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# Human trafficking and the economic/business sectors susceptible to be involved in the demand and supply chain of products and services resulting from victims' exploitation







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## INTRODUCTION

The study was developed within the framework of the *Anti-trafficking stakeholders and economic sectors networking, cooperation to combat the business of human trafficking chain (NET-COMBAT-THB CHAIN)* transnational project implemented with the financial support of the Internal Security Fund Police Programme of the European Union. The project is coordinated by Association Pro Refugiu Romania, in partnership with Center for the Study of Democracy Bulgaria, Center for European Constitutional Law Greece, Italian Coalition for Civil Liberties and Rights, Verein für Internationale Jugendarbeit e.V. Landesverein Germany.

The study, just like the entire project, is based on the current European and international context: the increasing demand for sexual services, the demand for cheap labour, the desire to make a profit with minimal investment are factors that intensify the activity of the networks of human trafficking. The economic and social situation in many countries has increased the vulnerability to trafficking of certain social groups. Human trafficking is a highly profitable business and the products of this criminal activity are largely reintroduced into the world economy and financial system.

Among the existing recommendations at European level is that the EU Member States must make the necessary efforts to identify and put a stop to the involvement of the public-private sector in the human trafficking or its complicity (even indirectly) in this trafficking through measures to ensure that those persons working in these areas are trained to recognize such cases and report them to the relevant authorities. States must encourage dialogue and partnerships with stakeholders in order to bring together economic sectors, NGOs, anti-trafficking experts, in joint actions against human trafficking and to support workers and their rights, including the fundamental labour rights. National and international companies need to be aware of the negative effects of human trafficking and make the necessary efforts to ensure that their products are not obtained through exploitation of persons.

## CHAPTER 1

### National legislation and its applicability to counter human trafficking

#### Section 1 Romania

The legal amendments that entered into force on the 1<sup>st</sup> of February 2014 following the adoption of the New Criminal Code changed the definition of human trafficking, in the sense that certain forms of exploitation provided by the former legislation – *Law no. 678/2001, as subsequently amended* – no longer fall under the concept of human trafficking. These forms of exploitation may fall, as applicable, under the scope of other types of crimes provided by the New Criminal Code.

The following analysis will only consider labour exploitation, having regard to the subject matter of this study.

The previous criminal code defined human trafficking as the exploitation of a human being by *“performing labour or services by force or by violating the legal norms regarding labour conditions, payment, health and security”* (Art. 2 of Law 678/2001).

The new legislation provides that labour exploitation can be considered human trafficking, only if it is carried out by *“forcing persons to perform a work or a task”* (Art. 182, Para 1 Letter a, New Criminal Code).

By comparing the two legal texts, it can be noted that the exploitation of a human being *“by infringement of the legal provisions on labour conditions, payment, health and security”* is no longer considered human trafficking in the current criminal code. This shall fall under the scope of other crimes defined in the New Criminal Code.

The current legislation defines human trafficking as the exploitation of a human being subjected to provide forced labour or services. This means that the victim is coerced to provide labour or services against her will, which she would otherwise not provide willingly.

The nature of the labour or services, the payment of any remuneration to the victim for the labour or services performed, the amount of this remuneration or the adequate conditions for the provision of labour or services – are aspects that do not matter in determining the existence of the crime of human trafficking. What matters is that the victim should have been forced to provide the labour or the services.

The difference between human trafficking – by exploitation through provision of forced labour or services (under Art. 210 of the New Criminal Code) and forced or coerced labour (under Art. 212 of the New Criminal Code), consists in the fact that in the case of human trafficking the trafficker must carry out certain actions before the victim is coerced to provide the labour or the services.

Therefore, according to Art. 210 Para 1 of the New Criminal Code, before the purpose of the crime is achieved - exploitation by forced labour – the trafficker must carry out at least one of the actions stipulated in the law: recruitment, transportation, transfer, harbouring or receipt of the victim – at least by: constraint, abduction, deceit, abuse of authority etc.

In the absence of these actions prior to exploitation, it is to be noted the crime of forced or coerced labour (under Art. 212 of the New Criminal Code) and not human trafficking.

Another form of trafficking regulated under the current legislation is exploitation through slavery (Art. 182 Para 1 Letter b. of the New Criminal Code). Exploitation through slavery is to make a free individual fully dependent on another person and to maintain the person in this condition, while the trafficker acts as the owner of the victim.

For this form of exploitation, it is necessary for the trafficker's action to result in the complete suppression of the victim's individual freedom.

Similarly to above, the difference between human trafficking in the form of exploitation through slavery (under Art. 210 of the New Criminal Code) and slavery (as per Art. 209 of the New Criminal Code) consists in the fact that in the case of human trafficking prior to exploitation, the trafficker must have carried out one of these actions: recruitment, transportation, etc. of the victim by means of: constraint, abduction, etc.

In the absence of recruitment, transportation, etc. by means of constraint, abduction, etc. of the victim – which actions should occur prior to the exploitation through slavery – the crime shall fall under the scope of slavery (under Art. 209 of the New Criminal Code) and not human trafficking.

The New Criminal Code provides sanctions for whoever knowingly benefits from the services of an exploited person – a victim of human trafficking.

In order to retain the crime of benefitting from the services provided by a victim of exploitation under Art. 216 of the New Criminal Code, the beneficiary of the services should be aware of the fact that the provider of services is a victim of human trafficking. If the beneficiary is unaware that the provider of services is in fact a victim of human trafficking, the beneficiary shall be exempt from criminal liability.

At the same time, in order to retain this crime, the services provided by the victim should be included among the provisions of Art. 182 of the New Criminal Code, considered expressly and restrictively by the legislator as forms of exploitation of human beings. If the services provided are not included in those listed under Art. 182 of the New Criminal Code they do not constitute a case of benefitting from the services provided by a victim of exploitation. The beneficiary of the services provided by a victim of human trafficking may be a natural person or a legal entity.

In case a legal entity knowingly benefits from the services of victims of human trafficking, being aware that the victims are exploited through forced labour or services, it shall be liable under the criminal law, under Art. 216 of the New Criminal Code.

The main punishment that may be applied to a legal entity is – according to Art. 136 of the New Criminal Code, a fine between 3,000 RON and 3,000,000 RON - plus one or more additional penalties: dissolution, suspension of operation or of an activity for a period between 3 months and 3 years; closure of some work-points for a period between 3 months and 3 years; prohibition to participate in public procurement procedures for a period between 3 months and 3 years; judicial supervision; display or publication of the criminal conviction.

In case a legal entity recruits, transports, transfers, harbours or receives an individual, by means of constraint, abduction or by taking advantage of the position of vulnerability, for the purpose of exploitation through forced labour or services, the legal entity in question shall be liable under the criminal law for human trafficking.

If the actions of the legal entity referred to above are carried out only for the purpose of non-observance of the legal provisions on working conditions, payment, health or security,



the legal entity shall not be criminally liable for human trafficking, but, as applicable, for deceit, if all elements of this crime are met.

## Section 2 Bulgaria

The latest report by the National Anti-Trafficking Commission for 2017<sup>1</sup> cites data from the Prosecutor's Office on identified victims of labor exploitation for 2015-2017. The number rose from 26 in 2015 to 67 in 2017, out of whom 51 were men and 16 were women. Data for January-June 2018 indicates 11 women and 41 men. No disaggregated data is presented for persons convicted for labor trafficking. There is also data on signals for human trafficking the Commission has processed: 105 signals concerning 136 potential victims, out of whom 43 victims of labor exploitation (2016), 104 signals about 142 potential victims, out of whom 19 victims of labor exploitation (2017), 67 signals on 147 potential victims, out of which 7 signals concern possible labor exploitation and 2 signals concern possibly fake job ads (January-November 2018).<sup>2</sup>

As reiterated by the Bulgarian Ministry of Labor and Social Policy, the Bulgarian legislation offers a number of guarantees against labor exploitation, starting from the constitutional prohibition of forced labor and continuing with a number of norms in the Labor Code.<sup>3</sup>

As Bulgarian legislation does not recognize corporate criminal liability, the main avenue to engage the liability of legal entities involved in the use of services of THB victims are the penalties provided for in the Law on Administrative Violations and Penalties.<sup>4</sup> Legal entities, including those not domiciled in Bulgaria, if the crime was committed on Bulgarian territory, which have or could have benefited from a number of (attempted) crimes, including the services of a THB victim, committed/supported/incited by persons managing or representing that entity, or forming part of its controlling or supervisory bodies, or by an employee in relation with his/her work, shall be liable to pay a monetary sanction of up to 1 mln BG Leva (appr. 500 thousand Euro), but not less than the value of the benefit, if it is monetary. The benefit is forfeited to the state, if it is not confiscated under the Criminal Code. Proceedings take place before the district court, upon motion by the prosecutor.

In its annual reports, the Prosecutor's Office offers statistics on the activity of the prosecution and courts on sanctioning legal entities under the Law on Administrative Violations and Penalties. 25 proposals and 18 court decisions were reported to have entered

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<sup>1</sup> Report on the implementation of the National Programme for Combatting Trafficking in Human Beings and Support to Victims for 2017 (*Отчет за изпълнение на Национална програма за борба с трафика на хора и закрила на жертвите за 2017 г.*), National Commission for Combatting Trafficking in Human Beings, 2018, available at <https://antittraffic.government.bg/bg/about#reports> (in Bulgarian)

<sup>2</sup> National Commission for Combatting Trafficking in Human Beings, Letter to the Center for the Study of Democracy of 11 December 2018

<sup>3</sup> Ministry of Labour and Social Policy, Letter to the Center for the Study of Democracy, 20 December 2018

<sup>4</sup> Law on Administrative Violations and Penalties (*Закон за административните нарушения и наказания*), available at <https://www.lex.bg/laws/ldoc/2126821377> (in Bulgarian), Art. 83a and following



into force in 2016<sup>5</sup> whilst 18 proposals and 9 decisions were reported for 2017,<sup>6</sup> but most of those proceedings concerned tax crimes. As no prominent case-law exposing the involvement of businesses in human trafficking was found either, although the monetary sanction is fairly serious, can also be applied to foreign companies and covers various forms of criminal activity, it can be concluded that it is practically not used against entities involved in human trafficking. The lack of sanctioning/closing businesses – for example in case of proceedings against senior management already in progress – is also noted by anti-trafficking experts.<sup>7</sup>

The secondary avenue for sanctioning possible involvement of businesses in labor exploitation relates to the controlling and sanctioning activity of labor and employment authorities. The Law on Labor Migration and Labor Mobility regulates the participation of EU and third country nationals in the Bulgarian labor market and the work of Bulgarian citizens in the EU and in third countries. It provides for sanctions both for persons working without proper permits and for the employers of such persons (2000 to 20000 BG Leva, appr. 1000 to 10000 Euro, and a double sanction in case of repeated violation), or employers employing irregular migrants (3000 to 30000 BG Leva, appr. 1500 to 15000 Euro, and a double sanction in case of repeated violation).<sup>8</sup>

Recruitment agencies and companies offering temporary work in violation of the law can be sanctioned under the Law on Employment Promotion<sup>9</sup> with fines of 1000 to 2500 BG Leva (appr. 500 to 1250 Euro) and 2500 to 5000 BG Leva (1250 to 2500 Euro) in case of repeated violation.

Between 1 April 2017 – 31 March 2018, authorities conducted 152 inspections of recruitment agencies and identified 464 violations. 175 inspections of temporary employment agencies identified 731 violations, while 530 inspections of employers sending posted workers in EU countries identified 2,781 violations.<sup>10</sup> No disaggregated data could be obtained as to whether those violations could be related to suspected trafficking for labor exploitation.

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<sup>5</sup> Report on the Application of the Law and the Activity of the Prosecutor's Office and the Investigative Authorities for 2016 (*Доклад за прилагането на закона и дейността на Прокуратурата и разследващите органи през 2016 г.*), available at [https://prb.bg/bg/pub\\_info/dokladi-i-analizi](https://prb.bg/bg/pub_info/dokladi-i-analizi) (in Bulgarian), p. 47

<sup>6</sup> Report on the Application of the Law and the Activity of the Prosecutor's Office and the Investigative Authorities for 2017 (*Доклад за прилагането на закона и дейността на Прокуратурата и разследващите органи през 2017 г.*), available at [https://prb.bg/bg/pub\\_info/dokladi-i-analizi](https://prb.bg/bg/pub_info/dokladi-i-analizi) (in Bulgarian), p.41

<sup>7</sup> Preliminary findings from Rights at work, a project with the Animus Association Foundation as Bulgarian partner, information available at <http://animusassociation.org/en/international-training-trafficking/>; interview with anti-trafficking expert and Bulgarian project coordinator Ms Antoaneta Vassileva, 17 December 2018

<sup>8</sup> Law on Labor Migration and Labor Mobility (*Закон за трудовата миграция и трудовата мобилност*), available at <https://www.lex.bg/bg/laws/ldoc/2136803084> (in Bulgarian), Art. 75 and following

<sup>9</sup> Law on Employment Promotion (*Закон за насърчаване на заетостта*), available at <https://lex.bg/laws/ldoc/-12262909> (in Bulgarian), Art. 75 and following

<sup>10</sup> US Department of State, Trafficking in Persons Report 2018, available at <https://www.state.gov/j/tip/rls/tiprpt/2018/index.htm>, p. 112 and following

Although the institutions consider the general legal framework for combatting human trafficking, including trafficking for labor exploitation, adequate,<sup>11</sup> it can still be said that the institutions need to further raise awareness about the possible involvement of businesses in this criminal sphere and consider effective sanctions. According to anti-trafficking experts, although the awareness raising by institutions, NGOs and labor unions continues, what lies ahead is a difficult conversation with employers about the 'thin red line' between legitimate work and exploitation, where violations can hardly be proven.<sup>12</sup>

### Section 3 Germany

The German legislation has to be considered on the background that Germany is a country of destination for human trafficking.<sup>13</sup>

In 2016, the Federal Government changed the structure and terminology of the criminal offences on human trafficking, when implementing the directive 2011/36/EU<sup>14</sup>. Labour exploitation was newly implemented in § 233 StGB.<sup>15</sup> Under this offence, managers or other private persons employ people under conditions that can be defined as labor exploitation. If the victims are 21 years old or older, it has to be proven, that the perpetrator abused their personal or financial plights or their helplessness specific to foreigners. Moreover, the letting of living or business premises as well as the brokerage of an exploitative employment is criminalized in § 233 V StGB. The sentence for labour exploitation is aggravated if the victims are deprived of their personal liberty, according to § 233a StGB. The criminal offence of forced labour is laid down in § 232b StGB. Hereby, it has to be proven, that the decision-making of a person was influenced with the aim of exploitation.<sup>16</sup> Furthermore, according to § 10a SchwarzArbG<sup>17</sup> managers can be held criminally liable if they exploit victims of human trafficking who lack a residence permit. The crime of human trafficking requires several elements: an act, like i.a. recruitment or harbouring, a means, like the use of force or deception, for the purpose of exploitation (§ 232 StGB). Forms of the latter are labor and sexual exploitation, begging, criminal activities as well as organ removal. As those offences are very difficult to prove, investigating authorities often refer to other crimes, e.g. non-payment and misuse of wages and salaries according to § 266a StGB.<sup>18</sup> Possible sanctions

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<sup>11</sup> National Commission for Combatting Trafficking in Human Beings, Letter to the Center for the Study of Democracy of 11 December 2018

<sup>12</sup> Interview with anti-trafficking expert and Rights at Work Bulgarian project co-ordinator Ms Antoaneta Vassileva, 17 December 2018

<sup>13</sup> GRETA report on Germany, 2015, available at: [https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/greta\\_report\\_on\\_germany\\_2015\\_en.pdf](https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/greta_report_on_germany_2015_en.pdf)

<sup>14</sup> Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA, available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32011L0036&from=EN>.

<sup>15</sup> Criminal Code, available at: <http://www.gesetze-im-internet.de/stgb/StGB.pdf>.

<sup>16</sup> Commentary (Münchener) Criminal Code 2017, Renzikowski, § 232b recital 19.

<sup>17</sup> Act to Combat Undeclared Work, available at: [http://www.gesetze-im-internet.de/englisch\\_schwarzarbg/englisch\\_schwarzarbg.pdf](http://www.gesetze-im-internet.de/englisch_schwarzarbg/englisch_schwarzarbg.pdf).

<sup>18</sup> Evaluation of files of public prosecutors and court decisions by FES/BGMA, Menschenhandel zum Zweck der Arbeitsausbeutung - Eine Auswertung staatsanwaltschaftlicher Ermittlungsakten und gerichtlicher Entscheidungen, available at: <http://library.fes.de/pdf-files/dialog/13576.pdf>; Interview with a representative of the labour union of the police, conducted on 13/01/19.

for the mentioned offences are imprisonment, fines or confiscation of assets, according to §§ 73-76b StGB.

There is no criminal liability of the company, only of managers or other individual perpetrators. The liability does not cover crimes in the demand or supply chain, except if the director was a co-perpetrator in (§ 25 StGB), assisted in (§ 27 StGB) or incited to (§ 26 StGB) the commission of the crime.

Both companies and individual persons can be sanctioned for regulatory offences. A manager can be fined if an offence linked to his or her business was committed because of his or her misconduct, e.g. missing necessary supervision (§ 130 OWiG).<sup>19</sup> The duty to supervise does not cover suppliers, only a subsidiary that is subject to directives.<sup>20</sup> The company can be sanctioned for offences committed by its manager (§ 30 OWiG). Noncompliance with labor regulations can often lead to administrative penalties.<sup>21</sup> Possible sanctions for regulatory offences are fines, which are often subject to a cap,<sup>22</sup> confiscation of company assets (§§ 29, 29a OWiG) or skimming of excess profits (§ 17 IV OWiG) such as savings due to missing payments of wages. A special feature of the administrative law is the general liability of the main contractor which persists even if he or she assigned subcontractors. On the one hand, the principal contractor can be fined for nonpayment of the minimum wage according to § 21 II MiLoG<sup>23</sup> if he or she assigned subcontractors to a significant extent.<sup>24</sup> On the other hand, in the construction sector, the main contractor remains liable for failure to pay social security benefits, according to § 28e IIIe-IV SGB IV<sup>25</sup>. The duty of payment lies with the subcontractor that in fact employed the persons. The main contractor is exempted from liability if she or he adequately controlled the subcontractor.<sup>26</sup>

Victims can raise claims for payment of minimum wages. Those can be either directed against the subcontractor<sup>27</sup> or the main contractor<sup>28</sup>. Victims can claim damages for physical or mental abuse or deprivation of liberty (§ 823 BGB). Those rights can only be enforced against the direct employer. In most instances, a cut-through to the main contractor is not possible.<sup>29</sup> Besides that, victims can report human trafficking and labour exploitation, and in case of reasonable suspicions, the public prosecutor will start investigations.

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<sup>19</sup> Act on Regulatory Offences available at: [https://www.gesetze-im-internet.de/englisch\\_owig/englisch\\_owig.pdf](https://www.gesetze-im-internet.de/englisch_owig/englisch_owig.pdf).

<sup>20</sup> Higher Regional Court *OLG München* judgement of 23/09/14 – 3 Ws 599, 600/14; Beck Commentary OWiG 2017 / *Gürtler* / s 130 recital 5a.

<sup>21</sup> e.g. § 21 I Nr. 9 MiLoG GSA Fleisch, Law to Secure Rights of Employees in the Butchery, available at: [https://www.gesetze-im-internet.de/safleischwig/GSA\\_Fleisch.pdf](https://www.gesetze-im-internet.de/safleischwig/GSA_Fleisch.pdf).

<sup>22</sup> E.g. 5 Mio € for negligence in case of § 30 OWiG.

<sup>23</sup> Minimum Wage Act, available at: [http://www.gesetze-im-internet.de/englisch\\_milog/englisch\\_milog.pdf](http://www.gesetze-im-internet.de/englisch_milog/englisch_milog.pdf).

<sup>24</sup> Commentary (Erfurter) on labor legislation 2019, Franzen, MiLoG § 21 recital 1.

<sup>25</sup> Social Security Code, available at: [http://www.gesetze-im-internet.de/sgb\\_4/SGB\\_4.pdf](http://www.gesetze-im-internet.de/sgb_4/SGB_4.pdf).

<sup>26</sup> Commentary on social legislation 2017, Knickrehm/Kreikebohm/Waltermann/Roßbach, SGB IV § 28e recital 16.

<sup>27</sup> §§ 1,3 MiLoG.

<sup>28</sup> § 13 MiLoG; Parliamentary Publications: BT-Drucks. 18/1558, p. 40, available at: <http://dip21.bundestag.de/dip21/btd/18/015/1801558.pdf>.

<sup>29</sup> He has no duty of care according to § 130 OWiG towards the employees of a subcontractor; hence there is no liability due to omission, s. Commentary (Münchener) BGB 2017, Wagner § 823 recitals 21-22.

## Statistics

The statistics on the implementation of these laws are fragmentary. There is no separate data on sanctions against companies for regulatory offences in connection with human trafficking and labour exploitation. Also, the statistics on individual criminal perpetrators are incomplete.

According to the police crime statistics, 52 investigations into the former criminal offences of human trafficking for labor exploitation and assisting in human trafficking were conducted in 2016. In 2017, the statistics reveal 367 investigations into the new and former offences. The number of human trafficking offences includes both sexual and labour exploitation, as the statistics do not differentiate the form of exploitation, in contrast to the previous year. Among the 367 investigations carried out in 2017, 116 dealt with the new offence of labor exploitation in § 233 StGB.<sup>30</sup> In 2016, twelve investigations on human trafficking for labour exploitation were completed. In 2017, eleven investigations on human trafficking, forced labour and labour exploitation were finished.<sup>31</sup> In 2016, 19 perpetrators of human trafficking for labour exploitation were convicted. In 2017, four persons were found guilty of labour exploitation, one of forced labor and 21 of human trafficking.<sup>32</sup> The number of investigations into non-payment and misuse of wages and salaries is much higher: 11.370 in 2016 and 10.964 in the following year.<sup>33</sup> No data is available on the number of work-related regulatory offences, like non-payment of the minimum wage.

The statistics of the customs division on illicit employment are not included in the aforesaid statistics. This authority does not mention them separately in its statistics; the number is included under “remaining criminal offences”. Therefore, a specific analysis is not possible.<sup>34</sup> Furthermore, there is no central data collection on human trafficking and labour exploitation by NGOs.<sup>35</sup> On an individual basis, statistics are sometimes made, e.g. by the counselling service Faire Mobilität, which has counted 3224 requests referring to work-related offences during the first term of 2018.<sup>36</sup> All in all, even the known cases on human trafficking and labor exploitation cannot be counted as a whole.

## Critical analysis of the legislation

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<sup>30</sup> Federal Office of Criminal Investigation, Police Crime Statistics 2016 / 2017, available at: [https://www.bka.de/EN/CurrentInformation/PoliceCrimeStatistics/policecrimestatistics\\_node.html;jsessionid=67742FB93ACACCE06ADEFE25401EE3F8.live2301](https://www.bka.de/EN/CurrentInformation/PoliceCrimeStatistics/policecrimestatistics_node.html;jsessionid=67742FB93ACACCE06ADEFE25401EE3F8.live2301).

<sup>31</sup> Federal Office of Criminal Investigation, Overview of human trafficking situation 2016 / 2017, available at: [https://www.bka.de/DE/AktuelleInformationen/StatistikenLagebilder/Lagebilder/Menschenhandel/menschenhandel\\_node.html](https://www.bka.de/DE/AktuelleInformationen/StatistikenLagebilder/Lagebilder/Menschenhandel/menschenhandel_node.html).

<sup>32</sup> Federal Statistical Office, Law Enforcement 2016 / 2017, available at: <https://www.destatis.de/DE/Publikationen/Thematisch/Rechtspflege/StrafverfolgungVollzug/Strafverfolgung.html;jsessionid=D66518866E7C171B27E9CE7FEB3BF676.InternetLive2>.

<sup>33</sup> Federal Office of Criminal Investigation, Police Crime Statistics 2016 and 2017, available at: [https://www.bka.de/EN/CurrentInformation/PoliceCrimeStatistics/policecrimestatistics\\_node.html;jsessionid=67742FB93ACACCE06ADEFE25401EE3F8.live2301](https://www.bka.de/EN/CurrentInformation/PoliceCrimeStatistics/policecrimestatistics_node.html;jsessionid=67742FB93ACACCE06ADEFE25401EE3F8.live2301).

<sup>34</sup> Parliamentary Publications, BT-Drs. 19/7622 p. 5, available at: <http://dipbt.bundestag.de/dip21/btd/19/076/1907622.pdf>.

<sup>35</sup> Interview with Mrs. Wirsching, director of anti-trafficking network, conducted on 21/01/19.

<sup>36</sup> Statistics for the first half of 2018 by Faire Mobilität Zwischenbericht: Beratungsaufkommen des 1. Halbjahres 2018.

The disproportional small number of investigations and convictions shows that the prosecution of human trafficking and labor exploitation is a challenge for investigation authorities and the prosecutors' offices.<sup>37</sup> However, the relatively high number of police investigations into labor exploitation (§ 233 StGB) indicates an acceptance of the new criminal offence.

The experts' opinions on the above laws are ambivalent. The laws comply with the minimum requirements of the anti-trafficking Directive 2011/36/EU.<sup>38</sup> Areas of concern are the complexity of the criminal offences,<sup>39</sup> the high burden of proof<sup>40</sup>, the unclear responsibilities of authorities<sup>41</sup> and suspicion against victims as co-perpetrators<sup>42</sup>. Furthermore, critics cover the missing corporate criminal liability.<sup>43</sup> It was noted that incentives for victims to start court procedures are very weak.<sup>44</sup> Experts point out that the general liability of the principal contractor for offences in his or her supply chain is too restricted in order to combat human trafficking and labour exploitation.<sup>45</sup> The current legislation does not adequately address the demand and supply of human trafficking and labor exploitation.<sup>46</sup> The Federal Ministry of Justice and Consumer Protection plans an evaluation of the new criminal legislation in 2020 and 2021.<sup>47</sup> Experts have proposed to include a supervisory committee in the evaluation process.<sup>48</sup>

The experts have been especially criticizing the inadequate implementation of the legislation. Effective labor inspections are missing.<sup>49</sup> Some experts are skeptical whether the Customs Division on illicit employment can fulfil that task, as they are under-staffed and cannot enforce remuneration claims nor effectuate sanctions against companies<sup>50</sup>. Still, it was

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<sup>37</sup> German Institute for Human Rights, written contribution on the hearing of the Committee on Human Rights and Humanitarian Aid on human trafficking, 2011, available at: [https://www.institut-fuer-menschenrechte.de/uploads/tx\\_commerce/stellungnahme\\_zur\\_anhoerung\\_des\\_ausschusses\\_fuer\\_menschenhandel\\_und\\_humanitaere\\_hilfe.pdf](https://www.institut-fuer-menschenrechte.de/uploads/tx_commerce/stellungnahme_zur_anhoerung_des_ausschusses_fuer_menschenhandel_und_humanitaere_hilfe.pdf).

<sup>38</sup> Interview with Mrs. Wirsching, director of anti-trafficking network, conducted on 21/01/19.

<sup>39</sup> Interview with Dr. Lindner, legal practitioner, conducted on 15/01/19.

<sup>40</sup> Interview with Dr. Cyrus, academic researcher, conducted on 21/01/19; Interview with Mr. Henzler, senior public prosecutor, conducted on 18/01/19.

<sup>41</sup> Interview with Mr. Strehlow, head of department combatting of organized crime, Office of Criminal Investigation, conducted on 22/01/2019.

<sup>42</sup> Interview with Dr. Cyrus, academic researcher, conducted on 21/01/19.

<sup>43</sup> Interview with Mr. Strehlow, head of department combatting of organized crime, Office of Criminal Investigation, conducted on 22/01/2019.

<sup>44</sup> Interview with Mr. Herrmann, head of pastoral care department, conducted on 18/12/18.; Interview with Mrs. Wirsching, director of anti-trafficking network, conducted on 21/01/19.

<sup>45</sup> Interview with Mr. Herrmann, head of pastoral care department, conducted on 18/12/18; Interview with Mrs. Wirsching, director of anti-trafficking network, conducted on 21/01/19.

<sup>46</sup> Interview with Mr. Herrmann, head of pastoral care department, conducted on 18/12/18; Interview with Mr. Strehlow, head of department combatting of organised crime, Office of Criminal Investigation, conducted on 22/01/2019.

<sup>47</sup> Information provided for this study by a member of this Ministry.

<sup>48</sup> Interview with Dr. Lindner, legal practitioner, conducted on 15/01/19.

<sup>49</sup> Interview with Mr. Herrmann, head of pastoral care department, conducted on 18/12/18; Interview with Mrs. Wirsching, director of anti-trafficking network, conducted on 21/01/19; Interview with Mr. Zacher, former secretary of industrial union of construction workers, conducted on 15/01/19.

<sup>50</sup> Interview with Mr. Herrmann, head of pastoral care department, conducted on 18/12/18; Interview with Mr. Zacher, former secretary of industrial union of construction workers, conducted on 15/01/19.



seen that this Division has competences to investigate certain cases of labor exploitation<sup>51</sup> and that those powers will be increased by a current bill providing a clear authorization to investigate forced labor and labor exploitation.<sup>52</sup> The German Customs itself is of the opinion that forced labor and labor exploitation is in most instances excluded from their jurisdiction. Referring to that reason, they denied participating in an interview for this study.

#### Section 4 Greece

The Greek legal framework is compliant with the majority of international texts adopted within the framework of the UN, the Council of Europe and the EU on the prosecution of trafficking in human beings, highlighting and covering the core of modern forms of slavery, through Law 3064/2002.<sup>53</sup> The Greek Criminal Code was amended and, alongside Article 351, which already punished the trafficking of human beings for sexual exploitation, Article 323A was added concerning the trafficking of human beings for, *inter alia*, labour exploitation. The penalties imposed in case of conviction include a maximum of 10 years imprisonment and a fine between €10,000 and €50,000.

Under Greek Criminal Law, legal entities cannot be tried or convicted as criminal offenders. This can only apply to natural persons who under Greek law are considered representatives thereof. However, through Article 3 of Law 4198/2013<sup>54</sup>, Greece introduced sanctions which can be imposed against legal entities involved in the offences criminalized under Article 351 and Article 323A of the Greek Criminal Code.<sup>55</sup> There is no available data on whether these sanctions have ever been imposed.

Finally, Part 4 of Law 4478/2017<sup>56</sup> introduced the Victims' Rights Directive into the Greek legal order. The provisions for the compensation of victims of crimes were amended by Law 4531/2018,<sup>57</sup> to extend the types of damages covered by compensation. However, no applications for State compensation have been submitted in the last five years by victims of human trafficking.<sup>58</sup>

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<sup>51</sup> Interview with a representative of the labor union of the police, conducted on 13/01/19.

<sup>52</sup> Bill on Combatting of Shortcomings in the Labor Market, Illicit Employment and abuse of social and child benefits, 2018, available at: <http://bdzovbremen.blogspot.com/2019/01/bmf-regierungsentwurf-gesetz-bekaempfung-schwarzarbeit-kindergeldmissbrauch-bdz.html>.

<sup>53</sup> Law 3064/2002 on Combating trafficking in human beings, crimes against sexual freedom, pornography of minors and in general the financial exploitation of sexual life and providing assistance to victims of such acts (O.G. A 248/15-10-2002).

<sup>54</sup> Law 4198/2013, Preventing and Combatting Trafficking in Human Beings and Protecting its victims and other provisions-Transposition of the 2011/36/EU Directive (O.G. A215/11-10-2013).

<sup>55</sup> These sanctions include: a) an administrative fine of 15.000 to 150.000 Euros, b) the revocation or suspension of the permit to function for up to six months or a ban on operation for the same period of time, c) the exclusion from public benefits, aid, subsidies, works and services, commissions, advertisements and tenders from the State or public sector entities for the same period.

<sup>56</sup> Greece, Law 4478/2017 'IV) Implementation of Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime and replacing Council Framework Decision 2001/220/JHA and other provisions (O.G. A91/23-06-2017).

<sup>57</sup> Law 4531/2018 "(I) Ratification of the Council of Europe Convention preventing and combating violence against women and domestic violence and adjustment of Greek legislation" (O.G. A 62/05-04-2018).

<sup>58</sup> Group of Experts on Action against Trafficking in Human Beings (GRETA), Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Greece, 18-10-2017, para. 140, available at: <https://rm.coe.int/greta-2017-27-fgr-gre-en/168075f2b6>.

In general, the Greek legal framework is adequate, yet it focuses on punishing violations of human rights, without including proactive or preventative measures.<sup>59</sup> In practice, judicial and police authorities have difficulties enforcing the law due to the lack of education or training. It is often reported that victims of trafficking are not considered as such, either because they have the freedom to leave or because they receive (low) wages.<sup>60</sup>

Existing data on police investigations into trafficking for labour exploitation are displayed below:<sup>61</sup>

No. of cases in 2016	No. of cases in 2017	No. of cases in 2018 (first semester)
7	1	1
No. of victims in 2016	No. of victims in 2017	No. of victims in 2018 (first semester)
9 (forced labour) / 11 (forced begging)	3 (forced begging)	1 (forced labour)

Seven individuals were prosecuted for committing the crime of trafficking for labour exploitation in 2016, whilst five individuals were prosecuted in 2017.<sup>62</sup> The Prosecution Offices do not maintain any data on the number of victims. Greek courts do not have a database that would assist in gathering statistical data.<sup>63</sup> However, according to the Prosecution Office of Athens, only one case was investigated and is now pending trial in the period 2016-2018. The Mixed-Jury Court of Athens had two cases to report, the first of which concerned a conviction to 10 years imprisonment and a fine of 50.000 Euros.<sup>64</sup> The second was postponed indefinitely.

As regards victim protection, it should be highlighted that, under Article 19A of the Greek Immigration Code,<sup>65</sup> third country nationals who are victims of trafficking are awarded residence permit for humanitarian reasons, by decision of the Minister of Migration Policy, on the condition that he/she has been recognised by the prosecutor of jurisdiction as a victim of trafficking. However, GRETA notes that,<sup>66</sup> to date, no data is available on the number of residence permits issued for humanitarian reasons to victims of trafficking for labour exploitation.

<sup>59</sup> Information is derived from a representative from the General Confederation of Greek Workers.

<sup>60</sup> Information is derived from the Greek National Rapporteur on Trafficking in Human Beings.

<sup>61</sup> Communication with the Hellenic Police informed us that statistics on trafficking are available on its official website in Greek at:

[http://www.astynomia.gr/index.php?option=ozo\\_content&perform=view&id=76629&Itemid=73&lang=](http://www.astynomia.gr/index.php?option=ozo_content&perform=view&id=76629&Itemid=73&lang=).

<sup>62</sup> U.S.A. State Department, Trafficking in Persons Report, June 2018, GREECE: Tier 2, p. 201 et seq., available at: <https://www.state.gov/documents/organization/282798.pdf>.

<sup>63</sup> This was confirmed by the Head of the Supreme Court President's Secretariat, the Head of the Secretariat for the Athens Court of Misdemeanours, the Director of the First Instance Court of Athens as well as the Head of the Prosecutor Offices of Athens. According to these judicial authorities, a system was established in April 2018 but only for cases submitted after this period. What is more, the system does not appear to be fully operational.

<sup>64</sup> Information based on the 14-01-2019 Communication of the Secretary of the Mixed-Jury Court of Athens.

<sup>65</sup> Law 4251/2014 "Migration and Social Inclusion Code" (O.G. A 80/1-4-2014).

<sup>66</sup> Group of Experts on Action against Trafficking in Human Beings (GRETA), Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Greece, 18-10-2017, para. 140, available at: <https://rm.coe.int/greta-2017-27-fgr-gre-en/168075f2b6>.



Legal assistance, access to health care and assistance to receive unpaid wages is available from the Athens Labour Centre Trade Union (EKA), which operates an Office for the Support of Migrants.<sup>67</sup> The Office also carries out site visits together with the Labour Inspectorate Body, in order to detect cases of forced labour, contribute to research, assist in the repatriation of victims of trafficking, and engage in international co-operation, in particular through the International Trade Union Confederation. NGOs also assist in the detection of possible victims of trafficking by visiting refugee camps and offering support.

However, as pointed out by GRETA, there is a lack of identification efforts for victims of forced labour, particularly in the agriculture sector, cleaning and domestic services, and the tourism industry.<sup>68</sup> Proactive identification among vulnerable unaccompanied children also remains inadequate, including for forced begging and forced criminality.<sup>69</sup>

### Section 5 Italy

The Italian legal framework includes several measures that aim to counter human trafficking.

The most important legislative measure in this context is Article 601 of the Italian Criminal Code, titled “*Trafficking in human beings*”, which provides that this criminal conduct is punished with imprisonment from eight to twenty years. This provision was amended by Law no 228 of 2003,<sup>70</sup> which increased the minimum penalty for traffickers, and by Legislative Decree no 24 of 2014,<sup>71</sup> which introduced a definition of trafficking in human beings that is in line with Article 3 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, supplementing the UN Convention against Transnational Organized Crime and with EU Directive 2011/36/EU.<sup>72</sup> Legislative Decree no 24 of 2014 also provided for the adoption of a *National Action Plan on Trafficking and Serious Exploitation of Human Beings for the period 2016-2018*,<sup>73</sup> which was eventually approved in 2016. The Plan is implemented by a Steering Committee (*Cabina di regia*) and guarantees the adoption of a multidisciplinary and integrated approach among the various actors, both institutional and non-institutional, under the leadership of the Department for Equal Opportunities.

Several measures concerning corporate liability are provided for by the Italian legislation to punish legal entities belonging to the business sector that are involved in the use of services or goods produced by victims of human trafficking. In particular, Law no 228

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<sup>67</sup> Information on the Office for the Support of Migrants is available in English at: <http://www.eka.org.gr/index.php/foreign-workers/753-supporting-office-for-immigrants-and-refugees>.

<sup>68</sup> This was also highlighted during an interview with the representative of the General Confederation of Greek Workers.

<sup>69</sup> Group of Experts on Action against Trafficking in Human Beings (GRETA), Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Greece, 18-10-2017, available at: <https://rm.coe.int/greta-2017-27-fgr-gre-en/168075f2b6>.

<sup>70</sup> Law no 228 of 2003, available on [www.gazzettaufficiale.it/eli/id/2003/08/23/003G0248/sg](http://www.gazzettaufficiale.it/eli/id/2003/08/23/003G0248/sg).

<sup>71</sup> Legislative Decree no 24 of 2014, available on [www.gazzettaufficiale.it/eli/id/2014/03/13/14G00035/sg](http://www.gazzettaufficiale.it/eli/id/2014/03/13/14G00035/sg).

<sup>72</sup> Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, available on <https://www.ohchr.org/en/professionalinterest/pages/protocoltraffickinginpersons.aspx>.

<sup>73</sup> National Action Plan on Trafficking and Serious Exploitation of Human Beings for the period 2016-2018 (*Piano nazionale d'azione contro la tratta e il grave sfruttamento 2016-2018*), available on <http://www.pariopportunita.gov.it/wp-content/uploads/2017/12/Piano-nazionale-di-azione-contro-la-tratta-e-il-grave-sfruttamento-2016-2018.pdf>.

of 2003 amended Legislative Decree no 231 of 2001<sup>74</sup> to introduce administrative sanctions against legal entities committing crimes related to trafficking in human beings. These sanctions, as provided for by article 25 quinquies of Legislative Decree no 231 of 2001, consist of financial penalties and interdictory sanctions applied for at least one year. The latter category of sanctions includes the ban on exercising the activity; the suspension or withdrawal of operating license; the ban on concluding contracts with a public authorities; the exclusion from loans, grants or subsidies; and the ban on advertising goods or services.

More severe administrative sanctions are provided if the legal entity (or one of its organizational units) is permanently used for the sole or prevailing purpose of facilitating human trafficking-related offenses, in which case the sanction is a permanent ban of operations. In addition, as provided for by article 600 septies of the Criminal Code, those condemned for trafficking-related offenses may also be subject to the confiscation of the proceeds of crime. Finally, Legislative Decree no 50 of 2016 establishes that economic operators that have been convicted with a final judgment for trafficking-related offenses are excluded from participating in public procurement procedures.

Further relevant legislative measures concern labour exploitation, which is often linked to trafficking in human beings. In particular, Law no 199 of 2016<sup>75</sup> amended Article 603 bis of the Criminal Code concerning illegal brokering and labour exploitation (known as “*caporalato*” in Italian). The Law provides that this criminal conduct is punished with imprisonment from one to six years and a fine from 500 to 1000 euros in relation to each worker concerned. Law no 199 of 2016 also introduced administrative responsibility of legal entities and the compulsory forfeiture of money, goods and profits resulting from the offence.

The penalties provided for by the Italian legal framework are considered sufficiently stringent to combat trafficking in human beings and commensurate with penalties prescribed for other serious offenses. Administrative sanctions against legal entities involved in human trafficking are also deemed adequate to prevent business operators from committing human trafficking-related offenses. However, anti-trafficking stakeholders stress that the adoption of such a repressive approach in legislation is not followed by sufficiently efficient and deterrent law enforcement. In fact, law enforcement agencies, prosecutors and labour inspectorates have been found to be inadequately resourced to effectively combat the business of human trafficking chain. In particular, law enforcement officers working in border areas have been found to have limited capability to identify potential victims of human trafficking, thus leaving these individuals at heightened risk of exploitation.<sup>76</sup>


Data for trafficking-related offenses for the years 2016 and 2017 show an increase in the number of investigated cases and defendants indicted. At the same time, the number of defendants convicted decreased slightly in the aforementioned timeframe. However, neither data for 2018 nor reliable disaggregated data on the number of convicted legal entities and the category of penalty applied were available.

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<sup>74</sup> Legislative Decree no 231 of 2001, available on [www.normattiva.it/uri-res/N2Ls?urn:nir:stato:decreto.legislativo:2001-06-08;231!vig=](http://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:decreto.legislativo:2001-06-08;231!vig=).

<sup>75</sup> Law no. 199 of 2016, available on [www.gazzettaufficiale.it/eli/id/2016/11/03/16G00213/sg](http://www.gazzettaufficiale.it/eli/id/2016/11/03/16G00213/sg).

<sup>76</sup> Group of Experts on Action against Trafficking in Human Beings (GRETA) 2017, *Report on Italy under Rule 7 of the Rules of Procedure for evaluating implementation of the Council of Europe Convention on Action against Trafficking in Human Beings*, pp. 9, 11. Available on <https://rm.coe.int/16806edf35>.



Cases of human trafficking			
Year	2016	2017	2018
Investigated cases	290	482	-
Defendants indicted	0	73	-
Defendants convicted in appellate courts	31	28	-
Average penalty	Prison sentences ranging from six to nine years	Prison sentences ranging from seven to eight years	-

## CHAPTER 2

### **Economic sectors at risk to be exposed to the demand and supply chain**

#### **Section 1 Romania**

According to the statistics provided by the National Agency against Trafficking in Persons, in 2016 there were identified 756 victims of human trafficking, out of which 132 persons were subjected to forced or compulsory labour (Art. 212, Chapter VII Trafficking and exploitation of vulnerable persons, Criminal Code). In 2017, there were identified 662 victims, out of which 79 were subjected to forced or compulsory labour. At the time of writing this study, statistics for 2018 are not available. According to the data provided by the Superior Council of Magistracy, 80 persons were convicted in 2016 for the crime of human trafficking (Art. 210, Criminal Code) and 44 persons in 2017. These statistics refer only to persons convicted by the courts in Romania and do not include the number of Romanian traffickers frequently convicted for this type of crime in other EU Member States.

The specificities of the economic context in Romania, the difficulties in finding a job in the country, the mirage of possibly higher financial gains in other countries in Europe, continue to make victims succumb to false promises and job offers abroad; these methods have been often used by traffickers as pretext for recruitment. Most of the victims were approached directly by the recruiter, but there were situations when victims were approached by strangers.

In the case of Romanian victims, sexual exploitation remains one of the most widespread form of exploitation among victims, but it should be noted that no form of exploitation can exclude another, meaning that victims can often be exploited in many ways, depending on the needs and the criminal pattern of the traffickers. For example, victims who had been forced to practice begging or who had been exploited through labour have suffered other abuses, as well, or had been sexually exploited.

With regard to the areas of exploitation of victims, we can mention the sex industry and the economic sector, more precisely those areas where the “black labour” is predominant, where access of authorities is more difficult, namely in agriculture and construction fields.

Annually there are many cases of Romanian citizens subjected to forced labour in the country and abroad. There are numerous cases known by the authorities and publicised in recent years involving Romanian citizens subjected to forced labour exploitation. The investigations carried out by the authorities revealed quite clearly the inhuman conditions in which a significant number of Romanian agricultural workers operate in certain areas of Italy, Spain and other European Union countries (farm workers in insalubrious dwellings, forced to work in precarious/dangerous conditions, frequently threatened, including physical/sexual abuse).

The movement of persons for forced labour and the provision of services usually involves a recruiter, a carrier and, ultimately, an employer who will get a certain profit from the trafficked persons. The demand from consumers of sexual services, employers who often search for cheap labour and sometimes “contractually” out of the legal conditions have encouraged the supply of the “market” with victims vulnerable to rudimentary labour conditions or attitudes that have put people in extremely risky situations, involved them in various trafficking situations and exploited their more or less qualified skills and abilities (forced labour, sexual services, begging, committing theft, exploitation through identity theft<sup>77</sup>).

Human trafficking is a vicious circle and can be described as a well-organized business. In order to obtain income from the exploitation of victims, traffickers do not act individually. Traffickers use the services of certain economic sectors, technology development, online environment, banking environment and thus engaging directly/indirectly large areas of activities/economic sectors.

In front of a dynamic and complex phenomenon, which implies a continuous appearance of new forms of manifestation, techniques, tools and methods of work, the analysis of the statistics in the field show that it is more and more obvious the need to intensify and adapt the efforts to prevent and combat human trafficking.

In Romania, in recent years, a series of strategies, actions aimed at combating and preventing human trafficking have been developed and implemented, but there must be enhanced the efforts between the anti-trafficking institutions and the entities with labour competences (the Ministry of Labour, the Labour Inspection, the National Employment Agency and its territorial units), in order to eliminate the cases which lead to forced and compulsory labour, exploitation of Romanian workers in the country and abroad. The National Strategy against Human Trafficking 2018-2022 reiterates the need for cooperation aimed to prevent/reduce the cases of labour exploitation, but the methods of addressing this issue need to be diversified in practice.

The information methods of Romanian citizens (especially those in rural areas, living in small communities which currently have no easy access to information) need to be diversified, as it is insufficient to have only online information/websites of certain institutions, information obtained with the occasion of job recruitment for working abroad, or the organisation of information campaigns for a limited period of time. In practice, there must be a stronger involvement of the economic sectors in the fight against human trafficking; they must be better informed and more accountable about the implications that this phenomenon has on victims, their field of activity and society as a whole. The economic sectors need to act with the necessary diligence to ensure that their products are not obtained through the exploitation of persons and, in case traffickers use certain services provided by these economic sectors, to inform the relevant authorities immediately and to cooperate properly in the conduct of the necessary investigations in such cases.

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<sup>77</sup> Since 2013, 30 Romanian citizens have been recruited and taken to Denmark with the promise of a job. Once they arrived in Denmark, they had their real identity used for fraud in the Danish tax system, in certain banks, credit institutions and Danish commercial units. The case was known as “The Wasp Nest”. *The information is mentioned in the National Strategy against Trafficking in Persons 2018-2022, <http://anitp.mai.gov.ro/strategia-nationala/>*

## Section 2 Bulgaria

Anti-trafficking actors in Bulgaria are fairly unanimous in identifying the economic sectors most vulnerable to involvement in the trafficking demand and supply chain, mainly in other EU Member States, due to Bulgaria's specifics as a source country.

The latest report by the National Anti-Trafficking Commission for 2017<sup>78</sup> notes that most victims of labor trafficking work in the construction sector, having given informed consent about the type, but not about the conditions of work. Other most risky sectors in Western and Central Europe are agriculture, hotels, au pair, transport and various services.<sup>79</sup>

The Employment Agency adds<sup>80</sup> that prevention of labor trafficking is related to the work of recruitment agencies, contractors and subcontractors, especially in high risk sectors, under fictitious contracts in hotels and restaurants, as well as in personal care services. Posting of Bulgarian workers is also considered a trafficking channel. As reiterated by researchers in the field of criminal law and procedure, traffickers abuse the agencies' financial motivation to recruit as much personnel as possible and, if no proper procedures are followed, labor trafficking may pervade even legitimate businesses.<sup>81</sup>

As for the work of the Chief Labor Inspectorate Executive Agency,<sup>82</sup> it points to several most risky economic sectors identified by the Europol's special joint actions: agriculture, construction, food industry, services, textile and home help, transportation, car wash, waste disposal, small commercial establishments, catering, recruitment agencies, ports, massage parlours, etc. Most suspected labor exploitation cases occur in transnational employment – both posting and sending through recruitment agencies.

According to the Ministry of the Interior,<sup>83</sup> the main sectors vulnerable to labor exploitation of Bulgarians abroad are indeed agriculture, construction, services and especially au pair.

Little is said in strategic documents about combatting the involvement of economic sectors in the THB chain.

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<sup>78</sup> Report on the implementation of the National Programme for Combatting Trafficking in Human Beings and Support to Victims for 2017 (Отчет за изпълнение на Национална програма за борба с трафика на хора и закрила на жертвите за 2017 г.), National Commission for Combatting Trafficking in Human Beings, 2018, available at <https://antitraffic.government.bg/bg/about#reports> (in Bulgarian), p. 9

<sup>79</sup> National Commission for Combatting Trafficking in Human Beings, Letter to the Center for the Study of Democracy of 11 December 2018

<sup>80</sup> Report on the implementation of the National Programme for Combatting Trafficking in Human Beings and Support to Victims for 2017 (Отчет за изпълнение на Национална програма за борба с трафика на хора и закрила на жертвите за 2017 г.), National Commission for Combatting Trafficking in Human Beings, 2018, available at <https://antitraffic.government.bg/bg/about#reports> (in Bulgarian), p. 45 and following

<sup>81</sup> Written submission by Ms Georgia Papucharova, Ms Hristina Bogia and Mr Strahil Goshev, PhD students, Neofit Rilski South-West University, 4 January 2019

<sup>82</sup> Report on the implementation of the National Programme for Combatting Trafficking in Human Beings and Support to Victims for 2017 (Отчет за изпълнение на Национална програма за борба с трафика на хора и закрила на жертвите за 2017 г.), National Commission for Combatting Trafficking in Human Beings, 2018, available at <https://antitraffic.government.bg/bg/about#reports> (in Bulgarian), p. 47 and following

<sup>83</sup> Interview with Ministry of the Interior representative, 10 December 2018



A prevention measure mentioned in Bulgaria's anti-trafficking strategy for 2017-2021<sup>84</sup> is to attract additional partners, such as media, employers and businesses, especially in the tourist sector, aiming to curb the demand for services of trafficking victims. The involvement of the private sector in curbing the demand for services provided by trafficking victims is also mentioned in Bulgaria's National Referral Mechanism.<sup>85</sup>

As Bulgaria is a source country for labor trafficking, the Employment Agency mainly reports<sup>86</sup> preventive measures directed towards citizens and only indirectly towards businesses: informing candidates about the need to have a labor contract and work permit and warning against accepting job offers from unlicensed agencies; listing the recruitment agencies properly licensed to offer work abroad; demanding businesses to show zero tolerance to illegitimate employment.

As presented in the latest GRETA report on Bulgaria, the main efforts for engaging businesses in countering human trafficking have been in the area of promoting business ethics and corporate social responsibility. Projects have also been implemented raising awareness among recruitment agencies on responsible behavior. Working closely with the private sector is also one of GRETA's recommendations to Bulgaria.<sup>87</sup> A number of counter-trafficking initiatives have been reported throughout recent years. However, few of those involve businesses.<sup>88</sup> A campaign entitled *Zero Tolerance to Human Trafficking* united the efforts of the National Anti-Trafficking Commission and one of the biggest recruitment companies in Bulgaria to acquaint large companies with the problem of labor exploitation, its negative impact on the economy and the role of the private sector in preventing the phenomenon.

### Section 3 Germany

This chapter deals with the economic sectors that are at risk of being involved in the demand and supply chain of human trafficking and labor exploitation in Germany.

In order to determine the relevant business sectors, human trafficking and labor exploitation as a criminal offence will be considered, as well as exploitative employment relationships that are in conflict with labor law regulations. The differentiation is not precise and it is not unusual that an exploitative work relationship gradually worsens and turns out as human trafficking and forced labor.<sup>89</sup> During the preparation of their third human rights report, the German Institute for Human Rights was conducting interviews on the topic of "severe labor exploitation in Germany and wage entitlements of affected migrants" with

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<sup>84</sup> National Strategy for Countering Human Trafficking 2017-2021 (Национална стратегия за борба с трафика на хора 2017-2021 г.), available at <https://antitrafficking.government.bg/bg/help> (in Bulgarian), p. 30

<sup>85</sup> National Mechanism for Referral and Support of Victims of Trafficking (Национален механизъм за насочване и подпомагане на жертви на трафик), available at [https://antitrafficking.government.bg/bg/help#national\\_mechanism](https://antitrafficking.government.bg/bg/help#national_mechanism) (in Bulgarian), Introduction

<sup>86</sup> Employment Agency, Letter to the Center for the Study of Democracy, 11 December 2018

<sup>87</sup> GRETA(2015)32 Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Bulgaria, available at <https://www.coe.int/en/web/anti-human-trafficking/bulgaria>, para. 78, 85

<sup>88</sup> Prevention and Counteraction of Human Trafficking for Labour Exploitation in Bulgaria and Norway (Превенция и противодействие на трафика на хора с цел трудова експлоатация в България и Норвегия), Risk Monitor, 2015, available at <https://www.riskmonitor.bg/bg/report/protivodeystvie-i-preventsia-na-trafika-na-hora-s-tsel-trudova-eksploatatsiya-v-balgariya-i-norvegiya>, p. 64 and following

<sup>89</sup> Interview with Dr. Lindner, legal practitioner, conducted on 15/01/19.



migrant workers who are EU-citizens, third-country nationals or refugees and who suffered from severe work exploitation. There, the exploited workers were mainly found in the industries of catering, construction, agriculture, cleaning, in the logistics sector and in private households.<sup>90</sup>

There are no national evaluations which would allow concrete conclusions about the sectors affected by human trafficking or labor exploitation in the criminal sense. However, the overview of the human trafficking situation published by the Federal Office of Criminal Investigation provides indications. It shows that, in 2016 and 2017, most victims were found in the construction industry, followed by catering and house-hold related services.<sup>91</sup>

Experts point out that human trafficking and labor exploitation can take place in all sectors.<sup>92</sup> Nevertheless, some sectors were mentioned several times, like the construction, meat processing and agricultural industry, as well as catering and house-hold related services. The experts also mentioned the transport, logistics and hotel sectors, as well as cleaning services.<sup>93</sup> A study conducted between 2005 and 2015 by an anti-trafficking organization and a political foundation based on files of public prosecutors of four German states, revealed that most of the cases of human trafficking prosecuted were from the catering, construction, agricultural or meat processing industry.<sup>94</sup> All of those results indicate a continuous exploitation in those fields, for more than one decade.

### **Risk-increasing factors in the different sectors**

The shared feature of the above economic sectors is that, in general, they only require low occupational and language skills. Hence, employees can easily be replaced. Furthermore, it was indicated that sectors are vulnerable where it is easily possible for perpetrators to exclude their victims from contacts with (civil) society and thus make the access to support structures impossible. An example is when the accommodation of the victim is provided on or nearby the business premises and controlled by the employer. Conditions reminding of detention are not unusual and often out of scale living costs are deducted from the wage. Those practices are especially found in the construction and meat processing industry.<sup>95</sup> Isolation can also be enhanced by impeded access of regulatory authorities to the manufacturing sites. This leads to a limited access to the employees and difficulties in the supervision of labor standards. An example are hygiene rules in the meat processing industry, which oblige inspectors to put on special clothes before entering. Also, in other industrial

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<sup>90</sup> German Human Rights Institution, Development the human rights situation in Germany, July 2017 – Jun 2018, available at:

[https://www.institut-fuer-menschenrechte.de/fileadmin/user\\_upload/Publikationen/Menschenrechtsbericht\\_2018/Human\\_Rights\\_Report\\_2018\\_Short\\_version.pdf](https://www.institut-fuer-menschenrechte.de/fileadmin/user_upload/Publikationen/Menschenrechtsbericht_2018/Human_Rights_Report_2018_Short_version.pdf).

<sup>91</sup> Federal Office of Criminal Investigation, Overview of human trafficking situation 2016 / 2017, available at: [https://www.bka.de/DE/AktuelleInformationen/StatistikenLagebilder/Lagebilder/Menschenhandel/menschenhandel\\_node.html](https://www.bka.de/DE/AktuelleInformationen/StatistikenLagebilder/Lagebilder/Menschenhandel/menschenhandel_node.html).

<sup>92</sup> Interview with Dr. Cyrus, academic researcher, conducted on 21/01/19; Interview with Mrs. Wirsching, director of anti-trafficking network, conducted on 21/01/19.

<sup>93</sup> Overall evaluation of the expert interviews.

<sup>94</sup> Friedrich-Ebert-StiftungFES/BGMA, Menschenhandel zum Zweck der Arbeitsausbeutung - Eine Auswertung staatsanwaltschaftlicher Ermittlungsakten und gerichtlicher Entscheidungen, available at: <http://library.fes.de/pdf-files/dialog/13576.pdf>.

<sup>95</sup> Interview with a representative of the labor union of the police, conducted on 13/01/19.

sectors, like the steel industry, it is not possible for inspectors to enter premises quickly, owing to safety regulations.<sup>96</sup> Employees of house-hold related services are invisible because regulatory authorities do not have access to private households.<sup>97</sup> Catering businesses are not concealed from the public, but other methods are used, such as threatening of relatives in the country of origin. Furthermore, residence permits linked to the employment create a dependency, and language barriers prevent victims from searching support.<sup>98</sup>

### **Chain of subcontractors as a risk factor**

Systematic and organized exploitation can especially be found in the construction, agricultural and meat processing industries, as well as in the transport sector.<sup>99</sup>

Supply chains are common in the construction, meat processing, transport and logistics sectors. Those include services which are performed by one company for another and which are regulated by contractual relationships between the principal and the subcontractor. Pyramids of sub-contractual relationships are created for the purpose of concealing responsibilities. In these relationships, which are mostly transnational, employees can easily become victims of human trafficking or labor exploitation.<sup>100</sup>

### **National strategy to combat the economic sector's involvement in the exploitation chain**

There is no national strategy to combat the economic sector's involvement in human trafficking and labor exploitation in Germany. This is reflected by the mostly rudimentary anti-trafficking collaborations between labor unions, control authorities and public prosecutors. The manifold reasons range from unclear competences to missing experience.<sup>101</sup> This is regretful, as multiple international legal instruments refer to the need for collaboration between different institutions, including business stakeholders, e.g. the ILO Protocol of 2014 to the Forced Labor Convention.<sup>102</sup> Especially Art. 1 (2) of that Protocol requires the establishment of a national action plan to effectively combat forced labor in collaboration with employers' and employees' associations. The Federal Government has not ratified this Protocol yet.

Nevertheless, there is a National Action Plan on Business and Human Rights (NAP)<sup>103</sup> which was established by the Inter-ministerial Committee on Business and Human Rights under the auspices of the Federal Foreign Office in 2016. Although challenges within the demand and supply chains were addressed, the focus lies on foreign countries and does not adequately include the shortcomings in Germany.<sup>104</sup>

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<sup>96</sup> Interview with a representative of the labor union of the police, conducted on 13/01/19.

<sup>97</sup> Interview with Mrs. Wirsching, director of anti-trafficking network, conducted on 21/01/19.

<sup>98</sup> Interview with a representative of the labor union of the police, conducted on 13/01/19.

<sup>99</sup> Interview with Dr. Cyrus, academic researcher, conducted on 21/01/19.

<sup>100</sup> Interview with a representative of the labor union of the police, conducted on 13/01/19.

<sup>101</sup> Interview with Dr. Lindner, legal practitioner, conducted on 15/01/19.

<sup>102</sup> ILO Protocol of 2014 to the Forced Labor Convention 1930, available at: [https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_INSTRUMENT\\_ID:3174672](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:3174672).

<sup>103</sup> National Action Plan of the Federal Government on the Implementation of the UN Guiding Principles on Business and Human Rights 2016-2020, available at: [https://www.csr-in-deutschland.de/SharedDocs/Downloads/DE/NAP/nap-im-original.pdf?\\_\\_blob=publicationFile&v=3](https://www.csr-in-deutschland.de/SharedDocs/Downloads/DE/NAP/nap-im-original.pdf?__blob=publicationFile&v=3).

<sup>104</sup> Interview with Mrs. Wirsching, director of anti-trafficking network, conducted on 21/01/19.

## Section 4 Greece

In Greece, there have been relatively few cases of identified victims of trafficking for the exploitation of their labour. However, there are reports that indicate the prevalence of forced labour in the sectors of agriculture, cleaning services (housekeeping), tourism and food/beverages production. The agricultural sector in particular reportedly employs migrants without papers mostly of Pakistani and Bangladeshi origin, as well as Bulgarians, Romanians, Albanians and other workers from Eastern Europe.

In the agricultural sector, there is high seasonal demand in labour which requires the hiring of large numbers of workers during the limited harvest period. The increased volume of non-family, non-regular labour explains the high and constantly growing relative proportion of migrant workers. Migrants have been estimated to comprise 90% of total wage labour in agriculture<sup>105</sup>. The Greek government has recognised this demand and in order to help migrants obtain resident permits and enjoy labour rights, a joint ministerial decision is issued every two years establishing the maximum number of positions for seasonal employment by region and sector. Non-EU citizens can thus enter Greece to work for a maximum of six months through an “invitation” or “open call” system. In practice though, the positions are very limited and the system is difficult to apply<sup>106</sup>. In April 2016, the Greek Immigration Code was amended (Art. 13a Law 4251/2014) so that agricultural employers in regions where seasonal working positions exist and have already been approved may recruit undocumented third-country nationals or asylum seekers already resident in Greece, thus providing them with a temporary, six-month permit (with the use of labour tokens for insurance payments and wages). However, from the workers’ perspective, this measure ties the worker to a specific employer and has a short duration.

In Greece, the Labour Inspectorate Body operating under the auspices of the Ministry of Labour, Social Security and Welfare is responsible for carrying out inspections at workplaces, including farms and agricultural activities. Labour inspectors can inspect any place where workers are likely to be employed and the inspections aim at detecting violations of the labour legislation, including possible victims of trafficking. However, the agricultural sector is particularly difficult to monitor, especially in remote country areas.

Within the framework of Europol’s EMPACT THB project, the Greek Labour Inspectorate (SEPE) participated in joint actions with the police aimed at combating trafficking in human beings for labour exploitation (May 2017)<sup>107</sup>. From 14 to 19 May 2018, a total of 372 inspections of health care facilities, agricultural facilities, poultry and livestock farms, construction sites and industrial sites were held, again, within the framework of the Europol project. According to a relevant press release of the Ministry of Labour, 113 administrative penalties (fines) were imposed for violations of labour law provisions, in a total amount of 703,436.87€.

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<sup>105</sup> A.G. Papadopoulos, In what way is Greek family farming defying the economic crisis?, *Agriregionieuropa*, Vol. 43, 2015.

<sup>106</sup> Information was provided through an interview with E. Dionisopoulou, Labour Lawyer. See also in Greek, E. Dionisopoulou, The Protection of the labour rights of undocumented third country nationals – On the decision Chowdury v. Greece, *Epitheorisi Ergatikou Dikaiou*, August 2018.

<sup>107</sup> Group of Experts on Action against Trafficking in Human Beings (GRETA), Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Greece, 18-10-2017, available at: <https://rm.coe.int/greta-2017-27-fgr-gre-en/168075f2b6>, para. 144.

Greece adopted a National Action Plan for combating THB in Greece, which expired in 2012<sup>108</sup>. Currently there is no action plan or strategy in place. According to Article 6 of Law 4198/2013, the Office of the National Rapporteur on Trafficking in Human Beings was set up; this Office is responsible for launching, coordinating and implementing the national strategy for combating trafficking in human beings. The general aim of the Office of the National Rapporteur is also to create a pool of certified private entities that will conduct regular audits in their supply chains, focusing on the identification of labour trafficking incidents. To this end, a Permanent Consultation Forum has been created as a framework for exchange between the Office of the National Rapporteur and representatives of 11 NGOs specialised in the field of combatting THB. On 4 June 2015, the Office of the National Rapporteur, the National Centre for Social Solidarity (EKKA) and three NGOs submitted a common memorandum to the Hellenic Parliament's Permanent Committee for Equality with proposals on an action plan<sup>109</sup> and, in May 2018, the National Rapporteur announced that a draft for a new National Action Plan was being prepared.

With a view to promoting supply chains free from labour exploitation, the National Rapporteur signed in 2014 a Memorandum of Co-operation with the Corporate Social Responsibility Hellas Network, which included activities to raise awareness on this issue among businesses, consumers and employees, by conducting training programmes, workshops and events and by using social media tools for reaching out to broader audiences. Furthermore, the National Rapporteur and the Athens Public Transport Organisation co-organise training for public transport staff and awareness-raising campaigns for passengers (2017-2020). Similar activities were organised in 2016 with the Central Market Hall Organisation in Athens, which were context-specific to labour exploitation in the agricultural field. In 2016, a National Referral Mechanism was established under the supervision of the National Rapporteur and operated by EKKA. Its main purpose was to create and maintain a database on the number trafficking victims. Finally, the Office of the Greek National Rapporteur on Trafficking in Human Beings carried out a series of actions, including a workshop on Combating Trafficking in Human Beings, with the Labour Inspectorate Body. In collaboration with the OSCE, the City of Athens and Bloomberg, is working to strengthen public-private partnership through the adoption of a supply chain monitoring/control model.

It should be highlighted that a permanent Sub-Committee for Combatting the Trafficking and Exploitation of Human Beings has been established in the Hellenic Parliament since 2016, which operates under the supervision of Special Permanent Committee for Equality.

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<sup>108</sup> The 2006 Greek National Action Plan to combat trafficking in human beings is available at: [https://ec.europa.eu/anti-trafficking/member-states/greece-52-national-action-plans\\_en](https://ec.europa.eu/anti-trafficking/member-states/greece-52-national-action-plans_en).

<sup>109</sup> The Common Memorandum which was submitted to the Hellenic Parliament is available at: <https://www.praksis.gr/assets/YPOMNIMA.pdf>.

## Section 5 Italy

Italy is primarily a country of destination for trafficked persons and trafficking for the specific purpose of labour exploitation has been on the rise in this country.<sup>110</sup> Several economic sectors directly take advantage or are indirectly involved in the demand and supply chain of trafficking in human beings.

In this context, the most affected sectors are agriculture and grazing, the textile and manufacturing sector, domestic and home care work and the construction sector.<sup>111</sup>

The agricultural sector in Italy is the sector that relies the most on exploited labour of trafficked individuals. This is facilitated by the involvement of middlemen or labour brokers (called “*caporali*” in Italian), who make victims of trafficking live and work in inhumane conditions. Foreigners working in this sector usually do not receive adequate pay and are forced to live where they work, which worsens their isolation, thus increasing their vulnerability to further human rights violations.<sup>112</sup> Labour exploitation of trafficked individuals takes place especially in southern Italy; however, cases of exploitative working conditions among communities of migrant workers have been also documented in central Italy - in particular in the province of Latina, not far from Rome - and in northern Italy.<sup>113</sup> Companies working in the agricultural sectors find it profitable to rely on exploited labour, because it allows them to spend very few economic resources to pay workers and, as a consequence, to place on the market products at a very competitive price.<sup>114</sup> In some areas of Italy, this situation has even led companies to believe that they have no chance to make profit in the agricultural sector but resorting to cheap and exploited labour.<sup>115</sup> In addition, the development of this worrying scenario is facilitated by the inadequate intervention of labour inspection authorities, which are only able to discover and take measures against a small number of companies committing human trafficking-related offenses.

Another sector that is directly involved in the demand and supply chain of trafficking in human beings in Italy is the textile and manufacturing. This sector has experienced considerable growth in the region of Tuscany, in particular in the city of Prato, which has attracted foreign communities seeking business opportunities. In this sense, the Chinese community is notorious for managing and controlling the trafficking of Chinese nationals for exploitation purposes in Italy. Upon arrival in Italy, trafficked Chinese individuals are exploited not only in textile and manufacturing companies, but also in illegal activities such as trademark counterfeiting.<sup>116</sup>

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<sup>110</sup> Group of Experts on action against Trafficking in Human Beings (GRETA), *Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Italy*, 2019, p. 8, available on <https://rm.coe.int/greta-2018-28-fgr-ita/168091f627>.

<sup>111</sup> Group of Experts on action against Trafficking in Human Beings (GRETA), *Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Italy*, 2019, p. 21, available on <https://rm.coe.int/greta-2018-28-fgr-ita/168091f627>.

<sup>112</sup> Osservatorio Placido Rizzotto, CGIL-FLAI, *Agromafie e Caporalato*, 2017, available on <https://www.flai.it/osservatoriopr/>.

<sup>113</sup> The interviewee Rosanna Paradiso made reference to the region Piemonte in particular.

<sup>114</sup> Questionnaire filled by Giorgio Agosta.

<sup>115</sup> Interview with Marco Omizzolo.

<sup>116</sup> Commissione Parlamentare di inchiesta sul fenomeno delle mafie e sulle altre associazioni criminali, anche straniere, *Relazione su mafie, migranti e tratta di esseri umani, nuove forme di schiavitù*, 2017, available on [http://www.camera.it/\\_dati/leg17/lavori/documentiparlamentari/indiceetesti/023/030/INTERO.pdf](http://www.camera.it/_dati/leg17/lavori/documentiparlamentari/indiceetesti/023/030/INTERO.pdf).



Subsequently, there are cases of trafficked individuals subject to labour exploitation in the sector of domestic and home care. The use of exploited labour in this sector is peculiar, since workers usually live in private dwellings with those who illegally employ them. As a consequence, it is difficult for the authorities to learn about such forms of exploitation and it is challenging for workers to report the offenders. Foreign individuals working in domestic and home care are subject to excessive working hours and low remuneration, as well as verbal, physical and mental abuse. In addition, some of the live-in domestic workers are subject to actual confinement and suffer high levels of restriction on freedom of movement, since they are considered to be at the employer's constant disposal.<sup>117</sup>

Finally, companies working in the construction sector have been found to resort to exploited labour of trafficked individuals, relying predominantly on Eastern European labour.<sup>118</sup>

Additional economic sectors that are at high risk of being involved in the demand and supply chain of trafficking in human beings include the tourism industry, the catering sector and the entertainment industry.<sup>119</sup>

Italy has adopted a national strategy to tackle, among other issues, the involvement of the economic sector in the supply and demand chain of trafficking in human beings. In particular, on 26 February 2016, Italy adopted the first *National Action Plan against Trafficking in and Serious Exploitation of Human Beings*, which envisages several measures with a view to enhancing the national response to human trafficking in the areas of the prevention, prosecution, protection and partnership.<sup>120</sup> Measures aimed at combating the economic sector's involvement in the trafficking in human beings chain include facilitating the cooperation with the private sector to raise awareness of the use of forced labour, encouraging corporate social responsibility and promoting the development of an incentive system, as well as improving the interaction with the National Labour Inspectorate, strengthening judicial cooperation and a multi-agency approach to tackling THB offences.

In addition, on 27 May 2016, the Ministry of Labour and Social Policies, the Ministry of the Interior and the Ministry of Agricultural, Food and Forestry Policies adopted a *Protocol against illegal recruitment and labour exploitation of agricultural workers*.<sup>121</sup> Actions carried out under the Protocol include organising free transport of agricultural workers to work, implementing pilot projects for the temporary use of state-owned properties for the

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<sup>117</sup> L. Palumbo, *Trafficking and labour exploitation in domestic work and the agricultural sector in Italy*, 2017, available on <https://publications.europa.eu/en/publication-detail/-/publication/5bd84d89-d701-11e6-ad7c-01aa75ed71a1/language-en>.

<sup>118</sup> Group of Experts on action against Trafficking in Human Beings (GRETA), *Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Italy*, 2019, p. 21, available on <https://rm.coe.int/greta-2018-28-fgr-ita/168091f627>.

<sup>119</sup> Interview with Rosanna Paradiso.

<sup>120</sup> National Action Plan on Trafficking and Serious Exploitation of Human Beings for the period 2016-2018 (*Piano nazionale d'azione contro la tratta e il grave sfruttamento 2016-2018*), available on <http://www.pariopportunita.gov.it/wp-content/uploads/2017/12/Piano-nazionale-di-azione-contro-la-tratta-e-il-grave-sfruttamento-2016-2018.pdf>.

<sup>121</sup> Ministry of Labour and Social Policies, the Ministry of the Interior and the Ministry of Agricultural, Food and Forestry Policies, *Protocol against illegal recruitment and labour exploitation of agricultural workers (Protocollo sperimentale contro il caporalato e lo sfruttamento lavorativo in agricoltura)*, 2016, available on <http://www.lavoro.gov.it/temi-e-priorita/Terzo-settore-e-responsabilita-sociale-imprese/focus-on/Volontariato/Documents/Protocollo%2027%20maggio%202016.pdf>.



reception of seasonal workers, establishing information points for the supply of housing services, and promoting Italian language courses and job training.

Finally, Law no 199 of 2016 set up a framework of inter-institutional coordination - in particular between the Ministry of Labour and Social Policies and the Ministry of Agricultural, Food and Forestry Policies - that is aimed at implementing measures to foster better living conditions and innovative recruitment policies for agricultural workers.



## CHAPTER 3

### Modus operandi of human traffickers

#### Section 1 Romania

Criminal groups maintain their mobility and flexibility, aiming to act simultaneously in several countries, especially where there is an increased demand on the sex market, but also on the labour market. In this context, the ways of recruiting the future victims speculate the whole life context of the Romanians who become victims of human trafficking, whether they are already in the country of destination or in Romania.

There were situations when the victims agreed to the offers and promises, but once they arrived in that country, they noted that the conditions were different, taking the form of exploitation.


Promises of jobs abroad or even in the country are still the most frequent pretexts and forms of addressing the potential victims.

The main destination countries where Romanian citizens are being exploited are Italy, Germany, Spain, Great Britain, France, Denmark, Czech Republic, and Belgium.

Evolution of technology and Internet access are factors that facilitate the activity of traffickers. The main sites used by traffickers for the recruitment and transportation of victims are still advertisements, job offers, and sites promoting various types of sexual services (erotic massage, video chat, escort services).

In the recruitment stage, traffickers frequently use Internet and mobile applications. The possibility to access online resources through mobile telephony services allows traffickers, on the one hand, to have easy access to potential victims regardless of their location (especially through social media platforms) and, on the other hand, gives them the opportunity to communicate more easily with each other and with the potential victims (e.g. Facebook, Messenger, WhatsApp, Viber). Facebook is considered by both traffickers and authorities as the most commonly used online recruitment tool for sexual exploitation. The main reason why traffickers prefer this social network is the abundance of pictures and information about the possible victims, usually young women (some even minor). Its public access feature allows traffickers to access various information that users post imprudently (photos, personal information, daily activities, visited places, etc.). Recruiters use these details to convince victims that they have common interests, thus increasing the chances of a successful recruitment process. Another important feature is the ability to use private chat on Facebook (Messenger) to hold private talks with the victims who cannot be monitored by other people (the victim's friends or parents).

Internet recruitment often proves to be more effective than the traditional methods used by traffickers. Communication is faster and its cost is lower.



Traffickers are experts in influencing vulnerable people, having the necessary experience to adapt their messages both in online advertisements and in face-to-face conversations, so as to trigger the interest of the potential victims.

In the case of sexual exploitation, the most frequent recruitment methods used by traffickers are: the promise of job offers abroad for young girls/women who once arrived in that country are forced to prostitute themselves; lover boy method.

In the case of labour exploitation, victims are often approached by offline methods - through family members, friends, and acquaintances. This is because many trafficked persons come from rural areas or have poor education and, therefore, they use the Internet very rarely or not at all. Consequently, advertisements are further distributed through members of the traffickers' network in social environments where the Internet is not widely used. However, as regards labour exploitation, we cannot exclude the method of online recruitment when traffickers post very tempting advertisements addressed to those who have not been abroad or who do not know the details of the procedures to obtain a job abroad. In some cases, the advertisements seem to belong to businesses, not to individuals. Some job offers are completely false, while others do exist. However, behind these advertisements there are individuals, organized groups of traffickers operating in Romania, or intermediaries who are paid to get the trafficker in touch with the potential victim. In the online environment there are multiple job offers abroad for Romanian workers, often without specifying the exact recruitment company. Persons who wish to work abroad should pay particular care when they try to find a job through intermediaries. According to Law no. 156/2000 on the protection of Romanian workers working abroad (with subsequent modifications and completions), only those companies authorized by the territorial labour inspectorates to act as employment agents are allowed to mediate the employment of Romanian citizens abroad. Those companies matching jobseekers for work abroad must have explicitly stipulated this in their scope of activity, according to 7810 NACE Code<sup>122</sup> - Activities of employment placement agencies.

Over time, the Romanian authorities have taken steps to inform the citizens willing to work abroad, so as to avoid situations like once been brought to the country of destination they were subjected to labour exploitation or other forms of human trafficking. According to the data provided by the National Employment Agency (ANOFM), the institution has created a network of 45 EURES advisers, civil servants in all employment agencies, all of them trained to provide information, counselling, mediation services both to Romanian workers who already work or want to work in the European Area, and to EU citizens who wish to work in Romania. The Romanian citizens who wish to work abroad are informed about their rights and obligations through employment in the territory of another state, as a result of the EURES services and the bilateral legal agreements concluded by Romania in the field of labour exchange. This is accomplished through several channels: written information about the conditions of the job offer and the contact details of the labour and social attaché when participating in the selections; by publishing job offers on the EURES national website and displaying them at the headquarters of the county agencies; through materials published on the ANOFM website and on social media pages. In order to support the Romanian workers who found a job in European countries, the Romanian citizens who are unemployed or are looking for another job in European countries, ANOFM collaborates with the diplomatic

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<sup>122</sup> NACE = The Nomenclature of Economic Activities

missions of Romania from abroad, as well as with Romanian institutions, respectively the Labour Inspectorate, the General Police Inspectorate, etc. Under these actions, the Romanian citizens are informed about: the services provided by the Public Employment Service in the host state, the vacancies in Romania, the ANOFM services, the measures to stimulate the mobility at national level and to encourage the return to their country, the EURES network, their rights in the European labour and social security markets provided in the European Regulations.

## Section 2 Bulgaria

As Bulgaria is primarily a source country for labor trafficking, it is difficult to outline a specific modus operandi of traffickers involving local businesses.

Nevertheless, a report of a Bulgarian criminological institute, citing documents of the European Parliamentary Research Service,<sup>123</sup> and a prominent anti-trafficking expert<sup>124</sup> note the practices of cascade employment and the use of subcontractors and sub-subcontractors, so that it is difficult to trace who are employees employed by whom.

The report also cites the involvement of smaller business players with branches both in source and destination countries, often with links to trafficking networks, and summarises some main risk tendencies: lack of permanent labor engagement, harsh labor conditions,<sup>125</sup> lacking or insufficient regulation of labor relations.<sup>126</sup>

Recruitment agencies are said to only facilitate the departure of Bulgarian citizens for the destination countries by, for example, buying plane tickets, thus concealing their link to the suspected trafficking activity, while fake documents abroad are arranged directly between companies and alleged victims.<sup>127</sup>

Posting of workers employed by Bulgarian companies is cited as the third main hypothesis of legitimate business practices used for labor exploitation in Belgium, Greece, Italy and many other Member States.<sup>128</sup> Indeed, most of the signals the Labor Inspectorate

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<sup>123</sup> Prevention and Counteraction of Human Trafficking for Labour Exploitation in Bulgaria and Norway (Превенция и противодействие на трафика на хора с цел трудова експлоатация в България и Норвегия), Risk Monitor, 2015, available at <https://www.riskmonitor.bg/bg/report/protivodeystvie-i-preventsia-na-trafika-na-hora-s-tsel-trudova-eksplotatsiya-v-balgariya-i-norvegiya>, p. 12 and following

<sup>124</sup> Interview with anti-trafficking expert and Rights at work Bulgarian project co-ordinator Ms Antoaneta Vassileva, 17 December 2018

<sup>125</sup> Harsh labor conditions, although different from trafficking as such, are also reiterated as fruitful ground for trafficking for labour exploitation by researchers in the area of criminal law and criminal procedure - Written submission by Ms Georgia Papucharova, Ms Hristina Bogia and Mr Strahil Goshev, PhD students, Neofit Rilski South-West University, 4 January 2019.

<sup>126</sup> Prevention and Counteraction of Human Trafficking for Labour Exploitation in Bulgaria and Norway (Превенция и противодействие на трафика на хора с цел трудова експлоатация в България и Норвегия), Risk Monitor, 2015, available at <https://www.riskmonitor.bg/bg/report/protivodeystvie-i-preventsia-na-trafika-na-hora-s-tsel-trudova-eksplotatsiya-v-balgariya-i-norvegiya>, p. 12 and following

<sup>127</sup> Interview with a criminological expert, 12 December 2018

<sup>128</sup> Interview with anti-trafficking expert and Rights at work Bulgarian project co-ordinator Ms Antoaneta Vassileva, 17 December 2018

has sent to the prosecutor's office concern fictitious posting in Belgium, charging fees for genuine or issuing false A1 certificates, etc.<sup>129</sup>

In terms of trafficking in Bulgaria, anecdotal evidence is cited about suspected irregular migrants working at exotic fast food restaurants or shisha bars, or at Chinese owned businesses, and even as taxi drivers.<sup>130</sup> As for cases of employing both Bulgarians and foreigners 'bordering' between legitimate employment and labor exploitation, those include mainly irregularities, concerning salaries, job descriptions and work hours.<sup>131</sup>

As for the financial side of trafficking transactions, according to a recent report about the financial underpinnings of trafficking activities, the growing use of legal business structures to enable and facilitate THB inadvertently raises the level of sophistication of criminal finances as licit and illicit financial flows become intertwined in the process of money laundering'.<sup>132</sup> As for the benefits of traffickers, they are both to the detriment of those trafficked (unpaid wages and social security) and the state (unpaid taxes), in addition to the revenue from what is produced in a situation of labor exploitation.<sup>133</sup>

### Section 3 Germany

Perpetrators of human trafficking and labor exploitation benefit from certain market structures which facilitate concealing of exploitation. The reverse conclusion that the listed methods are always an indicator of abuse cannot be drawn.

#### Recruitment

Victims are recruited abroad by other employees<sup>134</sup>, employers themselves or recruitment agencies.<sup>135</sup> The latter often abuse the vulnerability of the victims, which arises especially from their financial pressure. Those entities appear in the form of non-licensed employment agencies or letterbox companies.<sup>136</sup> Also high broker fees lead to dependencies.<sup>137</sup>

#### Chain of subcontractors

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<sup>129</sup> Letter by the General Labor Inspectorate Executive Agency to the Center for the Study of Democracy, 18 December 2018

<sup>130</sup> Interview with a criminological expert, 12 December 2018

<sup>131</sup> Interview with anti-trafficking expert and Rights at work Bulgarian project coordinator Ms Antoaneta Vassileva, 17 December 2018

<sup>132</sup> Rusev, A, Kojouharov, A, Bezlov, T, Financing of Organized Crime Activities - Focus on Human Trafficking: National Report Bulgaria, 2018

<sup>133</sup> Interview with anti-trafficking expert and Rights at work Bulgarian project coordinator Ms. Antoaneta Vassileva, 17 December 2018

<sup>134</sup> Interview with Mr. Zacher, former secretary of industrial union of construction workers, conducted on 15/01/19.

<sup>135</sup> Interview with Dr. Lindner, legal practitioner, conducted on 15/01/19.

<sup>136</sup> Cyrus, Trafficking for Labour and Sexual Exploitation in Germany, 2005, available at: [https://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---declaration/documents/publication/wcms\\_081996.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_081996.pdf).

<sup>137</sup> KOK e.V., publication on the human trafficking situation in Germany, *Menschenhandel in Deutschland - Eine Bestandsaufnahme aus Sicht der Praxis*, 2015.

The award of contracts to many subcontractors creates the risk that responsibilities are concealed, which furthers abuse. The risk is increased by missing legal limitations on the number of subcontractors.<sup>138</sup> Investigating authorities can often only identify the last link in the sub-contractual chain. This entity is easily replaceable and sometimes even a letterbox company. The responsible persons cannot be traced back.<sup>139</sup> Perpetrators evade legal requirements by the posting of workers. Thereby, they benefit from obstacles in transnational investigations and play the authorities off against each other. For example, it is not the required German minimum wage that is paid, but the foreign one.<sup>140</sup> Furthermore, employee status is disguised by bogus self-employment or by drawing up several contracts for work and services subsequently, in order to deny employees' rights and to evade social security contributions.<sup>141</sup>

### **Competitive and cost pressure**

The competition among business entities and the cost pressure increase the risk of human trafficking and labor exploitation. Employees' costs are cut back, in order to be the cheapest provider. This is done by subcontractors that withhold wages or disregard social security contributions. Main contractors are satisfied with promises of high labour standards by their suppliers, without controlling the suppliers' conduct, as this would involve high efforts and costs.<sup>142</sup> This exploitative system benefits additionally from main contractors who do not take suspicions about abuses seriously.<sup>143</sup> Unfortunately, the public procurement system contributes to this exploitation, as public institutions mostly choose the lowest priced offer.<sup>144</sup> Because of financial constraints, the employees are at risk of accepting precarious labor conditions.<sup>145</sup> They sign bogus pay slips<sup>146</sup> and accept empty promises of wage payments.<sup>147</sup> Some perpetrators do not hand out employment contracts, in order to create opacity, which leads to insecurity.<sup>148</sup> Another factor that can be abused by employers is the

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<sup>138</sup> Interview with Mr. Herrmann, head of pastoral care department, conducted on 18/12/18.

<sup>139</sup> Interview with a representative of the labor union of the police, conducted on 13/01/19.

<sup>140</sup> Interview with Mr. Herrmann, head of pastoral care department, conducted on 18/12/18.

<sup>141</sup> Interview with Dr. Schwertmann, head of unit labor migration at institution for education, conducted on 07/01/19.

<sup>142</sup> Interview with Mr. Herrmann, head of pastoral care department, conducted on 18/12/18; Interview with Dr. Schwertmann, head of unit labour migration at institution for education, conducted on 07/01/19; Interview with Mr. Zacher, former secretary of industrial union of construction workers, conducted on 15/01/19.

<sup>143</sup> Interview with Mr. Strehlow, head of department combatting of organised crime, Office of Criminal Investigation, conducted on 22/01/2019.

<sup>144</sup> Interview with Mr. Herrmann, head of pastoral care department, conducted on 18/12/18.

<sup>145</sup> German Human Rights Institution, Development the human rights situation in Germany, July 2017 – June 2018, available at: [https://www.institut-fuer-menschenrechte.de/fileadmin/user\\_upload/Publikationen/Menschenrechtsbericht\\_2018/Human\\_Rights\\_Report\\_2018\\_Short\\_version.pdf](https://www.institut-fuer-menschenrechte.de/fileadmin/user_upload/Publikationen/Menschenrechtsbericht_2018/Human_Rights_Report_2018_Short_version.pdf).

<sup>146</sup> Interview with Mr. Henzler, senior public prosecutor, conducted on 18/01/19; Interview with Mr. Strehlow, head of department combatting of organized crime, Office of Criminal Investigation, conducted on 22/01/2019; Interview with Mr. Zacher, former secretary of industrial union of construction workers, conducted on 15/01/19.

<sup>147</sup> Interview with Mr. Zacher, former secretary of industrial union of construction workers, conducted on 15/01/19.

<sup>148</sup> Interview with Dr. Schwertmann, head of unit labor migration at institution for education, conducted on 07/01/19.



employees' lack of knowledge about the German legal system. The workers rely on and trust their employers. Hence, they realize very late that they are in exploitative situations.<sup>149</sup>

### **Deficiencies in governmental authorities**

Regarding inspections by authorities, legal loopholes exist which can be exploited by perpetrators. The non-electronic time recording for example leads to multiple options to cover exploitation. Also, perpetrators benefit from low inspection pressure.<sup>150</sup> Deterrence from illegal conduct is minimised by the long-lasting process of law enforcement, due to understaffing in public prosecutor's offices and courts<sup>151</sup> as well as due to obstacles concerning transnational investigations. Although German courts have jurisdiction to deal with trafficking offences committed abroad (§ 6 Nr. 4 StGB), public prosecutors are generally not authorised to investigate abroad.

### **Section 4 Greece**

The crimes of human trafficking for the purpose of labour exploitation constitute a complex and multi-faceted phenomenon, comprising varying degrees of coordination and collaboration of a variety of actors in order to facilitate the occurrence of such crimes, as well as close and constant monitoring of the trafficked persons, in order to ensure the continuation of such crimes. Employment agencies, company owners, corporate entities and individual entrepreneurs are some of the actors involved in human trafficking. Together, these entities facilitate and enable the illegal and involuntary placement and exploitation of workers to job positions. The demand for cheap labour and service makes Greece a prime destination for the victims of trafficking. However, Greece is also a transit country, as it constitutes the main entrance to the European Union, due to its geographical location.

The modus operandi of traffickers for labour exploitation consists of three main phases: the recruitment phase, the transportation phase and the exploitation phase, while it changes and adjusts according to the governance responses to the phenomenon, the developments in the legal framework and the new opportunities arisen in the economic sectors. However, traffickers seek to exploit any legal loopholes that may exist, by using a variety of approaches and methods.

At the point of recruitment, victims are mostly unemployed job seekers, and the process followed by traffickers requires the involvement of an intermediary organization that can mediate between the unemployed and the organization/company offering the job. The involvement of recruitment agencies is the most common practice that is used and can especially be found in sectors with seasonal work or where employers and workers do not speak the same language. Migrant workers are more likely to rely on these agencies, as they are not familiar with the legal framework of the destination country and lack language skills.

Recruitment usually takes place in the country of origin and it frequently involves deception about work and working conditions. More specifically, the recruitment agencies post a job opportunity and victims, who are unemployed job seekers, express their interest.

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<sup>149</sup> Interview with Dr. Lindner, legal practitioner, conducted on 15/01/19; Interview with a representative of the labor union of the police, conducted on 13/01/19; Interview with Mr. Zacher, former secretary of industrial union of construction workers, conducted on 15/01/19.

<sup>150</sup> Interview with Mr. Herrmann, head of pastoral care department, conducted on 18/12/18.

<sup>151</sup> Interview with a representative of the labor union of the police, conducted on 13/01/19.

Thereinafter, a very attractive picture including false promises for a better life is drawn, where positions with high salaries and perfect working conditions are offered.

Another very common practice applied by these agencies is the charge of a recruitment fee, which it is initially agreed to be paid back by the agency itself in order to facilitate the placement of unemployed person to the job position. The fee may cover travel, visa or other costs. Moreover, the fee may include further charges, such as high interest, putting the victim into a more vulnerable position.

Once the victim agrees to the deal, he/she travels to the destination country where another contact person waits and undertakes the “placement” of the victim to the job position. In the case of Greece, either land routes are used, especially through Turkey, and victims who may have secured legal entry into the country cross the borders and travel mostly alone, or over sea borders, which are 18.400 kilometres long and constitute an easy access.

Upon the victim’s arrival to the destination country, the exploitation phase begins. In order to ensure the bondage of the victim in the trafficking situation, the trafficker uses a series of approaches and methods, some of which may harm the victim physically or psychologically. Firstly, all papers, passports and other documents are withheld, so that victims cannot move around freely and cannot turn to the authorities, as they will be at risk of being arrested for illegal migration. The entire employment fee is charged to the victim who, in order to pay it back, is compelled to forced labour. Under these circumstances, victims can easily be manipulated by employers and can easily agree to lower wages than those promised by recruitment agents or to no wages at all. As a result, victims are forced to work and live under intolerable conditions while they are kept under tight control. They are not in position to pay back the fee and remain enslaved into trafficking situation for a long period. This approach constitutes one of the most popular methods applied by the traffickers to maintain control over the victims, which they can also combine with other forms of psychological and physical violence. In order to disorientate the victims, traffickers move them from one place to another within the country of destination, with the aim to deter them from any attempt to escape and turn to police. Furthermore, traffickers exert full control over the victims through their isolation, threats which are directed either against the victim itself or against his/her family, insults and humiliations.

## Section 5 Italy

In Italy, traffickers resort to several methods to use the economic sectors in the process of recruiting, transporting and exploiting victims. The overall demand and supply chain of trafficking in human beings can be divided into four levels of organization.<sup>152</sup>

At the first level, traffickers belonging to the ethnic community of the victims are in charge of recruiting individuals and planning and managing the travel from the country of origin to that of destination. At the second level, organizations of traffickers that operate in sensitive areas - located in the border areas between the countries of transit and destination - are entrusted with operational tasks, such as providing false documents and choosing routes and means of transport. The third level is constituted by traffickers that are responsible for ensuring the transit through border areas and entrusting victims to the final representative of

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<sup>152</sup> Commissione Parlamentare di inchiesta sul fenomeno delle mafie e sulle altre associazioni criminali, anche straniere, *Relazione su mafie, migranti e tratta di esseri umani, nuove forme di schiavitù*, 2017, p. 30, available on [http://www.camera.it/\\_dati/leg17/lavori/documentiparlamentari/indiceetesti/023/030/INTERO.pdf](http://www.camera.it/_dati/leg17/lavori/documentiparlamentari/indiceetesti/023/030/INTERO.pdf).



the trafficking chain. The latter group of traffickers represent the fourth level and actually benefit from the profit resulting from the exploitation of the victims.

As far as the recruitment stage is concerned, traffickers use different sets of actions and means that conduct an individual inside the net of trafficking. The methods that traffickers use in this phase are stringently associated with the country of origin of potential victims.

In some cases, traffickers resort to forced recruitment, *i.e.* a process where the victim and trafficker previously did not have any connection and the coercion occurs throughout their initial contact. In this regard, a method that appears to be fueling the demand and supply chain of trafficking of human beings in Italy is “buying” victims from families in needs. This method is typical of underdeveloped areas and countries with restrictive population policies and consists in taking advantage of families with financial difficulties, which have no choice but “to sell” their own family members to traffickers in order to survive.<sup>153</sup>

In other cases, traffickers in Italy use methods of totally or partially deceptive recruitment. Within this recruitment type, traffickers use deceit to falsely represent or conceal facts to the potential victims. This practice is aimed at obtaining the victim’s consent and consists in giving something untrue as accurate or hiding the existence of certain circumstances (*e.g.* the actual working conditions upon arrival in Italy). As an example, traffickers have been found to use deceptive recruitment to convince a group of Egyptian young men to go to Italy to improve their economic conditions and to be able to support their families in their country of origin. In some cases, the families of these young men even got into debt to pay the traffickers, in the false hope that their children would help them repay such debt through the work in Italy.<sup>154</sup>

Some victims of trafficking for labour exploitation sometimes move to Italy through illegal recruitment agencies (in the country of origin or destination), while others are conducted inside the net of trafficking through other channels, including word of mouth and the intermediation of members of their community of origin. The latter method may imply the creation of a system where individuals who are already victims of trafficking receive financial incentives from traffickers, under the obligation to return to their home countries and recruit other victims. This method reduces the risk for the organizers, by turning the victim themselves into recruiters and eventually new traffickers.

With respect to the transport of trafficked individuals, traffickers frequently do not take the most direct routes, since this allows them to avoid paths monitored by police, such as checkpoints on borders of countries, where public authorities are effective and not corruptible. Methods used to transport victims to Italy include trafficking by sea and by air.

Traffickers often rely on transport by sea because of Italy’s peculiar geographical location, taking advantage of the dramatic flow of migrants that has been crossing the Mediterranean over the last years. Trafficked individuals that cross European borders by sea are usually transported to Italy on makeshift boats or dinghies, as well as on ferries from

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<sup>153</sup> Commissione Parlamentare di inchiesta sul fenomeno delle mafie e sulle altre associazioni criminali, anche straniere, *Relazione su mafie, migranti e tratta di esseri umani, nuove forme di schiavitù*, 2017, p. 54, available on [http://www.camera.it/\\_dati/leg17/lavori/documentiparlamentari/indiceetesti/023/030/INTERO.pdf](http://www.camera.it/_dati/leg17/lavori/documentiparlamentari/indiceetesti/023/030/INTERO.pdf).

<sup>154</sup> Commissione Parlamentare di inchiesta sul fenomeno delle mafie e sulle altre associazioni criminali, anche straniere, *Relazione su mafie, migranti e tratta di esseri umani, nuove forme di schiavitù*, 2017, p. 36, available on [http://www.camera.it/\\_dati/leg17/lavori/documentiparlamentari/indiceetesti/023/030/INTERO.pdf](http://www.camera.it/_dati/leg17/lavori/documentiparlamentari/indiceetesti/023/030/INTERO.pdf).

Greece, Albania and Turkey, hidden inside spaces arranged on such ferries for the specific purpose of smuggling and trafficking human beings.<sup>155</sup>

Trafficking by air is one of the fastest-growing methods of organized illegal migration. Traffickers who resort to this method are in charge of managing the transport of victims from countries including Eastern Europe, India<sup>156</sup> and China. Trafficking by air demands producing sophisticated travel documents (*e.g.* passports, residence permits) and/or corrupting border officials or airline staff.

As far as exploitation is concerned, traffickers and members of other criminal organizations exploit victims in Italy by depriving them of their documents, threatening or retaliating their family members, or even mistreating them with beatings or acts of sexual violence.<sup>157</sup> Traffickers in Italy, and especially in less developed areas of Italy, are able to exploit individuals by taking advantage of two circumstances: on the one hand, the difficult economic situation of both the victims and the businesses willing to illegally employ them; on the other hand, the widespread plague of undeclared work. Traffickers reportedly seek companies (especially in the agricultural sector) that are on the brink of bankruptcy to offer them cheap, black labour. In turn, companies that rely on trafficked workers benefit enormously from this situation, since they can place on the market products at a competitive price, by saving on their workers' pay.

Exploitation can appear as forced or compulsory labour and can include cases of slavery and similar practices, as well as debt bondage. The latter practice, for example, has been documented in the centre of Italy, where Indian migrant workers, particularly Sikhs from Punjab state, are reportedly forced to work to pay off debts to fraudulent agents who promised them good employment opportunities and accommodation and organised their travel from India to Italy.

In general terms, traffickers are business oriented and aim at maximising profits. Accordingly, in addition to exploiting victims, in some cases they sell them a set of additional "services" including accommodation, in-country transport and false documents. The payment for the said services takes place in different ways, mostly in cash, by official channels (Western Union, Moneygram, or, in Italy, through the Postepay), or through unofficial channels.<sup>158</sup>

Overall, trafficking in human beings in Italy is a constantly evolving phenomenon and the business-oriented dynamics of organized crime that exploits this phenomenon make sure that the *modus operandi* of traffickers keeps changing according to the changes in the national and international context.

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<sup>155</sup> Commissione Parlamentare di inchiesta sul fenomeno delle mafie e sulle altre associazioni criminali, anche straniere, *Relazione su mafie, migranti e tratta di esseri umani, nuove forme di schiavitù*, 2017, p. 30 available on [http://www.camera.it/\\_dati/leg17/lavori/documentiparlamentari/indiceetesti/023/030/INTERO.pdf](http://www.camera.it/_dati/leg17/lavori/documentiparlamentari/indiceetesti/023/030/INTERO.pdf).

<sup>156</sup> This regards in particular victims from Punjab transported to the Italian region of Agro Pontino. Interview with Marco Omizzolo.

<sup>157</sup> Commissione Parlamentare di inchiesta sul fenomeno delle mafie e sulle altre associazioni criminali, anche straniere, *Relazione su mafie, migranti e tratta di esseri umani, nuove forme di schiavitù*, 2017, p. 30 available on [http://www.camera.it/\\_dati/leg17/lavori/documentiparlamentari/indiceetesti/023/030/INTERO.pdf](http://www.camera.it/_dati/leg17/lavori/documentiparlamentari/indiceetesti/023/030/INTERO.pdf).

<sup>158</sup> Commissione Parlamentare di inchiesta sul fenomeno delle mafie e sulle altre associazioni criminali, anche straniere, *Relazione su mafie, migranti e tratta di esseri umani, nuove forme di schiavitù*, 2017, p. 38 available on [http://www.camera.it/\\_dati/leg17/lavori/documentiparlamentari/indiceetesti/023/030/INTERO.pdf](http://www.camera.it/_dati/leg17/lavori/documentiparlamentari/indiceetesti/023/030/INTERO.pdf).

## Chapter 4

### Case Studies

#### Section 1 Romania

##### **File xxx/40/2015. Final judgment of the court released in 2017**

By the indictment of the Directorate for the Investigation of Organised Crime and Terrorism, AN, LCC, NE, DFV were indicted for committing offenses related to the constitution of an organised criminal group, human trafficking, trafficking of minors, under the provisions of the Romanian Criminal Code.

VM, CM, MCA, BIC, GMI, CG, LM, SV, PE, TD, BG, BM, GAF, FM, NM victims have been subjected to forced labour in Italy, one of the victims being minor. The defendant AN organized on the basis of prior agreements with the co-defendants LCC, NE, DFV the recruitment and transportation of several persons from Romania to Italy and together with her Italian concubine SG, she received these victims in Italy for the purpose of labour exploitation. The persons had been misled about the working conditions, accommodation, salary, through the false promise of well-paid jobs in Italy.

The defendants forced the victims to practice “black labour” by taking a large part of the money paid by the Italian managers for the work carried out by the Romanian citizens.

The material vulnerability of these persons, together with the social and professional condition represented a catalyst in the recruitment of the victims – most of the victims having low levels of educational attainment, with no other sources of income and originating from rural areas (farmers or unemployed) and from poor localities in Romania. Taking advantage of the poverty of her fellow countrymen and the lack of jobs in Romania, but also of the influence of her Italian concubine SG had in the southern region of Italy, the defendant AN decided to develop a Romanian-Italian “small business” whose object was the labour exploitation of Romanian citizens.

The recruiters promised the victims decent and well-paid jobs in Italy, employment contracts, free accommodation and meals, work and health insurance. In fact, after arriving at the destination, these promises on the basis of which they were recruited proved to be totally false. Traffickers withheld the passports of the victims.

Although the defendants stated that they did not claim commissions from the recruits, this issue was rejected by the victims who said they had paid commissions between 50 Euro and 300 Euro for a job in Italy.

For the purposes of the recruitment, traffickers published advertisements in local newspapers in Romania about jobs in Italy.

The transportation of the Romanian workers to Italy was carried out both with vehicles belonging to LCC, one of the defendants, and by means of transportation belonging to Romanian companies for international transportation of persons; the recruited persons were asked to pay more than the normal price paid by other travelers, each of the victims paying

between 150 Euro and 300 Euro for a trip to Italy, when a regular coach ticket for Romania - Italy route could be booked for 140 Euro per person at the time of the facts.

Following the inspections of the Trade Registry Office, it turned out that LCC defendant owned one of the transportation companies, the latter being the manager/associate of the respective company.

Once arrived in Italy, the victims were picked-up by a number of Italian citizens (among which SG, the concubine of the defendant AN) and placed at a number of Italian employers in the southern Italian region to work. The accommodation conditions were inappropriate, the victims being forced to work 12 hours a day, including Saturdays and Sundays. The work was carried out in a mountainous area in southern Italy, and consisted in citrus and olive harvesting. The money they were entitled to for the work they had performed was directed to the defendant AN, and her Italian concubine, SG. The victims were informed that they had been brought to Italy to work, and there Romanian citizens were not perceived as employees, but slaves of the Italian managers.

Based on the evidences assessed in this file (including the detailed statements provided by the victims), the court sentenced the defendants for the crimes of human trafficking, trafficking in minors, establishing a criminal group organized according to the Criminal Code, with 5 to 10 years sentence to jail, depending on the seriousness of the facts committed by each defendant. Also, the defendants were obliged to pay the victims who brought a civil action in the criminal proceedings amounts of between 3,000 Euro and 10,000 Euro as compensation for material and moral damages suffered as a result of exploitation.

### **“The Wasp Nest” Case**

A Romanian-Danish criminal group specialised in deception and exploitation of people was annihilated by a large operation of the Danish and Romanian investigators. The group acted during the period 2012-2014, for the purposes of recruiting Romanian citizens from poor counties of Romania, who had been promised well-paid jobs in Denmark. The large operation was called “The Wasp Nest”. Following the operation, 21 Romanians and 2 Danish nationals were arrested, being accused of using the identities of the trafficked persons to obtain significant amounts of money by deceiving the Danish authorities, banks, credit institutions and shops. According to the Danish authorities, the victims were enslaved by the members of the criminal group, lacking any material and financial means; not knowing the language, they had to live in the dwellings established by the members of the network and they had to perform the activities imposed by them. The damage incurred by the Danish state amounted to millions of Euros. The Romanian citizens detained in Denmark have been tried and convicted by the Danish state for committing human trafficking, deception, computer fraud and tax evasion. At the same time, the Romanian authorities initiated appropriate operations designed to crack down on the Romanian phalanx of this transnational network.

## Section 2 Bulgaria

No domestic criminal cases involving businesses were identified. Some information is provided below on two prominent Belgian cases involving the exploitation of Bulgarian posted workers.

### The Absa case<sup>159</sup>

The Sociale Inspectie (*Social Security Inspectorate, Belgium*) conducted an investigation into the employment of the staff of Absa, a construction company incorporated under Belgian law. Since 2008, the company subcontracted the work on all its sites to Bulgarian undertakings that had no significant operations in Bulgaria and posted workers to Belgium with E 101 or A 1 certificates, without declaring their use to the social security institutions in Belgium. The Belgian Social Inspectorate asked the relevant Bulgarian authority to review or withdraw the workers E 101 or A 1 certificates, but the institution replied that the conditions of posting were, at the time those certificates were issued, met for administrative purposes. The Belgian authorities began legal proceedings against the Belgian employers for having employed foreign nationals not permitted or authorized to stay in Belgium for more than three months or to settle there, without a work permit; for not declaring such employment to social security institutions; and for not registering those workers with the Rijksdienst voor Sociale Zekerheid (*National Social Security Office, Belgium*). The defendants were acquitted by the first instance court and convicted by the second instance court. On 10 September 2015, the defendants appealed before Hof van Cassatie (*the Court of Cassation of Belgium*). On 19 June 2018, the cassation court confirmed the decision of the appeal court. Before issuing its final decision, the cassation court had requested and obtained a preliminary ruling from the Court of Justice of the European Union. The Court ruled that in case of fraudulently obtained or relied on E 101 certificates *a national court may, in the context of proceedings brought against persons suspected of having used posted workers ostensibly covered by such certificates, disregard those certificates if, on the basis of that evidence and with due regard to the safeguards inherent in the right to a fair trial which must be granted to those persons, it finds the existence of such fraud*.<sup>160</sup>

### The Top Stroy 2003 case<sup>161</sup>

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<sup>159</sup> Court of Justice of the European Union (CJEU), C-359/16, 6 February 2018, <http://curia.europa.eu/juris/document/document.jsf?text=&docid=199097&pageIndex=0&doclang=en&mode=req&dir=&occ=first&part=1&cid=1774437>, paras. 17-27; Dnevnik Daily, Belgian authorities are suing Bulgarian companies for social security fraud (Белгийските власти съдят български фирми за измама със социални осигуровки), 19 November 2017, available at [www.dnevnik.bg/sviat/2017/11/09/3074654\\_belgiiskite\\_vlasti\\_sudiat\\_bulgarski\\_firmi\\_za\\_izmama/](http://www.dnevnik.bg/sviat/2017/11/09/3074654_belgiiskite_vlasti_sudiat_bulgarski_firmi_za_izmama/); LexGo.be, Supreme Court rules on fraudulent A1 certificates, 26 September 2018, available at [www.lexgo.be/en/papers/labour-social-security-law/labour-law/supreme-court-rules-on-fraudulent-a1-certificates,122622.html](http://www.lexgo.be/en/papers/labour-social-security-law/labour-law/supreme-court-rules-on-fraudulent-a1-certificates,122622.html)

<sup>160</sup> Court of Justice of the European Union (CJEU), C-359/16, 6 February 2018, <http://curia.europa.eu/juris/document/document.jsf?text=&docid=200850&pageIndex=0&doclang=en&mode=req&dir=&occ=first&part=1&cid=1774437>

<sup>161</sup> Dnevnik Daily, Bulgarian workers sued a Sofia-based company in Belgium (*Български строители осъдиха в Белгия софийска фирма*), 28 October 2013, available at [www.dnevnik.bg/evropa/novini\\_ot\\_es/2013/10/28/2170005\\_bulgarski\\_stroiteli\\_osudiha\\_v\\_belgiia\\_sofiiska\\_fi](http://www.dnevnik.bg/evropa/novini_ot_es/2013/10/28/2170005_bulgarski_stroiteli_osudiha_v_belgiia_sofiiska_fi)



In October 2013, a Belgian court sentenced the Bulgarian company Top Stroy 2003 (*Ton Cmpoŭ 2003*) to pay a fine of €177,600 for the exploitation of Bulgarian construction workers hired for the building of a new prison and the new building of NATO in Brussels. The court also ordered confiscation of the company's assets amounting to over €350,000, which was the company's profit generated to the detriment of the workers. According to the court, the hired Bulgarian workers were underpaid and living in poor conditions. They received €6 per hour instead of the minimum €15 and were sometimes obliged to work on Saturday. Some of them (70 persons) were reportedly placed in a single house, in which they lived in rooms shared by nine people. The case was brought to court by a group of 14 Bulgarian workers.

### Section 3 Germany

Although incidences of human trafficking and labor exploitation have come to focus in Germany, there are disproportionately few investigations and even fewer judgments. The first case explained in the following is a recent incidence in the transport and logistics sector. The second case deals with exploitation in catering. Here, a court decision was delivered.

#### Filipino truck drivers

The case of the Filipino truck drivers has been attracting attention in Germany since autumn 2018. A Dutch unionist became aware of 16 Filipino truckers in the German state North-Rhine Westphalia, during investigations into human trafficking against a Danish transport company in the Netherlands. This corporation seems to be involved in further trafficking cases in Denmark. The workers who drove in Germany had an employment contract with a transport company in Poland which provided them with work permits. This firm seems to be a letterbox company of the mentioned Danish logistics business, which provided both the truckers and the towing vehicles. A German enterprise provided the trailers. The main contractor instructed this German company that commissioned the above Danish company as a subcontractor. Hence, one principal contractor, two subcontractors and a linked letterbox company were involved. Despite being employed in Poland, those truckers drove mostly in Germany. They were continuously employed for a period of three to eight months. Maximum driving times and rest periods were ignored. They lived in twos in the driver cabins for several months. Their remuneration, which was already under the German minimum wage, was arbitrarily reduced. On the premises, the sanitary arrangements were very poor. Furthermore, they had to pay high broker fees to be employed as truck drivers in the EU and to receive the required documents. Those inhumane labor conditions, isolation, especially due to the connection of work and living in the truck, along with discrimination are indicators of human trafficking, forced labor and / or labor exploitation.<sup>162</sup>

#### Current legislation

Several authorities have started investigations and referred the case to the public prosecutor. Still, the truckers were at first not denied continuing with their employment.

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rma/; Rtfb.be, L'entreprise Top Stoy condamnée pour l'exploitation de Bulgares, 25 October 2013, available at [https://www.rtfb.be/info/regions/detail\\_top-stoy-condamnee-pour-l-exploitation-de-bulgares-sur-differents-chantiers?id=8121068](https://www.rtfb.be/info/regions/detail_top-stoy-condamnee-pour-l-exploitation-de-bulgares-sur-differents-chantiers?id=8121068)

<sup>162</sup> Report by the German Trade Union Confederation *DGB* and the counselling service *Faire Mobilität*, *Bericht: Philippinische LKW-Fahrer wurden über Monate ausgebeutet*, available at: <http://www.faire-mobilitaet.de/++co++4cce3c34-e2bb-11e8-8eca-52540088cada>.



The Dutch unionist as well as a member of the board of the German Trade Union Confederation (DGB) lodged complaints with the public prosecutor office, among others, for human trafficking, forced labor and labor exploitation. The investigations are currently in progress. According to first statements of the public prosecutor, the German minimum wage would not apply because of the employment in Poland, which would lead to the application of the Polish minimum wage. There would be no basis for further investigations into human trafficking, forced labor or labor exploitation because there was no striking disproportion compared with the terms of employees in similar or comparable employments, according to § 232 StGB. The requirement of the legislator to have a remuneration falling short of 50 % or more of the minimum wage<sup>163</sup> would not be complied with in that case, according to the public prosecutor.<sup>164</sup> However, first calculations by the German Trade Union Confederation come to the conclusion that this requirement was met by the affected truckers. The Federal Ministry on Labor and Social Affairs made a general statement with regards to the application of the minimum wage, by clarifying that the place where the service has been performed would be relevant for the determination of the applicable law, whilst both the nationality of employees and the place of office should be irrelevant.

Until now, the victims have not been called as witnesses by the public prosecutor. An investigation into the above offences is essential for the victims to be granted a protection status, including maintenance, accommodation and residence and work permits in Germany. The witness statements are also important to prove the victim-centered criminal elements. Their current situation with regards to both residence permits and living conditions is vulnerable. At the moment, alternative options of work and residence permits for them are searched.<sup>165</sup>

### **Indian kitchen assistants, AmtsG Itzehoe 42 Ls 303 Js 27910/13**

In the case of the Indian kitchen assistants, the three accused employed six men in an Indian restaurant, without residence nor work permits, for a period of five years. Despite their illegal residence, the workers should have been paid around 5.50 euros per hour, according to the collectively agreed wages.<sup>166</sup> In fact, they received between 2 and 4 Euros per hour. Also, social security contributions were not paid. Hence, the employers' intention was to receive profits out of the exploitation, which in total made up 53,000 Euro. The workers were partly accommodated in a closed hotel, where electricity, heating and running water was occasionally not available. The workers had to live in cramped conditions. Rent was deducted from their remuneration. In the mornings, they were picked up by the employers and brought back in the evenings. Hence, the employers exercised great power and control over the lives of the employees.

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<sup>163</sup> Parliamentary Publication accompanying the legislation on human trafficking, BT-Drs. 18/9095, available at: <http://dip21.bundestag.de/dip21/btd/18/090/1809095.pdf>.

<sup>164</sup> Newspaper report: WDR, Ausbeutung im LKW trotz Mindestlohn, available at: <https://www1.wdr.de/nachrichten/landespolitik/westpol-spedition-mindestlohn-100.html>.

<sup>165</sup> Report by the German Trade Union Confederation DGB and the counselling service *Faire Mobilität*, Bericht: Philippinische LKW-Fahrer wurden über Monate ausgebeutet, available at: <http://www.faire-mobilitaet.de/++co++4cce3c34-e2bb-11e8-8eca-52540088cada>.

<sup>166</sup> § 98a AufenthG Residence Act, available at: [http://www.gesetze-im-internet.de/englisch\\_aufenthg/englisch\\_aufenthg.pdf](http://www.gesetze-im-internet.de/englisch_aufenthg/englisch_aufenthg.pdf).

## Current legislation

In 2016, the district court delivered a judgment on human trafficking for labor exploitation (former offence) and smuggling in six cases. Two perpetrators received a suspended prison sentence, the third one got off with a fine. Their confessions were considered as a mitigating factor. The profits gained from the exploitation were confiscated.

According to German criminal law, the abuse of a position of vulnerability is one form of a means required by the offence of human trafficking. This can, for example, arise due to the position as a foreigner, according to § 232 (1) S 1 StGB. Here, the illegal residence status was seen as such because it prevented the workers from resisting the perpetrators e.g. by recourse to legal means. The other elements of the offence were also given, namely letting of premises and purpose of exploitation. Hence, the court declared this conduct as human trafficking.<sup>167</sup>

## Section 4 Greece

In relation to case-law, in Greece, court decisions are, in general, not publicly available and third-parties cannot have access to copies of court decisions without permission from the case prosecutor. There are subscriber databases available to lawyers, yet even there not all decisions are published, since the publication relies on legal practitioners for the submission of court decisions they have adjudicated to the database (they are not automatically submitted by the relevant Courts). Decisions are usually published by NGOs or legal practitioners linked to the cases<sup>168</sup>. To this end, the Prosecutor of the Supreme Court of Greece (Areios Pagos) published a circular (No. 1/2018) which ordered all prosecutorial authorities in Greece to send within the first 20 days of April and October and on an annual basis, the number as well as additional data of case-files which were introduced (in the previous semester) to the First Instance Prosecutor Offices and which concern trafficking<sup>169</sup>. Indeed, an interview with the First Instance Court of Athens verified that, in November 2018, data on the number of cases was forwarded to the Prosecutor of the Supreme Court.

## Manolada (Strawberry Fields) Case<sup>170</sup>

*Legal Entity involved: S.A. Corporation for strawberry production*

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<sup>167</sup> District court *AmtsG Itzehoe* judgement of 29/09/16, 42 Ls 303 Js 27910/13 (20/16), available at: [https://www.kok-gegen-menschenhandel.de/uploads/tx\\_t3ukudb/ag\\_itzehoe\\_29\\_09\\_2016.pdf](https://www.kok-gegen-menschenhandel.de/uploads/tx_t3ukudb/ag_itzehoe_29_09_2016.pdf).

<sup>168</sup> Concerning statistical data, Greek courts do not have a database which assists in gathering statistical data. This was confirmed by the Head of the Supreme Court President's Secretariat, the Head of the Secretariat for the Athen's Court of Misdemeanours, the Director of the First Instance Court of Athens as well as the Head of the Prosecutor Offices of Athens. According to judicial authorities, a system was established in April 2018 but only for cases submitted after this period. What is more, the system does not appear to be fully operational.

<sup>169</sup> Greece, Circular 1/2018 of the Vice Prosecutor of the Supreme Court, (*Εγκύκλιος Εισ.ΑΠ 1/2018*) available in Greek at: [https://www.eisap.gr/sites/default/files/circulars/E%CE%B3%CE%BA.%201-2018\\_0.pdf](https://www.eisap.gr/sites/default/files/circulars/E%CE%B3%CE%BA.%201-2018_0.pdf).

<sup>170</sup> Open Society Foundations, *Litigation on Chowdury and others v. Greece*, 30-03-2017, available at: <https://www.opensocietyfoundations.org/litigation/chowdury-and-others-v-greece>. See also: ECtHR, *Case of Chowdury and others v. Greece*, App. no. 21884/15, available at: <http://hudoc.echr.coe.int/eng?i=001-172701> and Greek National Commission for Human Rights, ECtHR, *Chowdury and Others v. Greece: Recommendations for the full compliance of the Greek State*, 27-08-2018, available in Greek at: [http://www.nchr.gr/images/English\\_Site/TRAFFICKING/GNCHR%20Recommendations%20on%20the%20Manolada%20case.pdf](http://www.nchr.gr/images/English_Site/TRAFFICKING/GNCHR%20Recommendations%20on%20the%20Manolada%20case.pdf).

*Economic sector involved: Agricultural sector*

In 2012-2013, around 150 men from Bangladesh worked on a strawberry farm in Nea Manolada, Greece, for periods up to six months, without being paid. Their employer, an S.A. corporation that owned and operated strawberry fields, took advantage of their lack of immigration papers and permission to work in the country. The workers often protested the fact that they had never received their wages, without success. During a protest in April 2013 and fearing that they would never be paid, the workers who were on strike went to visit their employers. One of the employer's guards opened fire on the workers and 30 of them were seriously injured.

The prosecutor charged four people - the employers and two guards – with dangerous bodily harm and human trafficking. Of the 120 workers having been fired upon, the prosecutor only recognised the 33 hit by shots as victims of trafficking and included them as civil parties to the criminal proceedings. It should be mentioned that the workers who were recognized as victims were provided residence permits, pursuant to national legislation for the protection of victims of trafficking.

In 2014, the Court acquitted the defendants of human trafficking. While the court acknowledged that the workers were irregular migrants and had not been paid for their labour, the court did not consider that their treatment constituted trafficking, as the workers were free to leave the farm. Instead, the two guards were convicted of dangerous bodily harm and illegal use of firearms and were sentenced to 14 years, seven months, and eight years, seven months in jail, respectively. However, these sentences were immediately converted to monetary fines.

Under Greek Criminal Procedure Law, the civil parties to a case do not have the right to appeal a decision of a criminal court. Only the prosecutor or the convicted have this right and only under certain conditions. Therefore, on October 21, 2014, the victims requested the Supreme Court Prosecutor to seek cassation of the acquittal decision; however, this was denied.

On April 27, 2015, forty-two workers filed applications with the European Court of Human Rights, which on March 30, 2017, delivered its Chamber judgment in the *Chowdury and others v. Greece* Case. The ECtHR recognised that the applicants' situation amounted to forced labour and human trafficking and found, inter alia, that the decision of the domestic court which acquitted the employer of the charge of trafficking was based on an overly restrictive interpretation of the concept of forced labour, which required proof that the employer restricted the worker's freedom of movement. Furthermore, Greece was called upon to offer 12.000 to 16.000 Euros as compensation to each of the 42 applicants.

In October 2018, the Prosecutor of the Supreme Court filed a cessation in favor of (the interpretation of) the law against the acquittal decision.<sup>171</sup> The case was heard before the Supreme Court on November 28, 2018 and a decision is pending. The decision will not have any consequences for the parties, as its purpose is to deliver a judgment on the correct interpretation of the law (cessation in favor of the law).

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<sup>171</sup> Efsyn.gr, Discussion about Manolada at the Supreme Court, 30-11-2018, available in Greek at: <http://www.efsyn.gr/arthro/syztisi-gia-ti-manolada-ston-areio-pago>.

### **Thiva Onion Fields case<sup>172</sup>**

*Legal Entity involved: No*

*Economic sector involved: Agricultural sector*

The case concerns a minor refugee, who, in October 2016, was confined by his employer, for the purpose of exploiting his labour on onion fields, in the area of Thiva, Greece. The boy was a recognised refugee who arrived at the Port of Piraeus and was subsequently robbed. In search of employment, he was approached by a Pakistani national who informed him of an opportunity to work at the onion farm. The only term was that the boy would have to give him part of his salary as payment for the favour. The boy was staying at the man's house along with another 10 workers. Apart from being subjected to inhuman work conditions in the fields, the minor never received payment for his work from the middle man who approached him. When he sought to be paid, he was beaten, detained in the basement of a building and robbed of his personal effects.

The minor was able to report the incident to the police, and the direct accomplices to the crimes were arrested. The main perpetrator, the foreigner who lured the minor to work at the field and who withheld his wages, managed to escape. On September 21, 2018, the Mixed Jury Court of Thiva convicted the accomplices with a unanimous vote for the crime of human trafficking for labour exploitation and with the aggravated circumstance of a crime perpetrated against a minor victim, pursuant to Article 323A (4) of the Greek Criminal Code. They were sentenced to long-term imprisonment, as well as pecuniary fines.

This is the first case of conviction for the crime of human trafficking for labour exploitation to be delivered since the ECtHR judgment in the *Chowdury et al. v. Greece* case (Manolada strawberry fields' case, see above).

The minor was able to find help by sending a text message to a Greek NGO, which in turn contacted the organisation 'Xamogelo tou paidiou'. The police were subsequently informed, and they were able to reach the child.

This case highlighted yet again the deficiencies of the pre-trial procedure. Firstly, the police did not take a testimony from the owner of the onion field and he was not included in the investigation. Furthermore, the child was treated as an adult even though he assured the police that he was in fact a minor. This led to his detention for one month as an 'illegal immigrant', whilst the accomplices were set free on restrictive conditions. Finally, thanks to the intervention of the Greek Council of Refugees, which took charge of the legal representation of the minor and filed memos to the prosecutor handling the case, the victim was viewed as a minor and the relevant legal provisions were applied.

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<sup>172</sup> See Greek Council for Refugees, Press Release of 28-09-2018 concerning the conviction in the case of a minor's trafficking, available in Greek at: <https://www.gcr.gr/el/news/press-releases-announcements/item/981-deltio-typou-sxetika-me-katadikastiki-apofasi-gia-yposhesi-trafficking-anilikou> and TVXS, Trafficking in Greece: the first case of conviction, 29-09-2018, available in Greek at: <https://m.tvxs.gr/mo/i/273932/f/news/ellada/trafficking-stin-ellada-i-proti-katadikastiki-apofasi.html>. The latter contains an interview with the attorney representing the victim.

## Section 5 Italy

It is to be noted that the Italian case-law concerning trafficking in human beings for labour exploitation is not much developed. This is mainly due to the greater number of court cases regarding trafficking for purposes of sexual exploitation. Accordingly, it was not possible to find cases relating exclusively to the period 2016-2018, while no case-law is available yet with respect to the conviction of legal entities involved in the demand and supply chain of trafficking in human beings. However, in line with the scope of the research, we chose to address cases that can give an overview of the phenomenon.

### **Italian Supreme Court, Section V, sentence no 40045 of 2010<sup>173</sup>**

The case concerns a group of Polish citizens (19 in total) who were found guilty of belonging to a criminal association with the objective of committing several offenses in Italy, including trafficking in human beings.

The defendants were accused of having published on the Internet - in Poland, but also in other Eastern Europe countries - deceptive advertisements regarding opportunities to work in Italy, in the agricultural sector. The advertisements included reference to adequate remuneration, as well as the possibility to receive services of transport to and accommodation in Italy.

The members of the criminal association took advantage of foreign individuals in need and resorted to deceptive recruitment to conduct them inside the net of trafficking. Upon arrival in Italy, the victims were transported to different rural areas in the south of Italy (in the area of Foggia), deprived of their documents and then exploited in companies of the agricultural sector. Not only they were forced to accept lower - or sometimes inexistent - remuneration than that they had been hoping for, but they also had to pay for the food, accommodation and additional services provided by the traffickers. Finally, the victims suffered considerable restrictions of their freedom of movement, since they did not have any chance to move from the remote areas where they were forced to work.

The sentence in the first-tier trial was issued by the Court of Bari in 2008,<sup>174</sup> which condemned the defendants to prison sentences ranging from 4 to 10 years. In convicting the defendants for trafficking in human beings (article 601 of the Italian Criminal Code), the Court stressed that the victims lived in such conditions that it was impossible for them to escape exploitation. In addition, they lived under constant threats and acts violence by the offenders, besides being segregated from the local community.

The judges were able to recognise the different levels of the demand and supply chain of trafficking in human beings and identified those who, within the criminal association, were in charge of each stage of such chain, ranging from recruitment of victims to the final exploitation.

Evidence for this decision included telephone tapping and declarations of both the victims and the defendants, as well as previous operations conducted by the Criminal Police against some of the defendants.


The sentence was confirmed in the second-tier and third-tier trials. It is important to note that the final judgment, issued by the Italian Supreme Court (*Corte di Cassazione*) in 2010, adopted a broad interpretation of the crime of trafficking in human beings as defined in the Italian legal framework. In fact, the Supreme Court stated that it was possible to convict

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<sup>173</sup> Italian Supreme Court (*Corte di Cassazione*), Section V, sentence no 40045 of 24 September 2010.

<sup>174</sup> Court of Bari (*Tribunale di Bari*), Section GIP/GUP, sentence no 198 of 22 February 2008.





the defendants for this crime because they had resorted to deceit to conduct the victims in the net of trafficking, and there was no need to demonstrate that the offenders had also threatened or committed acts of violence against the individuals to convince them to come to Italy.

**Court of Naples, Section GIP, 11 July 2017**

The case concerns five individuals who were convicted in a first-tier trial for belonging to a criminal association aimed at recruiting workers and exploiting them in companies of the textile sector.

The victims were a group of Bangladeshi nationals who were recruited in their country of origin and were deceitfully convinced to go to Italy to obtain a high-pay job. All the victims lived in challenging economic conditions and some of them even got into debt to pay for the services provided by the offenders, thus going into debt bondage.

According to the Court, the defendant who managed the trafficking operation provided the victims with papers that allowed them to enter Italy. The victims arranged their own travel and, upon arrival in the country of destination, they were deprived of their documents and forced to work in conditions that were much different from those they had agreed on. In particular, while the initial agreements foresaw a stipend of 1,000 euros per month and 8-hour shifts, the victims were forced to work for 12 hours with no day off, earning only 300 euros.

It is important to stress that, despite all the acts of trafficking in human beings for purposes of labour exploitation that seemed to have taken place in this case, the Court convicted the defendants for the crimes of facilitating illegal immigration and labour exploitation, but not for the crime of human trafficking (article 601 of the Italian Criminal Code). This is significant because it shows a trend of courts, and especially first-tier courts, not to identify trafficking in cases where the victims are not forced, but only persuaded to go to the country where they would eventually be exploited.



### Recommendations to strengthen cooperation between anti-trafficking stakeholders and the economic/business sectors

#### Section 1 Romania


In Romania, in recent years there have been taken many actions to prevent and combat human trafficking. However, the number of Romanians exploited in the country and abroad remains high, Romania being considered one of the main countries of origin of victims exploited in different European Union states.

A strengthening and diversification of the actions to prevent and combat the phenomenon of human trafficking must be achieved through a better development and extension of the cooperation process between the institutions and organisations involved in the fight against human trafficking, by providing also for the inclusion of the business environment/economic sectors, as they can play an important role in stopping the process of recruiting and exploiting victims.

There must be ensured a better quality of the information disseminated on the phenomenon of human trafficking, according to its development and how it may affect and involve different economic areas.

The public-private economic sector, with the support of institutions and NGOs with anti-trafficking competencies, must develop and implement anti-trafficking systems to prevent the cases of exploitation. Such a management system should address at least the following:

- **Compliance.** Knowledge and compliance with the national and international legislation on combating human trafficking.
- **Full spectrum approach.** Analysis, knowledge of the full spectrum of trafficking elements (not only aspects related to physical constraints, but also other less visible elements, such as deception, servitude for debt bondage that traffickers often use to keep victims in a state of material and financial dependency on them). The risk of exploitation of victims within a company's supply chain (e.g. the use of forced labour by suppliers, contractors/subcontractors). Possible use (and how can this be prevented) of products, facilities, services of a company by certain traffickers (e.g. air/road transport companies; the use of facilities of the hospitality industry/tourism).
- **Clear guidelines on the recruitment process.** Direct recruitment by the company, or through third-party entities.
- **Training of the personnel working in the respective economic field.** Training sessions should be organised in partnership with governmental agencies, legal authorities, non-governmental organisations that own the necessary expertise to combat human trafficking. The training programme should mainly aim the following target groups (which can ensure the dissemination of information among the colleagues in the respective fields): personnel having direct contact with different clients, human resources managers,



department heads, and personnel of the chambers of commerce. These trainings can also be attended by labour inspectors, representatives of employment agencies, trade union representatives. Participants in such training sessions should be familiar with concepts of relevant indicators that may lead to the conclusion that in a particular context there may be a possible case of human trafficking, how they should act in such a case.

Human trafficking has evolved over the recent years, adapting to the evolving geopolitical, technological and social contexts. Even if, at present, some traffickers still use “traditional” ways of approach to recruit victims, there is currently a massive use of the Internet at various stages for the recruitment, transportation and exploitation process of victims. The role of the Internet in human trafficking is widely recognised, but nevertheless the use of technologies in combating human trafficking is a less explored topic, and national authorities must pay due attention to it. The Internet can be used as a tool to protect against online recruitment, and anti-trafficking authorities should constantly cooperate with entities skilled in the administration of Internet networks, social platforms, etc.

It is necessary to organise awareness raising campaigns directed at governmental institutions, to cooperate against human trafficking by bringing together the online communication platforms created by the Romanian migrant workers’ communities in the destination countries, including the dissemination of information on legal labour opportunities and warning about the recruitment through false job offers; the online information services of the trade unions should contain detailed anti-trafficking information for workers in various economic sectors.

At national level, the legislation needs to be improved, so as to impose on those with different skills in managing online advertising sites only the posting of job advertisements that provide detailed information, including links to labour inspectorates and other assistance centres that provide additional information.

National authorities, based on clearly defined partnerships, should maintain a contact, a regular dialogue with the representatives of the online social networking in order to implement online security/filtering measures designed to restrict third-party’s access to personal data posted by users on the respective social media platforms. Online training of users on the implications of human trafficking, how traffickers deal with victims online represents an action that should take place constantly in (national and cross-border) partnership between anti-trafficking authorities and the respective online platforms.

## Section 2 Bulgaria

Throughout the preparation of this report, various recommendations in several areas have been made by relevant institutions and experts.

### **Information and awareness raising activities and campaigns and proactive investigations against legal entities**

As suggested by the National Anti-Trafficking Commission,<sup>175</sup> periodic roundtables should be conducted, where businesses should be acquainted with labor trafficking specifics and practices throughout the supply chains. Businesses in the country seem to be not sufficiently aware of their possible involvement in the demand and supply chain. Thus, competent institutions and specialized NGOs should initiate dialogue, so that businesses may understand that they cannot remain outside the anti-trafficking movement.

On the other hand, proactive investigations should continue on suspected labor trafficking cases. Business entities involved should be penalized, but balance should be kept between 'soft' and 'hard' measures, to keep businesses co-operating with authorities.<sup>176</sup>

### **Strengthening of businesses' self-regulations and co-operation with relevant authorities**

In the view of the National Anti-Trafficking Commission,<sup>177</sup> businesses in destination countries should enter, through ethics codes, into agreements for not employing victims and not using suppliers suspected of using victims' services. This is supported by employers' organizations, which declare they would not support companies whose activity breaches the organizations' ethics codes and are suspected of exploitation.<sup>178</sup> According to police,<sup>179</sup> agreements should also include the obligation to contact the relevant authorities in case of suspicions of labor trafficking. Close co-operation should continue between law enforcement, labor inspectorates and, in the case of posted workers, tax authorities.

Guidelines for companies at risk could also be developed.<sup>180</sup>

### **International cooperation and victims' reintegration in the labor market**

The National Anti-Trafficking Commission also suggests<sup>181</sup> that experience should be shared among representatives of various Member States and strategies should be devised for reintegration of victims. This should involve easier employment procedures and supporting victims' integration on the labor market. Thus, businesses may contribute in the process of

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<sup>175</sup> National Commission for Combatting Trafficking in Human Beings, Letter to the Center for the Study of Democracy of 11 December 2018

<sup>176</sup> Interview with anti-trafficking expert and Rights at work Bulgarian project coordinator Ms Antoaneta Vassileva, 17 December 2018

<sup>177</sup> National Commission for Combatting Trafficking in Human Beings, Letter to the Center for the Study of Democracy of 11 December 2018

<sup>178</sup> Bulgarian Chamber of Commerce and Industry, Letter to the Center for the Study of Democracy, 17 October 2018

<sup>179</sup> Interview with a representative of the Ministry of the Interior, 10 December 2018

<sup>180</sup> Written submission by Ms Georgia Papucharova, Ms Hristina Bogia and Mr Strahil Goshev, PhD students, Neofit Rilski South-West University, 4 January 2019

<sup>181</sup> National Commission for Combatting Trafficking in Human Beings, Letter to the Center for the Study of Democracy of 11 December 2018

victims' labor reintegration and facilitate, through their associations and individually, the improvement of their skills and their employment by legitimate business structures.

### Section 3 Germany

The situation portrayed in Germany leads to the conclusion that a concerted approach of the different stakeholders is necessary, in order to combat human trafficking and labor exploitation. The most affected economic sectors are especially obliged to take up responsibility to contribute to the fight against human trafficking and labor exploitation in collaboration with NGOs and authorities.

#### **Collaboration of the relevant actors**

A central part in combating human trafficking and labor exploitation is the collaboration between authorities, NGOs and economic actors. An example of first positive experiences in that area is the round table on human trafficking for labor exploitation in the German state Baden-Württemberg. There, representatives of ministries, authorities, companies and counselling centers work together on a guideline for cooperation in cases of human trafficking and labor exploitation.<sup>182</sup> As every economic sector has individual conditions and regulations, such networks should be conducted with the trade-specific actors.<sup>183</sup>

A fundamental requirement concerning this matter is that all stakeholders be willing to collaborate. Directors should take reports about labor exploitation in their supply chain seriously and take the appropriate measures.<sup>184</sup> They should provide access for specialized counselling centers on business premises, so that those can inform workers about their rights.<sup>185</sup>

#### **Awareness programmes among economic actors**

Furthermore, awareness programmes are advisable, e.g. training programmes or seminars for economic actors. The target audience should be mainly the management, workers' councils and existing compliance departments.<sup>186</sup> They could be organized by experts of specialized counselling services and trade unions. Concerning the content, the importance of cases of human trafficking and labor exploitation in Germany can be highlighted, with reference to real-life examples and judgments.<sup>187</sup> Additionally, the presentation of the legal perspective is important, because the legislative change allows indirectly involved persons to be held criminally liable, e.g. for letting of living or business premises to victims.<sup>188</sup> Furthermore, it is advisable to present companies that have already

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<sup>182</sup> Interview with Mr. Herrmann, head of pastoral care department, conducted on 18/12/18.

<sup>183</sup> Interview with Dr. Cyrus, academic researcher, conducted on 21/01/19.

<sup>184</sup> Interview with Mr. Zacher, former secretary of industrial union of construction workers, conducted on 15/01/19.

<sup>185</sup> Interview with Dr. Schwertmann, head of unit labour migration at institution for education, conducted on 07/01/19; Interview with Mrs. Wirsching, director of anti-trafficking network, conducted on 21/01/19.

<sup>186</sup> Interview with Mr. Henzler, senior public prosecutor, conducted on 18/01/19; Interview with Dr. Schwertmann, head of unit labour migration at institution for education, conducted on 07/01/19.

<sup>187</sup> Interview with Dr. Lindner, legal practitioner, conducted on 15/01/19.

<sup>188</sup> Interview with Mr. Strehlow, head of department combatting of organized crime, Office of Criminal Investigation, conducted on 22/01/2019.

implemented sustainable internal structures against exploitation, while being financially successful. The connections between the prevention of human trafficking and labor exploitation and an increase of profits in the long term have to be emphasized.<sup>189</sup> A core topic should be the responsibility for good labor conditions in the own company as well as throughout the whole demand and supply chain.<sup>190</sup>

Such seminars should be included in existing structures, in order to be developed and implemented by businesses. Examples are certain vocational training programmes for management positions, association meetings; seminars in connection with registration of a business by the Chamber of Commerce and Industry<sup>191</sup> or on-the-job training.<sup>192</sup>

### **Proposals for actions by business entities**

Beyond the general information on difficulties and links regarding human trafficking and labor exploitation, companies have to be provided with concrete guidelines on how to monitor and prevent deficiencies, both in their own establishment and in their demand and supply chain.<sup>193</sup> The recommendations could include proposals on how employers can improve the dialogue with their employees and create a complaints system.<sup>194</sup> Enforcement of victims' rights shall be emphasized as compensation claims decrease the profit expectations of perpetrators.<sup>195</sup> With regards to subcontractors, contractual obligations and monitoring of minimum labor standards are recommendable.<sup>196</sup>

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<sup>189</sup> Interview with Mrs. Wirsching, director of anti-trafficking network, conducted on 21/01/19.

<sup>190</sup> Interview with Mr. Zacher, former secretary of industrial union of construction workers, conducted on 15/01/19.

<sup>191</sup> Interview with Mr. Strehlow, head of department combatting of organized crime, Office of Criminal Investigation, conducted on 22/01/2019.

<sup>192</sup> Interview with Mr. Henzler, senior public prosecutor, conducted on 18/01/19.

<sup>193</sup> Interview with Mr. Herrmann, head of pastoral care department, conducted on 18/12/18.

<sup>194</sup> Interview with Mrs. Wirsching, director of anti-trafficking network, conducted on 21/01/19.

<sup>195</sup> Cyrus, Trafficking for Labor and Sexual Exploitation in Germany, 2005, available at: [https://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---declaration/documents/publication/wcms\\_081996.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_081996.pdf).

<sup>196</sup> Interview with Mr. Herrmann, head of pastoral care department, conducted on 18/12/18; Interview with Dr. Schwertmann, head of unit labor migration at institution for education, conducted on 07/01/19; Interview with Mrs. Wirsching, director of anti-trafficking network, conducted on 21/01/19; Interview with Mr. Zacher, former secretary of industrial union of construction workers, conducted on 15/01/19.



## Certifications

Many experts have proposed the establishment of a certification system for products that meet good labor standards in their production.<sup>197</sup> A fundamental condition would be permanent independent supervision. The monitoring should not only be based on voluntary controls and sanctions, and should take place in case of non-compliance.<sup>198</sup> A system of collaboration with the Federal Ministry of Economic Affairs and Energy could be devised.<sup>199</sup> Those certificates would raise awareness among consumers, and businesses could distinguish themselves on the market.<sup>200</sup>

## Obligations of the state

The state is obliged to encourage and actively establish cooperation relationships between anti-trafficking organizations, regulatory authorities and economic actors.<sup>201</sup> Public procurement regulations are a powerful instrument. Up to now, the cheapest offer has priority. Hence, public enterprises also benefit from exploitative situations in the labour market.<sup>202</sup> Public procurement regulations should be revised with the aim to determine high labor standards as the decisive factor.<sup>203</sup> The enforcement of those rules should be comprehensively monitored and adequately sanctioned in case of non-compliance.<sup>204</sup> A positive side effect would be that those standards could also be used by private actors.<sup>205</sup>

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<sup>197</sup> Interview with Mr. Herrmann, head of pastoral care department, conducted on 18/12/18; Interview with Dr. Lindner, legal practitioner, conducted on 15/01/19; Interview with Mr. Strehlow, head of department combatting of organised crime, Office of Criminal Investigation, conducted on 22/01/2019.

<sup>198</sup> Interview with Mr. Herrmann, head of pastoral care department, conducted on 18/12/18.

<sup>199</sup> Interview with Mr. Strehlow, head of department combatting of organised crime, Office of Criminal Investigation, conducted on 22/01/2019.

<sup>200</sup> Interview with Dr. Lindner, legal practitioner, conducted on 15/01/19.

<sup>201</sup> ILO Protocol of 2014 to the Forced Labor Convention 1930; National Action Plan of the Federal Government on the Implementation of the UN Guiding Principles on Business and Human Rights 2016-2020, available at: [https://www.csr-in-deutschland.de/SharedDocs/Downloads/DE/NAP/nap-im-original.pdf?\\_\\_blob=publicationFile&v=3](https://www.csr-in-deutschland.de/SharedDocs/Downloads/DE/NAP/nap-im-original.pdf?__blob=publicationFile&v=3).

<sup>202</sup> Interview mit Dr. Schwertmann, Fachbereichsleiter Arbeit und Leben, durchgeführt am 07.01.19; Interview mit Herrn Zacher, ehemaliger Gewerkschaftssekretär IG BAU, durchgeführt am 15.01.19.

<sup>203</sup> Interview with Dr. Cyrus, academic researcher, conducted on 21/01/19; Interview with Dr. Schwertmann, head of unit labour migration at institution for education, conducted on 07/01/19.

<sup>204</sup> Interview with Dr. Schwertmann, head of unit labour migration at institution for education, conducted on 07/01/19.

<sup>205</sup> Interview with Dr. Cyrus, academic researcher, conducted on 21/01/19.

## Section 4 Greece

### **Involving state and non-state actors in the action against forced labour and human trafficking**

Strong cooperation in order to foster initiatives and take action against forced labour and human trafficking is deemed more than essential between businesses, NGOs, chambers, employer organizations, trade unions, the Government and the relevant National Authorities. Wide cooperation is absolutely essential due to the fact that trafficking in human beings is identified at all phases of the supply chain in industries with a high risk of exploitation. This cooperation can be achieved through Public and Private Partnerships, through which effective best practices can be implemented, to ensure that goods purchased and services contracted are not delivered through the exploitation of victims of trafficking. Thus, the private sector and companies trade responsibly, by carrying out due diligence audits in their supply chains and looking for risks that may be related to human trafficking.

In this context, the Municipality of Athens, the Organization for Security and Cooperation in Europe (OSCE) and the Office of the National Rapporteur on Trafficking in Human Being within the Ministry of Foreign Affairs, have taken the initiative of organising a conference on the Prevention of Trafficking in Human Beings in supply chains through Governmental Practices and Measures. The aim is to bring together the relevant authorities and discuss practices that the private sector can undertake to prevent human trafficking. The Conference also marks the launch of a Pilot program by the municipality of Athens, with the aim to identify ways of safeguarding the procurement supply chain against human trafficking.

### **Multi-disciplinary and inter-sectoral capacity building**

Strengthening the capacities of a variety of professionals is of crucial importance. Focused and continuing training should be provided, in particular to labour inspectors and health professionals, among others. Their role is vital for curbing human trafficking. Inspectors on the one hand, will have the opportunity to expand and intensify investigations in enterprises. Health-care professionals, on the other hand, will benefit by strengthening their capacities to identify victims of trafficking.

### **Wide awareness campaign**

The lack of public awareness on all aspects of trafficking in human beings for labour exploitation is an important barrier to responding to these crimes. There are two levels where such an initiative can have an important impact. Firstly, establishment of networks, sharing of knowledge and dissemination of information can be very beneficial for the relevant authorities and stakeholders, who should initiate dialogue in conferences, workshops and other forms of awareness events. Secondly, the victims or potential victims of human trafficking themselves could greatly benefit by a targeted information and awareness campaign, which would inform and alert them to the meaning, status and characteristics of being approached and treated as a victim of human trafficking.

## Section 5 Italy

### **Setting up a State-led centralized anti-trafficking system**

One of the main issues that prevent anti-trafficking stakeholders in Italy to effectively tackle the phenomenon of human trafficking for purposes of labour exploitation is the lack of a centralized anti-trafficking system that is managed by State authorities. Because of the absence of such a system, and although Italy has adopted a *National Action Plan on Trafficking and Serious Exploitation of Human Beings for the period 2016-2018*,<sup>206</sup> Italian authorities struggle in intervening consistently and on a widespread basis against trafficking. At the moment, given the lack of a centralized anti-trafficking system, all the measures taken to strengthen the cooperation between relevant stakeholders and representatives of the economic sectors are always part of *temporary projects* and never of *permanent services*. In addition, the Italian government often relies on NGOs and international organizations to carry out the said measures. At the same time, the methods and tools used to combat trafficking and to strengthen the cooperation with the economic sectors are different and not equally efficient in the various Italian regions affected by labour exploitation. This prevents, on the one hand, anti-trafficking stakeholders from joining forces to better address the issue and, on the other hand, it impedes businesses from sharing experiences and best practices aimed at preventing or acknowledging the exploitation of victims.

While anti-trafficking stakeholders and representatives of the business sector are able to dialogue and exchange views on how to strengthen their cooperation, they report having troubles in conducting such dialogue in appropriate institutional venues and before State actors. Accordingly, stakeholders recommend the setting up of a permanent institutional mechanism, open to anti-trafficking stakeholders, judicial authorities, labour inspection authorities, trade unions and employers of the business sector. The objective of such a mechanism would be to provide information concerning the Italian legal framework on human trafficking, share best practices and gather responses of the different actors to the problem of the exploitation of trafficked victims.

### **Organizing training on anti-trafficking for purposes of labour exploitation**

Expertise on trafficking in human beings for purposes of labour exploitation is not widespread among State and non-State actors in Italy. This is due to the complexity of the issue, but also, and most importantly, to the greater attention paid to the phenomenon of trafficking for purposes of sexual exploitation. State actors, in particular, tend to tackle the two phenomena with the same approach, which prevents them from addressing it effectively.

Providing training to all the actors - and especially representatives of the business sector - who might be involved in combating trafficking would help these actors be aware of the phenomenon, but also be on the same page and be able to work together with the same tools. Training could possibly include exercises and simulations on anti-trafficking methods, as well as sessions with the participation of anti-trafficking experts working on the ground.

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<sup>206</sup> National Action Plan on Trafficking and Serious Exploitation of Human Beings for the period 2016-2018 (*Piano nazionale d'azione contro la tratta e il grave sfruttamento 2016-2018*), available on <http://www.pariopportunita.gov.it/wp-content/uploads/2017/12/Piano-nazionale-di-azione-contro-la-tratta-e-il-grave-sfruttamento-2016-2018.pdf>.

## **Supporting ethical trading initiatives and effective enforcement of due diligence obligations to monitor supply chains**

Businesses in Italy often rely on cheap and exploited labour of victims of trafficking, because they believe they have no chance but to “employ” undeclared workers, in order to place on the markets products at a competitive price. This belief is widespread in Italy, since companies that resort to undeclared work and consequently save on their workers’ remuneration represent a considerable number of the Italian businesses. In addition, they see no risk in acting in this manner, because labour inspections and subsequent judicial procedures against legal entities involved in human trafficking are rare.

Moreover, besides finding it economically convenient to “employ” victims of human trafficking, many companies believe that they do not have incentives in legally employing workers and combating trafficking in human beings. However, if ethical trading initiatives and the effective enforcement of due diligence obligations to monitor supply chains were supported, the representative of the economic sectors would potentially benefit from cooperating with anti-trafficking stakeholders. In fact, they would be able to obey the law, while possibly use their efforts against trafficking to improve their consumers’ perception of their company from a marketing perspective.

### **Raising awareness**

A problem that affects the Italian context is the difficulty for both companies from various economic sectors and victims to acknowledge that they are involved in a crime of human trafficking.

On the one hand, companies who rely on undeclared workers are usually aware of committing a crime, but are not necessarily aware of committing the specific crime of trafficking in human beings. This happens because they may not be familiar with the Italian legal framework on the issue, but also because the demand of supply chain of trafficking in human beings is difficult to be traced. On the other hand, victims may not realize that they are being trafficked or exploited because of their trust in the traffickers or because they are used to being subject to hard labour in their country of origin.

By raising the awareness of economic operators who are at risk of exploiting victims of trafficking, these operators would become more sensible to the issue and, most importantly, they could better cooperate with institutional and non-institutional actors, by reporting or contributing in the investigation of human trafficking cases. At the same time, victims with greater awareness of their situation could become able to address the relevant authorities and report the offenders.

## ANNEX

### List of interviewees and stakeholders having provided information for the study

#### ROMANIA

- National Agency against Trafficking in Persons
- National Agency for Employment
- Directorate for Investigating Organized Crime and Terrorism (specialized structure from Public Ministry)
- Superior Council of Magistracy

#### BULGARIA

- National Commission for Combatting Trafficking in Human Beings
- Employment Agency
- General Directorate for Combatting Organized Crime, Ministry of the Interior
- Chief Labor Inspectorate Executive Agency
- NGO expert in criminology
- NGO expert in countering human trafficking
- Bulgarian Chamber of Commerce and Industry
- Ministry of Labor and Social Policy
- PhD students in criminal law and procedure, Neofit Rilski South-West University

#### GERMANY

- Dr. Norbert Cyrus, academic researcher at University, Europa-Universität Viadrina Frankfurt (Oder)
- Federal Ministry of Justice and Consumer Protection, Bundesministerium der Justiz und für Verbraucherschutz
- Stephan Strehlow, head of department combatting of organized crime, State Office of Criminal Investigation Landeskriminalamt Berlin
- Oliver Henzler, senior public prosecutor, Staatsanwaltschaft Stuttgart
- Pastor Wolfgang Herrmann, head of pastoral care department, Bischöfliches Ordinariat der Diözese Rothenburg – Stuttgart
- Dr. Christoph Lindner, legal practitioner
- Representative of the unit on customs, Labour Union of the Police, Gewerkschaft der Polizei (GdP)
- Dr. Philipp Schwertmann, head of unit labour migration, institution for education, Arbeit und Leben DGB / VHS Berlin-Brandenburg
- Sophia Wirsching, director of the German NGO network against trafficking in human beings, KOK - Bundesweiter Koordinierungskreis gegen Menschenhandel e.V.
- Hartmut Zacher, former secretary of industrial union of construction workers, Industriegewerkschaft Bauen-Agrar-Umwelt



## GREECE

- Ministry of Foreign Affairs
- Office of the National Rapporteur on Trafficking in Human Beings (NRO)
- Director of the First Instance Court of Athens
- Head of the Supreme Court President's Secretariat
- Secretary of the Mixed-Jury Court of Athens
- Head of the Athens Prosecutor Office
- Attorney specialized in Labor Law
- General Confederation of Greek Workers
- NGOs: A21 and PRAKSIS

## ITALY

- Regional Council of Lazio, Commission on Health and Social Policies
- Rosanna Paradiso, Public Prosecutor's Office of Turin, Working Group on Organized Crime and Urban Security
- Italian Supreme Court
- Ministry of Justice, Directorate General for Statistics and Organizational Analysis
- Marco Omizzolo, Sociologist and President of *In Migrazione*
- Osservatorio Interventi Tratta
- Giorgio Agosta, owner of the company Agribilea di Agosta Giorgio & C. Società Semplice Agricola