countries can, to some extent, facilitate a common approach on terminology. Actors from different domains may discuss different perspectives on a particular case in order to better understand one another.

In the Czech Republic, the Ministry of Interior initiated a cooperation structure that was named "Focus Group Discussion" between NGOs, governmental departments, public prosecutors and independent consultants specialised on the issue. The aim was to identify and better understand the unsatisfactory situation with respect to the low number of formally identified victims and the absence of convictions. One of the main elements of the discussion was the construction and application of a common definition of trafficking in human beings. It was recognised that there were divergent understandings and practical application of the terms "duress" and "other forms of exploitation" that figured in the national law. Common discussions led to progress in achieving common understandings and the group continues to meet frequently.

#### *4.6. Establishing common rules and mutual trust*

As contentious issues and disagreement are likely to come up during the cooperation, establishing common rules and mutual trust will be central both to being able to deal with them and to further developing such cooperation efforts. There are practical steps that can be taken in order to enhance mutual trust. Some of them are to be considered at the beginning of the cooperation and others at a later point in order to face difficulties that may arise.

At the outset, two issues that need to be taken into account are the meeting location and the name by which the cooperation structure is to be identified. Regarding the meeting location, it would be advisable that it takes place in neutral grounds (although of course this is also linked with financial/practical constraints). This way the initiative will not be understood as being mainly linked with one of the actors. In case a neutral location is not available, the rotation of meeting place could also be considered in order to promote a balanced image of the initiative. Some thought needs to be given to the name of the cooperation structure so that it will accurately describe its purpose and stress its multi-actor synthesis.

A permanent structure might help to promote trust and lead to the confidence-building that is necessary. Therefore, even if initially the cooperation starts off as an ad-hoc initiative, a manageable regularity of meetings should be established.

With regards to the exchange of knowledge, it is important to establish a “code of conduct” regarding confidentiality. The sharing of information should by no means endanger the fate of individuals, especially (potential) victims of trafficking for human beings and their right to protection of their data. A clear understanding of the rules regarding confidentiality, and a respect by all actors of what was agreed will help build mutual trust and facilitate the sustainability of cooperation efforts.

On an operational level, common engagement in specific projects can also deepen the cooperation. Indeed, working together in order to achieve a particular objective can highlight the mutual benefits and effectiveness of multi-actor action. The next section will provide a few examples of activities that could be undertaken jointly.

If the membership of the cooperation structure grows considerably, the creation of thematic working groups based on the participants’ expertise can be considered. This way, more targeted exchanges of information and action can be taken up by those directly involved in a particular aspect of the issue, and personal and institutional links may deepen.

Finally, a more formalised “complaints procedure” within the structure could help to alleviate any tension that might arise from the adoption of conflicting viewpoints or other contentious issues. Such an occasion to discuss openly grievances and propose, where possible, mutually accepted solutions could prove essential to the trust-building process.

#### *4.7. Common areas of activities*

An ongoing and structured cooperation framework provides an excellent opportunity for undertaking common activities. One area this could revolve around is the training of staff and volunteers.

The framework of the cooperation structure itself is a forum where a training exchange can take place, and the participating actors could train one another based on their specific areas of competence. In addition, members of the initiative could arrange joint training towards third (external) parties. Indeed offering training to external actors with both a governmental and non-governmental input can be very beneficial, and can offer them a holistic view of the issue. Moreover, members of the cooperation structure can arrange for mixed training by both internal and external actors. This could happen within the framework of the cooperation structure. As it was mentioned above, it is very useful to call upon the expertise of practitioners and academics, and also those coming from different national realities, so that they can enrich the debate.

An initiative linked to training, and which could be the outcome of a joint training, is the publication of a handbook. Such a publication, which would include for example the basic applicable framework, best practices as well as practical tips for the implementation of legislation, could be extremely useful for parties that have an implementation role. It could help promote the efforts and the knowledge produced within the structure to a wider public, as of course the participatory capacity within any cooperation framework will always have limits.

Apart from the area of training, there are a series of further initiatives that can be the object of joint action. To start with, joint fundraising efforts could concern either a common project that the partners wish to involve themselves in, or could aim to raise money for the running of the cooperation structure itself. Joint projects could involve campaigning towards the general public, and these are often launched with the support of both governmental and civil society actors.

In Romania, the National Anti-Trafficking Agency ANITP and several NGOs are active in raising awareness of the general public on trafficking for forced labour. ANITP and civil society actors have launched a joint national prevention campaign. This included the nation-wide dissemination of several thousands of copies of information material on labour trafficking, which focused on the possible dangers as well as on means to obtain advice and help, and was completed by joint media work.

In the past, other common campaign efforts between civil society and state actors have taken place. An information brochure on the circumstances faced by victims trafficking with the title "This is the reality: It can happen to you" is still being disseminated at exit points by the Border Police. To date 10.000 copies have been distributed.

More generally, joint public statements that come either as a reaction to a particular situation that has arisen, or as a reaction to developments in law or policy are another possible area of common engagement. However, such statements have to be the outcome of ongoing discussion; all actors need to be clear and in full agreement of the exact content which should promote a genuinely shared view/opinion. In case there is a procedure to obtain authorization (e.g. for a governmental actor) to partake in a statement, this should be ensured before the statement becomes public so that the initiative does not backlash.

A further possible area of common involvement is the joint mapping of the phenomenon and the actual responses to it. This could include the compilation of joint statistics and the production of joint analysis. The up-to-date information from civil society actors who come into direct contact with victims can prove crucial in fully understanding the dimensions of the problem. It could also help to overcome obstacles to formal identification, which arise either because of technical/legal constraints, or because of the unwillingness of the victims themselves to come forward and contact state authorities.

The project “Right Job” (RJ) in Rome and the province of Latium involved all local anti-trafficking stakeholders (Civil society organisation/NGOs, trade unions, employment centres, medical centres, police) in mapping, knowledge-gathering, awareness-raising and training. It aimed at increasing the partners’ capacity to reach out to potential victims of trafficking for forced labour.

In the first two years RJ operated in Rome with the help of public and private social organisations to obtain direct contact with potential victims, and from the third year it has tested collaboration with the trade unions in some Lazio provinces. It also used leafleting activities in some gathering places (such as markets, temples/churches, immigrants’ associations) and the involvement of opinion leaders of national communities as ways to reach out. Altogether some 250 potential cases of trafficking for forced labour were documented, and cooperation protocols were signed between NGOs and local authorities. Discussions between different actors on these cases have contributed to more common ground in understanding the reality of trafficking for forced labour.

#### *4.8. Formalising cooperation initiatives*

In any kind of cooperation, there will be a moment where it becomes necessary to clarify a set of issues regarding for example more formal membership, official representation or ongoing funding – in other words where it is necessary to decide if one formalises the cooperation. At this stage a choice has to be made to either regulate these in a more formal manner through a written agreement or memorandum of understanding, or by using more informal means such as an arrangement agreed upon orally.

It is best not to try to deal with the topic too prematurely; firstly a certain willingness to form a more structured partnership needs to become apparent. At the same time, these issues must not be left unregulated for too long as then there is a possibility that it would be interpreted as a lack of commitment. One should also consider that authorisation by the main decision-makers may often be a lengthy process.

A first piece of practical advice is to regulate only what is necessary. Overloading the agreement with detailed provisions will render it impractical and will make negotiations extremely time-consuming. The point of such an agreement is to provide some general direction on issues that might occur and not to try to regulate every possible situation.

Membership is one of the first issues to be regulated - both the criteria and procedure to join the cooperation structure. Agreement can also be made about partners who, although they will not join as full members, might contribute on an ad-hoc basis. In addition, it will be useful to define the main aims and the possible common activities that the cooperation structure will engage in. It is important to concentrate on what is feasible and to grow progressively, also in terms of activities to be undertaken. It is necessary to keep in mind that each organisation will continue to have its own activities independently of the cooperation structure, and that not all fields will become part of a joint action.

Another issue to be agreed upon is funding and in particular whether each organisation should contribute e.g. with a membership fee, or whether the cooperation structure will be authorised to apply for funding under its own name (consider if a legal personality is needed for this). Moreover, the issue of who will be authorised to represent the cooperation structure, e.g. any member or a secretariat, and the procedure to approve common statements should be arranged.

It will also be useful to consider a procedure for the evaluation of the cooperation structure's work in a certain frequency.

#### *4.9. Building sustainability*

Continuing and consolidating the cooperation structure over time will prove to be an important challenge. A number of factors have to be taken into account in order to ensure the sustainability of the project. Such considerations revolve around both practical issues such as space and funding, as well as interpersonal and organisational relationships between the different actors.

The issue of the premises where the meeting is to take place was also touched upon above. Linked in with these considerations is the issue of whether an organisation will serve as secretariat, i.e. as the main convener, and assume an added organisational role. As this task can pose a heavy burden on one organisation, it could either be shared (preferably by both civil society and governmental actors) or it could be arranged on a rotating basis.

Own funding of the structure could be ensured by joint fundraising. Another solution could be a limited membership fee, upon common agreement, paid by each organisation in order to cater for the administrative costs of the cooperation structure.



Communication amongst co-operating partners is vital. This involves internal communication on practical matters (scheduling meetings, circulating meeting agendas and minutes, and on-going exchange of information on content matters/partner events). Often it may be tempting to set up ambitious communication tools. However, one should opt for simple communication channels that require little maintenance. Therefore, the best options are either a mailing list or an uncomplicated internet-based web-group that also allows for sharing of larger files and requires no/little maintenance.

Two other factors that promote sustainability are continued common activities and the structured frequency of meetings. Both the number of meetings per year, as well as their timing, should be decided upon in advance so that the different actors can take them into account in their planning. A regular, but not overwhelming, frequency will ensure the timely and meaningful exchange of information and will facilitate the building of interpersonal relations. Ad-hoc meetings can be planned if necessary on the basis of external developments, or of a common project that is undertaken by the co-operating partners. In addition, the regularity and continuity of common work will help to keep the interest and commitment of the involved members.

Although the personality, interpersonal relations and commitment of the individuals representing each actor in the structure will be crucial, it is important to ensure institutional and not only person-centred participation. This would guarantee that the organisation would remain active in the cooperation effort even if the particular individual were to leave or change positions. A more formalised participation agreement, such as a memorandum of understanding or different type of agreement, as described above, could also enhance continuity in the work of the cooperation structure. Moreover, providing a possibility to evaluate progress is also important in retaining participation. Such an evaluation exercise could help stress the achievements so far, provide space for voicing grievances, while at the same time serving as a moment of reflection for possible solutions and ways to carry the work forward in the future.

Institutionalising common activities is an important means of building sustainability for the Bristol Counter Trafficking Coalition (see above). Since December 2010 the Bristol Counter Trafficking Coalition (see above, chapter 4.3.) and the Human Rights Unit at the University of the West of England have launched the initiative of a Migrant's Rights Centre in Bristol. The Centre features a drop-in centre, that initially is open every Friday morning and which gives on-the-spot support and referrals for migrants and their families in the city. It deals with issues of employment, housing, legal or financial matters or any other situation where migrants may find themselves vulnerable. Each week the centre will host various support organisations including the Citizen's Advice Bureau, legal advice or a trained counsellor. This means that migrants will get the support they need on the day, without having to make a call or join a waiting list. The centre has achieved all-party support from Bristol City Council in January 2011.

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