



European
Commission

Study on **case-law**

relating to trafficking in human
beings for labour exploitation

Final report



Migration and
Home Affairs

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Abbreviations

—	not applicable
CMM	Danish Centre against Human Trafficking (Center mod Menneskehandel)
CMS	Committee against Modern Slavery
ECHR	European Convention of Human Rights
ECtHR	European Court of Human Rights
GLA	Gangmasters Licensing Authority (United Kingdom)
GRETA	Group of Experts on Action against Trafficking in Human Beings
ICMPD	International Centre for Migration Policy Development
ILO	International Labour Organisation
IOM	International Organisation for Migration
MOI	Interministerial Committee for Combating and Preventing Trafficking in Human Beings (Poland)
OCLTI	Central Office for Combating Illegal Labour (Office central de lutte contre le travail illégal) (France)
OSCE	Organisation for Security and Cooperation in Europe
N/A	not available
THB	trafficking in human beings
UN	United Nations
UNODC	United Nations Office on Drugs and Crime
WEA	Danish Working Environment Authority

Member States

AT	Austria
BE	Belgium
BG	Bulgaria
CY	Cyprus
CZ	Czech Republic
DE	Germany
DK	Denmark
E	England
EE	Estonia
EL	Greece
ES	Spain

FI	Finland
FR	France
HR	Croatia
HU	Hungary
IE	Ireland
IT	Italy
LT	Lithuania
LU	Luxembourg
LV	Latvia
MT	Malta
NI	Northern Ireland

NL	The Netherlands
PL	Poland
PT	Portugal
RO	Romania
SE	Sweden
SI	Slovenia
SK	Slovakia
UK	United Kingdom
W	Wales

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Executive summary

Trafficking in human beings is a severe crime and constitutes a gross violation of human rights, and as such it is explicitly prohibited by the EU Charter of Fundamental Rights (Article 5, Prohibition of slavery and forced labour) ⁽¹⁾. Addressing trafficking in human beings requires an effective response from criminal justice systems. The EU has developed a comprehensive legal and policy framework to address this phenomenon, in particular Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims (hereafter ‘the directive’ or ‘Directive 2011/36/EU’) and the EU strategy towards the eradication of trafficking in human beings 2012–2016 (hereafter ‘EU strategy’) ⁽²⁾.

One of the forms of trafficking in human beings is trafficking in human beings for the purpose of labour exploitation. According to the Eurostat working paper covering the years 2010–2012, 19 % of registered victims were victims of labour exploitation.

In order to increase the number of cases of trafficking in human beings for labour exploitation that are investigated and prosecuted and to improve the quality of the investigation and prosecution of such cases in all Member States, Action 4 of Priority E of the EU strategy on ‘Increased knowledge and effective response to changing trends in trafficking in human beings’ called for a Commission-funded EU-wide study on the related case-law.

In this context, the overall aim of this study is to identify case-law on trafficking in human beings for the purpose of forced labour (hereafter ‘trafficking in human beings for forced labour’ or ‘trafficking for forced labour’) in EU Member States for the reference period 2009–2013, and to analyse Member State practices with respect to the prosecution of this crime. The case-law analysis also provides an indication of how national legislation transposing Directive 2011/36/EU is applied, without prejudice to the Commission’s work on monitoring the transposition of the directive.

The study is based on reports conducted by national experts in the 28 EU Member States, as well as in-depth case studies of cases in the Member States where case-law was identified. The study does not attempt to provide an exhaustive overview of the case-law in all Member States. Rather, it is based on the cases that have been identified by national experts based on the methodology developed for the study and the input received from many stakeholders consulted at national level.

The **scope** of the study is on trafficking in human beings for forced labour, including domestic servitude. The term ‘forced labour’ is used throughout the study to reflect the terminology used in Article 2 of Directive 2011/36/EU. Most Member States refer to ‘forced labour’ in the respective national offence provisions transposing Article 2 of the directive. Given that some Member States refer to ‘labour exploitation’ and in practice there is significant overlap between the two terms, the title of the study therefore refers to the broader term ‘labour exploitation’ to reflect this. Trafficking in human beings for sexual exploitation and other forms of exploitation, including for engagement in criminal activities, forced begging or for the purpose of the removal of organs, are also excluded from the scope of the study.

This study provides a broad overview of trafficking in human beings in the EU Member States (**Section 2**), followed by a mapping of the legal and institutional framework, including the legal definitions of trafficking in human beings for forced labour (**Section 3**), availability of data relating to case-law in this field (**Section 4**) and an analysis of case-law investigation and prosecution practices and related challenges (**Sections 5 and 6**). Key terms and the methodology for the study are outlined in **Section 1**.

⁽¹⁾ Charter of Fundamental Rights of the European Union (2007/C 303/01), European Parliament, Council, Commission (http://ec.europa.eu/anti-trafficking/sites/anti-trafficking/files/european_charter_of_fundamental_rights_en_1.pdf).

⁽²⁾ European Commission, EU strategy towards the eradication of trafficking in human beings 2012–2016 (19 June 2012) (http://ec.europa.eu/anti-trafficking/Publications/Ebook_Strategy).

EU Member States' legal framework relating to trafficking in human beings for forced labour

The EU Member States' **legal framework** for investigating and prosecuting cases of trafficking in human beings for forced labour is based on EU and international legislation such as the aforementioned Directive 2011/36/EU, the 1930 ILO Convention No 29 concerning Forced or Compulsory Labour ⁽³⁾ and the Palermo Protocol ⁽⁴⁾.

All EU Member States include an offence provision for trafficking in human beings, and most include a specific reference to labour exploitation or forced labour within the anti-trafficking provisions. In most EU Member States, the relevant offence provisions on trafficking in human beings for forced labour cover the main elements as provided for in the definition in Article 2 of Directive 2011/36/EU (**the action, means and purpose of trafficking**). However, there are differences in how the three elements of the offence are reflected in national legislation.

For example **the act** of trafficking through the exchange or transfer of control is not explicitly stated in the legislation of all Member States. In most Member States, the relevant offence provisions on trafficking in human beings for forced labour cover the main **means** of trafficking as provided for in Article 2 of Directive 2011/36/EU.

Whilst most Member States sanction the offence of trafficking in human beings with an **explicit reference to forced labour or labour exploitation**, the concept of forced labour is not explicitly defined in many Member States. The case-law analysis conducted for this study revealed that key elements of the offence used in EU Member States' laws such as 'conditions contrary to human dignity', 'lack of freedom or of personal liberty', 'direct intent to exploit' or other subjective criteria can be difficult to prove.

The limited case-law in this area is furthermore a challenge in itself, as in some EU Member States there is little or no precedent to rely on.

In some Member States, offence provisions closely linked to trafficking in human beings for forced labour, including provisions relating to exploitation of immigrant work, were applied to cases involving elements of trafficking for forced labour. These include cases where several charges were brought (including trafficking in human beings for forced labour) but a conviction was not obtained due to the difficulties in proving the trafficking offence, as well as cases which involved elements of trafficking but were charged under alternative offence provisions.

National institutional framework for investigating and prosecuting trafficking in human beings for forced labour

Based on the evidence gathered for the purpose of this study, the main actor involved in investigating cases of trafficking in human beings for forced labour in the Member States is the police. In some EU Member States, prosecutors, judges are also involved in the investigation. Public prosecutors are the main actors involved in the prosecution of trafficking in human beings for forced labour. In some EU Member States labour inspectors are also involved in such cases, mainly by providing expert witness testimony or identifying offences through workplace inspections.

Most of the national experts for this study reported that training on trafficking in human beings for forced labour is provided to the relevant authorities involved in the investigation and prosecution of this offence. However, a lack of understanding or experience among practitioners in the crime of trafficking in human beings specifically for forced labour was reported by many national experts. In some of the case studies analysed, this issue had a direct impact on the prosecution of the offence and often led to cases being prosecuted under alternative offence provisions. Many stakeholders consulted for this study suggested that more regular and specific legal training should be provided to improve the knowledge and skills of the key professionals. This would improve the identification of cases, the assistance provided to victims and the collection of evidence for the successful prosecution and conviction of traffickers.

Availability of data and identification of national case-law

Reliable and comparable data on this matter is crucial. Given the difficulty of comparing and analysing such data and drawing meaningful conclusions, there is a need to strengthen efforts to ensure reliable data on trafficking in human beings across EU Member States. The number of cases of trafficking in human beings for forced labour identified in

⁽³⁾ ILO, C029 — Forced Labour Convention, 1930 (No 29), Geneva, 14th ILC session (28 Jun 1930), available at: http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C029

⁽⁴⁾ UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organised Crime, 15 November 2000, available at: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/ProtocolTraffickingInPersons.aspx>

the context of the study during the reference period (2009–2013) across all EU Member States is limited. In several Member States no case-law was identified at all ⁽⁵⁾. In 11 Member States fewer than six cases were identified in total.

The findings of the study suggest that these low figures could be attributed either to a low level of prosecution of the offence of trafficking in human beings for forced labour in the particular Member State, or to difficulties in accessing the judgments on trafficking in human beings for forced labour. In several Member States, relatively few cases were identified due to issues of accessibility of case-law, including where cases are not recorded in a centralised database or are not publicly available.

The case-law analysed **does not reflect the entirety of Member State efforts in prosecuting cases of trafficking in human beings for forced labour**. Despite extensive steps taken by the national experts during the course of the study to identify relevant case-law, including desk research and stakeholder consultation, as mentioned earlier the case-law presented in this study is not exhaustive for each Member State. **The cases analysed for this study moreover focus on those adjudicated under the national offence provisions transposing Article 2 of Directive 2011/36/EU Directive, and not those under alternative offence provisions.**

Case-law analysis

Observations regarding the general characteristics, investigation and prosecution of trafficking for forced labour cases are made on the basis of the case-law analysed for this study. The case-law analysis focused on the characteristics of the trafficking for forced labour (sectors, recruitment, circumstances of the victim, etc.), as well as the investigation, prosecution and delivery of judgments.

i. General characteristics

Among the cases analysed, the main sectors in which trafficking in human beings for forced labour occurred were in the sectors of domestic work, entertainment and recreation, accommodation and food services activities, agriculture, forestry and fishing, cleaning services, construction, manufacturing, arts, transportation and storage, and information and communication.

The majority of the victims in the analysed cases were EU citizens. Many victims, however, also originated from outside the EU, mainly from Brazil, China, Morocco, Ukraine, Vietnam, India and Bangladesh.

On the basis of the case-law analysed, it was possible to identify the following principle ways of recruitment:

- traffickers and victims already knew each other;
- traffickers recruited the victims through intermediaries, including via family members or an agency;
- traffickers recruited the victims directly, for example by promising good working conditions;
- victims responded to work offers directly or internet recruitment.

In many of the cases analysed, the victims presented particular vulnerabilities, including poverty, low level of education, disabilities, poor health, alcohol dependency, advanced age or minority, irregular migratory status, lack of knowledge of the local language, taking of personal documents and isolation of the victim.

ii. Investigations

In most cases analysed, trafficking in human beings for forced labour was reported to the law enforcement authorities by the victims themselves. Cases were also identified following an investigation by the police and, to a lesser extent, labour inspectors, immigration and tax authorities.

Many case studies reported that victims of trafficking in human beings for forced labour received protection and support during and after criminal investigations and proceedings, including legal advice, legal representation and psychological help. In some cases analysed labour inspectors were involved, including by providing expert witness testimonies and notifying the police following a workplace inspection.

⁽⁵⁾ This was the case in Estonia, Ireland, Lithuania, Malta, Hungary, Portugal and parts of the United Kingdom (Scotland and Northern Ireland).

iii. Prosecutions

Most court proceedings included **victim and witness testimonies** and police reports. In most of the case studies analysed, victims testified in court. Many national experts highlighted the crucial role victim and witness testimonies played in the prosecution of cases of trafficking in human beings for forced labour. In many of the cases analysed the defendant was present in court. In some cases however, measures were taken to reduce the victim's exposure to the defendant.

The **time taken for the national courts to take a decision** varies significantly across the Member States and between the case studies. While the length of proceedings relates to variations in standard legal procedures, it has a significant impact in the context of trafficking cases, and long court proceedings were mentioned by many national experts as an obstacle to the prosecution of traffickers, as victims are often vulnerable and do not remember the sequence of events or return to the country of origin during the proceedings.

The **analysis of the court judgments** revealed varying interpretations of the scope of the offence as well as key concepts involved in the prosecution of cases of trafficking in human beings for forced labour. These concepts, used in EU Member State laws, include the requirement of intent, direct involvement, consent, withholding of wages or excessive wage reductions that violate previously made agreements, restriction of movement and confinement to the workplace or to a limited area. The main reasons for dismissing cases initially charged as trafficking for forced labour arose from a lack of evidence to establish the constitutive elements of this offence. The credibility of victim testimonies was also a factor leading to the acquittal of defendants in certain cases.

As regards **penalties**, while the legislation in most of the Member States provides penalties above the minimum requirement of EU law, the case-law analysis revealed that in practice the penalties imposed were relatively low. A reason identified for low penalties and often suspended sentences is the lack of sufficient evidence to prove the seriousness or the extent of the offence committed due to the often poor quality of the victim and witness testimonies with little additional corroborating evidence.

The case-law analysed for this study provides limited information about **compensation** for damages awarded to victims of trafficking in human beings for forced labour. Compensation is often claimed outside of the criminal proceedings and the case-law rarely provides information on whether and how (e.g. civil or labour law proceedings, through a state compensation scheme) it was obtained. Among the cases analysed, compensation was awarded either in the criminal trial (including by victims constituting themselves as civil claimants in the criminal trial), by courts or the prosecution awarding the compensation *ex officio* or by victims directly seeking compensation from a civil court. The case studies revealed that victims do not always claim compensation or claim just part of it, or even waive this right during the proceedings.

The amounts of compensation awarded to victims vary considerably among Member States. From the information on compensation analysed, the compensation ranged from EUR 50 to EUR 252 000 (EUR 126 000 per victim). Differences could be explained by a number of factors, including by the individual facts of the case, the income and living standards in a given Member State and the differences in traditional levels of compensation schemes to victims of crime in different EU Member States. Moreover, many Member State courts have difficulties in determining compensation due to the lack of benchmarks to assess material and non-material damages caused to victims of trafficking. Different approaches are taken by Member State courts in calculating compensation for victims of human trafficking, including based on unpaid or underpaid wages. Some case studies also revealed that even when decisions on compensation were made, these were difficult to enforce. Based on the findings of the study, the issue of compensation is key to victims as the difficulties in obtaining compensation can discourage them from engaging in the proceedings.

Challenges in prosecution

As with other forms of trafficking in human beings, securing **evidence from victims** and corroborating that evidence is a main challenge in investigating and prosecuting trafficking in human beings for forced labour. Likewise, it is absolutely crucial that victims are supported and protected throughout and after their involvement in the criminal proceedings.

A number of factors affect victims' and witnesses' willingness to cooperate and participate in the investigation/prosecution. These include the fears experienced by the victim, including fear of retribution by the suspect or of deportation, lack of trust in the authorities and fear of incurring criminal charges. Victims may also not identify themselves as victims for different reasons. Another issue identified in the course of the study as a serious obstacle to investigation and prosecution of trafficking in human beings for forced labour was the lack of sufficient **protection measures for victims**. A related issue was the obstruction of proceedings and intimidation of witnesses by the defendants.

Availability and use of resources

The study shows that the lack of **sufficient resources** can have an impact on the investigation and prosecution of cases of trafficking in human beings for forced labour in some Member States. This relates to the training of staff, the size of staff (especially in the police forces), the technical equipment and other services (such as translating/interpreting) available to law enforcement staff, as well as to the victims of crime, or the funds allocated for data collection and research on trafficking in human beings for forced labour. Some case studies also pointed to how the lack of adequate means to react to different and exceptional situations, such as large number of victims and witnesses, affects the success of prosecution.

Among the cases analysed for this study, most were reported directly by the victims. A lack of resources affects proactive investigations when relevant actors are not sufficiently familiar with and trained to apply the anti-trafficking legislation. This leads for example to situations where the necessary evidence is not collected, or where the offence is prosecuted under alternative legislative provisions (such as fraud).

Cooperation

The study also showed that **national cooperation was reported to be sufficient and effective**. Case studies however revealed that, for instance, labour inspectors who may discover forced labour situations from workplace inspections, e.g. abusive practices of wage payment, unfair deductions, fraudulent contracts and abusive recruitment practices, were in some instances not sufficiently involved in the identification or investigation of trafficking cases.

Within the EU there are many opportunities to cooperate on cross-border cases with the support of justice and home affairs (JHA) agencies such as Eurojust, Europol and Frontex. To even further strengthen the approach in addressing trafficking in human beings offences, many Member States have intensified cooperation with embassies and high commissions of key source countries. While EU Member States have signed mutual (bilateral) agreements with third countries to enhance cooperation, stakeholders from some Member States stated that cooperation with third countries is often difficult. Challenges raised include difficulties in obtaining and verifying evidence from third countries, or lengthy reaction times following a request for information.

Despite noteworthy initiatives towards increasing the effectiveness of investigation and prosecution of the offence of trafficking in human beings for forced labour in many EU Member States, challenges were identified in addressing these offences and obtaining redress for victims. In particular, a wide-ranging understanding of what constitutes trafficking for forced labour, as well as variations in police effectiveness, judicial responses and sentencing (including compensation) between EU Member States, result in the inconsistent application of these provisions across the EU. Increased efforts in collecting data and further guidance, including on the interpretation and application of the offence provisions, would be a step towards an improved and better coordinated response to address this phenomenon.

1. Introduction

1.1. Introduction to the study — objectives and methodology

Trafficking in human beings for forced labour is a severe crime and constitutes a gross violation of human rights and as such it is explicitly prohibited by EU Charter of Fundamental Rights (Article 5 Prohibition of slavery and forced labour)⁽⁶⁾. The demand for the services of the victims and the goods produced through their exploitation, generating high profits, are amongst the main causes of trafficking. This requires an effective response from criminal justice systems. The EU has developed many legislative, policy and funding initiatives in this area. The limited data on this topic however suggests that there are very few convictions for trafficking in human beings, including for the purposes of forced labour⁽⁷⁾.

Objectives and scope of the study

The study focuses on trafficking in human beings for forced labour, including domestic servitude. The term ‘forced labour’ is used throughout the study to reflect the terminology used in Article 2 of Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims⁽⁸⁾. As underlined in recital 11 of the preamble to Directive 2011/36/EU, in order to tackle recent developments in the phenomenon of trafficking in human beings the directive adopts a broader concept of what should be considered as trafficking in human beings than under the previous legal framework (Framework Decision 2002/629/JHA)⁽⁹⁾ and thereby includes additional forms of exploitation. Article 2 states that:

‘Exploitation shall include, as a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, including begging, slavery or practices similar to slavery, servitude, or the exploitation of criminal activities, or the removal of organs.’

In accordance with Article 2, the scope of ‘forced labour or services’ for the purpose of this study is understood to include **slavery or practices similar to slavery and servitude** (including domestic servitude). While the directive also refers to forced begging within the scope of forced labour, this latter type of exploitation is excluded from the scope of the study.

Most Member States refer to ‘forced labour’ in the respective national offence provisions transposing Article 2 of the directive. However, Germany and Portugal, for example, refer to ‘labour exploitation’, and in practice there is significant overlap between the two terms. The title of the study therefore refers to the broader term ‘labour exploitation’ to reflect this.

The term ‘labour exploitation’ is used in this report when referring to data on trafficking in human beings. For the purposes of EU data collection the broader term ‘labour exploitation’ is used to ensure that data from all Member States are covered.

Trafficking in human beings for sexual exploitation and other forms of exploitation, including for criminal activities or the removal of organs, are also excluded from the scope of the study.

⁽⁶⁾ Charter of Fundamental Rights of the European Union (2007/C 303/01), European Parliament, Council, Commission (http://ec.europa.eu/anti-trafficking/sites/anti-trafficking/files/european_charter_of_fundamental_rights_en_1.pdf).

⁽⁷⁾ About 15 % of the 128 countries covered by the data collection for the UNODC *Global report on trafficking in persons 2012* did not record a single conviction during the reporting period (United Nations publication, Sales No E.13.IV.1). Available at: http://www.unodc.org/documents/data-and-analysis/glotip/Trafficking_in_Persons_2012_web.pdf#page=51, p. 52.

⁽⁸⁾ 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 (OJ L 101, 15.4.2011).

⁽⁹⁾ 2002/629/JHA: Council Framework Decision of 19 July 2002 on combating trafficking in human beings (OJ L 203, 1.8.2002).

The overall aim of the study is to identify case-law on trafficking in human beings for forced labour in all 28 EU Member States and to analyse the practice of investigation and prosecution. Its specific objectives are to:

- determine the legal definitions of trafficking in human beings for forced labour in EU Member States' legislation (including legislation transposing Directive 2011/36/EU ⁽¹⁰⁾);
- map and categorise the national case-law both quantitatively and qualitatively;
- analyse how trafficking for forced labour is prosecuted in the Member States.

Furthermore, the study also contributes to the understanding of the impact of Directive 2011/36/EU. An analysis of case-law provides an indication of how cases of trafficking in human beings for forced labour are investigated and prosecuted in practice and how the rules transposing Directive 2011/36/EU in EU Member States are applied. To this end, the study provides analytical insight into the investigation and prosecution of trafficking in human beings for forced labour, including the identification of barriers to effective prosecution by analysing case-law in the EU Member States over a 5-year reference period (2009-2013, though some cases from 2014 and January 2015 were also included in the study).

National experts from each of the Member States collected and analysed case-law prosecuted under the relevant offence provisions sanctioning trafficking in human beings for forced labour as set out in Article 2 of Directive 2011/36/EU. The study analyses judgments issued at different court instances and includes all cases where a court decision has been issued, including decisions subject to appeal.

In some Member States, offences involving elements of trafficking in human beings for forced labour are prosecuted under alternative offence provisions such as arrangement of illegal immigration, usury and fraud. This study does not focus on case-law decided on the basis of alternative offence provisions. However, in Lithuania and Spain, where no case-law was identified under the relevant trafficking in human beings provisions, case studies have been prepared to provide an indication of how the cases are prosecuted under alternative provisions.

Methodology

The national experts from the 28 EU Member States were tasked with drafting a country fiche. The country fiches were divided into two parts.

- **Part I**, in which the national experts collected information on the legal definitions and national contexts and proposed cases for analysis as outlined in the box below.

Table 1: Outline of country fiche part I

I.	Legal definitions and situation at national level
1.1	Introduction to the national framework
1.2	Prosecution and key challenges in bringing a trafficking in human beings for forced labour case to court
1.3	Brief quantitative analysis of case-law
II.	Proposed cases for qualitative analysis
Annex: Categorisation of case-law (Excel file)	

- **Part II**, in which the national experts carried out a qualitative analysis of the case-law through case studies.

The national experts were also tasked with the **categorisation of case-law**, whereby they compiled data on judgments issued during the reference period (2009-2013, though some cases from 2014 and January 2015 were also included in the study) by completing a single spreadsheet in Microsoft Excel format annexed to the country fiche. Each row of the spreadsheet represents one case. Each case identified was allocated an ID number in the spreadsheet to

⁽¹⁰⁾ 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.

provide the case with a unique identifier. The case ID comprises the **country code + number of the record + number of the instance**.

For example, the first case to be input into the spreadsheet for **Belgium (BE)** has the following code: **BE-001**. The code is then completed by adding the number of the instance of the case. If the case to be input is a judgment of first instance, the complete code would be BE-001-1.

If a case was heard at three instances, the case has the following coding ID:

- **BE-001-1:** Case at First Instance;
- **BE-001-2:** Case at Second Instance;
- **BE-001-3:** Case at Third Instance.

Cases involving several defendants were given the same code, but in different rows for each defendant, so that different penalties applied and other tailored information could be easily recorded.

Cases with the same defendant conducted in different court instances were also be coded as one case, but with separate sub-rows indicating information on each decision in the case.

The national experts were asked to record the relevant information in each column of the Excel spreadsheet under the heading provided in the box below,

Case-law categorisation sheet

- Case code
- National reference
- Legal provision applied
- Instance of the court (First instance, Appeal (e.g. High Court, Court of Appeal), Final instance (e.g. Cassation, Supreme Court))
- Name of the court
- Date of the offence
- Date of the investigation
- Date of the prosecution
- Date of judgment
- Total number of hearings
- Court ruling (Conviction obtained/case dismissed)
- Grounds for dismissing the case (procedural/substantive)
- Type of penalty imposed (fine/imprisonment)
- Exact penalty imposed
- Commencement of the investigation
- Nationality of the offender
- Nationality of the victim
- Sex of the victim
- Sector of forced labour
- Witness testimony used
- Legal aid
- Award of compensation to the victim
- Amount of compensation
- Was the decision appealed?

The Excel file with categorised case-law is provided in Annex VII.

Based on initial findings from **Part I** of the country fiches, three to six cases were proposed for qualitative analysis in those Member States where case-law had been identified.

The selection of case-law to analyse was based on the following criteria:

- cases where, even though charges were brought, the court acquitted the defendant(s);
- cases where the court found the defendant(s) guilty of the offence of trafficking in human beings for forced labour;
- most prevalent forms of exploitation in the Member State;
- most common source country;
- illustrative of changes in the legal framework (that is, cases before a potential change in the legal framework for the prosecution of trafficking in human beings for forced labour in the Member State);
- cases involving minors or vulnerable victims in order to assess how any special measures for particularly vulnerable victims function;
- different means of identification of reporting of cases (victim's own complaint; *ex officio* investigation by the authorities; submission of complaint by NGO);
- case-law providing particular insight on the definition of trafficking in human beings for forced labour by the court;
- cases involving minors or other high-risk groups;
- cases relating to the transposition of Directive 2011/36/EU.

In Member States where more than six cases were identified, six cases were selected based on the criteria mentioned above. Where fewer than six cases were identified in a Member State, the national experts prepared cases for all the case-law in their Member State. Case studies were not prepared for Member States in which no case-law on trafficking in human beings for forced labour was identified: Estonia, Ireland, Malta, Hungary and Portugal.

Once the cases for qualitative analysis were selected, the national experts proceeded with completing the case studies for **Part II** of the country fiche. Annex IV provides an overview of the cases analysed in each Member State for **Part II** of the study.

This final report presents a synthesis of the main findings from the country fiches and the case studies. The case studies are also compiled in Annex III. Cross-references to these are made throughout the study.

1.2. Background and context

Trafficking in human beings for forced labour is a complex and poorly exposed crime, the growing scale of which has only recently been acknowledged ⁽¹¹⁾. This section provides a brief description of the phenomenon at international and EU levels.

International context

According to International Labour Organisation (ILO) estimates, 20.9 million people worldwide were victims of forced labour globally during the period between 2002 and 2011. This estimate includes victims of human trafficking for labour and sexual exploitation ⁽¹²⁾.

⁽¹¹⁾ The share of detected cases of trafficking for forced labour has doubled over the period 2008-2012. For more information see the UNODC *Global report on trafficking in persons 2012* (United Nations publication, Sales No E.13.IV.1). Available at: http://www.unodc.org/documents/data-and-analysis/glotip/Trafficking_in_Persons_2012_web.pdf#page=51. Also, since 2010, labour trafficking has overtaken sexual exploitation as the main type of trafficking registered by the IOM. More information available at: <http://www.iom.int/news/labour-exploitation-main-reason-human-trafficking-says-iom-report>

⁽¹²⁾ ILO, *Global estimate of forced labour: Results and methodology* (2012), available at: http://www.ilo.org/wcmsp5/groups/public/-ed_norm/-declaration/documents/publication/wcms_182004.pdf, p. 13.

Developed economies and the EU ⁽¹³⁾ account for 1.5 million (7 %) of forced labour victims, generating the highest annual profit per victim compared to other regions (around EUR 32 000) ⁽¹⁴⁾. While the real scale of trafficking in human beings for forced labour is unknown (no accurate and comparable data is available in this field, see Section 4.1.1) these estimates are a useful indication as to the nature and magnitude of the problem.

Worldwide, around 18.9 million people (90 %) are exploited in the private economy; 2.1 million (10 %) are victims of state-imposed forced labour ⁽¹⁵⁾. Of those exploited by businesses and enterprises, the vast majority, or 14 million (68 %), are people trafficked for labour exploitation ⁽¹⁶⁾, primarily in agriculture, construction, domestic work, manufacturing, mining and utilities ⁽¹⁷⁾. In contrast to these estimates that cover both reported and non-reported incidents, United Nations Office on Drugs and Crime (UNODC) data as recorded by national authorities reveal that most trafficking cases between 2007 and 2010 concerned sexual exploitation (58 %). This discrepancy could be an indication of the hidden nature of labour trafficking and the potential under-reporting of this crime.

With regard to trafficking in human beings for forced labour as a cross-border and domestic crime for the purposes of both labour and sexual exploitation, the ILO has estimated that around 9.1 million people (44 %) moved either internally or internationally, but more than half, 11.8 million (56 %), were subjected to forced labour within their place of origin or residence ⁽¹⁸⁾.

European context

The first data on trafficking in human beings in Europe were published in 2013. Based on the information provided by Member States ⁽¹⁹⁾, the purpose of labour exploitation was the second most prevalent form of trafficking in the EU after sexual exploitation. It represented 25 % of the total number of reported cases in the years 2008 to 2010 ⁽²⁰⁾. In the next reporting period, over the 3 years 2010 to 2012, this number was 19 %, or around 6 000 victims of trafficking for labour exploitation registered in the 28 EU Member States (from the total of 30 146 victims registered in Member States) ⁽²¹⁾. Against the ILO estimates of around 600 000 victims trafficked for forced labour in the EU ⁽²²⁾, it is evident that the current EU data on trafficking only remotely reflect the scope of the problem.

Often, work or services are exacted from persons in sectors where work is physically hard and where workers are either isolated from each other or work in small groups or workplaces, and where they are reliant on the employer to provide accommodation ⁽²³⁾. Based on information provided by nine EU Member States, most often labour exploitation is identified in the agricultural, construction or hotel/restaurant/catering sectors. In addition to these, Europol has identified tourism, nursing and domestic service as areas increasingly affected by trafficking in human beings ⁽²⁴⁾.

⁽¹³⁾ Developed economies include the 28 EU Member States, Iceland, Norway and Switzerland, as well as North America, Australia, Israel, Japan and New Zealand.

⁽¹⁴⁾ ILO, *Profits and poverty: The economics of forced labour* (2014), available at: http://ilo.org/wcmsp5/groups/public/-ed_norm/-declaration/documents/publication/wcms_243391.pdf, p. 14.

⁽¹⁵⁾ ILO, *Profits and poverty: The economics of forced labour* (2014), available at: http://ilo.org/wcmsp5/groups/public/-ed_norm/-declaration/documents/publication/wcms_243391.pdf, p. 14.

⁽¹⁶⁾ The 2011 annual report published by the IOM also reveals that 53 % of the human trafficking cases referred to the IOM for assistance in 2011 involved victims of labour exploitation. Available at: http://www.iom.int/files/live/sites/iom/files/What-We-Do/docs/Annual_Report_2011_Counter_Trafficking.pdf

⁽¹⁷⁾ ILO, *Profits and poverty: The economics of forced labour* (2014), available at: http://ilo.org/wcmsp5/groups/public/-ed_norm/-declaration/documents/publication/wcms_243391.pdf, p. 7.

⁽¹⁸⁾ ILO, *Profits and poverty: The economics of forced labour* (2014), available at: http://ilo.org/wcmsp5/groups/public/-ed_norm/-declaration/documents/publication/wcms_243391.pdf, p. 8.

⁽¹⁹⁾ More information on the EU anti-trafficking website, available at: http://ec.europa.eu/anti-trafficking/node/1_en

⁽²⁰⁾ Eurostat report, *Trafficking in human beings* (2013), available at: http://ec.europa.eu/dgs/home-affairs/what-is-new/news/news/2013/docs/20130415_thb_stats_report_en.pdf, p. 13; The first EU statistical data report on trafficking in human beings covering the years 2008-2010 is available at: <https://ec.europa.eu/anti-trafficking/node/4057>. The second report with data for the years 2010-2012 is available at: <https://ec.europa.eu/anti-trafficking/node/4810>

⁽²¹⁾ Eurostat working paper, *Trafficking in human beings* (2014), available at: https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/trafficking_in_human_beings_-_eurostat_-_2014_edition.pdf, p. 36. The revised 2015 edition is available at: <https://ec.europa.eu/anti-trafficking/node/4810>. The first EU statistical data report on trafficking in human beings covering the years 2008-2010 is available at: <https://ec.europa.eu/anti-trafficking/node/4057>. The second report with data for the years 2010-2012 is available at: <https://ec.europa.eu/anti-trafficking/node/4810>

⁽²²⁾ ILO, *Forced labour: the EU dimension*, available at: http://www.ilo.org/wcmsp5/groups/public/@europe/@ro-geneva/@ilo-brussels/documents/genericdocument/wcms_184976.pdf

⁽²³⁾ Clark, N., *Detecting and tackling forced labour in Europe*, York, United Kingdom: Joseph Rowntree Foundation, 2013, available at: <https://www.jrf.org.uk/report/detecting-and-tackling-forced-labour-europe>, p. 16.

⁽²⁴⁾ Europol, OCTA 2011: *EU organised crime threat assessment* (2011), available at: <https://www.europol.europa.eu/content/press/europol-organised-crime-threat-assessment-2011-429>, p. 27.

A wide variety of nationalities are present among the victims trafficked for labour exploitation in Europe. The majority of all identified and presumed victims of trafficking (61 %) have EU, in particular Bulgarian or Romanian, citizenship⁽²⁵⁾. However, many victims of trafficking in human beings (including for labour exploitation) come also from third countries such as Nigeria, Brazil, China and Russia⁽²⁶⁾. From the gender perspective, most victims exploited for labour in Europe are men (64 %)⁽²⁷⁾. In Europe, children too are trafficked for forced labour purposes but there are no data available to illustrate the extent of this problem⁽²⁸⁾.

1.3. International/EU legal and policy framework

Both internationally and in the EU, various initiatives have been carried out in the past to address trafficking in human beings, including for the purposes of forced labour. Specific legal instruments and policies have been adopted, awareness raising campaigns organised, research and reporting activities undertaken, cooperation and coordination efforts taken place and victim support mechanisms put into practice. At the institutional level, a substantial number of agencies and organisations are involved in addressing trafficking in human beings, including the EU, the Council of Europe, the Organisation for Security and Cooperation in Europe (OSCE), the United Nations (UN) and the International Labour Organisation (ILO), as well as the International Organisation for Migration (IOM). This section provides a brief overview of the main international and EU legal and policy instruments that relate to trafficking in human beings for forced labour.

International legal and policy framework

The international community, including through the ILO, UN, OSCE and the Council of Europe, has worked towards addressing trafficking in human beings, inter alia for the purposes of forced labour. While the ILO has primarily been directed towards addressing forced labour and not trafficking, the organisation has in recent years acknowledged that human trafficking is included within forced labour and has had activities directed at trafficking. These range from implementation of the ILO conventions and national anti-trafficking laws to national and regional strategies and campaigns against trafficking for forced labour⁽²⁹⁾. The UN adopted a Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Palermo Protocol), supplementing the UN Convention against Transnational Organised Crime, which is overseen by the UNODC⁽³⁰⁾. The OSCE adopted an Action Plan to Combat Trafficking in Human Beings, which intends to provide the participating states with a comprehensive toolkit to help them implement their commitments to combat human trafficking⁽³¹⁾. Among other efforts⁽³²⁾, the Council of Europe adopted the Convention on Action against Trafficking in Human Beings⁽³³⁾.

⁽²⁵⁾ European Commission, 'Mid-term report on the implementation of the EU strategy towards the eradication of trafficking in human beings' (COM(2014) 635 final), available at: https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/commission_staff_working_document_-_mid-term_report_on_the_implementation_of_the_eu_strategy_towards_the_eradication_of_trafficking_in_human_beings.pdf, p. 3.

⁽²⁶⁾ Eurostat working paper, *Trafficking in human beings* (2014), available at: https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/trafficking_in_human_beings_-_eurostat_-_2014_edition.pdf, p. 38; The first EU statistical data report on trafficking in human beings covering the years 2008-2010 is available at: <https://ec.europa.eu/anti-trafficking/node/4057>. The second report with data for the years 2010-2012 is available at: <https://ec.europa.eu/anti-trafficking/node/4810>

⁽²⁷⁾ European Commission, 'Mid-term report on the implementation of the EU strategy towards the eradication of trafficking in human beings' (COM(2014) 635 final), available at: https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/commission_staff_working_document_-_mid-term_report_on_the_implementation_of_the_eu_strategy_towards_the_eradication_of_trafficking_in_human_beings.pdf, p. 3.

⁽²⁸⁾ Unicef, *Child trafficking in Europe: A broad vision to put children first* (2007), available at: <http://www.unicef-irc.org/publications/498>

⁽²⁹⁾ More information on the ILO action against trafficking in human beings is available at: http://www.ilo.org/sapfi/Informationresources/ILOPublications/WCMS_090356/lang-en/index.htm

⁽³⁰⁾ Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organised Crime Adopted and opened for signature, ratification and accession by General Assembly resolution 55/25 of 15 November 2000: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/ProtocolTraffickingInPersons.aspx>

⁽³¹⁾ OSCE, Action Plan on Combating Trafficking in Human Beings, December 2003, available at: <http://www.osce.org/odihr/23866>

⁽³²⁾ More information on the Council of Europe's Group of Experts on Action against Trafficking in Human Beings, available at: http://www.coe.int/t/dghl/monitoring/trafficking/default_en.asp

⁽³³⁾ The Council of Europe Convention on Action against Trafficking in Human Beings is available at: http://www.coe.int/t/dghl/monitoring/trafficking/Docs/Convtn/CETS197_en.asp#TopOfPage

EU legal and policy framework

The EU has also been very active in the effort to tackle trafficking in human beings, especially given the cross-border nature of this crime. It has gradually developed a legal and policy framework that addresses trafficking for all forms of exploitation. Sexual exploitation has been targeted since 1997 under Council Joint Action 97/154/JHA⁽³⁴⁾. Forced labour as a specific form of exploitation was introduced into legislation in 2002 by Council Framework Decision 2002/629/JHA⁽³⁵⁾. The broad concept of trafficking in human beings addressing all forms of exploitation, including prostitution or other forms of sexual exploitation, forced labour or services, including begging, slavery or practices similar to slavery, servitude, criminal activities and removal of organs, was adopted in Directive 2011/36/EU⁽³⁶⁾. Member States had to transpose this directive by 6 April 2013⁽³⁷⁾.

Directive 2011/36/EU is thus the first EU-level instrument addressing trafficking in human beings in a comprehensive and integrated way, focusing equally on the prevention of this crime in all its forms, the assistance to and protection of victims and the prosecution of traffickers⁽³⁸⁾. Other relevant legislation includes; Directive 2004/81/EC⁽³⁹⁾, which provides rules on the granting of a temporary residence permit to third-country nationals who are victims of trafficking in human beings cooperating with the authorities for the investigation and prosecution of the alleged traffickers; Directive 2012/29/EU⁽⁴⁰⁾ on the rights, support and protection of victims of crime; and Directive 2004/80/EC⁽⁴¹⁾ on state compensation to crime victims. Directive 2009/52/EC⁽⁴²⁾ providing for minimum standards on sanctions and measures against employers of irregularly staying third-country nationals calls for stronger cooperation among Member States to address illegal immigration. It also requires Member States to establish as a criminal offence the employment of illegally staying third-country nationals by an employer who uses work or services exacted from an illegally staying third-country national with the knowledge that he or she is a victim of trafficking in human beings (Article 9).

At the policy level, the EU strategy towards the eradication of trafficking in human beings (2012-2016)⁽⁴³⁾ deals with particular issues pertaining to labour exploitation. Action 4 of Priority E on increasing the knowledge of and effective response to emerging concerns related to all forms of trafficking in human beings, specifically targets trafficking for labour exploitation. It maintains that in order 'to increase the number of cases of trafficking for labour exploitation that are investigated and prosecuted and to improve the quality of the investigation and prosecution of such cases, in 2013 ... the Commission will fund a study of case-law in all Member States', i.e. the topic of this study.

⁽³⁴⁾ Council Joint Action 97/154/JHA of 24 February 1997 concerning action to combat trafficking in human beings and sexual exploitation of children (OJ L 63, 4.3.1997, p. 2).

⁽³⁵⁾ Council Framework Decision of 19 July 2002 on combating trafficking in human beings (2002/629/JHA) (OJ L 203, 1.8.2002, p. 1-4).

⁽³⁶⁾ 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 (OJ L 101, 15.4.2011, p. 1-11).

⁽³⁷⁾ Article 22 of Directive 2011/36/EU.

⁽³⁸⁾ European Commission, 'Mid-term report on the implementation of the EU strategy towards the eradication of trafficking in human beings' (COM(2014) 635 final), available at: https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/commission_staff_working_document_-_mid-term_report_on_the_implementation_of_the_eu_strategy_towards_the_eradication_of_trafficking_in_human_beings.pdf, p. 3.

⁽³⁹⁾ Council Directive 2004/81/EC regulating the grant of a temporary residence permit to third-country national victims of trafficking in human beings cooperating with the authorities for the investigation and prosecution of the alleged traffickers (OJ L 261, 6.8.2004, p. 19-23).

⁽⁴⁰⁾ Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA (OJ L 315, 14.11.2012, p. 57-73).

⁽⁴¹⁾ Council Directive 2004/80/EC of 29 April 2004 relating to compensation to crime victims (OJ L 261, 6.8.2004, p. 15-18).

⁽⁴²⁾ Directive 2009/52/EC of the European Parliament and of the Council of 18 June 2009 providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals (OJ L 168, 30.6.2009, p. 24-32).

⁽⁴³⁾ European Commission, EU strategy towards the eradication of trafficking in human beings 2012-2016 (19 June 2012), http://ec.europa.eu/anti-trafficking/Publications/Ebook_Strategy

The EU Anti-Trafficking Coordinator, Myria Vassiliadou, monitors the implementation of the EU strategy. In addition to this task, the EU Anti-Trafficking Coordinator is also responsible for improving coordination and coherence among EU institutions, EU JHA agencies, Member States and international actors to address trafficking in human beings within the EU and with regard to third countries ⁽⁴⁴⁾.

1.4. Key terms

Trafficking in human beings

Trafficking in human beings has been defined in various reports and legal instruments at the international and EU level. These definitions are all similar. The first agreed, internationally binding definition of the term can be found in the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the UN Convention against Transnational Organised Crime (**Palermo Protocol**), adopted on 15 November 2000. The Palermo Protocol defines trafficking in persons as:

‘the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs’ ⁽⁴⁵⁾.

This provision provides three elements that must be present in any individual case of trafficking for labour exploitation to be established:



The IOM uses the same definition in its 2004 glossary ⁽⁴⁶⁾, making explicit reference to the Palermo Protocol. Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims was strongly inspired by the Palermo Protocol definition:

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

⁽⁴⁴⁾ Information on EU Anti-Trafficking Coordinator is available on the EU anti-trafficking website at: http://ec.europa.eu/anti-trafficking/eu-anti-trafficking-coordinator_en

⁽⁴⁵⁾ UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organised Crime, 15 November 2000, <http://www.ohchr.org/EN/ProfessionalInterest/Pages/ProtocolTraffickingInPersons.aspx>, Article 3(a).

⁽⁴⁶⁾ IOM (2004), Glossary on Migration, available at: http://www.iomvienna.at/sites/default/files/IML_1_EN.pdf, p. 65.

prostitution of others or other forms of sexual exploitation, forced labour or services, including begging, slavery or practices similar to slavery, servitude, or the exploitation of criminal activities, or the removal of organs' ⁽⁴⁷⁾.

A comparison of both definitions shows that the EU definition is slightly broader or more explicit in its wording.

Labour exploitation and forced labour

While the definitions mentioned above refer to forced labour as one of the possible forms of trafficking in human beings, they do not explicitly define the notion of forced labour.

A definition of forced labour is contained in the 1930 ILO Convention No 29 concerning Forced or Compulsory Labour. Article 2(1) states that for the purposes of this convention the 'term forced or compulsory labour shall mean all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily'. According to the ILO, this definition contains three main elements:

'first, some form of work or service must be provided by the individual concerned to a third party; second, the work is performed under the threat of a penalty, which can take various forms, whether physical, psychological, financial or other; and third, the work is undertaken involuntarily, meaning that the person either became engaged in the activity against their free will or, once engaged, finds that he or she cannot leave the job with a reasonable period of notice, and without forgoing payment or other entitlements ⁽⁴⁸⁾'.

Forced labour is thus not defined by the nature of the work being performed (which can be either legal or illegal under national law) but rather by the nature of the relationship between the person performing the work and the person exacting the work' ⁽⁴⁹⁾.

The IOM uses the same definition in its 2004 glossary ⁽⁵⁰⁾, making explicit reference to the ILO Forced Labour Convention.

In 2012, ILO suggested 11 elements which, either individually or together, can indicate forced labour ⁽⁵¹⁾. The indicators are:

- abuse of vulnerability;
- deception;
- restriction of movement;
- isolation;
- physical and sexual violence;
- intimidation and threats;
- retention of identity documents;
- withholding of wages;
- debt bondage;
- abusive working and living conditions;
- excessive overtime.

⁽⁴⁷⁾ Directive 2011/36/EU of 5 April 2011, Article 2.

⁽⁴⁸⁾ ILO (2012), *ILO global estimate of forced labour*, http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_182004.pdf, p. 19.

⁽⁴⁹⁾ Ibid.

⁽⁵⁰⁾ IOM (2004), *Glossary on Migration*, available at: http://www.iomvienna.at/sites/default/files/IML_1_EN.pdf, p. 65.

⁽⁵¹⁾ ILO (2012), *ILO indicators of forced labour*, available at: http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_203832.pdf

Overall, this set of 11 indicators provides the basis to assess whether or not an individual worker is a victim of this crime.

Based on the ILO definition, domestic servitude, begging and other forms of slavery-type practices are included in the category of forced labour ⁽⁵²⁾.

There is no EU-wide definition of forced labour in cases of trafficking. This has been one of the challenges of the current study. Directive 2011/36/EU does not explicitly define forced labour and this is left to be interpreted in national legislation and by the courts. Some national courts also rely on other definitions such as Article 2 of the 1930 ILO Forced labour Convention (No 29). This leads to wide-ranging understandings of the meaning of forced labour at national level.

⁽⁵²⁾ ILO, *Profits and poverty: The economics of forced labour* (2014), available at: http://ilo.org/wcmsp5/groups/public/—ed_norm/—declaration/documents/publication/wcms_243391.pdf, p. 3.

2. Overview of trafficking in human beings for forced labour in EU Member States

2.1. Characteristics of trafficking in human beings for forced labour in EU Member States

Trafficking in human beings affects every country of the world, be it as a country of destination, source or transit, internal trafficking or a combination of all of these ⁽⁵³⁾. In Europe, most trafficking victims originate from eastern and south-eastern (Balkan) Europe although the precise pattern varies from one country to another.

As regards EU destination countries, most EU victims of trafficking in human beings are identified in western and southern Europe. The top five destination countries are the Netherlands, the United Kingdom, Germany, France and Spain ⁽⁵⁴⁾. EU citizens are mainly trafficked to the Netherlands, Germany, France, Spain, Italy and the United Kingdom; non-EU citizens are mainly trafficked to Spain, France, the Netherlands and the United Kingdom, as well as Belgium, Denmark and Germany ⁽⁵⁵⁾. With regard to transit countries, there is no accurate data available since transit routes constantly change.

According to Eurostat data on trafficking in human beings in general (i.e. not specific to but inclusive of trafficking in human beings for forced labour), the top five source countries for cross-border trafficking are Romania, Bulgaria, Hungary, Poland and Slovakia ⁽⁵⁶⁾. In addition, internal trafficking is reported ⁽⁵⁷⁾ mainly in Romania, Bulgaria and the Netherlands ⁽⁵⁸⁾.

Table 2.1 below illustrates the main observations reported by national experts on the extent to which Member States are destination, source or transit countries and the prevalence of internal trafficking with regard to trafficking in human beings for forced labour. The information is based on national statistics, government reports and literature reviews (see individual country fiches for further details). The table demonstrates that most EU Member States are destination countries to a greater or lesser extent. Source countries are mainly limited to eastern European and Balkan Member States. Most EU Member States are also transit countries.

⁽⁵³⁾ UNODC, 'Human trafficking FAQs', http://www.unodc.org/unodc/en/human-trafficking/faqs.html#What_are_the_major_challenges_faced_in_the_battle_against_human_trafficking

⁽⁵⁴⁾ Ibid, table 2, p. 35.

⁽⁵⁵⁾ Ibid, table 3, p. 36.

⁽⁵⁶⁾ Eurostat working paper, *Trafficking in human beings* (2014 edition), available at: http://ec.europa.eu/dgs/home-affairs/what-is-new/news/news/docs/20141017_working_paper_on_statistics_on_trafficking_in_human_beings_en.pdf, table 2, p. 35. Note that Eurostat data is collected for the period 2010-2012. For the purposes of this section, we use the data on the citizenship of officially registered victims in EU Member States; The second report with data for the years 2010-2012 is available at: <https://ec.europa.eu/anti-trafficking/node/4810>

⁽⁵⁷⁾ Data used to indicate internal trafficking are the numbers of victims registered in their country of origin. However, not all victims registered in their country of origin will be victims of internal trafficking in human beings. These victims can be trafficked across borders but registered, for example, when asking for assistance, in their home country.

⁽⁵⁸⁾ Eurostat working paper, *Trafficking in human beings* (2014 edition), available at: http://ec.europa.eu/dgs/home-affairs/what-is-new/news/news/docs/20141017_working_paper_on_statistics_on_trafficking_in_human_beings_en.pdf, table 2, p. 35; The first EU statistical data report on trafficking in human beings covering the years 2008-2010 is available at: <https://ec.europa.eu/anti-trafficking/node/4057>. The second report with data for the years 2010-2012 is available at: <https://ec.europa.eu/anti-trafficking/node/4810>

Table 2.1. Are Member States destination, source and/or transit countries for trafficking in human beings for forced labour

Member State	AT	BE	BG	CY	CZ	DE	DK	EE	EL	ES	FI	FR	HR	HU	IE	IT	LT	LU	LV	MT	NL	PL	PT	RO	SE	SI	SK	UK
Destination country	x	x	x	x	x	x	x	x	x	x	x	x	x	/	x	x	/	x	-	x	x	x	x	/	x	/	x	x
Source country	-	-	x	/	/	-	-	x	-	-	-	-	x	x	-	-	x	-	x	-	-	x	x	x	-	/	x	/
Transit country	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	/	x	-	x	x	x	x	x	/	x	x	x

x yes; / partly; - not applicable

2.2. Sectors of exploitation and nationalities of victims

The national experts reported on the general characteristics of trafficking in human beings for forced labour in each Member State. The main findings are presented below in **Table 2.2**, focusing on the main economic sectors in which forced labour occurs in destination countries, and the main countries of origin of the victims. The main countries of origin of the victims are listed in order of the most victims in each country, in descending order. Information specific to source countries and internal trafficking is reported in narrative form below Table 2.2.

For the general overview presented in **Table 2.2** below, the national experts relied on a range of sources to obtain information on trafficking in human beings both in general and specific to forced labour. Sources included NGO websites and annual reports, academic reports, situation reports and statistics produced by the national police authorities, national organised crime task forces or national crime agencies, national governments' websites dedicated to human trafficking in human beings and EU/international sources such as the European Commission website on human trafficking, the United Nations High Commissioner for Refugees reports on Member States, the International Centre for Migration Policy Development reports on Member States and the European NGOs Observatory on Trafficking, Exploitation and Slavery reports on Member States. The Eurostat working paper ⁽⁵⁹⁾ was also consulted, however it does not provide specific information on forced labour sectors and specific characteristics. For further information on sources consulted for the study, please refer to Annex I.

Table 2.2. Characteristics of trafficking in human beings for forced labour in EU Member States

Member State	Characteristics of trafficking in human beings for forced labour in EU Member States	
	<i>Main economic sectors in which forced labour occurs in destination country</i>	<i>Main countries of origin of the victims</i>
AT	Construction, agriculture, catering, domestic work	RO, BG, HU, SK, CZ, Ukraine, China, Nigeria
BE	Restaurant work, construction, agriculture, horse riding shops, domestic work, night shops and car washes, transportation, seasonal labour, industrial butchers, cleaning companies, market sales	Morocco, Syria, RO, PL, BG, China, India, Brazil
BG	Construction, agriculture, domestic work and other services	Syria
CY	Agriculture, livestock, construction and domestic work	India, RO, Egypt, Syria
CZ	Construction, agriculture, forestry, manufacturing, the services sector	BG, Moldova, the Philippines, RO, Ukraine, Vietnam
DE	Domestic work, gastronomy, agriculture, food-processing, construction, entertainment industry	China, PL, RO
DK	Agriculture, construction, the cleaning industry, the restaurant business, hotels, au pairs, berry pickers, domestic work, odd jobs, newspaper distribution, painting business, nurseries	Nigeria, Thailand, RO, Uganda, Brazil, SK, Vietnam,
EE	Construction, cleaning, agriculture	Ukraine, other former Soviet Union member states, PL

⁽⁵⁹⁾ Eurostat working paper, *Trafficking in human beings* (2014 edition), available at: http://ec.europa.eu/dgs/home-affairs/what-is-new/news/news/docs/20141017_working_paper_on_statistics_on_trafficking_in_human_beings_en.pdf. The first EU statistical data report on trafficking in human beings covering the years 2008-2010 is available at: <https://ec.europa.eu/anti-trafficking/node/4057>. The second report with data for the years 2010-2012 is available at: <https://ec.europa.eu/anti-trafficking/node/4810>

Member State	Characteristics of trafficking in human beings for forced labour in EU Member States	
	<i>Main economic sectors in which forced labour occurs in destination country</i>	<i>Main countries of origin of the victims</i>
EL	Agriculture, construction and service sectors (e.g. cleaning industry, tourist industry (hotels and catering), domestic work)	Afghanistan, Albania, Bangladesh, BG, India, Moldova, Pakistan, RO, PL
ES	Agriculture, construction, accommodation, food services, textile industry, domestic work	RO, BG, Morocco, Ecuador, Bolivia, Colombia, Brazil, China, Pakistan, sub-Saharan Africa
FI	Accommodation, food services, agriculture, forestry and fishing, construction, human health and social work	The Baltic countries, Belarus, Kyrgyzstan, Far East — Vietnam, Thailand
FR	Domestic work, domestic work in diplomats' households, au pairs, seasonal work, construction and catering, agriculture	Sub-Saharan Africa and the Philippines
HR	Agriculture, animal farming, car services, tourism, domestic service	Bosnia and Herzegovina, Serbia, Macedonia, Moldova, Albania, RO
HU	Agriculture, construction, domestic work	Ukraine, Moldova, RO, Russia
IE	Domestic work, restaurant work, construction, agricultural and entertainment sectors	South-east Asia, southern Asia, western Africa, southern Africa. Not specific to forced labour: Nigeria, Cameroon, the Philippines, Poland, Brazil, Pakistan, South Africa, Lithuania, the Democratic Republic of the Congo, Zimbabwe, Kuwait.
IT	Women: no information provided. Men: agriculture, textile and construction industries	Women victims of trafficking in human beings (not specific to forced labour): Nigeria, Egypt, Morocco, Tunisia, RO, Albania, Moldova and BG. Men: the Maghreb countries, China, India, Pakistan, eastern Europe
LU	Hospitality sector (restaurants) and construction	PL, RO, Haiti, India and surrounding countries
LT	Construction, agriculture, Chinese restaurants	Belarus, Russia, Ukraine, other post-Soviet countries (NIS region), China
LV	N/A LV not a destination country	NGO reports have identified BE, PT and Thailand in some cases, but this is not officially confirmed
MT	Non-diplomatic households as employers of domestic personnel, amusement and recreation activities (massage parlours)	China, Philippines
NL	Food and catering establishments, construction, domestic work, work in farming and horticulture, inland shipping, toilet attendants, meat-processing industry	China, RO, PL, HU, BG, Ukraine, Morocco, Indonesia, India
PL	Agriculture, construction, food processing, housekeeping, cleaning	Ukraine, Belarus, Russia, RO, China, Uzbekistan, Vietnam, India, Philippines, North Korea, Thailand, Nepal, Bangladesh
PT	Construction, domestic services, accommodation, food service activities, especially agriculture	RO, eastern Europe and Portuguese-speaking countries
RO	Domestic work, transportation sector (e.g. taxi driving), textile industry, farming	China, Bangladesh, Thailand, Serbia, BG, HU, Congo
SE	Agriculture, berry picking, paving/ground work, construction, cleaning, restaurant services, domestic work	BG, RO, PL, LT, SK, Serbia, Nigeria
SI	Bakeries, restaurants, building and construction sector, seasonal employment in agriculture, cargo transportation	Bosnia and Herzegovina, Kosovo, Albania, SK, BG, RO
SK	Construction, food service, domestic work	Ukraine, Moldova, BG, RO, Vietnam
UK	UK: block paving/ground work, food processing and packaging, maritime and agriculture	UK: Poland, Lithuania, Romania, Hungary and Slovakia.
	England and Wales: agriculture, food processing, construction, hospitality and basic manual service work, such as cleaning	England (not specific to forced labour): Albania, Nigeria, Vietnam, Romania and Poland
	Ni: fishing and mushroom growing, basic manual and street work in Belfast, hospitality sector and large-scale cannabis factories, meat-processing industry	Wales: Poland and Vietnam
	Scotland: no information given.	Ni: China, UK, Romania, Ghana, Nigeria and Irish nationals resident in Northern Ireland Scotland (not specific to forced labour): China, Vietnam, Nigeria, Romania, Albania, Poland, Lithuania

2.3. Main observations on characteristics of trafficking in human beings for forced labour

Observations specific to trafficking in human beings for forced labour from a destination and source Member State perspective are outlined below, with observations made by region where applicable.

This section summarises the findings from Table 2.2 above. Many countries are destination, source and transit Member States for trafficking in human beings for forced labour.

All EU Member States are to some extent **destination countries**. Most victims of trafficking in human beings for forced labour in the EU originate from Romania, Bulgaria and Poland. The main sectors of exploitation are the construction, agriculture and domestic work sector. The following observations can be made by region across the EU.

- The main **western** European destination Member States include Austria, Belgium, Germany, France, Ireland, the Netherlands, the United Kingdom and Luxembourg. The main sectors in which trafficking in human beings for forced labour occurs in these Member States are the domestic work sector, the construction industry, agriculture, the hospitality sector (e.g. restaurants and hotels) and the entertainment industry. Victims predominantly originate from Poland, Romania, Bulgaria, China, India and Morocco.
- The main **southern** European destination Member States include Cyprus, Greece, Spain, Italy, Malta and Portugal. In these Member States, trafficking in human beings for forced labour occurs mainly in the agriculture sector, the construction and textile industry, domestic work and accommodation and the food services sector. Victims mainly originate from Romania, Bulgaria, Poland, Morocco, Tunisia, China, India and Pakistan.
- The **northern** European destination Member States include Denmark, Finland and Sweden. The main economic sectors in which forced labour occurs in these Member States are agriculture (including berry picking), construction, domestic work, accommodation and food services. Victims from these countries are predominantly from Bulgaria, Romania, Poland, Lithuania, Slovakia, Nigeria, Thailand and Vietnam.
- The **eastern** European destination Member States include Bulgaria, Czech Republic, Estonia, Poland and Croatia. The main economic sectors in which trafficking in human beings' forced labour occurs in these Member States include construction, agriculture and domestic work. Victims in these eastern European Member States mainly originate from Romania, Poland, Moldova, the Philippines, Ukraine and Vietnam.

Bulgaria, Estonia, Croatia, Hungary, Lithuania, Latvia, Poland, Portugal, Romania and Slovakia are all **source countries** for trafficking in human beings for forced labour. As mentioned above, victims trafficked from these Member States are usually trafficked to western Europe and southern Europe (e.g. the Netherlands, Germany, France, Spain, Italy and the United Kingdom), mostly in construction, agriculture and domestic work.

It is also noted that, as mentioned above, the Eurostat working paper ⁽⁶⁰⁾ identified **internal trafficking** for trafficking in human beings in general in Romania, Bulgaria and the Netherlands. The national experts also reported internal trafficking specific to forced labour in Bulgaria ⁽⁶¹⁾ and Romania ⁽⁶²⁾. The main economic sectors in which trafficking in human beings for forced labour occurs in these Member States include construction, agriculture, domestic work, fishing, the hospitality sector and the meat-processing industry.

Key figures on internal trafficking in Romania ⁽⁶³⁾

- A significant number of Romanian victims of forced labour are internally trafficked.
- There are no disaggregated data by form of exploitation.
- 18.5 % of the victims of trafficking in human beings for forced labour in 2009 were identified in Romania as part of internal trafficking.
- In 2011, 28 % of all identified victims of trafficking in human beings for forced labour were exploited internally.
- The adult victims trafficked internally represented 10 % of the number of adult victims identified in 2011, 29 % in 2012 and 18 % in 2013.
- The percentage of minor victims trafficked internally rose from 70 % in 2011 to 82 % in 2012 and decreased to 78 % in 2013.

An in-depth review of characteristics of trafficking in human beings for forced labour identified and analysed among the cases prosecuted in each Member State is provided in **Section 5.1** below.

⁽⁶⁰⁾ Eurostat working paper, *Trafficking in human beings* (2014 edition), available at: http://ec.europa.eu/dgs/home-affairs/what-is-new/news/news/docs/20141017_working_paper_on_statistics_on_trafficking_in_human_beings_en.pdf; the first EU statistical data report on trafficking in human beings covering the years 2008-2010 is available at: <https://ec.europa.eu/anti-trafficking/node/4057>. The second report with data for the years 2010-2012 is available at: <https://ec.europa.eu/anti-trafficking/node/4810>

⁽⁶¹⁾ U.S. Department of State, *Trafficking in persons report: Country narratives* (2014), available at: <http://www.state.gov/j/tip/rls/tiprpt/countries/2014/index.htm>

⁽⁶²⁾ National Agency against Trafficking in Persons, *Draft annual report 2013*, p. 9.

⁽⁶³⁾ Romanian country fiche, data from the Romanian Agency against Trafficking in Persons *Draft annual report 2013*, p. 8.

3. National legal and institutional framework for the prosecution of trafficking in human beings for forced labour — comparative overview

3.1. Member States' legal framework relating to trafficking in human beings for forced labour

The EU Member States' legal framework for investigating and prosecuting cases of trafficking in human beings for forced labour is based on international and EU legislation (see Section 1.3 on the international and European framework). This includes the 1930 ILO Convention No 29 concerning Forced or Compulsory Labour ⁽⁶⁴⁾, the Palermo Protocol ⁽⁶⁵⁾ and Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims.

This section provides an overview of the legislation on trafficking in human beings for forced labour in the Member States, including how the term 'forced labour' is defined in law and guidelines (see Annex I for an overview for all Member States).

3.1.1. Legislation on trafficking in human beings for forced labour in EU Member States

All Member States have an offence provision for trafficking in human beings, and most include a reference to labour exploitation or forced labour within the anti-trafficking provisions. The terminology of 'labour exploitation' is used instead of forced labour in the offence provisions in Germany and Portugal.

Table 3.1.1. Overview of Member State legislation on trafficking in human beings for forced labour

Member State	AT	BE	BG	CY	CZ	DE	DK	EE	EL	ES	FI	FR	HR	HU	IE	IT	LT	LU	LV	MT	NL	PL	PT	RO	SE	SI	SK	UK
THB provision	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓✓*	✓	✓	✓	✓	✓	✓	✓	✓✓*	✓	✓	✓	✓
Specific reference to forced labour/labour exploitation?	✓	✓	✓	✓	✓	✓	✓	x	✓	x	✓	✓	✓	x	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	
Legislation defines forced labour?	✓	✓	x	x	x	✓	x	x	x	x	x	✓	x	x	✓	x	x	x	x	✓	x	x	x	✓	x	x	x	✓

* In Italy and Romania, trafficking in human beings and forced labour are penalised in separate provisions.

Table 3.1.2 below provides an overview of the relevant provisions regarding trafficking for forced labour applied in Member States.

⁽⁶⁴⁾ ILO, C029 — Forced Labour Convention, 1930 (No 29), Geneva, 14th ILC session (28 Jun 1930), available at: http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0:NO::P12100_ILO_CODE:C029

⁽⁶⁵⁾ UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organised Crime, 15 November 2000, available at: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/ProtocolTraffickingInPersons.aspx>

Table 3.1.2. Trafficking in human beings for forced labour provisions in Member States

Member State	Trafficking in human beings for forced labour provision	Legal reference
AT	The recruitment, harbouring or reception, transfer or offering to someone else of an adult person by using unfair means for the purpose of exploitation with intent.	Section 104a of the Austrian Criminal Code
BE	The recruitment, transportation, transfer, harbouring or reception of a person, or the taking or transferring of control over him/her with the aim of ... carrying out work or providing services in conditions that are contrary to human dignity.	Article 433quinquies of the Belgian Criminal Code (para. 1(3))
BG	Recruitment, transportation, hiding or admitting of individuals or groups of people in view of using them for ... forceful labour ... regardless of their consent.	Article 159a, Section IX of the Bulgarian Criminal Code
CY	Whoever trades a person for the purposes of labour exploitation or exploitation of their services and submits that person to forced labour or services, or any form of slavery or similar practices or servitude, or for the account of another person and the work is done in apparently different working conditions due to the use of: (a) threats, and/or sexual exploitation of adult persons, or (b) the use of force or other forms of coercion, and/or (c) kidnapping, and/or (d) wilful misconduct or fraud or deception, and/or (e) abuse of power or capacity to exploit the vulnerability, and/or (f) giving or receiving of payments or benefits to achieve the consent of a person having control over another person, and/or (g) virtual debt.	Law 60(I)/2014 'The Law providing for the Prevention and Combating of Trafficking and Exploitation of Persons and the Protection of Victims' (Article 8)
CZ	1) Arranging by force, hiring, enticing, transporting, harbouring, detaining or setting up (conducting) a person ... to be used by another person for (the purpose of) e) forced labour or other forms of exploitation, or whoever profits from such conduct ... 2) Using violence, threats of violence or deceit or through an abuse of their error, distress or dependence (means), forces, arranges, hires, entices, transports, harbours, detains or sets up (conduct), to be used by another person for (the purpose of) e) forced labour or other forms of exploitation, or whoever profits from such conduct ...	Section 168, Articles 1) and 2) of the Czech Criminal Code 40/2009 Coll.
DE	Whosoever exploits another person's predicament or helplessness arising from being in a foreign country to subject him to slavery, servitude or bonded labour, or to make him take up or continue an occupation with him or a third person under working conditions that are in clear discrepancy to those of other workers performing the same or a similar activity...	Articles 233 and 233a of the German Penal Code
DK	(1) The action: recruitment, transporting, transferring, housing or subsequently receiving another person. (2) The use of certain means: unlawful coercion, illegal restraint, threats, unlawful inducement, encouragement or exploitation of a mistake (inter alia fraud or deception, abuse of power or of a position of vulnerability), another form of improper conduct (i.e. contrary to honest conduct), or the providing or receiving of payments or other considerations to obtain the consent to the exploitation from a person having control over another person. (3) The purpose of exploitation: prostitution, the making of pornographic photographs or movies, pornographic performances, forced labour, slavery or slavery-like conditions, criminal activities or removal of organs.	Section 262a of the Criminal Code
EE	Placing a person in a situation where he or she is forced to work under unusual conditions, engage in prostitution, beg, commit a criminal offence or perform other disagreeable duties, or keeping a person in such situation, if such act is performed through deprivation of liberty, violence, deceit, threatening to cause damage, by taking advantage of dependence on another person, helpless or vulnerable situation of the person. Trafficking in human beings is also defined as transportation, delivery, escorting, acceptance, concealment or accommodation without prior authorisation of a person placed in a situation specified in the first clause (above), or aiding without prior authorisation his or her forced acts in any other way.	Penal Code (Article 133, 133(1))
EL	Anyone who by means of the threat of use of force or through the use of force or other forms of coercion or of imposition or abuse of authority or of abduction, recruits, transports, transfers within or outside the territory, retains, harbours, delivers with or without exchange to another or receives from another party a person for the purpose of removing tissue or body organs or of exploiting himself or another person, his work or begging, is to be punished.	Greek Criminal Code (Article 323A)

Member State	Trafficking in human beings for forced labour provision	Legal reference
ES	Whoever, by using violence, intimidation or deceit, or abusing a situation of superiority or need, or the vulnerability of a national or alien victim, were to induce, transport, transfer, receive or house such a victim for any of the purposes described below, within Spain, from Spain, in transit or with destination therein, shall be convicted of human trafficking: a) Imposing on the victim forced work or services, slavery or practices similar to slavery or servitude or begging;	Title VII bis — Article 177 bis the Criminal Code
FI	A person who: (1) by abusing the dependent status or vulnerable state of another person, (2) by deceiving another person or by abusing a mistake made by that person, (3) by paying remuneration to a person who has control over another person, or (4) by accepting such remuneration takes control over another person, recruits, transfers, transports, receives or harbours another person for purposes of ... forced labour ... shall be sentenced for trafficking in human beings.	The Criminal Code 39/1889 (Chapter 25 sections 3, 3a)
FR	Human trafficking is the recruitment, transport, transfer, accommodation, or reception of a person for the purpose of exploitation, in one of the following circumstances: 1) by means of the threat, use of force, violence or deception against a victim, her family or a person who has regular contact with the victim; 2) or either by a legitimate ascendant, natural or adoptive of this person or by a person who has power over them or abuses their position of power; 3) or by abuse of a position of vulnerability due to age, illness, physical or psychological deficiency or a pregnancy, visible or known by the perpetrator; 4) or in exchange or by receiving payments or any other benefits or of the promise of payments or benefits. The exploitation is to put the victim at one's disposal or to a third party, whether identified or not, so as to permit the commission against the victim of offences of ... imposition of forced labour or services, ...	Article 225-4-1 of the Criminal Code
HR	(1) Whoever uses threat or force, fraud, deception, kidnapping, abuse of authority or of a dependant by giving or receiving of pecuniary or other benefits in order to obtain the consent of the person who has control over another person, or in any other way recruits, transports, transfers, harbours or receives a person or exchanges or transfers control over a person with the purpose of abusing his/her work through forced labour or servitude, or ...	Article 106 of the Criminal Code
HU	2) Any person who — for the purpose of exploitation — sells, purchases, exchanges, supplies, receives, recruits, transports, harbours or shelters another person, including transfer of control over such person 8) In the application of this Section, 'exploitation' shall mean the abuse of power or of a position of vulnerability for the purpose of taking advantage of the victim forced into or kept in such situation'	The 'new' Criminal Code (Article 192)
IE	The term 'trafficks' means, in relation to a person (including a child) — (a) procures, recruits, transports or harbours the person, or (i) transfers the person to, (ii) places the person in the custody, care or charge, or under the control, of, or (iii) otherwise delivers the person to, another person, (b) causes a person to enter or leave the State or to travel within the State, (c) takes custody of a person or takes a person — (i) into one's care or charge, or (ii) under one's control, or (d) provides the person with accommodation or employment. Work or service which is exacted from a person under the menace of any penalty and for which the person has not offered himself or herself voluntarily.	The Criminal Law (Human Trafficking) Act 2008

Member State	Trafficking in human beings for forced labour provision	Legal reference
IT	<p>Movement: the conduct of anyone who recruits, introduces into the territory of the State, moves outside the territory of the State, transports, transfers his/her authority over a person, hosts one or more persons who are placed or maintained in slavery or servitude (including forced labour).</p> <p>Control: anyone who performs the above mentioned conduct over one or more persons, by means of deception, violence, threats, abuse of authority or taking advantage of a situation of vulnerability, of a situation of physical or mental inferiority or of a situation of need, or promises money or other benefits to the person who has authority over a person.</p> <p>Purpose of trafficking: the conduct of those who perform the above mentioned conduct in order to induce a person or force him/her to working or sexual activities or to begging or to the performance of criminal activities that leads to the exploitation of that person or to undergo the removal of organs.</p>	No provision specifically criminalises trafficking in human beings for forced labour. However, the Criminal Code criminalises trafficking in human beings and it criminalises slavery (including slavery for forced labour) (Articles 600, 601, 602)
LU	<p>The definition of the offence of trafficking in human beings for forced labour contains three constitutive elements:</p> <p>trafficking (recruitment, transport, transfer, harbouring, accommodation, exchange or transfer);</p> <p>intent of exploitation (for labour, services);</p> <p>exploitation in one form or the other (forced labour or service, slavery, servitude, or similar practices).</p>	Law of 13 March 2009 on trafficking in human beings modified the Criminal Code, creating Articles 382-1 to 382-3
LT	<p>Any person, who sells, purchases or otherwise transfers or acquires or recruits another person, or holds in captivity a person by using physical violence or threats, or in any other way depriving the opportunity to resist, or by taking advantage of the victim's dependence or vulnerability, or using deception, or paying the money or providing other material benefits for an individual who controls the victim, if the perpetrator knew or intended that the victim, regardless of his/her consent, would be involved ... labour exploitation, ...</p> <p>Any person, who used physical violence, threats, deception or any other methods specified above, intending to illegally force another person to perform certain work or provide services, including engage in begging ... (Article 147(1))</p> <p>A person who has enjoyed the work of another person or the provision of services, ..., being aware of, or must or could have known that the person is doing this job or providing these services due to the fact that this person was used for the purposes of exploitation under physical violence, threats, deception, or other means referred to above ... (Article 147(2)).</p>	The Criminal Code of the Republic of Lithuania (Article 147, 147(1), 147(2))
LV	<p>Trafficking in human beings according to the law is the recruitment, transportation, transfer, harbouring, concealment or reception of persons for the purpose of exploitation, committed by using violence or threats or by means of deceit, or by taking advantage of the dependence of the person on the offender or of his/her state of helplessness, or by the giving or obtaining of material benefits or benefits of another nature in order to achieve the consent of such person upon which the victim is dependent.</p> <p>Exploitation is the involvement of a person in prostitution or in other kinds of sexual exploitation, the compulsion of a person to perform labour, to provide services or to commit criminal activities, the holding of a person in slavery or other similar forms thereof (debt slavery, serfdom or the compulsory transfer of a person into dependence upon another person), the holding of a person in servitude or also the unlawful removal of a person's tissues or organs.</p>	Article 154 of the Criminal Law
MT	<p>Trafficking is defined as the recruitment, transportation, sale or transfer of a person, or of a minor, as the case may be, including harbouring and subsequent reception and exchange or transfer of control over that person, or minor, and includes any behaviour which facilitates the entry into, transit through, residence in or exit from the territory of any country for any of the purposes mentioned in the provisions of the code.</p> <p>Trafficking for the purpose of exploitation covers (a) the production of goods or provision of services; or (b) slavery or practices similar to slavery; or (c) servitude or forced labour; or (d) activities associated with begging; or (e) any other unlawful activities not specifically provided for in the trafficking provisions of the code.</p>	Article 248A of the Criminal Code
NL	<p>Any person who by force, violence or other act or threat of violence or other act, by extortion, fraud, or the misuse of authority arising from the actual state of affairs, by misuse of a vulnerable position or by giving or receiving of remuneration or benefits to obtain the consent of a person, recruits, transports, moves, accommodates or shelters, including the exchange or transfer of consent of that person, with the intention of exploiting that person or the removal of his organs;</p> <p>The person that, by the means referred to above, forces or moves another person to be available to perform labour or services or make his organs available or in the circumstances referred to above undertake any act which he knows or reasonably must suspect that the other person thus makes available to perform labour or services or organs available wilfully profits from the exploitation of another person.</p>	Article 273f of the Criminal Code

Member State	Trafficking in human beings for forced labour provision	Legal reference
PL	<p>Trafficking in human beings means 'the recruitment, transportation, delivery, transfer, harbouring or reception of a person using:</p> <ol style="list-style-type: none"> 1) violence or illegal threat, 2) abduction, 3) deception, 4) misleading or exploiting an erroneous understanding or inability to adequately understand the action taken; 5) abuse of a relationship of dependency, the use of a critical situation or state of helplessness, 6) the award or acceptance of material or personal benefit or its promise to a person having custody or supervision of another person, <p>— in order to use this person, even with his or her consent, in particular, for prostitution, pornography or other forms of sexual exploitation, forced labour or services, begging, slavery or other forms of exploitation degrading human dignity or to obtain cells, tissues or organs in violation of the law.</p>	Article 115 §22 and §23 of the Criminal Code
PT	<p>It includes offering, delivering, recruiting, soliciting, accepting, transporting, harbouring or receiving a person for purposes of exploitation, including sexual exploitation, labour exploitation, begging, slavery, removal of organs or exploitation of other criminal activities:</p> <ol style="list-style-type: none"> a) through violence, abduction or serious threat; b) through deception or fraud; c) with abuse of authority, resulting from relationship of hierarchical, economic, family or work dependence; d) taking advantage of a mental incapacity or a situation of special vulnerability of the victim; or e) upon obtaining the consent of the person who has control over the victim. 	Article 160 of the Portuguese Criminal Code
RO	<p>The recruitment, transportation, transfer, harbouring or receiving of persons for the purpose of exploitation, committed: a) by coercion, abduction, deceit or abuse of authority; b) by taking advantage of the inability of the victims to defend themselves or to express their will or by benefiting from that person's state of obvious vulnerability; c) by giving, accepting or receiving money or other benefits to obtain the agreement of a person having authority over a minor (Article 210).</p> <p>The exploitation of a person is stipulated as a distinct criminal offence (Article 182):</p> <ol style="list-style-type: none"> a) The exploitation of a person for forced labour or services, by means of threat or use of coercion; b) The employment of methods resembling slavery, deprivation of liberty or servitude. 	Articles 210, 211 and 182(a) of the New Criminal Code:
SE	Trafficking involves 'unlawful coercion, deception, exploitation of someone's vulnerability or by any other such improper means, recruits, transports, transfers, harbours or receives a person in order that he/she is exploited for the purposes of sexual exploitation, removal of organs, military service, forced labour, or other activity in a situation that puts the victim in distress'.	The Penal Code, chapter 4, section 1a
SI	'Trafficking' involves purchasing of another person, taking possession of them, accommodating them, transporting them, selling them, delivering them or using them in any other way, or recruiting them or exchanging them, or delegating supervision over them, or acting as a broker in such operations. The second element of the legal description is acting 'for the purpose of exploiting' either for 'forced labour, enslavement or servitude'. The consent of a victim of trafficking is not a condition for establishing the intended exploitation. The term 'forced labour' covers also the exploitation of begging.	Article 113 of the Criminal Code of the Republic of Slovenia
SK	Trafficking involves: fraudulent actions, deceit, the restriction of human freedom, violence, the threat of violence, the threat of other serious harm, or other forms of force; or anyone who accepts or pays money or provides other advantages for obtaining the agreement of another person on whom someone is dependent; or anyone who misuses his/her position to lure, transport, harbour, transfer, or receive another person, whether with that person's consent or not, for the purpose of prostitution or any other form of sexual exploitation, including pornography, forced labour or the forced provision of services ...	The Criminal Code (Law No 300/2005 Coll.) (Section 179, 181 and Chapter 2, division 1)

Member State	Trafficking in human beings for forced labour provision	Legal reference
UK	<i>England and Wales:</i> Modern Slavery Act: Part 1 Offences, Clause 2 (Human trafficking) Subsection (1) makes it a criminal offence to arrange or facilitate the travel of another person with a view to their being exploited. Travel is defined in subsection (5) as arriving in, entering, departing, or travelling within any country. Subsection (2) sets out that exploitation includes slavery, servitude and forced or compulsory labour by reference to the offence under section 1.	England and Wales: The Modern Slavery Act 2015 Northern Ireland: Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 Scotland: The Immigration and Asylum (Treatment of Claimants, etc.) Act 2004
	<i>Northern Ireland:</i> Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 Part 1 Offences, Clause 2 (Human trafficking) Subsection (1) makes it a criminal offence to arrange or facilitate the travel of another person with a view to their being exploited. Travel is defined in subsection (4) as arriving in, entering, departing, or travelling within any country.	
	 Clause 3 (meaning of exploitation for the purposes of section 2) sets out that exploitation includes slavery, servitude and forced or compulsory labour by reference to the offence under Clause 1.	
	<i>Scotland:</i> Under Section 4(4) of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 ⁽⁶⁶⁾ , trafficking involves 'arranging or facilitating the arrival in or the entry into the UK of an individual, with the intention to exploit the person in the UK or elsewhere, or with the belief that someone is likely to' (section 4(1)). Under Section 4(2) a person additionally commits an offence if he arranges or facilitates travel within the UK of an individual in respect of whom he believes has been trafficked into the UK and he intends to exploit the person, or believes another person is likely to, whether in the UK or elsewhere. Under section 4(3), a person commits an offence if he arranges or facilitates the departure from the UK of an individual and he intends to exploit that person outside the UK, or believes another person is likely to, outside of the UK.	

Trafficking in human beings and forced labour are distinguished as two separate offences and are thus set out in two different provisions in the legislation of Italy ⁽⁶⁷⁾ and Romania ⁽⁶⁸⁾. German legislation covers trafficking as far as it is considered as aiding and abetting with respect to exploitation ⁽⁶⁹⁾. In many Member States, including Cyprus ⁽⁷⁰⁾ and Hungary ⁽⁷¹⁾, in addition to trafficking in human beings for forced labour, forced labour is also a stand-alone offence. These provisions are not analysed for the purposes of this study.

Most Member States have established the criminal offence of trafficking in human beings for forced labour, largely mirroring the EU definition of trafficking thus not providing more specific elements for describing what might constitute forced labour. In most Member States the term forced labour is mentioned in a list of forms of exploitation. In the Dutch ⁽⁷²⁾ and Latvian ⁽⁷³⁾ Criminal Codes, for example, trafficking in persons is a crime for the purpose of exploitation, which includes forced labour, slavery or practices similar to deprivation of liberty or servitude.

However, a number of Member States define forced labour or labour exploitation in their national laws. This is the case in Austria, Belgium, Germany, France, Ireland, Malta, Romania and the United Kingdom (see definitions in Section 3.1.4).

In Estonia, Hungary and Spain there is no explicit reference to forced labour in the offence provision.

Furthermore, there are instances where national authorities consider trafficking first and foremost as a cross-border offence. For instance, in Germany, the relevant legal provision is focused on exploitation of foreigners ⁽⁷⁴⁾. As another example, a Bulgarian court interpreted trafficking in human beings for forced labour as 'any poor circumstances that Bulgarian nationals working abroad could find themselves in' ⁽⁷⁵⁾.

⁽⁶⁶⁾ <http://www.legislation.gov.uk/ukpga/2004/19/contents>

⁽⁶⁷⁾ The Italian Criminal Code criminalises THB and slavery (including slavery for forced labour) (Articles 600, 601, 602).

⁽⁶⁸⁾ Articles 210 and 182(a) of the Romanian New Criminal Code.

⁽⁶⁹⁾ Article 233 (1) of the German Penal Code.

⁽⁷⁰⁾ Law 87(II)/2007 'The Law Combating the Trafficking and Exploitation of Human Beings and Victim Protection of 2007'.

⁽⁷¹⁾ Hungarian 'new' Criminal Code (Article 192).

⁽⁷²⁾ Article 273f of the Criminal Code.

⁽⁷³⁾ Article 154 of the Criminal Law.

⁽⁷⁴⁾ Articles 233(1) of the German Penal Code: 'Labour exploitation means exploiting another person's predicament or helplessness arising from **being in a foreign country** to subject him to slavery, servitude or bonded labour, or to make him take up or continue an occupation with him or a third person under working conditions that are in clear discrepancy to those of other workers performing the same or a similar activity ...'.

⁽⁷⁵⁾ BG-001-01 Case No 30186, 16 June 2010, Regional Court Montana, available from the Judicial Repository (<http://legalacts.justice.bg>).

3.1.2. Other laws/offences used to prosecute trafficking in human beings for forced labour

Some Member States have offence provisions that are closely linked with the offence of trafficking in human beings for forced labour, including provisions relating to exploitation of immigrant work. In Italy, for example, cases involving elements of trafficking in human beings for forced labour are often prosecuted under the offence provision of exploitation of illegal immigration (Article 12 of the Legislative Decree 286/1998, 'Single Act on Immigration').

In Spain, crimes of trafficking in human beings for forced labour are often investigated/prosecuted under Articles 312.1 (illegal trafficking of workforce) or Article 318bis (smuggling of migrants) of the Criminal Code ⁽⁷⁶⁾. An example of such a case analysed for this study is summarised in the box below.

Case study 5: Judgment of the Provincial Court of Lugo 41/2010, 29 March, Second Instance (ES-03-2)

Key facts: The victims in this case were subject to excessively long working hours (including weekends in some cases) and low salary conditions. A victim broke his ribs due to a work accident and was forced to not report the accident under the threat of being fired. During the month he could not work, he was not paid.

Legislation applied: Article 312(2) of the Spanish Criminal Code.

Decision by the Provincial Court of Lugo: One of the two defendants was found guilty of a crime against the rights of workers under Article 312(2) of the Spanish Criminal Code.

Penalties/compensation:

Penalties: one defendant was condemned to three years and six months' imprisonment.

Compensation: EUR 2 000 to each of the three victims acting as private prosecution for moral and material damages.

3.1.3. Elements of the offence of trafficking in human beings for forced labour

Main elements of the offence

Directive 2011/36/EU establishes minimum rules concerning the definition of criminal offences and sanctions in the area of trafficking in human beings. The list of forms stipulated in Article 2(3) of the Directive is not exhaustive. According to Article 2 of Directive 2011/36/EU, the offence of trafficking in human beings has three constituent parts, as described below.

- (1) The act (recruitment, transportation, transfer, harbouring or receipt of persons, including the exchange or transfer of control over those persons).
- (2) The means (the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person).
- (3) The purpose of exploitation. Exploitation, as a minimum, includes the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, including begging, slavery or practices similar to slavery, servitude, or the exploitation of criminal activities, or the removal of organs ⁽⁷⁷⁾.

In most Member States, the relevant offence provisions on trafficking in human beings for forced labour cover the main elements of trafficking in human beings as provided for in Article 2 of Directive 2011/36/EU. However, there are differences in how the three elements of the offence (the action, means and purpose of trafficking) are reflected in the relevant national legislation.

⁽⁷⁶⁾ Article 248 of the Spanish Criminal Code — Swindling.

⁽⁷⁷⁾ Article 2(3) of Directive 2011/36/EU.

(a) The act of trafficking

The main acts of trafficking as provided for in Article 2 of Directive 2011/36/EU (recruitment, transportation, transfer, harbouring or receipt of persons) are covered in the offence provisions of Member States. However, the act of trafficking through the exchange or transfer of control over those persons is not explicitly stated in the legislation of all Member States. It is mentioned in the laws of Belgium, Finland, Croatia, Hungary, Ireland, Italy, Luxembourg, Malta, the Netherlands and Slovenia.

Under United Kingdom legislation, the offence covers the action of arranging or facilitating the arrival of a person in the United Kingdom, his/her travel within the United Kingdom or departure from the United Kingdom, with either the intention to exploit the person or with the belief that somebody else is likely to exploit him/her, in the United Kingdom or abroad. According to the British authorities, in prosecuting perpetrators of human trafficking, arranging or facilitating the arrival, movement or departure of another person will include those responsible for the recruitment, transport, transfer, harbouring or receipt of persons ⁽⁷⁸⁾.

The special anti-trafficking law in Cyprus ⁽⁷⁹⁾ specifies that with respect to forced labour, in addition to the common acts of trafficking, the offence involves trading a person for the purposes of labour exploitation or exploitation of their services and submitting that person to forced labour or services, or any form of slavery or similar practices or servitude, or for the account of another person ⁽⁸⁰⁾.

Internal trafficking

Most Member States seem to have neither emphasised the cross-border nature of trafficking nor explicitly criminalised internal trafficking. It can thus be interpreted in most cases as covering both cross-border and domestic trafficking. This is in line with the recommendation of UNODC that national legislation should adopt the broad definition of trafficking prescribed in the Palermo Protocol, which should be dynamic and flexible so as to empower the legislative framework to respond effectively to trafficking which occurs both across borders and within a country (i.e. internal trafficking) ⁽⁸¹⁾.

The following Member States, on the other hand, have offence provisions which specifically acknowledge that trafficking may occur within the Member State. The Greek Criminal Code ⁽⁸²⁾ refers to recruitment, transport or transfer 'within or outside the territory' and the Spanish Criminal Code ⁽⁸³⁾ covers 'whoever ... were to induce, transport, transfer, receive or house such a victim ..., within Spain, from Spain, in transit or with destination therein ...'. The Irish Criminal Law (Human Trafficking) Act 2008 ⁽⁸⁴⁾ states that the term 'trafficks' means, in relation to a person (including a child), causing a person to enter or leave the state or to travel within the state. According to the United Kingdom Immigration and Asylum (Treatment of Claimants, etc.) Act 2004, trafficking in human beings for forced labour includes 'arranging or facilitating the arrival in or the entry into the UK of an individual, with the intention to exploit the person in the UK or elsewhere' ⁽⁸⁵⁾.

(b) The means of trafficking

In most Member States, the relevant offence provisions on trafficking in human beings for forced labour cover the main means of trafficking as provided for in Article 2 of Directive 2011/36/EU, that is, threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person.

⁽⁷⁸⁾ GRETA, *Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the United Kingdom* (2012), available at: http://www.coe.int/t/dghl/monitoring/trafficking/Docs/Reports/GRETA_2012_6_FGR_GBR_en.pdf, p. 25.

⁽⁷⁹⁾ The law on preventing and combating of Trafficking in Human Beings and for the Protection of the victims of 2014 (Law No 60(I)/2014).

⁽⁸⁰⁾ Article 8 of Law 60(I)/2014, 'The Law providing for the Prevention and Combating of Trafficking and Exploitation of Persons and the Protection of Victims'.

⁽⁸¹⁾ UNODC Trafficking in Persons Protocol, Article 3.

⁽⁸²⁾ Greek Criminal Code (Article 323A) (1).

⁽⁸³⁾ Title VII bis — Article 177 bis — On human trafficking of the Criminal Code.

⁽⁸⁴⁾ Section 1 of the Criminal Law (Human Trafficking) Act 2008.

⁽⁸⁵⁾ Section 4(1) of The Immigration and Asylum (Treatment of Claimants, etc.) Act 2004.

Legislation in Belgium, Bulgaria ⁽⁸⁶⁾, Luxembourg and Slovenia ⁽⁸⁷⁾ does not include the means of trafficking in the definition of the offence. In Belgium and Luxembourg, the means are stated in the law as an aggravating circumstance (i.e. in conditions contrary to human dignity). The concept of work or services provided 'in conditions contrary to human dignity' is a broad concept leaving considerable discretion to the judge to decide whether a person has been forced to work under such conditions or not.

The Austrian Criminal Code does not give a clear definition of what the means of trafficking are but only refers to 'unfair means' ⁽⁸⁸⁾.

Additional elements qualifying the means of trafficking are provided in certain Member State provisions. For instance, the laws of the Czech Republic and Slovakia provide for 'other forms of exploitation'. In the Czech Republic specifically, other forms of exploitation are included to differentiate between forced labour (extracted under threat or physical force) and exploitation through more subtle means, e.g. abuse of the distress and difficult situation of the victim, misleading the victim about his/her salary and working conditions, so the victim takes up the work voluntarily ⁽⁸⁹⁾. In the Danish Criminal Code illegal restraint and unlawful inducement are also mentioned ⁽⁹⁰⁾ and the Dutch Criminal Code, mentions extortion ⁽⁹¹⁾.

On the abuse of a position of vulnerability Article 2(2) of Directive 2011/36/EU provides that 'a position of vulnerability means a situation in which the person concerned has no real or acceptable alternative but to submit to the abuse involved' ⁽⁹²⁾. This corresponds to the explanation provided in the *travaux préparatoires* of Article 3 of the Palermo Protocol ⁽⁹³⁾. The UNODC guidance note on 'abuse of position of vulnerability' from October 2012 also refers to situations in which the trafficker deliberately abuses the personal, situational or circumstantial vulnerability of the victim ⁽⁹⁴⁾.

'Abuse of a position of vulnerability' has been qualified and defined differently by the Member States. In the Czech Republic, the trafficking in human beings provision includes 'abuse of error, distress and dependence' which specifies the abuse of a person's vulnerability ⁽⁹⁵⁾. Romanian law defines it as the inability of victims to defend themselves or to express their will ⁽⁹⁶⁾ and the French Criminal Code qualifies a position of vulnerability as being due to age, illness, physical or psychological deficiency or pregnancy ⁽⁹⁷⁾. Article 601 of the Italian Criminal Code describes vulnerable instances as those arising from 'a situation of physical or psychological inferiority or from a situation of necessity, or through promises or giving sums of money or other advantages to those having authority over a person to allow entry or a stay or to leave the territory of the state or internal transfer ...' ⁽⁹⁸⁾.

Some Member States also refer to the situation of dependence. In Estonia, the trafficking in human beings provision prohibits taking advantage of dependence on another person, or the helpless or vulnerable situation of the person ⁽⁹⁹⁾. The Finnish Criminal Code refers to abusing the dependent status or vulnerable state of another person by deceiving another person or abusing of a mistake made by that person ⁽¹⁰⁰⁾. The Lithuanian Criminal Code also refers to taking advantage of the victim's dependence or vulnerability ⁽¹⁰¹⁾. The Latvian Criminal Law refers to taking advantage of

⁽⁸⁶⁾ Article 159a, Section IX of the Bulgarian Criminal Code.

⁽⁸⁷⁾ Article 113 of the Criminal Code of the Republic of Slovenia.

⁽⁸⁸⁾ Section 104a of the Austrian Criminal Code.

⁽⁸⁹⁾ Czech Supreme Court judgment 7Tdo 1261/2013.

⁽⁹⁰⁾ Section 262a (1) (1)-(5) and (2) (2) Criminal Code.

⁽⁹¹⁾ Article 273f of the Criminal Code.

⁽⁹²⁾ Article 2(2) of Directive 2011/36/EU.

⁽⁹³⁾ ILO, *Human trafficking and forced labour exploitation: Guidelines for legislation and law enforcement* (2005), available at: http://www.ilo.org/wcmsp5/groups/public/-ed_norm/-declaration/documents/publication/wcms_081999.pdf, p. 22.

⁽⁹⁴⁾ UNODC, Guidance Note on 'abuse of a position of vulnerability' as a means of trafficking in persons in Article 3 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organised Crime, available at: http://www.unodc.org/documents/congress//background-information/Human_Trafficking/Guidance_Note_-_Abuse_of_a_Position_of_Vulnerability_E.pdf.

⁽⁹⁵⁾ Section 168, Article 2 of the Czech Criminal Code 40/2009 Coll.

⁽⁹⁶⁾ Article 210 of the New Criminal Code.

⁽⁹⁷⁾ Article 225-4-1 of the Criminal Code.

⁽⁹⁸⁾ Article 601 of the Criminal Code.

⁽⁹⁹⁾ Article 133(1) Penal Code.

⁽¹⁰⁰⁾ The Criminal Code 39/1889 (Chapter 25 sections 3).

⁽¹⁰¹⁾ Article 147(1) of the Criminal Code of the Republic of Lithuania.

the dependence of the person on the offender or of his/her state of helplessness ⁽¹⁰²⁾. Similarly, the Polish Criminal Code refers to the abuse of a relationship of dependency, a critical situation or a state of helplessness ⁽¹⁰³⁾.

(c) The purpose of exploitation — specific reference to forced labour

The concept of 'forced labour or services' is not defined further in the Palermo Protocol or in Directive 2011/36/EU. As with other elements of the definition, e.g. 'coercion', 'deception', 'abuse of power' or 'abuse of a position of vulnerability', the definition of 'forced labour or services' is left to be clarified in the respective national legislation.

A definition of forced labour is found in the 1930 ILO Convention No 29 concerning Forced or Compulsory Labour. Article 2(1) states that for the purposes of the convention the 'term forced or compulsory labour shall mean all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily'.

The 2005 ILO Guidance for Legislation and Law Enforcers ⁽¹⁰⁴⁾ explains that work and services exacted 'under the menace of any penalty' does not mean that some form of penal sanction is applied; the penalty might take the form of a loss of rights or privileges (e.g. physical violence, restriction of movement, debt bondage, withholding or not paying wages, retention of identity documents, threat of denunciation to authorities).

Definitions in Member States' legislation

Whilst most Member States sanction the offence of trafficking in human beings with an explicit reference to forced labour or labour exploitation, the concept of 'forced labour' is seldom defined within the specific offence provision. Austria, Belgium, Germany, France, Ireland, Malta and Romania have specifically defined forced labour directly in the provision on trafficking in human beings for forced labour.

Definitions of forced labour in national offence provisions

Austria: The term 'forced or compulsory labour' is defined as 'practices which cannot yet be considered as slavery, but already constitutes a reckless exploitation of the victim against his/her vital interests' (Section 104 of the Criminal Code).

Belgium: The notion 'exploitation' includes forced labour or services, and is defined as 'carrying out work or providing services in conditions that are contrary to human dignity' (*non-official translation*) (Article 433quinquies of the Belgian Criminal Code).

Germany: Labour exploitation is defined as 'exploiting another person's predicament or helplessness arising from being in a foreign country to subject him to slavery, servitude or bonded labour, or to make him take up or continue an occupation with him or a third person under working conditions that are in clear discrepancy to those of other workers performing the same or a similar activity ...' (Article 233(1) of the German Penal Code).

France: Forced labour is the fact of, by violence or by threat, forcing a person to perform work without payment or in exchange of a payment that is obviously unrelated to the importance of the work performed (Article 225-4-1 of the Criminal Code (as amended by Law 2013-711)).

Ireland: Work or service which is exacted from a person under the menace of any penalty and for which the person has not offered himself or herself voluntarily (Section 1 of the Criminal Law (Human Trafficking) Act 2008).

Malta: Exploitation includes requiring a person to produce goods and provide services under conditions and in circumstances which infringe labour standards governing working conditions, salaries and health and safety (Article 248A(2) of the Criminal Code).

Romania: The act of subjecting a person, in other cases than those provided for in the law, to any kind of labour against his/her will or to any kind of compulsory labour (Article 212 of the New Criminal Code).

United Kingdom: References to holding a person in slavery or servitude or requiring a person to perform forced or compulsory labour are to be construed in accordance with Article 4 of the Human Rights Convention (Part 1 clause 1 subsection 2, Modern Slavery Act; Part 1 clause a subsection 2 of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015; Section 4 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004).

⁽¹⁰²⁾ Article 154 (3) of the Criminal Law.

⁽¹⁰³⁾ Article 115 §22 and §23 of the Criminal Code.

⁽¹⁰⁴⁾ ILO, *Human trafficking and forced labour exploitation: Guidelines for legislation and law enforcement* (2005), available at: http://www.ilo.org/wcmsp5/groups/public/-ed_norm/-declaration/documents/publication/wcms_081999.pdf, p. 20-21.

Definitions in guidelines/policy documents

In a number of Member States, guidance and policy papers have been drafted for police, prosecutors and judiciary to facilitate their interpretation of trafficking in human beings for forced labour provisions.

In the United Kingdom, for example, the Crown Prosecution Service guidelines ⁽¹⁰⁵⁾ are used to define forced labour. The Crown Prosecution Service identifies key elements of proof of the offence as being the existence of coercion and/or deception between the offender and the victim. The guidelines indicate that a person commits the offence if they require another person to perform forced or compulsory labour. The circumstances must be such that the defendant knows or ought to know that the person is being so held or required to perform such labour.

The Danish Working Environment Authority (WEA) ⁽¹⁰⁶⁾ also uses guidelines to indicate the existence of forced labour and the Latvian Ministry of the Interior ⁽¹⁰⁷⁾ uses similar guidelines to these.

The Danish WEA's indicators of forced labour

- The person is unwilling to communicate with the WEA.
- The person is silent about the working environment conditions, including the number of working hours and when the person arrived in Denmark.
- The person seems nervous and cowed (fear of employer/trafficker/authorities).
- The work is not determined, is unstable and is not predictable.
- The person works many hours and during weekends.
- The person has poor personal hygiene, scratches, wounds and possibly work-related injuries that have not been attended to.
- The person has bad, poor housing conditions and many persons stay at the same place/crammed together.
- The person lives at the working place (in construction mess, backrooms, basements).
- The person is employed in manual work which requires physical effort.
- The person speaks about 'peculiar' transportation to the country/to and from work.
- The person has no phone number for the working manager or contact with that person.
- The person has no access to food and beverages.
- The person has no identification documents (ID card, passport or similar).
- The person is a foreigner, often from a country with a significantly lower wage level than Denmark.
- The person is employed/organised in small independent teams giving coats of asphalt or cleaning roofs for private persons
- Relevant businesses: the construction business, demolition work, final cleaning, kitchen and service in hotel and restaurant businesses, forest work, stable work, service to and for private persons.

If there is a combination of several of the indicators, if the seriousness/roughness of the indicators is significant, if the person works and lives under such poor conditions where even the most basic conditions are missing, there may be a case of trafficking in human beings for forced labour ⁽¹⁰⁸⁾.

Definitions in case-law

Case-law has also been instrumental in interpreting the concept of forced labour.

In several Member States such as Denmark, Poland and Bulgaria, state authorities or courts have interpreted forced labour in accordance with Article 2 of the 1930 ILO Forced Labour Convention (No 29), defining forced labour as 'all

⁽¹⁰⁵⁾ Crown Prosecution Service, *CPS policy for prosecuting cases of human trafficking*, May 2011, available at: https://www.cps.gov.uk/publications/docs/policy_for_prosecuting_cases_of_human_trafficking.pdf

⁽¹⁰⁶⁾ Danish Working Environment Authority, 'G-302: Reporting to other authorities, including indicators on human trafficking for forced labour' (G-302: *Indberetning til andre myndigheder, herunder indikatorer på menneskehandel til tvangsarbejde*) (rev. 2013). Author's translation.

⁽¹⁰⁷⁾ Latvian Ministry of the Interior, *Guidelines for the identification of trafficking in human beings for forced labour* (2012), available at: <http://www.iem.gov.lv/files/text/identificesanas%20vadlinijas.pdf>

⁽¹⁰⁸⁾ Danish Working Environment Authority, 'G-302: Reporting to other authorities, including indicators on human trafficking for forced labour' (G-302: *Indberetning til andre myndigheder, herunder indikatorer på menneskehandel til tvangsarbejde*) (rev. 2013). Author's translation.

work or any service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily' ⁽¹⁰⁹⁾.

The tables below provide examples of interpretation of forced labour across Member States. Many of the elements of forced labour interpreted in the case-law below are based on the *ILO indicators of forced labour* ⁽¹¹⁰⁾.

Selection of definitions of forced labour provided in national case-law

The United Kingdom (England and Wales): The Court of Appeal specified that: 'where "forced or compulsory labour" is concerned, the **menace** of a penalty can be exerted in various ways. It can be **direct**; it can also be **indirect**. **Constraint can be mental or physical**. It can be imposed by force of circumstances. Where it is alleged that one person has been compulsorily employed by another, the level of pay he or she has received, if any, may have evidential importance. It may point to coercion; it may bear on an employee's ability to escape from his or her employer's control. On its own, however, **a derisory level of wages is not tantamount to coercion**' ⁽¹¹¹⁾.

Bulgaria: Forced labour was defined in the judgment pursuant to the ILO Forced Labour Convention and was understood to **include deprivation of movement within a limited location, non-payment of wages, physical violence, including emotional violence** ⁽¹¹²⁾.

Cyprus: Forced labour was established because the victims were forced to work more than 10 hours a day for 7 days a week with a small break; their passports were taken away; they lived in an accommodation state which was in violation of human dignity ⁽¹¹³⁾.

Czech Republic: The court clarified that just because victims voluntarily take up the employment it does not rule out that exploitation could be qualified as forced labour ⁽¹¹⁴⁾. The appeal court stated that the decisive factor is whether the victims were forced to perform their work under any sort of threat or not. The timing of this force, i.e. whether it occurred at the very beginning or during the course of the work, does not play a decisive role when determining if the description of forced labour has been met.

Estonia: In one case which was decided prior to the last amendments to Article 133 of the Penal Code ⁽¹¹⁵⁾, the court specified that the following conditions should be met in order to prosecute and/or convict an offender of trafficking in human beings for forced labour: a person's freedom of movement or freedom of self-determination had to be limited to such an extent that the person had virtually no choice, or it was hindered to the extent that the decision-making did not depend on the person ⁽¹¹⁶⁾.

Latvia: The Constitutional Court of Latvia concluded that forced labour in Article 106 of the constitution means any work or service that person has not consented to and that is unjust and oppressive; this definition applies to public and private spheres ⁽¹¹⁷⁾.

Poland: The Supreme Court referred to 'exploitation' as a state of forced dependency which should be interpreted as a person being in such financial, personal and family circumstances which force him/her to perform a specific behaviour (e.g. taking a particular job) at all costs or do not allow him/her to freely agree on the conditions ⁽¹¹⁸⁾.

Sweden: The main element of forced labour is that the work is not performed voluntarily. There is also a requirement that the work to be performed is unjust, includes an element of oppression or that the work puts a strain on the worker that could be avoided. It covers work that is required of a person under some kind of threat, and the person has not voluntarily agreed to it ⁽¹¹⁹⁾.

3.2. National institutional framework for the investigation and prosecution of trafficking in human beings for forced labour

This section provides information on the institutional framework in Member States for investigating, prosecuting and adjudicating cases of trafficking in human beings for forced labour. Annex II to this report contains an overview of all Member States.

⁽¹⁰⁹⁾ Judgment of the Supreme Court of Poland of 28 January 1978, I CR 819/73 and Bulgarian case study BG-022-04.

⁽¹¹⁰⁾ ILO, *ILO indicators of forced labour: Special action programme to combat forced labour*, available at: http://www.ilo.org/wcmsp5/groups/public/-ed_norm/-declaration/documents/publication/wcms_203832.pdf

⁽¹¹¹⁾ Regina v SK [2011] EWCA Crim 1691.

⁽¹¹²⁾ Case study 5: Agreement No 6, 24 January 2014, Criminal Law Case No 141/2014 (BG-005).

⁽¹¹³⁾ Case study 2, Nicosia Police Chief v. Nikos Strouthos [25 September 2013] No 19377/2010 [ref] (CY-002).

⁽¹¹⁴⁾ CZ Case CZ 2T 12/2009.

⁽¹¹⁵⁾ Penal Code (Article 133).

⁽¹¹⁶⁾ Decision of the Tallinn Circuit Court in case No 1-08-10171/50 from 8 April 2009.

⁽¹¹⁷⁾ Constitutional Court of Latvia Judgment 2003-13-0106, 27 November 2003, paragraphs 1.2 and 2.

⁽¹¹⁸⁾ Judgment of the Supreme Court of 28 January 1978, I CR 819/73.

⁽¹¹⁹⁾ Ministerial Promemoria 2003:45, 'A Comprehensive Criminal Liability for Trafficking', available at: http://www.barnombudsmannen.se/Global/Publikationer/Extern_t_BK_sv/Faktultativt%20protokoll_handel.pdf, p. 43-44.

3.2.1. Investigation bodies

The main actor involved in investigating cases of trafficking in human beings for forced labour in the EU Member States is the police. However, there are countries where prosecutors and judges are also involved in the investigation, for instance, in Belgium⁽¹²⁰⁾ and Luxembourg⁽¹²¹⁾.

Most Member States have specialised police units or officers that investigate trafficking in human beings either as their sole responsibility or among other matters such as organised crime, irregular migration or smuggling of people. The mandate usually covers all forms of trafficking in human beings, including for forced labour.

Police structures for investigating solely trafficking in human beings are established in most countries. In Cyprus, the Office of Combating Trafficking in Human Beings within the police has been in operation since 2004⁽¹²²⁾. In France there are specialised regional police units as well as the Central Office for Combating Illegal Labour working on high-profile trafficking in human beings cases at national level⁽¹²³⁾. Special prostitution and human trafficking teams of (certified) detectives have also been established in the Netherlands⁽¹²⁴⁾.

In other Member States the competence of specialised police units extends beyond trafficking in human beings. This is the case in Romania where the Directorate for Countering Organised Crime within the General Inspectorate of the Romanian Police is the body responsible for carrying out investigations of organised crime as well as trafficking in human beings, regardless of whether the offence is committed by an organised group⁽¹²⁵⁾. In Spain, in addition to the police, the National Centre for Intelligence against Organised Crime is involved in the investigation.

In the Czech Republic a police unit was identified that specifically deals with trafficking in human beings for forced labour. The Forced Labour Section was created in 2006, and the year after there were 50 officers assigned full time to work in this section⁽¹²⁶⁾. In Finland, there are also special police units dealing with cases of trafficking in human beings for forced labour.

In some Member States, in addition to the police, other specialised bodies have been involved in the investigation of cases of trafficking in human beings for forced labour. These are: the Control Unit for Illegal Employment at the Federal Ministry of Finance in Austria⁽¹²⁷⁾; the Anti-trafficking Unit at the Ministry of the Interior and the anti-organised crime unit at the National Security Agency in Bulgaria⁽¹²⁸⁾; and the National Centre for Intelligence against Organised Crime in Spain⁽¹²⁹⁾.

3.2.2. Prosecution bodies

Public prosecutors are the main actors involved in the prosecution of cases of trafficking in human beings for forced labour. There are countries where other actors are involved in prosecution. For example, in Malta, the police are involved in the prosecution before the Court of Magistrates while the Attorney General is involved in the prosecution before the Criminal Court.

⁽¹²⁰⁾ Based on case-law analysis in Belgium, where the Investigation Judge and the Labour Prosecutor was responsible for criminal investigation in case CORR. Gent, 16 November 2009, 19DE K.

⁽¹²¹⁾ Based on consultation with national stakeholders (prosecutor and judge).

⁽¹²²⁾ The Office of Combating Trafficking in Human Beings, Cyprus Police website, <http://www.police.gov.cy/police/police.nsf/All/B62C14B4889EC3A3C22578A900271B28?OpenDocument>

⁽¹²³⁾ Article 706-35-1 of the French Code for Criminal Procedure.

⁽¹²⁴⁾ Information available on the website of the Dutch police: <http://www.politie.nl/onderwerpen/mensenhandel.html>

⁽¹²⁵⁾ GRETA, *Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Romania* (31 May 2012), available at: http://www.coe.int/t/dghl/monitoring/trafficking/docs/Reports/GRETA_2012_2_FGR_ROU_en.pdf, p. 13.

⁽¹²⁶⁾ European Commission, 'Together against trafficking in human beings', information on the Czech Republic available at: https://ec.europa.eu/anti-trafficking/content/nip/czech%20republic_en

⁽¹²⁷⁾ This information was obtained through stakeholder interviews (Task Force on Trafficking in Human Beings representative).

⁽¹²⁸⁾ The priorities of the National Investigation Service include the crime of human trafficking. See the National Intelligence Service website, available at: <http://www.nrs.bg/za-nas/misiya-prioriteti-zadachi?highlight=YToxOntpOjA7czoxMjoiOYLgNCwOYTQuNC6l9t9;> GRETA, *Report concerning the implementation of the CoE Trafficking Convention by Bulgaria*, GRETA (2011) 19, 14 December 2011, available at: http://www.coe.int/t/dghl/monitoring/trafficking/docs/Reports/GRETA_2011_19_FGR_BGR_en.pdf, para. 212.

⁽¹²⁹⁾ Merged by RD 873/2014, second provision, which modifies RD 400/2012, 17 February, developing the organic structure of the Ministry of Interior (art. 3.2.c): <http://www.boe.es/boe/dias/2014/10/14/pdfs/BOE-A-2014-10398.pdf>

Most Member States have prosecutors specialised in trafficking in human beings. In Poland, the Department for Organised Crime and Corruption is responsible for human trafficking issues within the Prosecution Office. In Slovenia, a specialised office of the State Prosecutor of the Republic of Slovenia is responsible for prosecuting human trafficking issues ⁽¹³⁰⁾. In Italy, a specific branch of the public prosecutor's office is involved in the prosecution of trafficking in human beings including for forced labour cases. These are the Antimafia National Directorate and the Antimafia District Directorate ⁽¹³¹⁾.

Prosecutors that focus specifically on trafficking in human beings for forced labour were identified in Belgium, where the General Prosecutor usually transfers the files on economic exploitation to the Labour Prosecutor. Also in Belgium, a network of experts on human trafficking was established under the authority of the College of Prosecutors-General to assist the federal prosecutors ⁽¹³²⁾.

3.2.3. Adjudication bodies

Trafficking in human beings for forced labour cases are usually prosecuted in the criminal courts of the respective Member States.

In some Member States there are specialised courts or judges that deal with trafficking in human beings, including for forced labour cases. For example, in Austria, the Regional Court for Criminal Matters of Vienna has had special jurisdiction to rule on trafficking in human beings since 2011. However, this is only the case for offences that fall under the jurisdiction of the district of Vienna ⁽¹³³⁾. In the Netherlands, there are specialised judges appointed to deal with cases of trafficking in human beings ⁽¹³⁴⁾.

In other Member States there are specialised courts dealing with serious crime, including trafficking in human beings. This is the case in Bulgaria, where special criminal courts are mandated inter alia to review cases of human trafficking that have been committed at the orders of an organised criminal group or when implementing a decision of an organised criminal group ⁽¹³⁵⁾. In Slovenia there are specialised departments at the District Courts dealing with serious crime ⁽¹³⁶⁾ and in Slovakia there is a specialised Criminal Court adjudicating cases on organised crime ⁽¹³⁷⁾.

3.2.4. The role of labour inspectors

Labour inspectors are also involved in cases of trafficking in human beings for forced labour in some Member States. For example, they provide expert witness testimonies and identify offences through workplace inspections. A specialised trafficking in human beings unit in labour inspectorates was identified in Belgium ⁽¹³⁸⁾. In Italy the regional inspectorates are in charge of issues of trafficking in human beings for forced labour ⁽¹³⁹⁾. In Latvia labour inspectors are also actively involved in the identification of victims. In 2012, the inspectorate in Latvia identified three potential domestic cases of trafficking in human beings for forced labour, but the police did not confirm trafficking in human beings in any of them ⁽¹⁴⁰⁾.

⁽¹³⁰⁾ State Prosecutor Act (*Zakon o državnem tožilstvu*), OJ No 58/11, as amended, Article 187 §1 and Article 192, available at: <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO5812>

⁽¹³¹⁾ 'National Antimafia Office', Ministry of Justice Website, available at: http://www.giustizia.it/giustizia/it/mg_2_10_1.wp

⁽¹³²⁾ Service for Criminal Policy, Federal Public Service of Justice (*Dienst Strafrechtelijk Beleid/Service de la Politique Criminelle*, FOD Justitie/SPF Justice), 'The fight against human trafficking and human smuggling — Policy and strategy' (*De strijd tegen mensenhandel en mensensmokkel — Beleid en aanpak/La lutte contre la traite et le trafic des êtres humains — Politique et stratégie*) (2010) available at: http://www.dsb-spc.be/doc/pdf/BRO_MH_BELGIE_2010_NDL.pdf, p. 21.

⁽¹³³⁾ GRETA, *Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Austria*, GRETA (2011)10, available at: http://www.coe.int/t/dghl/monitoring/trafficking/docs/Reports/GRETA_2011_10_FGR_AUT_en.pdf, p. 34.

⁽¹³⁴⁾ Government Offices, Press release, 'Judicial specialisation in human trafficking in all legislations' (*Rechterlijke specialisatie mensenhandel in alle gerechten*) (13 June 2014) available at: <http://www.rechtspraak.nl/Actualiteiten/Nieuws/Pages/Rechterlijke-specialisatie-mensenhandel-in-alle-gerechten.aspx>

⁽¹³⁵⁾ Article 411a, Code of Criminal Procedure, entered into force 29 April 2006.

⁽¹³⁶⁾ Courts Act (*Zakon o sodiščih*), OJ No 19/94, as amended, Article 40.a §1, available at: <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO332>.

⁽¹³⁷⁾ Official website of the Specialised Criminal Court: <http://www.specialnysud.sk/>

⁽¹³⁸⁾ Website of the DG Social Inspection of the Federal Public Service Social Security: <http://socialsecurity.fgov.be/nl/over-de-fod/organogram/sociale-inspectie/sociale-inspectie.htm>

⁽¹³⁹⁾ EPSU, *A mapping report on Labour Inspection Services in 15 European countries: A Syndex report for the European Federation of Public Service Unions* (2012), available at: http://www.epsu.org/IMG/pdf/EPSU_Final_report_on_Labour_Inspection_Services.pdf.

⁽¹⁴⁰⁾ The US Department of State, *Trafficking in Persons Report — Latvia* (2013), available at: <http://www.refworld.org/docid/51c2f3ad18.html>

In Croatia labour inspectors are involved in detecting forced labour. However, as yet no potential cases of trafficking in human beings for forced labour were identified during regular inspections ⁽¹⁴¹⁾.

In other Member States, if inspectors detect forced labour through workplace inspections they usually notify the police. For example, in Spain labour inspectors inform the public prosecutors of cases they find while investigating premises ⁽¹⁴²⁾. The Austrian labour inspectorate is entitled to enter the premises of employers and to inspect the accommodation facilities of employees, and notifies the police if it suspects trafficking in human beings for forced labour ⁽¹⁴³⁾. Similarly, in the Czech Republic the labour inspectorate conducts inspections and if it suspects that there is trafficking in human beings for forced labour it reports it to the police. In Denmark, the police cooperate with the Danish Working Environment Authority (WEA) and also conduct joint raids with the WEA ⁽¹⁴⁴⁾.

In Finland, the labour inspectors can inspect work places and conduct interviews with employees. However, if there is to be a criminal trial, the responsibility for the investigation will be transferred to the police or other law enforcement officials, such as border guards ⁽¹⁴⁵⁾.

On the other hand, labour inspectors in Romania have no specific competences in the field of trafficking in human beings. Hence, they have not been involved in investigating cases of trafficking in human beings for forced labour. However, in 2006, a protocol was signed with the General Inspectorate of Romanian Police regarding cooperation in the field of criminal investigation where the labour inspectors have any suspicion of an incident of trafficking in human beings. There were no such cases reported ⁽¹⁴⁶⁾.

In Slovakia, based on an agreement between the Ministry of Interior and the Labour Inspectorate, regular checks are carried out by the inspectorate in areas of the private sector that are especially susceptible to forced labour ⁽¹⁴⁷⁾.

The Inspectorate for Social Affairs and Employment (Inspectie Sociale Zaken en Werkgelegenheid (SZW)) in the Netherlands plays an important role in the investigation of trafficking in human beings for forced labour. One of its key tasks is 'to detect fraud, exploitation and organised crime within the chain of work and income (labour exploitation, trafficking and massive fraud in the field of social security). This is done under the direction of the public prosecutor' ⁽¹⁴⁸⁾.

Furthermore, the SZW is involved with the criminal enforcement of the laws and regulations in the field of work and income ⁽¹⁴⁹⁾. Stakeholders confirmed that SZW in principle starts the investigation and is the investigator for cases of trafficking in human beings for forced labour — this is done in coordination with the National Public Prosecutor's Office for serious fraud and environmental crime and asset confiscation. While the police may also have a role in the investigation, they are mainly involved in cases of sexual exploitation. In case there is a combination of trafficking in human beings for forced labour and sexual exploitation, the SZW and the police cooperate.

In the United Kingdom, the Gangmasters Licensing Authority (GLA) regulates labour providers in agricultural, horticultural and shellfish industries. They do not have the legal competence to investigate cases, but work alongside the police and inspect workplaces. During the inspections they apply the ILO standards and interview workers (workers sometimes contact them separately to report situations of forced labour).

⁽¹⁴¹⁾ Information received from the Central Labour Inspectorate, Ministry of Labour and Pension System, in letter from 27 February 2015.

⁽¹⁴²⁾ Spanish labour inspectors have the competence to detect cases of trafficking in human beings for labour exploitation in accordance with Article 10.3 of Organic Law 42/1997, of 14 November, of the Labour and Social Security Inspectorate (*Ley Orgánica 42/1997 de 14 de noviembre ordenadora de la Inspección de Trabajo y Seguridad Social*), Official Journal of the State BOE-A-1997-24432, 15 November 1997.

⁽¹⁴³⁾ Planitzer, J., Sax, H., 'Combating trafficking in human beings for labour exploitation in Austria', in Rijken, C. (ed) *Combating trafficking in human beings for labour exploitation*, Nijmegen: Wolf Legal Publishers, 2011, 24.

⁽¹⁴⁴⁾ Information collected through consultation with the Danish Police.

⁽¹⁴⁵⁾ National reference not available, Vaasa Appeal Court, second instance (FI-007-2), January 2015.

⁽¹⁴⁶⁾ Information collected through consultation with national stakeholders (labour inspector, 29 January 2015).

⁽¹⁴⁷⁾ Ivana Bachtíková, Natália Ulrichová, 'Annual report on asylum and migration policies, Slovak Republic 2013, Report of National contact point of European Migration Network in Slovak Republic' (*'Výročná správa o Politikách v oblasti migrácie a azylu Slovenská Republika 2013, Správa Národného kontaktného bodu Európskej migračnej siete v Slovenskej republike'*), available at: http://www.emn.sk/sk/vyrocnne-spravy-emn/item/download/969_fc04789aef86c2d99dfd99e34481e3d.html, p. 50-51.

⁽¹⁴⁸⁾ Website of the Ministry of Social Affairs and Employment (Inspectorate): <http://www.inspectieszw.nl/organisatie/>

⁽¹⁴⁹⁾ See also: <http://www.hetccv.nl/dossiers/arbeidsuitbuiting/menueketenpartners/index>

4. Availability of case-law on trafficking in human beings for forced labour

Despite the increasing attention directed at addressing trafficking in human beings over the last decade, reliable and comparable data on this matter is scarce. This is not only due to the latent nature of the crime, but also because Member States apply different definitions, use different data collection mechanisms and do not provide sufficient financing for research on the topic ⁽¹⁵⁰⁾. Lack of data specifically on trafficking in human beings for forced labour is even more evident. Given the difficulty of comparing and analysing such data and drawing meaningful conclusions, there is a need to strengthen efforts to ensure reliable data on trafficking in human beings **across Member States**.

4.1. Case-law on trafficking in human beings for forced labour collected at EU level

The EU statistical office (Eurostat) has collected EU-level data on trafficking in human beings since 2011. It covers disaggregated data on victims of trafficking and on prosecutions and convictions, as recorded by national authorities and further reported to the European Commission. The two Eurostat trafficking in human beings working papers published in 2013 and 2015 cover statistics for the years 2008 to 2012 ⁽¹⁵¹⁾.

Since 2008, data has been collected at international level by UNODC and published in the *Global report on trafficking in persons* ⁽¹⁵²⁾. For the period 2000 to 2010, the IOM has collected data on IOM-assisted cases of trafficking in human beings, providing data on the groups of trafficking victims and the trafficking process ⁽¹⁵³⁾. While not a data collection exercise, the number of IOM-assisted cases illustrates the situation of trafficking in human beings on the ground.

While all of the sources mentioned above contain some data on trafficking in human beings for labour exploitation, it is insufficient to perform EU- and global-level statistical analysis on common indicators such as the number of court judgments issued on the topic. **Table 4.1** below provides an overview of the main sources of data on trafficking in human beings for labour exploitation in EU Member States and briefly describes the related issues.

⁽¹⁵⁰⁾ Eurostat working paper, *Trafficking in human beings* (2014), available at: https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/trafficking_in_human_beings_-_eurostat_-_2014_edition.pdf. The first EU statistical data report on trafficking in human beings covering the years 2008-2010 is available at: <https://ec.europa.eu/anti-trafficking/node/4057>. The second report with data for the years 2010-2012 is available at: <https://ec.europa.eu/anti-trafficking/node/4810>; UNODC, *Global report on trafficking in persons* (2009), United Nations Global Initiative to Fight Human Trafficking, available at: http://www.unodc.org/documents/Global_Report_on_TIP.pdf; OSCE, *From policy to practice: combating trafficking in human beings in the OSCE region — 2006 annual report submitted by the Anti-Trafficking Assistance Unit, OSCE Secretariat*.

⁽¹⁵¹⁾ The first EU statistical data report on trafficking in human beings covering the years 2008-2010 is available at: <https://ec.europa.eu/anti-trafficking/node/4057>. The second report with data for the years 2010-2012 is available at: <https://ec.europa.eu/anti-trafficking/node/4810>.

⁽¹⁵²⁾ UNODC, *Global Report on Trafficking in Persons* (2009), available at: <http://www.unodc.org/unodc/en/human-trafficking/global-report-on-trafficking-in-persons.html>; 2012 edition available at: http://www.unodc.org/documents/data-and-analysis/glotip/Trafficking_in_Persons_2012_web.pdf; 2014 edition available at: http://www.unodc.org/documents/data-and-analysis/glotip/GLOTIP_2014_full_report.pdf.

⁽¹⁵³⁾ IOM, *IOM 2011 case data on human trafficking: global figures and trends* (February 2012), <http://www.humantrafficking.org/uploads/publications/IOM-Global-Trafficking-Data-on-Assisted-Cases-2012.pdf>.

Table 4.1 Main sources of data on trafficking in human beings for labour exploitation in EU Member States

	Source	Publication	Data period	Main issues
EU level	Eurostat	Report on trafficking in human beings 2015 edition ⁽¹⁵⁴⁾	2008-2012	Data incomplete. National authorities are not able to provide sufficiently comparable data on trafficking in human beings by form of exploitation. Inter alia, data on case-law on trafficking in human beings for forced labour is insufficient.
Global level	UNODC	Global report on trafficking in persons 2014, 2012, 2009 editions	2003-2012	As above, data incomplete.
	IOM	IOM case data: global figures and trends in human trafficking 2012 edition	2000-2010	Data on IOM assistance provided to trafficked persons illustrating the situation on the ground. No data on investigations, prosecutions or case-law.

For the 2014 Eurostat working paper *Trafficking in human beings*, EU Member States were asked to provide data on the number of court judgments by form of exploitation. However, not all Member States were able to do so (e.g. Belgium, Czech Republic, Denmark, Croatia, Finland, Ireland, Italy, the Netherlands, Portugal, Romania, Slovenia, Slovakia, partly, the United Kingdom) ⁽¹⁵⁵⁾. Many Member States record the type of offence — trafficking in human beings — but not the form of exploitation. For this reason, there is **no comprehensive data on the case-law on trafficking in human beings for labour exploitation, including forced labour**. Similarly, due to these limitations, no statistical analysis of the available data on court judgments or case-law has been performed at EU level.

Many proactive initiatives have been undertaken to develop and improve data collection methods to produce comparable EU-level statistics, including projects to strengthen the comparability of EU statistics on trafficking in human beings and to provide an overview of national data on trafficking in human beings across several Member States. The EU has also funded projects for the production of a data collection model in several countries to collect information on victims and perpetrators and to develop operational indicators on trafficking in human beings, as well as guidelines for collecting information on trafficking. Reliable, comparable data is needed to effectively implement anti-trafficking efforts and to evaluate their results, including how the criminal justice systems of EU Member States respond to trafficking in human beings for forced labour. In order to address the current lack of data, including those concerning case-law on trafficking in human beings for forced labour, the EU should continue to develop its work on data collection methods to produce comparable statistics at the EU level.

It is expected that the full implementation of Directive 2011/36/EU will further improve data collection systems in the EU Member States ⁽¹⁵⁶⁾. As required by Article 19 of the directive, most Member States have established national rapporteurs or equivalent mechanisms tasked inter alia with gathering statistics in close cooperation with relevant civil society organisations active in this field. To ensure comparability of this data at EU level, the European Commission and the EU Anti-trafficking Coordinator work closely with national rapporteurs or equivalent mechanisms.

4.2. Collection of case-law in EU Member States

This section provides a quantitative overview of case-law identified by national experts in this study, as well as challenges faced by national experts in collecting the case-law. The case-law identified is compiled and categorised for each Member State (in Annex VII).

⁽¹⁵⁴⁾ The first EU statistical data report on trafficking in human beings covering the years 2008-2010 is available at: <https://ec.europa.eu/anti-trafficking/node/4057>. The second report with data for the years 2010-2012 is available at: <https://ec.europa.eu/anti-trafficking/node/4810>

⁽¹⁵⁵⁾ Information taken from country notes to the Eurostat working paper, *Trafficking in human beings* (2014), available at: https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/trafficking_in_human_beings_-_eurostat_-_2014_edition.pdf, p. 132; The first EU statistical data report on trafficking in human beings covering the years 2008-2010 is available at: <https://ec.europa.eu/anti-trafficking/node/4057>. The second report with data for the years 2010-2012 is available at: <https://ec.europa.eu/anti-trafficking/node/4810>

⁽¹⁵⁶⁾ Eurostat, *Trafficking in human beings* (2015), https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/eurostat_report_on_trafficking_in_human_beings_-_2015_edition.pdf, p. 15; The first EU statistical data report on trafficking in human beings covering the years 2008-2010 is available at: <https://ec.europa.eu/anti-trafficking/node/4057>. The second report with data for the years 2010-2012 is available at: <https://ec.europa.eu/anti-trafficking/node/4810>

The number of cases of trafficking in human beings for forced labour identified during the reference period (2009–2013) across all EU Member States is limited. In six Member States and parts of the United Kingdom (Northern Ireland and Scotland), no case-law was identified at all. In 11 Member States fewer than six cases were identified. These low figures can be attributed either to a low level of prosecution of the offence of trafficking in human beings for forced labour in the particular Member State or to difficulties in accessing the trafficking in human beings for forced labour judgments.

The highest numbers of cases were identified in Belgium, France, the Netherlands and Romania.

In most Member States there are too few cases to conduct a meaningful analysis of trends. Even in Member States where a greater amount of case-law for the 2009–2013 reference period was identified (such as in Belgium, France, the Netherlands and Romania), no significant differences were noted in the number of cases adjudicated across the reference period. A few observations can however be made, as mentioned below.

Observations in selected Member States

- **The Netherlands.** A lack of case-law is noted in the years 2012 and 2013. For the year 2012, this observation is confirmed in the 2013 report of the national rapporteur, which states that: 'Another negative development is the decline in the number of cases being brought before the courts. Despite the increase in the number of investigations that have been completed and passed on to the Public Prosecution Service in recent years, there was only one judgment in first instance in one case in 2012⁽¹⁵⁷⁾. In view of the upward trend since 2009, partly due to a landmark judgment by the Supreme Court⁽¹⁵⁸⁾, that is a disappointing development⁽¹⁵⁹⁾.'
- **United Kingdom (England).** During the reference period a slow upward trend can be discerned in the number of judgments under the Immigration and Asylum (Treatment of Claimants, etc.) Act 2004: 2 in 2010, 4 in 2011, 3 in 2012, 6 in 2013. Although growing awareness of modern slavery crimes has led to more cases coming through the criminal justice system, cuts in resources to the Gangmasters Licensing Authority (a labour inspectorate) and a failure on the part of many agencies (including the judiciary) to understand the nature of modern slavery, and thus take action which might lead to prosecution of cases effectively, may have obscured the true level of cases which should have been pursued.

Low prosecution rates

As mentioned above, prosecution rates of trafficking in human beings for forced labour in some Member States remain very low, and in six Member States there have been none. Many of the Member States identified as main source countries (e.g. Estonia, Croatia, Hungary, Lithuania, Latvia, Poland, Portugal, Slovakia) have particularly low rates of prosecution. One reason for this could be that the cases are investigated, prosecuted and adjudicated abroad, or the victims do not even turn to authorities abroad due to language barriers or lack of means to remain in the country for the time of investigation⁽¹⁶⁰⁾. As a result, authorities also have less experience with cases of trafficking in human beings for forced labour. This can affect the effective identification of such cases⁽¹⁶¹⁾. In Bulgaria and Romania, also source countries, relatively more case-law was identified. This may be explained by coordinating efforts between sending and receiving countries. For example, the United Kingdom police (particularly the Metropolitan Police in London) have run a joint trafficking operation with their Romanian counterparts for some years.

Moreover, in several Member States, cases that could include elements of trafficking in human beings for forced labour are prosecuted under alternative offences such as smuggling of persons or fraud.

These issues and other challenges that act as obstacles to the investigation and prosecution of cases of trafficking in human beings for forced labour are described in further detail in **Section 6** of this report.

⁽¹⁵⁷⁾ LJN BY7662, Zwolle District Court, 14 December 2012. This was a case in which the director of an employment agency had brought female Polish employees into a position of dependency. The victims in this case were dependent on him in multiple ways. Cf. with respect to the principal suspect.

⁽¹⁵⁸⁾ Case study 2: Judgment B17099 of the Supreme Court of the Netherlands — third instance (cassation) (NL-003-3).

⁽¹⁵⁹⁾ The explanation for this sharp decline in the number of judgments (at first instance) is not entirely clear. Practitioners refer to the fact that the hearing of forced labour cases is not given priority because suspects are often no longer in custody before and during the trial. Priority is rather given to cases in which they are. Another point mentioned is the complexity of forced labour cases. Sources say there are occasions when a lot of additional evidence still has to be gathered after an investigation has been handed over to the Public Prosecution Service. These arguments can only be part of the explanation, however, since the same factors applied in previous years.

⁽¹⁶⁰⁾ Latvian country fiche: interview with Latvian Prosecutor, June 2014; Interview with Ministry of Interior, June 2014.

⁽¹⁶¹⁾ Hungary country fiche.

Difficulties in accessing case-law data at national level

For several Member States, relatively few cases have been identified due to issues of accessibility of case-law. For this reason, in at least 11 Member States, the case-law identified is not exhaustive (see Table 4.2 below). The main difficulties in accessing case-law data at national level were as follows.

Types of challenges encountered in accessing case-law

Issues with the case-law databases:

- databases of case-law are not exhaustive (e.g. only the most significant judgments of all courts are centrally available);
- there are no centralised databases — some private databases contain certain court judgments but this is on an ad hoc basis;
- database search forms are complicated, usually do not provide required information on trafficking in human beings cases, are incomplete and are not refined.

In some Member States the judgments can only be discovered by requesting them from the court with the reference number. Reference numbers are not publicly available. Even with the reference number, the courts do not have the resources to retrieve these from the archives (this is a particular challenge in large Member States such as Germany with many district courts where a centralised database would be of particular value).

As detailed in the methodology in Section 1 above, steps taken by the national experts to identify case-law during the course of the study included the following.

- Search through national online databases for case-law.
- Stakeholder consultation by phone and email. Types of stakeholders consulted include the relevant government ministries, NGOs, lawyers, attorney generals, public prosecutors, national anti-trafficking coordinators, labour inspectors, police, academic experts, ombudspersons, judges, permanent representations to the EU, IOM, interdepartmental groups on combating and preventing human trafficking, Observatory on Trafficking in Human Beings.
- Requests to courts for judgments.
- Requests to dedicated bodies within the relevant ministries (e.g. the Central Office for Combating Illegal Labour (Office central de lutte contre le travail illégal — OCLTI) in France; Interministerial Committee for Combating and Preventing Trafficking in Human Beings (MOI) in Poland).
- Additional desk research.

A detailed summary of steps taken by national experts to identify the case-law, as well as specific challenges encountered with regard to case-law accessibility, is presented in Annex III.

Table 4.2 below presents the number of judgments identified in all Member States by national experts through the steps described above. The numbers of judgments are disaggregated by court instances (first, second and third instance courts). As explained in the methodology relating to the identification of case-law in Section 1, the number of judgments identified include cases that are still subject to appeal and therefore not final (e.g. first or second instance judgments that are pending appeal).

The final row of Table 4.2 indicates whether the number of judgments identified is regarded as exhaustive. Where the number of judgments is indicated as being exhaustive (in 16 Member States), this is done on the basis that stakeholders consulted for the study have confirmed this, and/or on the basis that the national databases contain centralised exhaustive lists of judgments. Where the number of judgments is indicated as non-exhaustive, this conclusion was reached following extensive research and stakeholder consultation, including requests to courts to access the judgments.

As mentioned above the case-law analysis for this study focuses on cases prosecuted under the offence provisions specifically relating to trafficking/trafficking for forced labour or labour exploitation. While some Member States have prosecuted cases of trafficking for forced labour under related legislation (for example, in the United Kingdom, many trafficking cases during the study's reference period were prosecuted under the Coroners and Justice Act 2009 relating to slavery, servitude and forced compulsory labour), these cases have not been analysed in the context of this study,

Table 4.2 Case-law prosecuted under trafficking in human beings for forced labour/labour exploitation offence provisions identified in Member States

Trafficking in human beings for forced labour case-law identified in Member States (in the reference period 2009-2013)																														
MS	AT	BE	BG	CY	CZ	DE	DK	EE	EL	ES ⁽¹⁶²⁾	FI	FR	HR	HU	IE	IT	LT	LU	LV	MT	NL	PL	PT	RO	SE	SI	SK	UK		
																												E & W	Scot	NI
First instance	1	44	6	2	4	5	2		1	0	8	7	2			1		1	1		20	3		22	5	3	1	9		
Second instance	1	5	1		4	1	1			0	5	5	1						1		6	1		2	1	2		3		
Third instance	-	-	1			1			1	0		7							1		1			10						
Total No of judgments	2	49	8	2	8	7	3	0	2	0	13	19	3	0	0	1	0	1	3	0	27	4	0	34	6	5	1	12	0	0
Total No of cases	2	44	6	2	4	6	2	0	2	0	8	14	2	0	0	1	0	1	1	0	25	4	0	34	5	2	1	9		
Is the case-law identified exhaustive?	x	x	x	√	x	x	√	√	x	√	√	√	x	√	√	√	√	√	√	√	x	x	√	x	√	√	x	x	√	√

⁽¹⁶²⁾ In Spain there are no cases under Art. 177 bis of the Criminal Code, which penalises trafficking in human beings. All the cases are either related to crimes against the rights of workers, penalised under Art. 311 and 312 of the Spanish Criminal Code, or Art. 318 bis of the Criminal Code, which penalises crimes against foreign citizens.

5. Case-law analysis

This section provides a comparative overview of the national case-law analysed during the course of this study, including observations on characteristics of trafficking in human beings for forced labour and observations on the investigation, prosecution and judgments of selected cases. The analysis focuses on Member States in which case-law was identified. As no case-law was identified in Estonia, Ireland, Malta and Portugal, these Member States do not feature in the analysis.

Examples and cross-references to the case studies are provided throughout the section, with references to the case study codes used to identify cases in the country fiches. For more detailed information on the specific cases, see the case studies in Annex IV. For a full list of codes and related case-law references, see Annex V.

5.1. Observations on characteristics of trafficking for forced labour in the case-law identified

The paragraphs below provide observations on the main characteristics of trafficking in human beings for forced labour in the case-law identified across Member States during the study. As explained in Section 4.2 above, the categorisation of case-law is not exhaustive — the observations below are therefore based on the identified case-law only.

(a) Sectors of forced labour

The main sectors in which trafficking in human beings for forced labour occurred among the prosecuted cases include: domestic servitude, accommodation and food services activities (e.g. the hotel industry and the restaurant business), agriculture, forestry and fishing, cleaning services, construction, manufacturing, arts, entertainment and recreation, transportation and storage, and information and communication.

Table 5.1 below outlines the main sectors of trafficking in human beings for forced labour observed in the case-law identified in the EU Member States for this study:

Table 5.1 Observations on the sectors in which trafficking in human beings for forced labour offences occur in Member States

MS	Observations on the sectors in which trafficking in human beings for forced labour offences occur in Member States
AT	<ul style="list-style-type: none"> • Activities of households as employers
BE	<ul style="list-style-type: none"> • Accommodation and food services activities • Construction • Activities of households as employers (domestic work) • Information and communication technology • Wholesale and retail trade, repair of motor vehicles and motorcycles • Agriculture, forestry and fishing • Horse riding school • Sorting second-hand clothes shop • Sanitary sector • Carwash • Horticulture • Cleaning services • Sale of textile on markets
BG	<ul style="list-style-type: none"> • Agriculture, forestry and fishing (picking strawberries in Sweden, taking care of animals) • Activities of households as employers (cleaning of hotel rooms) • A scrap collection site

MS	Observations on the sectors in which trafficking in human beings for forced labour offences occur in Member States
CY	<ul style="list-style-type: none"> • Construction • Agriculture, forestry and fishing • Hotel industry
CZ	<ul style="list-style-type: none"> • Construction • Agriculture, forestry and fishing • Food industry
DE	<ul style="list-style-type: none"> • Arts, entertainment and recreation • Activities of households as employers • Transportation and storage • Hairdresser
DK	<ul style="list-style-type: none"> • Cleaning business
EE	-
EL	<ul style="list-style-type: none"> • Dancer in striptease club • Agriculture (strawberry picking)
ES	<ul style="list-style-type: none"> • Agriculture, forestry and fishing • Construction • Arts, entertainment and recreation • Information and communication technology • Manufacturing • Activities of households as employers • Transportation and storage • Accommodation and food service activities
FI	<ul style="list-style-type: none"> • Accommodation and food service activities • Agriculture, forestry and fishing • Manufacturing • Human health and social work activities
FR	<ul style="list-style-type: none"> • Activities of households as employers (non-diplomatic households as employers of child day-carers) • Agriculture, forestry and fishing • Manufacturing • Construction
HR	<ul style="list-style-type: none"> • Carwash • Agriculture and farming
HU	-
IE	-
IT	<ul style="list-style-type: none"> • Agriculture, forestry and fishing
LU	<ul style="list-style-type: none"> • Information and communication technology • Activities of households as employers
LT	-
LV	<ul style="list-style-type: none"> • Arts, entertainment and recreation
MT	-

MS	Observations on the sectors in which trafficking in human beings for forced labour offences occur in Member States
NL	<ul style="list-style-type: none"> • Accommodation and food service activities • Agriculture, forestry and fishing • Activities of households as employers • Nail and massage salon • Chinese restaurant • Mushroom farm • Work on the market • Meat industry • Cooking, frying and packing of rice crackers and banana chips • Construction
PL	<ul style="list-style-type: none"> • Agriculture, forestry and fishing • Ship industry
PT	-
RO	<ul style="list-style-type: none"> • Agriculture, forestry and fishing • Construction • Cleaning services • Accommodation and food service activities • Arts, entertainment and recreation • Sheep herding • Transportation and storage
SE	<ul style="list-style-type: none"> • Domestic work • Agriculture, forestry and fishing • Construction • Wholesale and retail trade, repair of motor vehicles and motorcycles
SI	<ul style="list-style-type: none"> • Agriculture, forestry and fishing
SK	<ul style="list-style-type: none"> • Manufacturing • Wholesale and retail trade, mining and quarrying, construction
UK	<ul style="list-style-type: none"> • (E & W): Activities of households as employers, accommodation and food service activities (restaurant business), charity shops (collecting clothes) • (Scotland and NI): -

(b) Nationalities of victims

An analysis of the countries of origin of victims in the case-law identified revealed that most victims of trafficking in human beings for forced labour are EU citizens. Many victims, however, also originated from outside the EU, mainly from Brazil, China, Morocco, Ukraine, Vietnam, India and Bangladesh. This is broadly in line with the Eurostat statistics covering all forms of trafficking in human beings ⁽¹⁶³⁾.

As regards EU citizens, many of these victims originated from eastern Europe, particularly Romania, Bulgaria, Poland, Slovakia and the Czech Republic. With respect to eastern European Member States the case-law also revealed that many victims originated from with the relevant Member State or from a neighbouring Member State. For example, in the Slovenian cases analysed, the victims were Slovenian or Slovakian. In Romania, out of 64 cases analysed, 94 % of the victims were Romanian. This may indicate domestic trafficking — as in the case of Romania, where around 20 % of all victims of trafficking in human beings for forced labour are victims of internal trafficking ⁽¹⁶⁴⁾ — and that many victims of cross-border trafficking return home and only then turn to authorities/NGOs.

⁽¹⁶³⁾ Eurostat working paper, *Trafficking in human beings* (2014), available at: https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/trafficking_in_human_beings_-_eurostat_-_2014_edition.pdf, p. 40; The first EU statistical data report on trafficking in human beings covering the years 2008-2010 is available at: <https://ec.europa.eu/anti-trafficking/node/4057>. The second report with data for the years 2010-2012 is available at: <https://ec.europa.eu/anti-trafficking/node/4810>

⁽¹⁶⁴⁾ Romanian country fiche, data from the Romanian Agency against Trafficking in Persons draft annual report 2013, p. 8.

(c) Nationality of the offenders

It emerged from the identified case-law that most offenders were EU citizens. Many of the offenders are from eastern Europe, particularly Slovakia, Poland, Bulgaria and Romania. This includes cases where offenders were nationals of the Member State in which the exploitation occurred. This observation broadly corresponds to the statistics reported on all forms of trafficking in human beings by Eurostat ⁽¹⁶⁵⁾.

Among the offenders, many were nationals of the Member State in which the trafficking for forced labour in question occurred (i.e. the destination Member State). This was observed in many of the cases identified in Belgium, Bulgaria, Cyprus, Germany, Denmark, Greece, Spain, France, Croatia, Hungary, Poland, Romania, Sweden, Slovenia and Slovakia. Nevertheless, it was also observed that offenders of the same Member State (i.e. the source countries) traffic their own nationals abroad. Such cases were identified, for example, in the case-law of Romania, the Czech Republic and Latvia.

As for offenders from outside the EU, they were mainly nationals from China, Ukraine, India, Turkey, Pakistan and Brazil. For instance, Swedish and Slovakian case-law revealed that persons who originally came from Pakistan and Ukraine were engaged in trafficking their country nationals to Sweden and Slovakia.

(d) Recruitment of victims (identified through case studies)

The case-law analysed for this study illustrates that most often victims are recruited through friends, family, colleagues and acquaintances. These findings, however, cannot be verified as there is no EU-level data available on the number of victims by means and ways of recruitment. Most Member States do not collect such data ⁽¹⁶⁶⁾.

On the basis of the case-law analysed, it was possible to identify the following ways of recruitment in the trafficking of human beings for forced labour.

⁽¹⁶⁵⁾ Eurostat working paper, *Trafficking in human beings* (2014), available at: https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/trafficking_in_human_beings_-_eurostat_-_2014_edition.pdf, p. 47; The first EU statistical data report on trafficking in human beings covering the years 2008-2010 is available at: <https://ec.europa.eu/anti-trafficking/node/4057>. The second report with data for the years 2010-2012 is available at: <https://ec.europa.eu/anti-trafficking/node/4810>

⁽¹⁶⁶⁾ See Eurostat working paper, *Trafficking in human beings* (2014), available at: https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/trafficking_in_human_beings_-_eurostat_-_2014_edition.pdf; The first EU statistical data report on trafficking in human beings covering the years 2008-2010 is available at: <https://ec.europa.eu/anti-trafficking/node/4057>. The second report with data for the years 2010-2012 is available at: <https://ec.europa.eu/anti-trafficking/node/4810>.

Key observations in ways of recruitment

Traffickers and victims know each other:

- traffickers and victims have worked together in the source country;
- traffickers and victims were acquaintances before the event;
- victim involved in a romantic relationship with the perpetrator.

Traffickers recruit the victim through intermediaries:

- recruitment through victim's family members, in some cases money was paid to the victim's family in exchange for the victim;
- recruitment through acquaintances;
- recruitment through an agency in the home country;
- recruitment through trafficker's contact person in the home country;
- recruitment through an employment agency established by the traffickers;
- recruitment through an agency in destination country;

Traffickers recruit the victims directly:

- recruitment by the traffickers directly by promising the victims work for high earnings and other false promises;
- recruitment through the traffickers directly by convincing/forcing the victims to travel with him/her to destination country;
- recruitment through an organised criminal group.

Victims respond to work offers/contact the trafficker directly:

- victims responded to a job offer;
- victims asked if they could work for the trafficker.

Other:

- recruitment through word of mouth;
- recruitment via the internet;
- recruitment in public places (including homeless hostels, soup kitchens) (to identify people with nowhere to live or work);
- recruitment through adoption by the family.

As illustrated above, recruiters often gain the trust of victims because they come from the same country or have worked together in the source country. In many of the cases analysed, the recruitment took place in the country of the victim's origin. Furthermore, the victims often had some form of connection with the trafficker, either through family or acquaintances.

Examples of recruitment of trafficking in human beings for forced labour victims through family contacts and acquaintances

Finland: One of the victims in the case, was recruited from Vietnam through family contacts. She was asked to come to Finland to work in a nail salon; she was told that she would be able to get wealthy there, and support her family. The negotiations were held with the first victim's cousin, who was the mother of one of the defendants. The second victim and the first victim's partner, was recruited to come and help at the nail studio after it was discovered that the first victim was pregnant. The first victim recommended his employment to the defendants ⁽¹⁶⁷⁾.

Luxembourg: The victim is believed to have lived in China with her father (the maternal uncle of one of the defendants) in precarious conditions given her father's alcoholic and gaming tendencies. When she was 10 years old, the defendant's parents (the aunt and uncle of the victim) took the victim into their care and quickly convinced her to join her cousin in Luxembourg where she would live a better life ⁽¹⁶⁸⁾.

Romania: Two victims (with disabilities) were recruited for the purposes of trafficking in human beings for forced labour through their family members. One of the victim's fathers negotiated with the trafficker and received RON 300 (around EUR 65) and 5 kg of cheese in return for his son ⁽¹⁶⁹⁾.

⁽¹⁶⁷⁾ Case study 4: R12/2465, Helsinki District Court, first instance (FI-004-1); stakeholder interview.

⁽¹⁶⁸⁾ Case study 1: Arrêt No 249/2014 du 24 April 2014 du Tribunal d'arrondissement de Diekirch (LU-001).

⁽¹⁶⁹⁾ Case study 2: Penal Decision No 1814/28 May 2014 of the High Court of Cassation and Justice (RO-24-01); Indictment No 27D/P/2012 of the Penal Decision No 16/07 February 2013 of Calarasi Tribunal, p. 16.

Recruitment through the trafficker's contact person or an agency in the home country was also noted in many of the cases analysed. For example, a Cypriot case study indicated that the alleged victims were recruited by employment agencies in Romania which cooperated with the defendant's private employment agency. The defendant paid for the victim's airplane tickets and offered them the service of finding them jobs in Cyprus ⁽¹⁷⁰⁾. In a case analysed in Romania, the defendants contacted, either in person or by phone, a representative of the six victim communities. They told them that they were assembling a team of workers for harvesting potatoes and working in the vines. The representative then liaised with several villagers interested in finding a job in agriculture. The defendants promised the victims a wage of EUR 40 or 50 per day based on a contract, accommodation, three meals per day and transportation to and from the plantation ⁽¹⁷¹⁾.

A number of case studies revealed that recruitment can take place through the traffickers directly by convincing/forcing the victims to travel with him/her to the destination country, often promising the victims work for high earnings and other false promises. For example, a Slovenian case study indicated that the trafficker recruited both victims himself in Slovakia, and drove them to Slovenia. The perpetrator visited both of the victims himself and convinced them to come to Slovenia with him to earn money. He gave the older one of the two victims approximately EUR 100 to earn his trust ⁽¹⁷²⁾.

Some case studies also revealed cases where recruitment took place through an organised criminal group. For example, an Italian case study reported that the defendants were part of a criminal organisation that published misleading job advertisements in Poland and other eastern European countries promising well-paid work and accommodation in Italy in the agricultural sector. The people answering the advertisements were taken to an isolated location in the south of Italy where they were forced to work in agriculture ⁽¹⁷³⁾.

(e) Migratory status of victims

The migratory status of victims is a common reason for the unwillingness of victims to report trafficking for forced labour and to cooperate with the investigation and prosecution authorities. This is especially the case for non-EU victims who may face the threat of deportation. Among the cases analysed, irregular migrant victims were identified in Greece, Spain, France, Italy, Romania and Slovakia, while asylum seekers and refugees were identified as victims in Finland and France.

Most of the victims in the case studies identified were however EU citizens who under EU law enjoy protection against deportation. Nevertheless, many of these victims were involved in undeclared work or worked illegally in Member States applying restrictions to free movement of migrant workers based on the transitional arrangements set out in the accession treaties. Until the end of 2013, for instance, Romanian and Bulgarian nationals who wanted to work in the United Kingdom needed the permission of the Home Office in order to do so (unless they qualified under an exemption ⁽¹⁷⁴⁾). Similar restrictions applied to Romanian and Bulgarian workers in Austria, Belgium, France, Germany, Luxembourg, Malta, the Netherlands and Spain ⁽¹⁷⁵⁾. In such situations, often combined with other circumstances such as no knowledge of local language, EU victims are also less willing to report the crime and cooperate with authorities to prosecute the offenders.

(f) Vulnerabilities of victims (identified through case studies)

In many of the case studies analysed, the victims of trafficking in human beings for forced labour demonstrated vulnerability. According to recital 12 of Directive 2011/36/EU, particularly vulnerable persons should include at least all children. In the context of this study, vulnerability is understood in its broadest sense as any condition which contributes to the person falling victim to trafficking for forced labour. The case-law analysed showed that most often the

⁽¹⁷⁰⁾ Case study 1: Republic of Cyprus v Ioanni Piriipitsi and George Savva, Case No 248/2009, 30 March 2011 (CY-001).

⁽¹⁷¹⁾ Case study 1: Penal Decision No 51RC/5.06.2014 of High Court of Cassation and Justice (RO-30-01).

⁽¹⁷²⁾ Case study 2: II K 40060/2012, District Court of Maribor (SI-002).

⁽¹⁷³⁾ Case study 1: Judgment of the Court of Cassation 40045/10 of 24 September 2010 (IT-001).

⁽¹⁷⁴⁾ Such exemptions were skilled work permit employment; low-skilled employment under the Seasonal Agricultural Worker Scheme or food processing work under the Sector-Based Scheme. See Home Office, *Review of the balance of competences between the United Kingdom and the European Union — Single market: free movement of persons* (2014), available at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/335088/SingleMarketFree_MovementPersons.pdf, p. 23.

⁽¹⁷⁵⁾ Ibid.

victims were vulnerable to trafficking due to their age or physical and mental condition, often combined with other social, cultural and economic factors.

The most common vulnerabilities identified in the case-law analysed are highlighted in the box below:

Key observations in vulnerabilities of victims of trafficking in human beings for forced labour

Vulnerabilities of victims:

- poverty in home country/from poor rural communities/need to support their families/no financial means (dependency on traffickers to survive);
- low level of education (difficulties reading or writing, or safeguarding their interests);
- minors;
- psychosocial disabilities/poor psychological state;
- unemployment/unable to find other employment;
- victims are deaf;
- unfavourable social circumstances;
- poor health alcohol dependent;
- advanced age;
- low self-esteem.

In many of the cases analysed, victims demonstrated several of the vulnerabilities mentioned above. Often children or people with disabilities, as well as people with a low level of education who had experienced poverty in their home country, became victims of trafficking for forced labour. The box below provides such an example where there are multiple vulnerable elements.

Example from case study 2: Penal Decision No 1814/28 May 2014 of the High Court of Cassation and Justice (RO-24-01)

Romania: The victims were uneducated, from rural areas and, at the time of recruitment, had no job. To ensure that the victims did not resist, the defendant recruited people with mental and physical disabilities, who were easy to handle, obedient and who knew nothing about the value of money, nor of their rights as workers ⁽¹⁷⁶⁾.

Such vulnerability was interpreted by a French court as making the victim susceptible to abuse as stated in the box below.

Example from case study 1: 10208000094, first instance (FR-006-1); 13-00129, Caen Court of Appeal, second instance (FR-006-2)

France: The victim is described in the court decision as being 'especially vulnerable', 'intellectually weak' and with a poor command of the French language. In a psychiatric examination, the victim was described as being intellectually disabled, regardless of language and cultural issues. The victim was not regarded as unreliable but as someone particularly dependent and passive, in a way that would enable him to accept a potential situation of abuse ⁽¹⁷⁷⁾.

Circumstances that exacerbated the victim's vulnerability were also noted during the situations of forced labour, as outlined in the box below. Some of these vulnerabilities were created by the traffickers, such as threats and isolation of the victim, while some were taken advantage of by the trafficker, such as the victim's lack of knowledge of rights and language. In particular, in many cases pressure not to report the situation of forced labour was exerted on the victims because of their irregular status. Another common characteristic was the isolation of the victims in the destination country linked to a lack of knowledge of the local language. This has impacts upon their access to services such as the job centre, medical practitioners, housing and law enforcement agencies.

⁽¹⁷⁶⁾ Case study 2: Penal Decision No 1814/28 May 2014 of the High Court of Cassation and Justice (RO-24-01).

⁽¹⁷⁷⁾ Case study 1: 13-00129, Caen Court of Appeal, second instance (FR-006-2).

Vulnerabilities in the context of the forced labour

- Issues related to migratory status (i.e. not allowed to enter into legal employment/no work permit/visas issued only in relation to work with the offender/no valid residence documents/illegal residence status/no access to health insurance or a bank card/threatened that passport and residence permit would be taken if left work).
- No knowledge of local language or English.
- Debt bondage (transportation, accommodation, meals paid by the trafficker).
- Personal documents taken away, therefore completely dependent on perpetrator.
- Victims in complete isolation in destination country (no contact with any other persons)/social exclusion/no friends or family).
- No knowledge of local labour legislation/rights as a worker.
- Illness of the victim during the period of exploitation.
- Fear of the police as purposely described by the offender as dangerous and violent.

5.2. Observations on the investigation/prosecution of cases (as identified through case studies)

5.2.1. Investigation of cases of trafficking in human beings for forced labour

■ Identification/reporting of offences

In most of the case-law analysed for this study, trafficking in human beings for forced labour was reported to the law enforcement authorities by the victims themselves. The box below illustrates the ways in which the offence was identified in the case-law of the Member States.

Key observations in ways trafficking in human beings for forced labour offences were identified

- Reported directly by the victim to the police.
- Investigation by labour inspectors.
- Identified following a police investigation.
- Reported by another victim/through an anonymous tip.
- Identified in the context of a financial investigation.
- Identified by the school attended by one of the children of the victims.
- Reported by an NGO/civil society actor.
- Identified in the context of a control of the victim's migratory status.
- Reported by the victim to an Embassy of the victim's nationality.
- Reported by family members in the country of origin of the victim.
- Police investigation launched following the violent assault on the victims.
- Identified by a Ministry in a Member State when applying for a work visa; the victim was subsequently supported in reporting the offence to the police.
- Phone call reports of SOS hotline for trafficking in human beings victims or other telephone helplines.

In some countries, NGOs played an active role in the identification of offences. For example, in France the Committee against Modern Slavery (CMS) brought the case to the attention of the authorities in several of the cases analysed in the case studies (see FR-006-2 ⁽¹⁷⁸⁾; FR-002-3 ⁽¹⁷⁹⁾).

⁽¹⁷⁸⁾ Case study 1: 13-00129, Caen Court of Appeal, second instance (FR-006-2).

⁽¹⁷⁹⁾ Case study 3: 08-80787, Court of Cassation, third instance (FR-002-3).

Cases were also identified following an investigation by the police, and to a lesser extent, labour inspectors, immigration and tax authorities.

Example of identification of trafficking in human beings for forced labour by labour inspectors

Slovakia: The case was brought to the attention of the police by a labour inspectorate. They discovered various women working illegally in a bakery in Žilina (a city in northern Slovakia). The police then started to investigate the case and step by step revealed its complexity, discovering that a large number of people (around 200) were brought from Ukraine for forced labour in Slovakia ⁽¹⁸⁰⁾.

In several cases, the offence was brought to the attention of the authorities by the embassy of the victim's nationality (see for example BG-001 ⁽¹⁸¹⁾). In one case analysed, the offence was reported by family members from the country of origin of the victim to the consulate of the country where the victim was exploited, as they were not able to contact or had no news about the victims (IT-001 ⁽¹⁸²⁾). In another case, some of the victims managed to escape and contacted the Romanian Embassy in Prague. The offence was then reported to the authorities (CZ-002 ⁽¹⁸³⁾).

A few case studies also revealed instances where offences were identified in schools, either through the child of the victim or where the victims themselves attended the school. In the case analysed in Luxembourg, for example, the victim was identified by school teachers, who noticed her absence and sleep deprivation. Eventually, an NGO was contacted that referred the matter to a tribunal. The prosecutor then ordered a preliminary investigation by the police ⁽¹⁸⁴⁾.

■ Victim protection and support

Many case studies reported that victims of trafficking in human beings for forced labour received protection and support during and after criminal investigations and proceedings, including legal advice, legal representation and psychological help. Types of victim protection and support programmes identified in the case-law of several Member States are described in Table 5.2 below.

Table 5.2. Types of victim protection and support programmes identified

MS	Types of victim protection and support programmes identified	Case reference
AT	Victim protection programme, including legal advice, legal representation and psychological help.	AT-001
BE	Support from the NGO Pagasa (psychological, legal, practical and housing assistance). The victim made use of the status of victim of human trafficking, which enables the person to obtain a temporary, and later on possibly permanent, residence document. One of the conditions to enjoy this benefit is an effective cooperation with the judicial authorities in the prosecution of the perpetrator of human trafficking ⁽¹⁸⁵⁾ . The victim in that case also enjoys assistance by a specialised reception centre, including housing, psychological and practical support.	BE-003-1 BE-33-1
CZ	The victims were offered participation in the Programme of Support and Protection of Victims that is funded by the Ministry of the Interior. It offers social support such as psychological counselling, housing or whatever the victim in his/her situation needs ⁽¹⁸⁶⁾ .	CZ-001; CZ-002; CZ-003; CZ-004
DK	The victims were awarded assistance from the Danish Centre against Human Trafficking (Center mod Menneskehandel — CMM) through the CMM's protection programme. The programme entailed safe houses, repatriation and an educational course for minors. It also ensured that victims who were returned were provided with support ⁽¹⁸⁷⁾ .	DK-001-1; DK-002-1
EL	The victims were legally represented at the pre-trial stage and during the court proceedings by two NGOs, namely the Greek Council for Refugees and the Hellenic League for Human Rights. The victims were granted residence permits as victims of trafficking in human beings ⁽¹⁸⁸⁾ .	EL-002

⁽¹⁸⁰⁾ Case study 1: BB-3T/13/2012 Plechov and others, Specialised Criminal Court (SK-001); based on the interview with the police.

⁽¹⁸¹⁾ Case study 1: Case number 30186, 16 June 2010, Regional Court Montana (BG-001).

⁽¹⁸²⁾ Case study 1: Judgment of the Court of Cassation 40045/10 of 24 September 2010 (IT-001).

⁽¹⁸³⁾ Case study 2: Judgment 7 Tdo 1261/2013 (CZ-002).

⁽¹⁸⁴⁾ Case study 1: Arrêt No 249/2014 du 24 April 2014 du Tribunal d'arrondissement de Diekirch (LU-001).

⁽¹⁸⁵⁾ Article 61/2–61/4 of the Law of 15 December 1980 on 'the access to the territory, the stay, the residence and the removal of foreigners' (Wet betreffende de toegang tot het grondgebied, het verblijf, de vestiging en de verwijdering van vreemdelingen/'Loi sur l'accès au territoire, le séjour, l'établissement et l'éloignement des étrangers), entered into force on 1 July 1981, Government Gazette 31 December 1980.

⁽¹⁸⁶⁾ Available at: <http://www.mvcr.cz/clanek/obchod-s-lidmi-pomoc-obetem.aspx>

⁽¹⁸⁷⁾ Information collected through consultation with the Danish police.

⁽¹⁸⁸⁾ Information obtained through stakeholder consultation (February 2015).

MS	Types of victim protection and support programmes identified	Case reference
FI	Special legal assistant assigned to the case, and support under the victim assistance system. The Joutseno victim support centre and the Vaasa reception centre were involved in helping the victims. Legal aid.	FI-004-1; FI-007-2; FI-001-1; FI-003-2
FR	Support from the Committee against Modern Slavery, including support with paying for legal representation (FR-002-3)	FR-006-2; FR-002-3; FR-001-3
LV	State granted rehabilitation course at the NGO Safe House.	LV-001
LU	The victim was hosted by one NGO and was also protected for some time by the police. The police managed to maintain most contact with the victim throughout the procedure and the police interviewee indicated they had strived to also provide some kind of social assistance in so doing.	LU-001
PL	Victims were given shelter in the House for Single Mothers in Ścinawa and in Social Assistance House in Lubin.	PL-005-1
SK	One of the victims was integrated into the IOM Support Programme (mainly for psychological help and support with social integration).	SK-001
SI	Upon discovery of the criminal offence, the police contacted the organisation Ključ. Ključ arranged all the support the victim needed (accommodation in a safe house, psychological, psychiatric and medical treatment, including to treat his alcohol dependence, legal help, 24-hour access to support from the workers at Ključ, security protection, accompaniment everywhere he wanted to go and to the court, planning a re-integration process, help with the processing of documents, therapy with animals). Ključ also helped the victim to file for compensation according to the Crime Victim Compensation Act, and made an agreement with a private law firm to represent the victim during the trial before the court. In February 2008 the competent social work centre appointed itself to act as a guardian of the victim.	SI-001-1
UK	In the United Kingdom most victims identified by police are supported by the Salvation Army and its sub-contracted service providers through the national referral mechanism.	

■ Role of labour inspectors

The national experts from many Member States reported that the labour inspectors did not play a significant role in the investigation/prosecution of cases of trafficking in human beings for forced labour. In the vast majority of the case-law analysed, victims reported the crime to the police themselves. The police then acted on the complaints and carried out the investigation. Labour inspectors were not involved in such cases.

There were, however, some exceptions. Labour inspectors were involved and supported the investigation in several cases in Belgium, Cyprus, Finland, Slovakia and Spain. Their involvement included providing expert witness testimonies and notifying the police following a workplace inspection. In the Dutch cases, the investigation of trafficking in human beings for forced labour was conducted by the Labour Inspectorate. Examples of labour inspector involvement as identified in the case studies are presented in **Table 5.3** below.

Table 5.3 Examples of involvement of labour inspectors in the investigation of cases of trafficking in human beings for forced labour

MS	Examples of involvement of labour inspectors in the investigation of cases of trafficking in human beings for forced labour
BE	<p>In general, labour inspectors in Belgium are actively involved in detecting forced labour. They carry out inspections and can work together with the Labour Prosecutor and the police to investigate and prosecute trafficking in human beings for forced labour.</p> <ul style="list-style-type: none"> In case study 5 (BE-15-1 — Case Corr. Tongeren, 7 October 2010, 9de k ⁽¹⁸⁹⁾), labour inspectors carried out an inspection in the place where the alleged forced labour took place. In case study 3 (BE-33-1 — Corr. Charleroi, 26 October 2012, 7de k ⁽¹⁹⁰⁾), the inspection services were involved in the investigation activities (no more details available). They were contacted upon the instruction of the prosecution services, who were informed by the police services. In case study 4 (BE-38-1 — Corr. Tournai, 6 September 2012 ⁽¹⁹¹⁾), a multidisciplinary investigation was undertaken, but the labour inspectors only had a secondary role, while most of the investigation activities were carried out by the police services. The victim did not have direct contact with the labour inspectors.

⁽¹⁸⁹⁾ Case study 5: Corr. Tongeren, 7 October 2010, 9de k (Dutch) (BE-15-1).

⁽¹⁹⁰⁾ Case study 3: Corr. Charleroi, 26 October 2012, 7de k (French) (BE-33-1).

⁽¹⁹¹⁾ Case study 4: Corr. Tournai, 6 September 2012 (French) (BE-38-1).

MS	Examples of involvement of labour inspectors in the investigation of cases of trafficking in human beings for forced labour
	Labour inspectors have played an important role in the successful prosecution of the accused by providing key or expert witness testimonies ⁽¹⁹²⁾ .
CY	Case study 1 (CY-001 ⁽¹⁹³⁾): labour inspectors helped the police with the investigation and the victims in getting them registered first as unemployed in order to receive social benefits for housing and alimentation and then in finding new employment. They also acted as witnesses in the case ⁽¹⁹⁴⁾ . There is a joint team from two departments — the Department of Labour and the Department of Labour Inspection — who are responsible for raiding premises with the help of the police in order to investigate cases of alleged labour trafficking and/or labour law infringements. This joint team was created by a decree issued by the Minister of Labour. This team was responsible for raiding the premises for this investigation.
FI	Case study 6 (FI-007-2 ⁽¹⁹⁵⁾): the labour inspectors provided evidence for the prosecution on the working conditions, pay and other benefits. The labour inspectors can inspect the work places and conduct interviews with the employees. However, if there is to be a criminal trial, the responsibility for the investigation will be transferred to the police or other law enforcement officials, such as border guards.
SK	Case study 1 (SK-001 — Case BB-3T/13/2012 Plechov and others ⁽¹⁹⁶⁾): the National Labour Inspectorate discovered women working illegally in a bakery and informed the police. Based on an agreement between the Ministry of Interior and the Labour Inspectorate, regular checks are carried out by the inspectorate in areas of the private sector that are especially susceptible to forced labour ⁽¹⁹⁷⁾ .
ES	The labour inspector played an active role in several of the cases analysed. <ul style="list-style-type: none"> In case study 1 (ES-001-2 ⁽¹⁹⁸⁾) and case study 2 (ES-014-2 ⁽¹⁹⁹⁾), the labour inspectors started the investigation. In case study 4 (ES-15-3 ⁽²⁰⁰⁾), the labour inspector opened several infringement records, registering the fact that the defendant was abusing the irregular situation in which his workers were, imposing conditions which violated their rights as workers ⁽²⁰¹⁾.
NL	The Labour Inspectorate in principle starts the investigation and is the investigator for cases of trafficking in human beings for forced labour. This was confirmed by all six case studies analysed for this study.

5.2.2. Court proceedings

The case studies prepared for this study provide insight on the court proceedings in each of the cases analysed. This includes the type of evidence submitted, issues relating to the testimony of victims, whether the defendant was present in court, witness protection mechanisms in place and any difficulties experienced during the trial. This section outlines the main findings.

■ Type of evidence submitted to court

Evidence submitted for the most part included victim and witness testimonies and police reports. In many cases, wiretaps were used (e.g. AT-001 ⁽²⁰²⁾; DK-002 ⁽²⁰³⁾; IT-001-01 ⁽²⁰⁴⁾; DE-001-01 ⁽²⁰⁵⁾; SK-001 ⁽²⁰⁶⁾). Other types of corroborating evidence were presented in the cases. These, together with the main source of evidence mentioned above, are outlined in the box below.

⁽¹⁹²⁾ Case study 1: Republic of Cyprus v Ioanni Piripitsi and George Savva, Case No 248/2009, 30 March 2011 (CY-001); case study 2, Nicosia Police Chief v Nikos Strouthos [25 September 2013] No 19377/2010 [ref] (CY-002).

⁽¹⁹³⁾ Case study 1: Republic of Cyprus v Ioanni Piripitsi and George Savva, Case No 248/2009, 30 March 2011 (CY-001).

⁽¹⁹⁴⁾ Ibid.

⁽¹⁹⁵⁾ Case study 6: national reference not available, Vaasa Appeal Court, second instance (FI-007-2).

⁽¹⁹⁶⁾ Case study 1: BB-3T/13/2012 Plechov and others, Specialised Criminal Court (SK-001).

⁽¹⁹⁷⁾ Ivana Bachtíková, Natália Ulrichová, *Annual report on asylum and migration policies, Slovak Republic 2013 — Report of national contact point of European Migration Network in Slovak Republic*, available at: http://www.employment.gov.sk/files/slovensky/ministerstvo/integracia-cudzincov/emn-sk_ann-report-on-migr-asyl-polici-sr_2013_en.pdf, p. 50-51.

⁽¹⁹⁸⁾ Case study 1: 53/2009, 3 February 2009, Provincial Court of Barcelona (Audiencia Provincial de Barcelona) — second instance (ES-001-2).

⁽¹⁹⁹⁾ Case study 2: Judgment of the Provincial Court of Madrid 109/2012, 29 February 2012 (ES-014-2).

⁽²⁰⁰⁾ Case study 4: Judgment of the Provincial Court of Teruel 00017/2011, 27 May 2011 (*Sentencia de la Audiencia Provincial de Teruel 00017/2011*) (ES-15-3).

⁽²⁰¹⁾ Judgment of the Provincial Court of Lugo 41/2010, 29 March, Proven Facts, para. 1' (*Sentencia de la Audiencia Provincial de Lugo 41/2010 de 29 de marzo, Hechos Probados, párrafo 1*).

⁽²⁰²⁾ Case study 1: Case No 15 Os 167/12s (AT-001-02).

⁽²⁰³⁾ Case study 2: Case No 1-2738/2013 (DK-002-1).

⁽²⁰⁴⁾ Case study 1: Judgment of the Court of Cassation 40045/10 of 24 September 2010 (IT-001).

⁽²⁰⁵⁾ Case study 1: Judgment of the District Court Hannover of 4 March 2009 — 89 KLS 2/07 6413 Js 12278/07 (DE-001-01).

⁽²⁰⁶⁾ Case study 1: BB-3T/13/2012 Plechov and others, Specialised Criminal Court (SK-001).

Type of evidence submitted in cases of trafficking in human beings for forced labour

- Victim and witness testimonies.
- Wiretapped recordings as permitted under the relevant national law ⁽²⁰⁷⁾.
- Reports of observation missions.
- Police reports.
- Statements from specialists including:
 - child protection services;
 - medical experts (psychiatrists; psychologists; traumatologists).
- Contracts of employment.
- Excerpts from the victim's and perpetrator's bank accounts.
- Summary of salary payments.
- Printouts of phone calls, texts and bills.
- Email communications.
- Records and photography from the place where the victims were held.
- Criminal records of the perpetrators.
- Computer forensics of the defendants' laptops.
- Financials of the recruitment agency established by the defendants.
- Tax records.
- Rental agreements.
- Mobile phone bills.
- Bus card usage records.
- Building records.
- Social security records on victims.
- Asylum applications of the victims.
- Residence and work permit applications.
- Country-of-origin reports.
- Copies of newspaper advertisements.

Victim testimony

In most of the case studies analysed, victims testified in court. Many national experts highlighted the crucial role victim and witness testimonies played in the prosecution of cases of trafficking in human beings for forced labour.

The box below provides an example of the type of information contained in the victim's testimony:

⁽²⁰⁷⁾ The control regimes for the use of wiretapping techniques vary significantly among Member States. For more information see: European Commission, *Study on paving the way for future policy initiatives in the field of fight against organised crime: the effectiveness of specific criminal law measures targeting organised crime* (2015), available at: http://ec.europa.eu/dgs/home-affairs/e-library/docs/20150312_1_amoc_report_020315_0_220_part_1_en.pdf, p. 254.

Case study 3: National reference not available, 3 October 2013, Pohjanmaa District Court, first instance (FI-003-1)

Finland: The District Court convicted the defendants of aggravated extortion and assault rather than trafficking in human beings for forced labour. The court used the victims' testimonies on the situation of the victims in Vietnam and in Finland to establish whether the conditions for human trafficking were present.

They testified with respect to:

- the living situation in Vietnam;
- the working conditions and pay in Finland;
- their economic situation;
- how they had arrived in Finland and what the different options available to them were;
- how they were dependent on the defendant for their situation in Finland;
- the consequences of the costs incurred on transport to Finland for the victims and their families.

In some cases, the victims did not testify and were represented by their lawyers who repeated the pre-trial declarations of various victims during the adversarial debates before the court (BE-33-1 ⁽²⁰⁸⁾). In cases where the victims were underage (i.e. under 18), they did not testify (e.g. BE 11-1 ⁽²⁰⁹⁾).

In certain cases, some victims who were not present during court proceedings had their testimonies read from a protocol from the pre-trial stage (e.g. CZ-001 ⁽²¹⁰⁾ and LV-001 ⁽²¹¹⁾). This was also the case when victims changed their testimony at the trial stage due to the pressure placed upon them by defendants (e.g. PL-005-1 ⁽²¹²⁾). In some cases the victims and witnesses could not be located, and they therefore did not testify (e.g. in EL-001-1 ⁽²¹³⁾ — the defendant was nevertheless found guilty of trafficking in human beings for forced labour based on other evidence secured by the police). In SE-002 ⁽²¹⁴⁾, the victims testified through video-link from Bulgaria.

In IT-001 ⁽²¹⁵⁾, victims were not required to testify in court as the defendants chose a special proceeding (*rito abbreviato*). Such a judicial proceeding is shorter and does not require the testimony of witnesses or victims in court ⁽²¹⁶⁾. The write-ups of the testimony they provided during the investigation were used instead.

Presence of defendant in court

In many of the cases analysed the defendant was present in court. In some cases however, measures were in place to reduce the victim's exposure to the defendant, including having the defendant present behind a protective screen (SE-005), or preventing the defendant and general public from being present in the proceedings. An example of such steps taken in a case in Slovenia is presented below.

5.2.3 Delivery of judgments**5.2.3.1. Time taken for courts to issue judgment**

The time taken for the national courts to take a decision varies significantly across the Member States and between the case studies. A court might issue its judgment as quickly as on the same day of the trial or within eight days thereof or it may take up to five years.

⁽²⁰⁸⁾ Case study 3: Corr. Charleroi, 26 October 2012, 7de k (French) (BE-33-1).

⁽²⁰⁹⁾ Case study 2: Corr. Gent, 16 November 2009, 19de k (Dutch) (BE-11-1).

⁽²¹⁰⁾ Case study 1: Judgment 17 T 6/2010 (CZ-001).

⁽²¹¹⁾ Case study 1: Judgment No K04-045-11/18, Judgment No PAK-271, Judgment No SKK-2/2013 (LV-001).

⁽²¹²⁾ Case study 1: Regional Court in Legnica, III Criminal Division (court of first instance), III K 2/13 (PL-005-1).

⁽²¹³⁾ Case study 1: Supreme Court Judgment No 673/2011 (EL-001).

⁽²¹⁴⁾ Case study 2: Judgment B 2220-11 of the District Court of Hudiksvall (SE-002).

⁽²¹⁵⁾ Case study 1: Judgment of the Court of Cassation 40045/10 of 24 September 2010 (IT-001).

⁽²¹⁶⁾ Information collected through consultation with national stakeholders (representative of law enforcement authorities).

For example, in one Austrian case study the decision was not appealed, and the judgment was delivered on the same day as the trial ⁽²¹⁷⁾. Moreover, in one case, the Spanish Provincial Court of Valencia took eight days to issue its judgment ⁽²¹⁸⁾. On the other hand, all of the court proceedings in a Czech case took around five years in total ⁽²¹⁹⁾, whilst a Latvian case has been pending for six years ⁽²²⁰⁾.

While the length of proceedings relates to variations in standard legal procedures, they are worth mentioning in the context of this study as long court proceedings were mentioned by many national experts as an obstacle to the prosecution of traffickers. Victims and witnesses remember less well the circumstances of the offence and some even decide not to testify due to the feeling that offenders will not be convicted. For the same reason, in Member States where long court proceedings are more the rule than an exception, victims are generally less willing to report the offence and cooperate with the authorities.

Specifically with regard to the delivery of first instance judgments, the time ranged from **less than three months to five years and nine months**. For example, one Slovenian case took less than three months from the charges being brought (11 July 2008) until the delivery of the judgment at first instance (3 October 2008) ⁽²²¹⁾. Moreover, a Lithuanian case ⁽²²²⁾ took six and a half months from the case being brought to court (2 September 2011) until the issuance of the first instance judgment (23 March 2012). On the other hand, a Romanian court ⁽²²³⁾ took 69 months (March 2003 to December 2008) to issue its first instance judgment and a Spanish court took four years (July 2000–2004) to issue its judgment ⁽²²⁴⁾.

The time taken for courts to issue second instance judgments ranged from two months to five years. For example, the Romanian Timisoara Court of Appeal took two months to issue its decision ⁽²²⁵⁾ and the Board of Appeals of Patras took three months to issue its decision ⁽²²⁶⁾. On the other hand, a Spanish court took five years (2004–2009) to issue its second instance judgment ⁽²²⁷⁾, while a Romanian court took 26 months (December 2008–March 2011) ⁽²²⁸⁾. Time frames for third instance judgments ranged from six months to four years. A German Court took six months (13 January 2010 to 20 July 2010) to issue its decision ⁽²²⁹⁾. Similarly, the Bulgarian Court of Cassation took approximately seven months to issue its judgment ⁽²³⁰⁾. On the other hand, a Romanian ⁽²³¹⁾ court of third instance took about 48 months to issue its decision.

5.2.3.2. *Observations on national courts' reasoning*

National courts have provided interpretations of key concepts involved in the prosecution of cases of trafficking in human beings for forced labour including: the requirement of intent, direct involvement, consent, withholding of wages or excessive wage reductions that violate previously made agreements, restriction of movement and confinement to the workplace or to a limited area. The main reasons for dismissing cases initially charged as trafficking for forced labour stemmed from a lack of evidence to establish the constitutive elements of this offence, including where there were difficulties in proving that the offence constituted a breach of human dignity, abuse of a position of vulnerability or where there were problems with witness testimony.

⁽²¹⁷⁾ Case study 2: Case number 041 S Hv 6/11t (AT-002-01).

⁽²¹⁸⁾ Case study 6: Judgment of the Provincial Court of Valencia 887/2013, 27 December, Proven Facts, para. 2, Second Instance (Sentencia de la Audiencia Provincial de Valencia 887/2013 de 27 de diciembre, Hechos Probados, párrafo 2) (ES-18-02).

⁽²¹⁹⁾ Case study 2: Judgment 7 Tdo 1261/2013 (CZ-002).

⁽²²⁰⁾ Case study 1: Riga Regional Court of the Republic of Latvia, No K04-045-11/18 (LV-001).

⁽²²¹⁾ Case study 1: K 109/2008, Novo Mesto Local Court, first instance (SI-001-1); III Kp 155/2008, Novo Mesto Local Court, second instance (SI-001-2); K 96/2009, Novo Mesto Local Court, first instance (SI-001-3); III Kp 68/2009, Novo Mesto Local Court, second instance (SI-001-4).

⁽²²²⁾ Case study 1: Vilnius District Court, 1-62-172/2012 (LT-001).

⁽²²³⁾ Case study 4: Penal Decision No 209/A/31.10.2013 of Cluj Court of Appeal (RO-026-01).

⁽²²⁴⁾ Case study 1: 53/2009, 3 February 2009, Provincial Court of Barcelona (Audiencia Provincial de Barcelona) — second instance (ES-001-2).

⁽²²⁵⁾ Case study 3: Penal Decision No 3249/26 September 2011 of High Court of Cassation and Justice (RO-013-03).

⁽²²⁶⁾ Case study 2: Judgment 118/2014 (EL-002).

⁽²²⁷⁾ Case study 1: 53/2009, 3 February 2009, Provincial Court of Barcelona (Audiencia Provincial de Barcelona) — second instance (ES-001-2).

⁽²²⁸⁾ Case study 4: Penal Decision No 209/A/31.10.2013 of Cluj Court of Appeal (RO-026-01).

⁽²²⁹⁾ Case study 3: Judgment of the District Court Hannover of 4 March 2009 — 89 KLS 2/07 6413 Js 12278/07 (DE-001-03).

⁽²³⁰⁾ Case study 2: Sentence No 115, 30 October 2012, Regional Court Haskovo, first instance BG-002-1; Sentence No 8, 19 March 2013, District Court Haskovo, second instance BG-002-2; Decision No 415, 28 October 2013, Supreme Court of Cassation, third instance BG-002-3.

⁽²³¹⁾ Case study 4: Penal Decision No 209/A/31.10.2013 of Cluj Court of Appeal (RO-026-01).

These issues are discussed in this section, drawing on examples from the case studies. Definitions of trafficking in human beings for the purposes of forced labour as interpreted by the national courts are described in **Section 3.1.3** above.

(a) Insufficient evidence

Many of the cases analysed were dismissed or charges were brought under alternative offence provisions due to insufficient evidence, including inconsistencies and problems in establishing the facts of the case.

In a number of cases, defendants were acquitted for a lack of sufficient evidence. In the Bulgarian case analysed below, the Supreme Court overturned the conviction and highlighted that the second instance court had failed to resolve conflicting evidence.

Bulgaria case study 2: Sentence No 115, 30 October 2012, Regional Court Haskovo, first instance (BG-002-1); Sentence No 8, 19 March 2013, District Court Haskovo, second instance (BG-002-2); Decision No 415, 28 October 2013, Supreme Court of Cassation, third instance (BG-002-3)

Key facts: Case involving the exploitation of a Bulgarian shepherd. The defendant, a farmer in Bulgaria, hired the alleged victim as a shepherd. The alleged victim lived on the premises provided by the farmer. However, after a certain period of time the victim left the animals and went to another village to take care of the animals of other persons. The farmer went to find the shepherd, forced him into his car and drove back to his village. The conviction at first and second instance was overturned by the Court of Cassation and sent back to the District Court for review.

Legislation applied: Article 159a and Article 159b Criminal Code (human trafficking for forced labour).

Decision of the District Court Haskovo: The defendant was found not guilty in a new decision by the District Court: the evidence produced was regarded as insufficient to substantiate the guilt of the defendant.

In a Finnish case, the defendants were acquitted of trafficking for forced labour as it was not possible to establish that the victim was recruited in illegal conditions and that the living conditions were inadequate. The Appeal Court judge highlighted the difficulties with collecting evidence in this case, and that the elements for proving a case of trafficking for forced labour should be kept in mind during the investigation. In particular, the Appeal Court referred to difficulties in assessing how insecure the situation in the country of origin prior to arrival was, proving how the arrival in Finland was funded, defining working time and determining why a person was working under the conditions.

Finland case study 2: R12/1508, Turku Appeal Court, first instance (FI-002-1); R13/1070, Turku Appeal Court, second instance (FI-002-2)

Key facts: The case deals with the trafficking for forced labour of a Kurdish victim. The victim was smuggled into Finland the first time from Greece. Indebted to the defendant, the victim worked long hours for the defendant's shop and restaurant. The victim's movements were restricted. The victim resided in a reception centre for refugees and was supported by the Finnish government social security benefits for refugees.

Legislation applied: Section 25(3) of the Criminal Code.

Decision by the Turku Appeal Court: This case is an appeal from the District Court of Varsinais-Suomi. At the first instance, the District Court did not convict the defendants of trafficking for forced labour but convicted them for aggravated extortion and work discrimination with respect to several victims. One of the victims appealed to change the conviction from aggravated extortion to trafficking in human beings for forced labour. The Appeal Court found the defendants not guilty of trafficking for forced labour, but upheld the conviction for aggravated extortion.

The Appeal Court found that it was not possible to establish that the victim was recruited and kept in circumstances that corresponded to the elements set out in the trafficking legislation. In particular, the Court found that the victim had not been recruited for forced labour and his living conditions were adequate. Rather, the defendant was guilty of extortionate work discrimination — there was enough evidence to prove that the defendant had abused the situation, especially the lack of financial means of the victim, and his lack of knowledge of the Finnish labour laws, benefits and employee rights.

(b) Proving conditions contrary to human dignity

Several Member States use the concept of 'conditions contrary to dignity' in the legislation governing trafficking for forced labour. As noted above this is a broad concept which gives considerable discretion for the judge to interpret. The reference to the concept of human dignity was used in case-law analysed for Belgium, France and Cyprus.

Cases where conditions contrary to human dignity were established

In a first instance Belgian case from 2012 involving the exploitation of Chinese victims in a restaurant (see box below), the Court held that the victims found themselves in conditions contrary to human dignity. In its reasoning, the Court asserted that the core element of the trafficking offence (Article 433 quinquies of the Criminal Code) of working conditions contrary to human dignity was established, based on the existence of the following elements: low salaries, absence of social security, inhumanity in the labour relationship, excessive working hours and rudimentary housing conditions without a minimum degree of comfort.

Belgium case study 4: Corr. Tournai, 6 September 2012 (French) (BE-38-1)

Key facts: This case deals with the economic exploitation of Chinese individuals by Chinese restaurant owners in Belgium. Both victims declared that they arrived in Belgium via a 'snakehead' organisation (Chinese mafia). The first victim claimed that he worked 14 hours per day (sometimes more) and received EUR 800 per month; later on EUR 1 000. The second victim worked 14 hours a day for a salary of EUR 400 per month from March 2006 to August 2007 in similar conditions. The working conditions were poor: they were not allowed to take breaks, meals consisted of client leftovers and they were also obliged to carry out renovation jobs. They lived in precarious circumstances. In case of police inspections, he and the other employees had to hide in a cellar. The defendant dumped both victims on the street in Antwerp (after finding out that one was ill and the other demanded unpaid wages) and threatened them with reporting their illegal residence to the police.

Legislation applied: Article 433 quinquies of the Criminal Code (human trafficking); Article 77 bis of the Law of 15 December 1980 regarding access to the territory, the residence, the stay and the removal of foreigners (human smuggling); Articles 4, 12, 14 and 17 of the Law of 30 April 1999 regarding the employment of foreign employees (illegal employment); several provisions (unspecified) of the Law of 27 June 1969 on the social security of workers.

Reasoning of the Court of First Instance of Doornik, Criminal Section: The restaurant owners were convicted of trafficking in human beings with regard to six victims ⁽²³²⁾, of human smuggling regarding two persons, of illegal employment with respect to 22 persons and of violations of social security laws with regard to 12 persons. The court ruled that the victims found themselves in a particularly vulnerable situation and that their labour and living conditions were contrary to human dignity:

'It results from the totality of these elements and in particular the declarations of the different foreign workers, mostly severely dramatic, that they have been exploited in the context of human trafficking Nothing can reasonably contest that these foreign workers found themselves in a particularly vulnerable situation, being without identity documents, in illegal residence and without resources, far away from their countries that they mostly left via clandestine networks in inhumane conditions The number of workers indicates that the accused were aware of this precarious situation, and that they unscrupulously abused the dependence that the situation of the victims had created for them.'

Similarly, in a case prosecuted in Cyprus (see box below), the court examined the accommodation conditions to determine whether the conditions were contrary to human dignity.

Cyprus case study 2, Nicosia Police Chief v. Nikos Strouthos, Case No 19377/2010, 25 September 2013 (CY-002)

Key facts: The defendant was the owner of a farm in Nicosia district. He employed a large number of workers including Egyptians and Syrians. While managing the business he regulated the working hours and living conditions of the men. The men who were brought to Cyprus in order to work in the farm worked more than 10 hours a day for 7 days a week with a small break. The defendant held the workers' passports and their contracts. Their pay was so insignificant that it could not cover their basic nutrition needs. Moreover, their salaries were withheld for one or two months. The men lived in degrading conditions in a cabin provided by the defendant. There were humidity problems and problematic drainage. The drainage caused waste leakage resulting in contamination of the site. The Department of Labour inspector testified in court that the living conditions were appalling and unhealthy.

Legislation applied: Articles 2, 3, 4, 5, 8, 13 and 17 of Law 87(I)/2007, 'Combating of Trafficking and Exploitation of Persons and the Protection of Victims Law'.

Decision from the Permanent Criminal Court of Nicosia: The court found the defendant guilty of trafficking for forced labour. According to the court, forced labour was established in the necessary degree for criminal cases (beyond reasonable doubt) because the men were forced to work more than 10 hours a day for 7 days a week with a small break, their passports were taken away and they lived in accommodation the state of which violated human dignity.

In a broader interpretation of the concept of human dignity, a Belgian Court in Ghent (see box below) held that the conditions of the work were irrelevant in establishing conditions contrary to human dignity. The Court focused on the fact that the accused had abused the vulnerable position of the victim.

⁽²³²⁾ Details are only available with respect to two victims, as they were assisted by the specialised reception centres, which provided the specific information.

Belgium case study 6: Corr. Ghent, 2 April 2012, 19de k (Dutch) (BE-44-1)

Key facts: This case deals with the economic exploitation by a Belgian national (of Sierra Leone origin) of a Sierra Leone national in Ghent, Belgium. The accused was prosecuted for human trafficking and human smuggling, falsification of documents, and fraud. The victim paid USD 3 500 to the accused to be brought to Europe. Upon his arrival in Ghent, the victim received free shelter at the home of the accused. In exchange, the defendant sent the victim to work and organised for the victim's salary to be paid to an account linked to a false identity that the victim never received.

Legislation applied: Article 433 quinquies of the Criminal Code (human trafficking); Article 77 bis of the Law of 15 December 1980 regarding access to the territory, the residence, the stay and the removal of foreigners (human smuggling); several provisions (unspecified) of Chapter IV of the Criminal Code (falsification of documents); several provisions (unspecified) of Chapter II of the Criminal Code (fraud).

Decision by the Court of First Instance of Ghent, Criminal Section: The Court found the accused guilty of falsification of documents, fraud, human smuggling and trafficking in human beings, in conditions contrary to human dignity.

The court ruled that the consent of the victim to the employment was irrelevant, as well as the fact that he had been employed in a normal work environment and in normal labour conditions. The court found that the accused had abused of the vulnerable position of the victim given his illegal residence and the lack of social protection and financial means. The victim had no other reasonable choice than to suffer the abuse.

Penalties/compensation:

- Penalty: three years' imprisonment (of which 18 months on probation) and a fine of EUR 11 000.
- Compensation: EUR 10 625 (material and moral damages).

The concept of human dignity has also been subject to different interpretations in the French courts. In the Supreme Court case summarised below, regarding a child trafficked and subjected to forced domestic work, the Court of Appeal had first dismissed the case on the basis that the victim was living in similar conditions as the family. The Supreme Court, however, found that the working conditions were indeed contrary to human dignity, asserting that all forms of forced labour are incompatible with human dignity.

France case study 3: 08-80787, Court of Cassation, third instance (FR-002-3)

Key facts: An Ivorian national was illegally brought to France at the age of 15 to work at the house of the accused and care for the children. The victim was especially vulnerable as she was a child with no legal residence status. Her parents died during the period for which she was subjected to forced labour. She did not have a passport and was fully dependent on the family she was working for. More specifically, the victim did not receive remuneration for her childcare and domestic work. She did not go to school and did not have any days off or holidays. She did not have any private space in the house as she was sleeping on a mattress on the floor in the same room as the children.

Legislation applied: Article 225-14 of the Criminal Code on living and working conditions contrary to human dignity; Article 1382 of the Civil Code regarding civil damages; Article 4 of the European Convention on Human Rights.

Decision by the Court of Appeal: The Court of Appeal dismissed the claim based on the living and working conditions contrary to human dignity. In particular, the court noted that the alleged victim had affective relationships with the children of the family and had similar housing conditions as the family members. The Court of Appeal issued a civil penalty on the grounds of the illegal employment of an immigrant and the abuse of a person's situation of vulnerability to obtain unpaid services.

Decision by the Court of Cassation: The court referred to the definition of forced labour stating that all forced labour is contrary to human dignity. It upheld the argument of the victim that according to the case-law of the European Court of Human Rights (ECtHR), the fact of submitting a child in a foreign country, in an illegal situation, fearing arrest by the police, to constant work without remuneration constitutes forced labour within the meaning of Article 4 of the European Convention on Human Rights. The court ruled that the victim was subject to forced labour, as defined by the ECHR, and therefore to working and living conditions that are incompatible with human dignity.

Penalties/compensation: The Court of Cassation confirmed the award of monetary compensation that had been decided by the Court of Appeal, along with the prison sentence of one month. The compensation was of EUR 5 000 and covered both material and moral damages.

Cases where conditions contrary to human dignity were not established

In an earlier case in Belgium from 2009 (see summary for case study 2 in box below), the Court found that there was no coercion, abuse of power or fraud with regard to the employment of the underage person, and ruled that the notion of 'employment in conditions contrary to human dignity' implies forced labour, such as slavery or servitude.

Belgium case study 2: Corr. Ghent, 16 November 2009, 19de k (Dutch) (BE-11-1)

Key facts: This case deals with the illegal employment of several Chinese individuals in a restaurant by two Dutch nationals of Chinese origin. Among the Chinese individuals were one underage person (16 years old) (S.W.) and students.

Legislation applied: Article 433 quinquies of the Criminal Code (human trafficking); Article 77 bis of the Law of 15 December 1980 regarding the access to the territory, the residence, the stay and the removal of foreigners (human smuggling); Article 77 of the Law of 15 December 1980 regarding access to the territory, the residence, the stay and the removal of foreigners (assistance in illegal immigration); Article 12 para. 1(1)(a) of the Law of 30 April 1999 regarding the employment of foreign employees (illegal employment); Articles 4-8 and 9bis of the Royal Decree of 5 November 2002 implementing the immediate declaration of employment (violation of social security law); Article 6 of the Royal Decree of 23 October 1978 regarding the keeping of social documents; and Article 123 of the Law of 3 July 1978 regarding the labour agreements (violation of labour law).

Decision of the Court of First Instance of Ghent, Criminal Section: The court did not accept the trafficking in human beings charges. The defendants offered assistance and shelter, but this was not with the aim of employing these persons in conditions that are contrary to human dignity. The court found that the following elements demonstrate that there is no coercion, abuse of power or fraud in the employment of S.W.

- Upon her arrival, H.X.F. arranged for a declaration of arrival and she continued to insist at the immigration service on valid residence and employment documents.
- She was registered on 10 January 2006 for part-time education and since 1 September 2005 has attended Dutch courses.
- She was officially considered as a dependent person of H.X.F. on 22 January 2006.
- She has possessed a learning agreement since 12 January 2006.
- On the same day, immediate declaration of her employment was carried out.
- S.W. mentions that she attends courses and helps, at her own initiative, with the welcoming of guests, cleaning, etc.
- She sleeps in a modern room.
- The appointed guardian testifies that there is a relationship of trust between S.W. and the accused.

Similarly, in another case in France ⁽²³³⁾ involving an Ivorian national exploited in domestic work for a family in France, the Court of Cassation found that 'although the victim did not receive payment, did not have a contract, did not have a work permit and was not declared to the French authorities for the purposes of social contribution, she was neither subject to trafficking in human beings nor to working and living conditions that were contrary to human dignity'.

(c) Proving abuse of vulnerability of the victim

In several cases, charges of trafficking for forced labour were dismissed due to difficulties in proving the elements to establish abuse of a person's vulnerability.

The Greek case of Manolada involving the exploitation of Bangladeshi workers in strawberry fields ⁽²³⁴⁾ (see box below) is a good illustration of difficulties in establishing the concept of vulnerability. While the defendants were convicted under the offence of inflicting grievous bodily harm, the court found that there was not enough evidence to establish the concept of vulnerability and acquitted all defendants for the unlawful act of trafficking in human beings for forced labour on the basis of Article 323A of the Criminal Code. This case highlighted difficulties in submitting evidence on the life situation and living conditions of the victims potentially establishing their vulnerability to the specific provision of the penal law on trafficking of human beings, with regard to the requirement of 'luring the victim by taking advantage of his/her vulnerable position' ⁽²³⁵⁾.

⁽²³³⁾ Case study 4: 11-84119, Court of Cassation, third instance (FR-001-3).

⁽²³⁴⁾ *BBC News*, 'Greece farm shooting: 30 injured in pay dispute', 18.4.2013, available at: <http://www.bbc.com/news/world-europe-22198699>; *The Independent*, 'Greek farmers who shot 28 workers for demanding pay walk free from court in "scandalous, racist" verdict', 31.7.2014, available at: <http://www.independent.co.uk/news/world/europe/greek-farmers-who-shot-28-workers-for-demanding-pay-walk-free-from-court-in-scandalous-racist-verdict-9639273.html>; *The Guardian*, 'Greek court acquits farmers who shot 28 Bangladeshi strawberry pickers', 31.7.2014, available at: <http://www.theguardian.com/world/2014/jul/31/greek-court-acquits-farmers-shot-strawberry-pickers>; *BBC News*, 'Greek farmers charged with shooting migrants freed', 31.7.2014, available at: <http://www.bbc.com/news/world-europe-28588250>. A video recorded immediately after the shooting is available at: http://www.ekathimerini.com/4dcgi/_w_articles_ws-ite1_1_18/04/2013_494495, Ekathimerini news website, 18.4.2013.

⁽²³⁵⁾ Article 323A(2) of the Greek CC uses the term 'το παρὰσούρει εκμεταλλευόμενος την ευάλωτην θέσιν του' which translated literally means that the victim is 'drifted' by taking advantage of his/her vulnerable position.

Greece case study 2: The 'Manolada' case (EL-002)

Key facts: The case involved the exploitation of 30 Bangladeshi workers in strawberry fields. The owner and foremen of a strawberry farm, as well as the businessman financing the production, exclusively receiving and then distributing the strawberries to the market, were accused of shooting and wounding around 30 Bangladeshi strawberry-pickers who were demanding their unpaid wages; some of the immigrants were seriously injured.

The immigrants were working for low wages and were provided with materials to build shacks in which they all lived together. The victims received their food and products for personal hygiene from a specific local supermarket that had an agreement with the producer and the respective costs were deducted from their monthly wage.

The shooting occurred when the victims went on strike during the peak of the strawberry harvest season to claim the wages for the past six months and the owner of the farm sought to take on other workers, causing tension in the field as the victims tried to prevent the newly brought strawberry-pickers from working. One of the foremen shot in the air to intimidate the victims and when they remained in the field, he opened fire on them.

Legislation applied: Article 323A of the Greek Criminal Code.

Decision by the Mixed-Member Jury Court of Patras: The court unanimously acquitted all the defendants in respect of trafficking in human beings for forced labour offence. The court of first instance found that there was not enough evidence to establish the concept of vulnerability on the basis of Article 323A of the Criminal Code. The defendants were, however, convicted of the criminal act of grievous bodily harm. The verdict was reviewed by the Prosecutor General of the Supreme Court ⁽²³⁶⁾ that found that there were no grounds for appeal in cassation ⁽²³⁷⁾.

The Czech court also refers to the 'abuse of distressful circumstances'. The case summarised below involved the exploitation of Polish and Slovak workers, and the defendants were convicted of trafficking for other forms of labour exploitation (rather than forced labour on the basis that the defendants had voluntarily engaged in the employment). With regard to the term distress, the court stated that distress must be understood as an adverse condition of a person caused by adverse facts, which, taken as a whole, have resulted in restrictions of freedom of decision-making of such a person in distress. The victims found themselves in distress because of the fact that they did not have any place to stay and had no steady source of income ⁽²³⁸⁾.

Czech Republic case study 1: Judgment 17 T 6/2010 (CZ-001)

Key facts: Three defendants forced homeless people and workers from Poland and Slovakia to work for little money at a construction site. The defendants also lured 22 people to work on other construction sites with the promise of earning up to CZK 150 per hour (EUR 5.30). In reality workers earned only CZK 150 per day and the working day was much longer than the standard eight hours. The defendants withheld the documents of some of the victims and the victims' freedom was restrained under threats (the victims were overseen by the defendants on the construction sites).

Legislation applied: Section 232a, subsection 2, paragraph c), subsection 3, paragraph a) and subsection 4, paragraph b) of the Criminal Code No 140/1961 in force until 31 December 2009.

Decision: The first instance court found the three defendants guilty of trafficking in human beings for other forms of exploitation as an offence committed by an organised group. The three defendants were sentenced to imprisonment of ten, four and three years under probation respectively. The court used the term 'other forms of exploitation' that was defined as an act by which the defendants acquire any unjustifiable material gain from the performance of the victim through abusing the distressful circumstances in which these persons were found. Because the victims voluntarily took up the work (even though they were provided false information), the court did not consider the offence as trafficking in human beings for forced labour. The defendants appealed this decision to the High Court in Prague. The second instance court changed the sentence of one of the defendants from ten years of imprisonment to eight years and six months and cancelled the decision by which the defendants' car was seized as there was insufficient evidence that the car was purchased with money gained from the trafficking criminal activity. The Supreme Court upheld that decision.

Penalties/compensation: Defendant 1: eight years and six months' imprisonment; defendant 2: four years' imprisonment; defendant 3: three years' probation.

(d) Question of direct involvement

Difficulties in establishing direct involvement have also been a factor for dismissing cases of trafficking in human beings for forced labour. For example, in Belgium in the case outlined below, the court found that while the conditions

⁽²³⁶⁾ To Vima newspaper, 'Supreme Court prosecutor to examine Manolada shooting verdict', 1.8.2014, available at: <http://www.tovima.gr/en/article/?aid=620208>

⁽²³⁷⁾ Ekathimerini news website, 'No new Manolada trial, court rules', 30.10.2014, available at: http://www.ekathimerini.com/4dcgi/_w_articles_ws1_1_30/10/2014_544172

⁽²³⁸⁾ Vit Strelecký, Daniel Topinka et al., *Developments in trafficking in human beings for the purpose of labour exploitation*, La Strada, Prague, 2013, available at: <http://lastradainternational.org/Isidocs/Trafficking%20in%20human%20beings%20for%20the%20purpose%20of%20labour%20exploitation.pdf>, p. 100.

in which the young Indians lived were miserable and contrary to human dignity, it was not demonstrated that these conditions were caused by the defendant, or that they were to any extent involved in this.

Belgium case study 5: Corr. Tongeren, 7 October 2010, 9de k (Dutch) (BE-15-1)

Key facts: Between 2005 and 2007 in Tongeren, Belgium, the operators of a business employed an unspecified number of Sikhs in illegal residence via their company as vendors at their market stall. The victims received EUR 20 to 25 per day, with the average monthly salary of EUR 400 to 500. Two of the victims were underage.

Legislation applied: Article 433 quinquies of the Criminal Code (human trafficking); Article 491 of the Criminal Code (breach of trust); Article 492 bis of the Criminal Code (abuse of corporate assets); Article 4 of the Royal Decree of 5 November 2002 implementing the immediate declaration of employment (violation of social security laws); the provisions (unspecified) of the Law of 30 April 1999 regarding the employment of foreign employees (illegal employment).

Decision of the Court of First Instance of Tongeren, Criminal Section: The court found that it was only established that two underage persons were arrested at a market stall operated by the accused, and that these operators had also illegally employed a number of other young Indians. These elements do not satisfy the material constitutive elements of the concept of trafficking since no recruitment, transportation, transfer, harbouring or reception of a person, or the taking or transferring of control over this person could be proven. Furthermore, the court found that, while the conditions in which the young Indians lived were miserable and contrary to human dignity, it was not demonstrated that these conditions were caused by the accused, or that they were to any extent involved in this.

The court held that 'Human trafficking requires a material element of recruitment, transportation, transfer, harbouring or reception of a person, or the taking or transferring of control over this person ... [The] material elements [in this case] do not fall under the notions of 'recruitment, transportation, transfer, harbouring or reception of a person, or the taking or transferring of control over this person'.'

Another case, before the Romanian Court of Appeal, reveals a broader approach to the question of direct involvement. In this case, the court of first instance in Romania had argued that although the defendant accommodated, harboured and received persons, for these acts to count as trafficking in human beings they had to take place through threats, violence or other forms of coercion, abduction, fraud or deception, abuse of authority, etc. The court held that it was 'clear that the defendant did not contact and did not talk to the injured parties to convince them, by false statements and distortion of reality related to living conditions or employment, to travel to Greece and to take up the work of picking oranges' ⁽²³⁹⁾. The Court of Appeal overturned this ruling however, asserting that even though the defendant was not directly involved, the fact that he was aware that he was receiving and harbouring persons for exploitation was sufficient to establish that the offence had been committed:

Romania case study 4: Penal Decision No 209/A/31.10.2013 of Cluj Court of Appeal (RO-026-01)

Key facts: The defendant promised an acquaintance in Romania to find jobs in orange picking in Greece for any interested Romanian persons for a fee of EUR 100 per person, accommodation and free food, and a salary of EUR 20 to 30 per day. The acquaintance shared this information and later 21 Romanian citizens were transported to a rural village in Crete. The accommodation consisted of a building with no beds or bathrooms and a damaged roof. The only access to water was in the yard. Greek farm owners came to the building and selected individuals who wanted to work, forming teams of two to three people. People had to work from morning to night, regardless of the temperature outside. The Greek farm owners paid the defendant. The defendant kept all the money, paying the victims with small amounts.

Legislation applied: Article 12 of Law No 678/2001 (trafficking in persons).

Reasoning by the Cluj Court of Appeal: The Court of Appeal overruled the decision of the court of first instance, which had acquitted the defendant (arguing that the defendant was not directly involved in recruiting the victims). The court found the prosecutor's appeal was founded and convicted the defendant of trafficking in persons (and sexual exploitation). The court explained that although the defendant was not directly involved in recruiting the victims, he knew that he received and harboured people for exploitation who had been recruited by deception.

Penalties/compensation: Six years' imprisonment and two years' prohibition of certain rights (note that this sentence relates to two charges — trafficking in persons and sexual exploitation).

(e) Requirement of intent of the defendant

Several cases analysed revealed difficulties in proving the direct intent of traffickers to exploit the victims. In the Swedish case summarised below, for instance, the court dismissed the trafficking in human beings charges and found the defendants guilty of assault and unlawful dispossession on the grounds that the necessary requisites for the

⁽²³⁹⁾ Case study 4: Cluj Tribunal — court of first instance. Background on the first instance case obtained through Penal Decision No 209/A/31.10.2013 of Cluj Court of Appeal (RO-026-01), p. 6.

crime were not met. Among other arguments, the court considered that it was not proven that the defendants, already in Bulgaria, where the recruitment took place, intended to deceive the victims.

Sweden case study 3: Judgment B 1834-11 of the District Court of Hudiksvall, first instance (SE-003)

Key facts: The defendants recruited the victims in Bulgaria for berry picking in Sweden. They promised the victims free transportation, accommodation and no expenses. They transported the victims to Sweden and took their passports upon the arrival. Once in Sweden, they beat and threatened the victims and did not pay them for the work done. The victims reported them to the police.

Legislation applied: Chapter 3, section 5 of the Penal Code (assault); Chapter 8, section 8 of the Penal Code (unlawful dispossession).

Reasoning of the District Court of Hudiksvall: The court found the defendants guilty of assault and unlawful dispossession and sentenced the defendants to three months imprisonment, fines and the payment of compensation to the victims. The court dismissed the charges on human trafficking on the grounds that the necessary requisites for the crime were not met.

The court found no causality between the 'unlawful coercion' to perform the work and the other requisites defined by the law: recruitment, transportation, transfer, harbouring or receiving of a person. The court also considered that it was not proven that the defendants, already in Bulgaria, intended to deceive the victims regarding compensation.

In a Bulgarian case involving the recruitment of Bulgarian women to work in the cleaning industry in Malta, similar reasoning on the inability to establish intent was provided:

Bulgaria case study 3: Decision No 440, 7 June 2013, private criminal law case 673/2013 (BG-003)

Key facts: The case involved the recruitment of women in Bulgaria to go to Malta to clean hotel rooms. The defendant posted advertisements in a newspaper and promised the victims EUR 3.50 per hour. The victims were accommodated in premises hired by Genov and were paid EUR 3.50 per hour. However, they were not given enough hours to work and for this reason the women were dissatisfied with their earnings and living conditions. The prosecutor took a decision to discontinue the investigation since there was insufficient evidence indicating the commission of a criminal offence. The women challenged the prosecutor's assessment.

Legislation applied: Article 1596(1) and Article 159a Criminal Code.

Reasoning of the Regional Court Stara Zagora: The case was dismissed. The courts' reasoning was based on the fact that there was no evidence that Genov recruited the women with the **special intent** as required by the definition of the crime of human trafficking. The court noted that in the Bulgarian criminal legislation there was no specific definition of forced labour, however, the ILO definition could be used. The elements of the latter definition were not fulfilled because all the women went to Malta and worked there voluntarily. The fact that the remuneration was insufficient given the hourly work and the high standards of living in Malta does not amount to a situation of forced labour.

In a Supreme Court case in the Netherlands, a broader stance on the requirement of intent in trafficking for forced labour cases was observed. In the case summarised below, the courts of first and second instance acquitted the defendant as it was not proven that 'the defendant and/or one or more others purposefully abused a position of dominance arising from the factual relationships with, or the weaker/vulnerable position of, the Chinese in accommodating or harbouring them' ⁽²⁴⁰⁾. However, the Supreme Court ruled that 'in attaching the condition to the first requirement of intent that "purposeful abuse" must be made of the victim's vulnerability, the Court of Appeal has imposed an excessively stringent requirement and, consequently, has given evidence of an incorrect conception of law' ⁽²⁴¹⁾.

⁽²⁴⁰⁾ Case Supreme Court, 08/03895, No 2.2.2.

⁽²⁴¹⁾ Case Supreme Court, 08/03895, No 2.5.2.

Netherlands case study 2: Judgment BI7099 of the Supreme Court of the Netherlands — third instance (cassation) (NL-003-3)

Key facts: The victims were irregular Chinese migrants who voluntarily asked the owner of a restaurant to work for him. The owner, taking advantage of their illegal status in the Netherlands, exploited them, setting out excessively long working hours and giving them accommodation in an unsuitable room. While some of the victims worked to get food and accommodation in return, the rest earned between EUR 450 and 800 per month.

Legislation applied: Art. 273a, Criminal Code.

Decision by the Supreme Court of the Netherlands: After referral to the court of second instance, the Supreme Court sentenced the defendant to imprisonment for 10 months (of which five months conditionally on the basis of a two-year probation period).

Reasoning: In annulling the first decision and referring the case back to the court of second instance, the Supreme Court reasoned that, in attaching the condition to the requirement of an intent to 'purposeful abuse', consideration must be made the victim's vulnerability. The Court of Appeal has imposed an excessively stringent requirement and, consequently, has not correctly applied the law.

Penalties: After referral to the court of second instance, the Supreme Court sentenced the defendant to imprisonment for 10 months (of which five months conditionally on the basis of a two-year probation period).

According to the Dutch Rapporteur commenting on the above case, in the Netherlands a vulnerable position therefore does not have to have been intentionally abused. It is enough for the offender to have been aware of it ⁽²⁴²⁾.

(f) Question of consent of the victim

Article 2(4) of Directive 2011/36/EU provides that the victim's consent to the exploitation, whether intended or actual, is irrelevant where any of the means set forth in Article 2(1) has been used. The UNODC states:

'When looking at the human trafficking definition, the fact that the victim may have consented in any way to the process of human trafficking is irrelevant if any of the means listed above are used. A trafficked person cannot "consent" to being trafficked if the consent occurs as a result of threats, force, abduction, fraud, etc. As such, a human trafficker's contention that the trafficked person agreed to the conditions is irrelevant. If any of the means are present the victim's consent is no defence for the accused' ⁽²⁴³⁾.

Nonetheless, some judicial rulings analysed take the stance that physical mobility indicates freedom from slavery, overlooking emotional, financial and psychological bondage, which means that free will may not really exist in practice. In several cases analysed, the charge of trafficking in human beings for forced labour was dismissed on the basis that the victim had entered the situation of forced labour 'of his own free will'. In the Slovenian case summarised below, the court reasoned that the facts of the case did not constitute the 'forced' accommodation or 'forced' labour element of trafficking in human beings, since the victim came to live with the defendant on his own initiative, willingly and knowing that he would have to repay the housing, food and alcohol costs by working for the defendants:

⁽²⁴²⁾ Netherlands, National Rapporteur on Trafficking in Human Beings (2012), Trafficking in Human Beings. Case law of Trafficking Human Beings 2009-2012. An analysis, p. 63.

⁽²⁴³⁾ UNODC A Comparative Analysis of Human Trafficking Legislation and Case Law: Suggestions for Best Practices in Creating Laws against Human Trafficking 2009.

Slovenia, case study 1: K 109/2008, Novo Mesto Local Court, first instance (SI-001-1); III Kp 155/2008, Novo Mesto Local Court, second instance (SI-001-2); K 96/2009, Novo Mesto Local Court, first instance (SI-001-3); III Kp 68/2009, Novo Mesto Local Court, second instance (SI-001-4)

Key facts: The victim agreed to work for the defendants in return for free accommodation and food. The work included mowing grass, feeding the ponies, shovelling manure, cutting wood, gathering old ironware and demolishing old cars. The victim had been an alcoholic for several years, and the defendants often got drunk with him. On such occasions they tormented the victim psychologically and physically, and threatened him with more beatings if he dared to escape or report them to the police.

Legislation applied: Article 387a (trafficking in human beings) and Article 299 (violent conduct) of the Criminal Code.

Decision by the Ljubljana Higher Court:

The court of first instance reasoned that the facts of the case did not constitute the 'forced' accommodation nor 'forced' labour element of the offence, since the victim came to live with the defendant on his own initiative, willingly and knowing that he would have to repay the housing, food and alcohol costs by working for the defendants:

'... the criminal offence will have been proven when the perpetrator's actions are contrary to the victim's free will, which means literally forcing the victim into an activity that is not accepted by the victim's personal will. In other words, the defendants would have to execute all or some of the specific ownership interests, which means they would have to feel entitled to the victim as their property, not permitting him to act according to his own will'.

The court held that there is not enough proof that the defendants forcibly accommodated the victim in their home for the purpose of forcing him into labour, nor that they forced him to work for them by beating and humiliating him. It has been proven, however, that the victim came to live with the defendants of his own free will, and that he knew exactly what kind of life lay ahead of him. Moreover, ... the victim was familiar with the way Roma people live, and prior to his decision to live with them, the victim was aware of the life that was before him. The victim knew the defendants would not accept him living with them and provide him food without getting something in return, so the victim knew he would have to work for the defendants.'

The second instance court concurred with the above reasoning. It held that the victim came to live with the defendants on his own free will, his freedom of movement was not breached and the defendants did not confine him to their property in order to force him into labour. It is true though, that the victim escaped the beatings on several occasions, and that the defendants tracked him down, but, according to the court, they did so out of fear of the victim reporting them to the police, not in order to force him to continue to work for them. Physical violence, intimidation and humiliation were not intended to force the victim into labour.

Penalties: Defendant 1: one year and six months' imprisonment; defendant 2: two years' imprisonment.

The German Federal Court of Justice ⁽²⁴⁴⁾ in a case from 2010 established that the offender must 'cause a so far not-existing decision of the victim to enter into [such a] work relationship, or must dissuade the victim from his/her decision to terminate the work relationship'. It is noted in the annual report on human trafficking of the Federal Criminal Police Office that the strict standards of the Federal Supreme Court of Justice established in the above-mentioned ruling may lead to the non-application of the anti-trafficking provision in favour of other provisions of the Penal Code which would be easier to prove ⁽²⁴⁵⁾.

The Belgian case (BE-44-1 ⁽²⁴⁶⁾) cited above reflects a different approach to the question of consent. In this case, the court ruled that the consent of the victim to the employment was irrelevant because the victim, being in a vulnerable position due to his illegal residence and the lack of social protection and financial means, had no other choice but to submit to the exploitation.

(g) Restriction of movement and confinement to the workplace or to a limited area

The question of constraint and ability to escape has also been subject to varied interpretations by the courts among the cases analysed. A Croatian court found that to establish the criminal offence of slavery or similar relationship it must be proved that the defendant had established total authority and control over the victim. In addition, the presence of such oppressing conditions that the victim cannot voluntarily change and escape from them must be shown ⁽²⁴⁷⁾.

⁽²⁴⁴⁾ Germany, case study 2, DE-001-02, Ruling of the Federal Court of Justice of 13 January 2010 (3 StR 507/09).

⁽²⁴⁵⁾ *Bundeslagebild Menschenhandel 2011*, p. 15, available at: http://www.bka.de/nrnn_231620/DE/ThemenABisZ/Deliktsbereiche/Menschenhandel/Lagebilder/lagebilder__node.html?__nnn=true

⁽²⁴⁶⁾ Case study 6: Corr. Gent, 2 April 2012, 19de k (Dutch) (BE-44-1).

⁽²⁴⁷⁾ Case study 1: Judgment Kž-586/09 (HR-001-2).

Croatia, case study 1: Judgment KŽ-586/09 (HR-001-2)

Key facts: The defendant established control over the victim by use of force, threat, intimidation and physical attacks on the victim, using the victim's vulnerability (the fact that he was poor, poorly educated and without family). The defendant exploited the victim's work in agriculture and farming by not paying him, limiting his freedom of movement, exerting violence on the victim, providing very basic living conditions and forcing him to do hard physical work for 18 hours a day.

Legislation applied: Article 175 §1 of the old Criminal Code (trafficking for forced labour and for slavery); Articles 3 and 4 §1 and 2 of the ECHR and Article 8 §1, 2 and 3 of the International Covenant on Civil and Political Rights.

Decision: The first instance court acquitted the defendant of the criminal offences of trafficking for forced labour and slavery and of violent behaviour, on substantive grounds. The evidence provided by the prosecution did not substantiate the guilt of the defendant and the perpetration of the alleged criminal offences. The prosecution appealed this decision. The appellate court, County Court Osijek, upheld the ruling of the first instance court and supported the first instance finding that: 'in order to establish a criminal offence of slavery or similar relationship, it requires that the perpetrator of this offence had established total authority and control over the victim, as well as such oppressing conditions which the victim cannot voluntarily change and escape from'.

In a Swedish case, the court acquitted the defendants because it had not been proven that the injured parties were victims of human trafficking, as it was not established that the defendants were in control of the victims and that the victims could not leave if they wished to do so ⁽²⁴⁸⁾.

A similar position was taken by the Slovak and Finnish courts. In the Slovak case summarised below, the Slovak court dismissed the charge of trafficking in human beings for forced labour, stating:

'the victims were aware of the work conditions, working hours, the wage and the sum which would be deducted. None of the victims stated reservations in their free movement. None of them said that their passport was taken away. Based on the testimony of some victims, they were able to leave the work if they wished to' ⁽²⁴⁹⁾.

Slovakia, case study 1: BB-3T/13/2012 Plechov and others (SK-001)

Key facts: The defendants recruited Ukrainian citizens in Ukraine in order to bring them to Slovakia, promising well-paid jobs (mainly in construction and food industry). For this purpose, they established an employment agency in Slovakia which then acted as an intermediate between the employers and employees (victims). For the victims to stay in Slovakia the defendants arranged false working and residence permits. Victims were informed that they would have to pay back all the costs related to obtaining these documents. These costs would have to be deducted from their wages. However, the wages were much lower than they expected. Moreover, the victims never knew when their debt would be paid off as they did not know the exact amount of the debt or their wage. Employers were paying wages to the agency, which was supposed to pay the employees. Many victims had to live with little means, covering only their basic needs.

The defendants distributed the victims through the agency to different work places within different regions of Slovakia. This case involved more than 200 persons as potential victims. Due to the status of irregular migrants, many of them were administratively deported back to Ukraine before the criminal investigation even begun. For this reason, the case could not be properly investigated.

Legislation applied: Sections 356 (smuggling), 296 (criminal groups), 233 (money laundering), 179 (trafficking in human beings) of the CC.

Decision: The Specialised Criminal Court found the defendants not guilty of trafficking in human beings. The court found them guilty only of smuggling, stating that the facts of the case proving other crimes (including trafficking in human beings) were not substantiated. The court stated that the evidence was not enough to prove beyond any doubt which specific persons should be considered as victims. The prosecution was only able to prove that a certain number of Ukrainian nationals were lured to work in Slovakia. Therefore it was not possible to identify all of the victims or the ways by which they were supposed to be injured or harmed. Pursuant to the court, the victims were aware of the work conditions, working hours, the wage and the sum which would be deducted. None of the victims stated reservations in their free movement. None of them said that their passport was taken away. Based on the testimony of some victims, they were able to leave the work if they wished.

A similar approach was observed in a case from the Finnish District Court, in a case involving the Vietnamese persons working in a restaurant.

⁽²⁴⁸⁾ Case study 4: Judgment B 3573-10 of the Malmö District Court (SE-004).

⁽²⁴⁹⁾ Case study 1: BB-3T/13/2012 Plechov and others, Specialised Criminal Court (SK-001).

Finland, case study 1: 657/R/3389/06, Pohjanmaa District Court, first instance (FI-001-1)

Key facts: The case concerned trafficking in human beings for forced labour in the context of working in an ethnic restaurant. The prosecutor accused two defendants of trafficking in human beings for forced labour, and alternatively for extortionate work discrimination. The victim was recruited directly by the defendants in Vietnam and brought to Finland, where he lived in an accommodation organised by the defendants. He was subject to long working hours — 12-hour days during weekdays, 10-hour days during weekends — with low pay (with some months going unpaid). The victim had a bank account which the defendants had access to. The victim was threatened by the defendants, including death threats, and was subjected to physical abuse.

Legislation applied: Section 25(3) of the Criminal Code.

Decision by the Pohjanmaa District Court: The court acquitted the defendants of all charges. The court found that the offence of trafficking for forced labour could not be established considering that the victim had come to Finland of his own free will, even if he had been helped by the defendants; it was the second time the victim had entered into a work relation with the defendants; the victim was not under the defendants' control as he was free to come and go; no proof could be provided on the actual working hours of the victim; and lastly, the victim still had control over his own passport and his own bank account.

The United Kingdom Court of Appeal, in the case summarised below, provides a nuanced approach, asserting that as far as 'forced or compulsory labour' is concerned, the menace of a penalty can be exerted in various ways. It can be direct; it can also be indirect. Constraint can be mental or physical. It can be imposed by force of circumstances.

United Kingdom, case studies 4 and 5: T20100929 (first instance); [2011] EWCA Crim 1691 (Appeal) (UK-001-2)

Key facts: The victim accepted a job offer and a contract was drawn up stating that she would receive each month about GBP 38 (around EUR 50). In October 2006, the victim travelled to London where she began work. The defendant confiscated her passport and visa documents and kept her belongings locked in the shed in the back garden.

The victim was made to work on household chores including cooking, cleaning, gardening and caring for Khan's grownup children. She was made to sleep on the kitchen floor. The defendant controlled everything the victim did — she was not allowed out of the house alone, not allowed to make phone calls without the defendant being present, nor allowed any time off. She stated in her evidence that she wanted to go home, but had no money to pay for the trip.

From October 2006 until October 2007 the victim received the GBP 10 (around EUR 13) monthly payments expected but these stopped thereafter. A year later, in 2008, her daughter was unable to pay her school fees as the money was suddenly not available to her any more.

Legislation applied: Article 4 of the Asylum and Immigration Act 2004.

Decision: The defendant was found guilty of the offence of trafficking into the United Kingdom for exploitation contrary to section 4(1) and (5) of the Asylum and Immigration (Treatment of Claimants) Act 2004. The conviction was overturned by the England and Wales Court of Appeal (Criminal Division) on 8 July 2011, and a retrial ordered for January 2012.

The Court of Appeal examined whether the correct definition of exploitation, and indeed 'slavery', had been applied, and whether the trial Judge directed the jury correctly about the sort of behaviour the Crown needed to show in order to prove the offence. The Court of Appeal held that the trial Judge's direction to the jury had fallen short of that test. The Court of Appeal found that exploitation could not boil down to simply working long hours for low pay, or issues about the minimum wage. The decision was therefore quashed and retrial was ordered. At the retrial the defendant was acquitted.

In another United Kingdom case (UK-007-2 ⁽²⁵⁰⁾), the victims went back to their country of origin, and subsequently returned to the United Kingdom to work for the defendants again. The Court of Appeal held that while the voluntary return of the victims was a striking feature, the victims had not been exercising effective choice — they were driven to return by the economic circumstances in their home countries and possibly also by other factors of which the court was not made aware.

(h) Withholding of wages or excessive wage reductions that violate previously made agreements

The question of withholding of wages, and the extent to which this indicator substantiates the offence of forced labour, was also subject to interpretation by the courts.

In a Danish case, summarised below, involving the recruitment, transportation, housing and reception of Romanians to perform renovation work between spring 2008 and summer 2011, the court considered the ILO indicator on lack of payment of salaries. The court found that the victims were paid the amount that had been agreed upon, and that it could not be substantiated to an extent sufficient for conviction that the defendants were guilty of trafficking in human beings for forced labour even though, during certain periods, the Romanians worked for more time than agreed on.

⁽²⁵⁰⁾ Case study 2: Judgment of the Court of Appeal Criminal Division of 7 May 2010 (UK-007-2).

Denmark, case study 2: Case No 1-2738/2013 (DK-002-1)

Key facts: The case deals with the exploitation of nine Romanians in the cleaning business, for which the defendants were charged with trafficking for forced labour and usury. In addition, one of the defendants was charged with violence, aggravated assault, unlawful coercion and threats, while the other defendant was also charged with fraud against companies and unlawful possession of a cell phone.

The victims arrived in Denmark following arrangements made by the defendants. They had been offered the prospect of a monthly salary of DKK 3 000, free board and lodging, cleaning work and an anticipated working time of eight hours a day, five days a week. The victims largely were paid the promised salary. The victims worked between 10 and 20 hours a day and lived in a garage of one of the properties of the defendants with no water or lavatory, receiving one or two daily meals in the kitchen of the defendants' house. Occasionally, one of the defendants threatened the victims if they did not perform the work in a satisfactory manner or stole.

Legislation applied: Section 262a of the Criminal Code (trafficking for forced labour).

Decision by the District Court: Both defendants were acquitted of trafficking for forced labour since the court found that there was no basis for establishing the use of force, confinement, threats or inducement or exploitation of a mistake. The court ruled that the case did not satisfy the conditions of lack of payment of salary, withholding of salary or an unreasonable underpayment. Indeed, from the case, the victims largely were paid the salary agreed upon regardless of the fact that, during certain periods, the victims worked for more time than they had been offered the prospect of. The Court, however, convicted the defendants of usury due to the systematic and severe exploitation of the victims and the fact that the defendants obtained services significantly disproportionate to what they offered in return.

In the United Kingdom case summarised above (UK-001-2 ⁽²⁵¹⁾), the United Kingdom Court of Appeal also pointed out that where it is alleged that one person has been compulsorily employed by another, the level of pay he or she has received may have evidential importance. It may point to coercion; it may bear on an employee's ability to escape from his or her employer's control. On its own, however, a derisory level of wages is not tantamount to coercion.

In this case, the Court of Appeal directed the jury to not only consider the fact that the complainant was paid 'a mere pittance' or an 'exploitative' wage, but whether, when the appellant arranged for the complainant to come to the United Kingdom, she had intended to exploit her in such a way [that would constitute the offence of trafficking in human beings for forced labour] under Article 4 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004.

(i) Other indicators for determining the exploitation

In the Dutch case, the Supreme Court asserted that what constitutes exploitation is very case specific and will heavily depend on the circumstances of the case. It pointed to relevant factors such as the nature and duration of the work, the restrictions on the individual concerned and the economic benefit for the employer, but emphasised that in weighing up these factors, the frame of reference to be adopted is the prevailing standards of Dutch society.

Another perspective put forward promotes the comparison of the working conditions in question with those from another similar activity. This was discussed by the German Magistrate Court in Hamburg (see summary below) for example, in which the court considered that the conditions of work in the case were disproportionate to the working conditions of other employees engaged in a comparable activity.

⁽²⁵¹⁾ Case study 5: Judgment of the England and Wales Court of Appeal (UK-001-2).

Germany, case study 4: Judgment of the Magistrate Court Hamburg — Sankt Georg of 22 February 2010 — 940 Ls 6500 Js 38/09 (494/09) (DE-002-1)

Key facts: The offender (a Nigerian national) hired the Nigerian victim to work both in her hairdressing shop in Hamburg and in her home as housekeeper. The offender bought the victim's flight ticket to Germany and offered her to live in her house. She also recommended the victim to apply for a visa using a falsified birth certificate and pretending to be her sister. In return, the offender set out her working schedule as six days a week up to 14 hours per day in return only for accommodation and meals. Eight weeks after her arrival in Germany, the victim was arrested because of her irregular status in Germany. The victim stated that she accepted these working conditions because the offender used to threaten to call the police and expel her from Germany because of her irregular status.

Legislation applied: §233(1) German Penal Code.

Decision by the Magistrate Court Hamburg: The court found the defendant guilty of trafficking in human beings. The court argued that the offender took advantage of the fact that the victim resided illegally in Germany, deprived of her passport and with no knowledge of German. The court acknowledged that the working conditions were strikingly disproportionate to the working conditions of other employees who practice a comparable activity.

Penalties/compensation: One year and six months' imprisonment, including one year and two months for trafficking for forced labour. The sentence was suspended on probation.

5.2.3.3. Sentencing

Article 4 of Directive 2011/36/EU requires Member States to take the necessary measures to ensure that an offence of trafficking in human beings (as referred to in Article 2) is punishable by a maximum penalty of at least five years' imprisonment. Article 1(2) provides that there must be a maximum penalty of at least 10 years' imprisonment where the offence: (a) was committed against a victim who was particularly vulnerable, which, in the context of this directive, must include at least child victims; (b) was committed within the framework of a criminal organisation within the meaning of Council Framework Decision 2008/841/JHA on the fight against organised crime; (c) deliberately or by gross negligence endangered the life of the victim; or (d) was committed using serious violence or has caused particularly serious harm to the victim.

While the legislation in most of the Member States provides penalties above these minimum standards (see Annex I for penalties provided for in national legislation), the case-law analysis revealed that in practice the sentences imposed were not particularly high, especially with regard to cases involving vulnerable victims (see Section 5.2.3.1 above for penalties applied in case studies).

Prison sentences for offences prosecuted as trafficking in human beings for forced labour ranged from 2 to 13 years. The penalties analysed often related to cases prosecuted under various offence provisions (such as sexual offences or inflicting bodily harm). The analysis below relating to penalties should therefore be read with this in mind. Some Court of Appeal cases directly addressed the question of the length of prison sentences imposed, where the courts of first instance were deemed to have imposed too-lenient sentences. This was observed, for example, in RO-30-1⁽²⁵²⁾ and UK-007-2⁽²⁵³⁾ (see box below — the background of the case is indicated to provide context to the cases).

⁽²⁵²⁾ Case study 1: Penal Decision No 51RC/5.06.2014 of High Court of Cassation and Justice (RO-30-01).

⁽²⁵³⁾ Case study 2: Judgment of the Court of Appeal Criminal Division of 7 May 2010 (UK-007-2).

Decisions involving an increase in prison sentences by a Court of Appeal

Case study 1: Penal Decision No 51RC/5.06.2014 of High Court of Cassation and Justice (RO-30-01)

Facts: Between October 2010 and June 2012, the defendant recruited three victims to work on his farm (the defendant owned farmland and several herds of animals — sheep and goats). He took advantage of the victims' inability to defend themselves and to express their will (persons with mental and physical disabilities) ⁽²⁵⁴⁾. The victims had a gruelling work schedule, which began at 3 am and ended at 11 pm, every day of the week, including Sundays and public holidays ⁽²⁵⁵⁾. The victims lived in inhuman conditions. Old stables were converted into bedrooms where more people lived in unsanitary conditions, without electricity or toilets and no decent place to dine ⁽²⁵⁶⁾.

The court of first instance considered all circumstances in which the offence was committed: the manner of its commission (taking advantage of the victims' and their families' difficult situation; recruitment by threats and violence), personal circumstances (the defendant recognised the facts) and the general criteria of individualisation of the punishment. In light of these circumstances, the court held that the punishment and rehabilitation of the defendant could be achieved without detention.

Decision of the Court of Appeal: The prosecutor and the defendant appealed against the first instance court decision. The prosecutor criticised the court for the unjustifiably low penalty and the ignorance of the nature and seriousness of the offence ⁽²⁵⁷⁾. The Bucharest Court of Appeal considered the prosecutor's appeal as founded and convicted the defendant to three years' imprisonment and the prohibition of exercising certain rights for three years.

Case study 2: *R v Khan, Khan and Khan* [2010] EWCA Crim 2880 (UK-007-2)

Facts: The defendants, and their mother, were family restaurateurs in Harrogate. Over a period of four years they recruited nine men from the Middle East and the Indian subcontinent to work in the restaurant.

At first instance, the defendants were convicted of statutory conspiracy to traffic persons for the purpose of exploitation contrary to Section 4 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 and were sentenced to three years' imprisonment. The maximum sentence is 14 years. There were cross applications from the offenders and the Solicitor General for leave to appeal the length of sentencing.

On appeal, the Solicitor General argued that deterrent sentences were required because the problem of human trafficking was increasing in the United Kingdom. The court increased the sentences of two human traffickers from three to four years and upheld the three-year sentence of a third trafficker. Whilst the court reasoned that the offence should have led to a sentence of five years, it also took into account that the defendants were comparatively young persons 'for whom sentences of imprisonment will have lasting consequences'.

5.2.3.4. Compensation sought and awarded to victims

Compensation granted to victims ranged from EUR 50 to EUR 252 000 (EUR 126 000 per victim). In FR-14-1, the amount awarded of EUR 252 000 was the highest compensation awarded in France for this type of offence ⁽²⁵⁸⁾.

Compensation was awarded either in the criminal trial (including by victims constituting themselves as civil claimants in the criminal trial) or by victims directly seeking compensation from a civil court.

For example, in RO-30-01 ⁽²⁵⁹⁾, of the 144 victims, 143 constituted themselves as civil claimants. The court admitted the civil actions in the amounts corresponding to the period of time they worked and, in terms of damage and moral compensation, also considering the conditions of exploitation. The court rejected 18 and admitted 125 claims. Between RON 100 and RON 4 000 (between EUR 20 and EUR 850) as moral damages and between RON 200 and RON 4 500 (between EUR 40 and EUR 950) as material damages were awarded in this case.

In a Polish case (PL-005-1 ⁽²⁶⁰⁾), compensation was awarded to the victims by the Criminal Court. According to Article 46 para. 1 of the Criminal Code, in case of conviction the court may impose an obligation to redress the damage caused by the criminal offence or, upon a motion from the injured party, is obliged to impose such an obligation on the defendant. In this case only one of the victims applied for compensation, but the judgment awarded

⁽²⁵⁴⁾ Penal Decision No 16/07 February 2013 of Calarasi Tribunal, p. 1.

⁽²⁵⁵⁾ Indictment No 27D/P/2012 of the Penal Decision No 16/07 February 2013 of Calarasi Tribunal, p. 2.

⁽²⁵⁶⁾ Penal Decision No 270/01 November 2013 of Bucharest Court of Appeal, p. 2.

⁽²⁵⁷⁾ Penal Decision No 270/01 November 2013 of Bucharest Court of Appeal, p. 4.

⁽²⁵⁸⁾ Case study 2: 13337000168, Criminal Court of Evry, first instance (FR-14-1); interview with the Committee Against Modern Slavery, February 2015. The case was prosecuted under Articles 225-4-1 and 225-4-2 of the Penal Code on THB for forced labour; Articles 225-14 and 225-15 of the Penal Code on working and living conditions contrary to human dignity; Article 223-15-2 of the Penal Code on the exploitation of a person in a situation of vulnerability, as well as other Labour Code provisions (Article L.8224-1 on black market work; Articles L.8221-1 to L.8221-6 on insufficient remuneration; Article L.4741-1 and Articles L.4111-1 to L.4111-6 on health and security requirements).

⁽²⁵⁹⁾ Case study 1: Penal Decision No 51RC/5.06.2014 of High Court of Cassation and Justice (RO-30-01).

⁽²⁶⁰⁾ Case study 1: Regional Court in Legnica, III Criminal Division (court of first instance), III K 2/13 (PL-005-1).

compensation to all of the identified victims. The defendants were jointly and severally obliged to pay PLN 4 000 (circa EUR 964) to each of the 28 victims.

In UK-002-2 ⁽²⁶¹⁾, the victim was awarded GBP 101 300.72 (approximately EUR 138 00.00) using the Proceeds of Crime Act. The compensation was justified as covering ‘the salary the victim would have been able to command if she was legitimately employed to carry out the chores she was forced to do based on minimum wage, and on the premise that she worked for 12 hours a day, seven days a week.’

In a Belgian case, however, the court did not award compensation for material damages (corresponding to unpaid salaries) because it was of the opinion that such compensation would constitute an illegitimate, unjustified advantage since it was based on illegal employment:

‘Whereas the compensation claim of Y.K. for material damages totalling EUR 27 855.52 based on the unpaid salaries must be declared inadmissible ... Whereas ... it should be reminded that a civil claim, in order to be admissible, must be justified by a legitimate interest, which is not the case here ... That, in effect, in requesting the payment of salaries for non-declared work ... the act of Y.K. pursues the reparation of an illegitimate interest, and therefore is contrary to public order’ ⁽²⁶²⁾.

In Finland, the compensation for unpaid wages and mental suffering is assessed separately as described in the example in the box below.

Case study 5: 4042, Pohjanmaa District Court, first instance (FI-006-1)

This case related to the operation of three ethnic restaurants in Finland. The perpetrators (two) and victims (10) were from Vietnam. The District Court found in favour of the prosecution and convicted the defendants of trafficking in human beings for forced labour in eight cases and for extortionate work discrimination in two cases.

Compensation: Awarded to all victims for unpaid wages and mental suffering. The sums varied between EUR 228 881.65, with interest, and EUR 9 885.61, with interest, for unpaid wages; and between EUR 35 000, with interest, and EUR 8 000, with interest, for mental suffering.

Reasoning: These calculations were based on two considerations: first, on the duration of the criminal activity and vulnerability of the victims; and second, on compensating the victims in an equal way (all claimants with smaller claims received EUR 8 000 for mental suffering).

⁽²⁶¹⁾ Case study 1: Judgment of the Court of Appeal Criminal Division of 4 February 2014 (UK-002-1A and UK-002-1B; UK-002-2).

⁽²⁶²⁾ Case study 3: Corr. Charleroi, 26 October 2012, 7de k (French) (BE-33-1).

6. Challenges in bringing charges and prosecuting cases of trafficking in human beings for forced labour in the EU

6.1. Challenges arising from national legal frameworks

As indicated in Section 3, all EU Member States have introduced laws or provisions criminalising trafficking in human beings, including for forced labour. The national laws of most Member States mirror Article 2 of Directive 2011/36/EU. This relates both to the definition of trafficking in human beings and to the applicable penalties.

However, and without prejudice to the European Commission's work on the monitoring of the transposition of the directive, the statistics show that there are substantially more identified victims than prosecutions and convictions⁽²⁶³⁾, which might be an indication that these national laws are not always enforced in practice. To illustrate the possible reasons for this, this section describes the main challenges faced by national authorities in relation to the Member States' legal/institutional frameworks.

(a) The scope of trafficking in human beings for forced labour

One of the main challenges identified is the unclear scope and complexity of trafficking in human beings for forced labour. In most Member States, neither laws nor case-law define this offence; a few Member States, however, provide in their legislation some explanation as to what constitutes trafficking in human beings for forced labour, but the approach varies across Member States. Based on the findings of the study, this sometimes results in acquittals, lower penalties or offences convicted under alternative offence provisions, as demonstrated by the case-law analysed for this study.

For instance, in Belgium, the vagueness of the definition of trafficking in human beings for economic exploitation ('working or providing services in conditions contrary to human dignity') can lead to very different interpretations by the courts. According to the Deputy Public Prosecutor and Advocate General at the Liege Labour Court, the law 'is intended to cover forced labour and slavery, but also situations of very low salaries or of obviously unhealthy or dangerous conditions of labour'⁽²⁶⁴⁾. While there can be an advantage of this definition covering a range of forms of exploitation, it also allows for rather broad discretion for judges to decide what conditions are considered to be contrary to human dignity⁽²⁶⁵⁾. In practice, the case-law on trafficking in human beings may therefore be inconsistent⁽²⁶⁶⁾. In the city of Antwerp, for example, 'conditions contrary to human dignity' are very difficult to prove because of the high threshold applied by the court⁽²⁶⁷⁾.

The definition of the trafficking offence of 'taking advantage of a person who suffered from human trafficking for acts of inter alia forceful labour ... or holding him in forceful subjection, regardless of his consent', in Section IX of the

⁽²⁶³⁾ Over the three years from 2010 to 2012, 30 146 victims of trafficking in human beings (for all forms of exploitation) were registered in the 28 Member States. Member States reported that 8 551 people were prosecuted for trafficking in human beings over the three years 2010-2012. There were 3 786 convictions reported over the same period. Eurostat working paper, *Trafficking in human beings* (2014), available at: https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/trafficking_in_human_beings_-_eurostat_-_2014_edition.pdf; The first EU statistical data report on trafficking in human beings covering the years 2008-2010 is available at: <https://ec.europa.eu/anti-trafficking/node/4057>. The second report with data for the years 2010-2012 is available at: <https://ec.europa.eu/anti-trafficking/node/4810>

⁽²⁶⁴⁾ Skrivankova, K., JRF programme paper: Forced Labour Between decent work and forced labour: examining the continuum of exploitation, November 2010, available at: <https://www.jrf.org.uk/report/between-decent-work-and-forced-labour-examining-continuum-exploitation>, p. 13.

⁽²⁶⁵⁾ Ibid., see also Dutch National Rapporteur on Trafficking in Human Beings (2009), *Trafficking in human beings: Seventh report of the Dutch National Rapporteur*, p. 531.

⁽²⁶⁶⁾ Interfederal Centre for Equal Opportunities (Interfederaal Gelijke Kansen Centrum/Centre Interfédéral pour l'Égalité des chances), *Annual report human trafficking and human smuggling 2009 (Jaarverslag Mensenhandel en Mensensmokkel 2009/Rapport Annuel Traite et Trafic des êtres humains 2009)* (2010) Brussels, IGKC, available at: http://www.diversiteit.be/sites/default/files/legacy_files/JVS%20Mensenhandel%202009.pdf, p. 106. See also Ministerial Directive of 14 December 2006 'on the investigation and prosecution policy with respect to human trafficking' (*Ministeriële Richtlijn inzake het opsporings- en vervolgingsbeleid betreffende mensenhandel/Directive Ministérielle relative à la politique de recherche et de poursuite de la traite des êtres humains*), entered into force on 1 February 2007, diffused within the Prosecution Services through Circular COL 01/2007 of 1 February 2007 of the College of Prosecutors-General, Annex 1, which clarifies the notion of 'human dignity'.

⁽²⁶⁷⁾ Source: stakeholder interview (Belgian police).

Bulgarian Criminal Code, makes its distinction from the crime of human smuggling problematic. The Bulgarian legal order uses the concept of forced labour as an example of one of the purposes of human trafficking. The Bulgarian legislator has removed the ‘means’ element from the definition of trafficking in human beings. As the Supreme Court of Cassation has explained in its interpretative judgment delivered in relation to trafficking in human beings, pursuant to Bulgarian criminal law this crime is constituted even if no violence or deception has been utilised in relation to the victim ⁽²⁶⁸⁾. Trafficking can also be confused with the crimes of coercion, abduction, unlawful deprivation of liberty, infliction of light or severe bodily injury, infliction of bodily injury through ignorance or negligent performance of a vocation or another legally regulated activity which is a source of danger (Article 134, Bulgarian Criminal Code) ⁽²⁶⁹⁾. Fraud charges are also raised together with charges for trafficking in human beings for labour exploitation ⁽²⁷⁰⁾.

In Cyprus, the alternative legislation commonly used is Article 254 of the Penal Code on ‘illegal compulsory labour’, which provides that whoever forces another person to work involuntarily is guilty of a misdemeanour and is subject to one year’s imprisonment ⁽²⁷¹⁾. It is easier to prove the guilt of an offender for this crime than for trafficking in human beings due to the wide use of the Penal Code and the precedents that exist from case-law. In addition, when victims of trafficking complain about their employers, the Labour Office in Cyprus, which examines such cases, does not always refer them to the police. These cases are then handled by the Labour Office as employment discrepancies and thus are not investigated by the police as offences of trafficking in human beings ⁽²⁷²⁾.

In Denmark, in relation to trafficking for forced labour, the court has to establish both the element of force as set out in the offence provision (Section 262a of the Criminal Code) and as set out in the ILO Convention, and these two elements of force have to be consistent. In the ruling of 26 March 2014 (case No 1-2738/2013), the defendants were acquitted of the trafficking offence under Section 262a of the Criminal Code by the District Court due to lack of evidence of forced labour committed by ‘another form of improper conduct’ (as opposed to force, deprivation of liberty, threats and deceit — means that are explicitly listed in the relevant provision). The judge stated that the generic ‘another form of improper conduct’ in this provision is ‘very difficult to apply in practice’ since this concept has not yet been clarified in the case-law ⁽²⁷³⁾.

As noted above, the application of Article 233 of the Criminal Code in Germany, which specifically concerns trafficking for labour exploitation, is also restrictive. In particular, following a decision ⁽²⁷⁴⁾ of the Federal Supreme Court of Justice (*Bundesgerichtshof*), the offence is only established if the offender causes a not pre-existing decision of the victim to enter into an exploitative occupation or causes the victim who had decided to quit to change his/her mind. This subjective criterion is difficult to prove. Therefore, prosecutors often focus on offences which are easier to prove ⁽²⁷⁵⁾. There is consensus amongst practitioners that the current legislation is ineffective and does not lead to a relevant number of prosecutions and convictions for trafficking in human beings for labour exploitation ⁽²⁷⁶⁾.

⁽²⁶⁸⁾ Supreme Cassation Court, Interpretative Decision No 2 (16 July 2009) (Върховен Касационен Съд, Тълкувателно решение 2), available at: http://www.vks.bg/vks_p10_36.htm

⁽²⁶⁹⁾ *Handbook for combating the crime of human trafficking* (Steno, 2008) 11 (Наръчник за борба с престъплението трафик на хора (Стено, 2008) 11, available at: <http://combattrafficking.eu/sites/default/files/>

⁽²⁷⁰⁾ See, for example, Decision No 440, 07 June 2013, Case No 673/2013, Regional Court Stara Zagora (available at: Ciela electronic database) (Определиние No 440, 07 юни 2013 по ЧНД No 673/2013 на Райнонен Съд Стара Загора).

⁽²⁷¹⁾ ‘The Penal Code, Cap. 154’ (*Ο περί Ποινικού Κώδικα Νόμος, Κεφ. 154*), last amended by Government Gazette II(I), No 4412, 11.11.2013.

⁽²⁷²⁾ Rijken, C., Bosma, A., *Deliverable D1.1 of the project TRACE (trafficking as a criminal enterprise): A review of the implementation of the EU strategy on human trafficking by EU members*, available at: http://trace-project.eu/wp-content/uploads/2014/11/TRACE_D1.1_Final.compressed.pdf, p. 55.

⁽²⁷³⁾ Lauth, M., ‘After gross cases: “it must be possible to convict traffickers”’, in *Avisen.dk* (July 2014); and Norrie, A., ‘Minister refuses to have a look at the rules on forced labour’ (‘Minister afviser at se på regler om slavearbejde’), in *Sjællandske Medier* (April 2014); and Halskov, M., ‘3F: Law on human trafficking must be amended’ (‘Lov om menneskehandel skal ændres’), in *Fagbladet 3F* (March 2014). Author’s translation.

⁽²⁷⁴⁾ BGH, Decision of 13.1.2010, 3 StR 507/09, p. 6.

⁽²⁷⁵⁾ *Situation report on THB 2011 (Bundeslagebild Menschenhandel 2011)* of the Federal Criminal Police Office, p. 15.

⁽²⁷⁶⁾ GRETA, *Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Germany*, available at: http://www.coe.int/t/dghl/monitoring/trafficking/Docs/Reports/GRETA_2015_10_FGR_DEU_w_cmnts_en.pdf, p. 76.

Similarly, the Italian provisions concerning trafficking in human beings and forced labour are very detailed. If one or more of the elements mentioned in the provision is missing, the crime cannot be classified as trafficking in human beings for forced labour. During the proceedings the charges against the accused person can therefore change ⁽²⁷⁷⁾ into, for example, extortion ⁽²⁷⁸⁾, kidnapping ⁽²⁷⁹⁾ or exploitation of illegal immigration ⁽²⁸⁰⁾.

From the case-law of the Netherlands it is not always clear which situations should or should not be treated as trafficking in human beings ⁽²⁸¹⁾, and stakeholder consultation confirmed that it is an issue that the scope of the term 'forced labour' is still subject to discussion. What are at times considered as poor employment conditions are at others considered as exploitation in the context of forced labour ⁽²⁸²⁾.

In Poland, it is difficult to draw a clear line between trafficking in human beings and infringement of labour rights, specifically due to the lack of a definition of 'forced labour' (forced labour is not penalised in Poland). In practice, there were cases where the police identified a case as trafficking in human beings and the prosecutor, at a later stage of proceedings, classified it and further prosecuted it as an infringement of labour rights ⁽²⁸³⁾. The differentiation between trafficking in human beings and smuggling of people can also prove difficult at times ⁽²⁸⁴⁾. The latter does not involve the element of exploitation and since there is no legal definition of 'exploitation' in Polish law, and this term is open to interpretation, confusion may arise.

Article 115 §2 of the Polish Criminal Code (trafficking in human beings offence provision) was introduced on 8 September 2010. Before that, human trafficking was prosecuted on the basis of Article 253 of the Criminal Code which penalised trafficking in human beings, without further explanation of that term. In order to interpret 'human trafficking', judges referred to literature and relevant case-law and international agreements. In this context, problems may arise in cases where a crime was committed when the old legislation was still in force (i.e. before 8 September 2010) and is prosecuted after the entry into force of the new legislation. Courts of Appeal are not consistent as to the interpretation of the scope of application of these two provisions. Some courts rule that the scope is the same, thus penalising the same types of behaviour ⁽²⁸⁵⁾ whilst some claim that the scope of application of Article 253 of the Criminal Code is narrower than Article 115 §2 ⁽²⁸⁶⁾.

Portuguese legislation used to criminalise trafficking in human beings (including for forced labour) contains an express provision on the irrelevance of the consent of a victim of trafficking to the intended exploitation. Nonetheless, the current framework is still not completely in line with EU and international requirements as 'forced services', 'practices similar to slavery' or 'servitude' are not expressly mentioned. Trafficking in human beings for forced labour has been prosecuted under Article 159 of the Criminal Code (criminalising slavery) and under Article 183 of the Law on the entry, stay, exit and removal of foreigners from the national territory (criminalising aid to illegal immigration). These crimes are considered easier to prove than trafficking in human beings; in addition the penalties for slavery are higher than for trafficking in human beings ⁽²⁸⁷⁾.

In Slovakia, there is a very fine line between the offence of trafficking in human beings for forced labour and other criminal offences, and the definition of trafficking in human beings for forced labour is misunderstood. It is often difficult to prove a lack of freedom or of personal liberty of the exploited persons that sometimes is considered by authorities as crucial for the substantiation of the trafficking in human beings offence. Authorities do not always acknowledge the fact that coercion can take a psychological or other very sophisticated form (e.g. debt of victim towards the offender) and does not necessarily end in the loss of physical freedom. Frequently, potential cases of trafficking in human beings for forced labour are confused with smuggling of people ⁽²⁸⁸⁾. This offence is prosecuted under Section 355 of the Slovakian Criminal Code.

⁽²⁷⁷⁾ Information collected through consultation with national stakeholders (representative of law enforcement authorities).

⁽²⁷⁸⁾ Article 629 of the Criminal Code.

⁽²⁷⁹⁾ Article 605 of the Criminal Code.

⁽²⁸⁰⁾ Article 12 of the Legislative Decree 286/1998 'Single Act on Immigration' ('Testo Unico sull' Immigrazione'), Official Journal No 139 of 18 August 1998.

⁽²⁸¹⁾ Ninth report of the Dutch National Rapporteur (September 2013), p. 121.

⁽²⁸²⁾ Reference was made to the discussion on this in *Delikt en Delinquent*, No 48, September 2014.

⁽²⁸³⁾ Information collected through stakeholder interview.

⁽²⁸⁴⁾ Information collected through stakeholder interview.

⁽²⁸⁵⁾ Judgment of the Court of Appeal in Wrocław of 26 November 2012, II Aka 232/12.

⁽²⁸⁶⁾ Judgment of the Court of Appeal in Suwałki of 8 of February 2013, II K 68/12.

⁽²⁸⁷⁾ GRETA, *Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Portugal*, p. 38, available at: http://www.coe.int/t/dghl/monitoring/trafficking/docs/Reports/GRETA_2012_17_FGR_PRT_en_with_cmts.pdf

⁽²⁸⁸⁾ SK country fiche, information collected through consultation with national stakeholders.

The Swedish National Police Board's annual report on trafficking in human beings emphasises that 'human trafficking legislation is complex and often difficult to enforce' ⁽²⁸⁹⁾. For example, in order to apply criminal liability in Sweden, it has to be proven that the perpetrator had direct intent with regard to the exploitation. This requirement makes it difficult to apply the law, especially in cases where the recruitment and transport took place outside of Sweden. As a result, cases that are not prosecuted under the provision on trafficking in human beings are commonly prosecuted under the provision on usury ⁽²⁹⁰⁾. Another complexity under Swedish law is the absence of a statutory minimum wage. Law enforcement authorities have therefore difficulties proving exploitation of workers due to the payment of very low wages since low wages as such are not illegal in Sweden ⁽²⁹¹⁾.

The lack of case-law on the scope and application of the legislative framework in many Member States was also raised as a challenge to bringing charges and prosecuting cases of trafficking in human beings for forced labour. Courts have started to recognise trafficking in human beings for the purposes of forced labour, but this practice is limited ⁽²⁹²⁾. This problem was noted, for example, in Ireland, where no case-law on trafficking in human beings for forced labour was identified. According to the Anti-Human Trafficking Unit of the Department of Justice (AHTU), since the Criminal Law (Human Trafficking) Act 2008 came into force over 200 allegations of trafficking in human beings have been referred to the police (An Garda Síochána), including trafficking in human beings for forced labour. About two thirds of these investigations have been completed. However, according to the AHTU, in the vast majority of these cases insufficient evidence of trafficking in human beings was found to sustain a prosecution, and in some cases alternative charges were brought under other legislation ⁽²⁹³⁾. There is no specific information on which alternative legislation was used for the prosecution of cases that could have potentially constituted trafficking in human beings for forced labour.

In Lithuania, there is no case-law on trafficking in human beings for the purposes of forced labour and labour exploitation. Due to this, law enforcement authorities choose to qualify offences with elements of trafficking in human beings for forced labour as fraud, illegal employment or abandoning persons abroad without any assistance. A case was reported where the Lithuanian police and prosecution were working to prove trafficking in human beings for forced labour, referring in all their communications to this particular offence, only to change the qualification when submitting the case to the court ⁽²⁹⁴⁾. The reasoning was that there is no case-law on this matter and to obtain convictions it is better to choose a criminal provision that is more familiar to the courts. In this case, the defendants were charged with organising illegal employment abroad or abandoning persons abroad without any assistance according to Article 293(1) of the Criminal Code. They received a rather lenient punishment for what could have been trafficking in human beings for forced labour — 45 to 50 days' arrest in the premises of the police.

(b) Time limitations

Statutory time limitations to prosecute alleged perpetrators of trafficking in human beings for forced labour have been put in place by some Member States.

In Sweden, for instance, time limitations are in place when the suspect has been arrested. The prosecutor has 17 days to initiate proceedings (although this can be extended). There is therefore pressure on the prosecutor to prepare the case within that period of time. This can affect the quality of the prosecution ⁽²⁹⁵⁾.

⁽²⁸⁹⁾ The Swedish National Police Board, *Trafficking in human beings for sexual and other purposes: Situation report 14 (Människohandel för sexuella och andra ändamål, Lagesrapport 14, RPS Rapport 2014)* (2014) available at: http://polisen.se/Global/www%20och%20Intrapolis/Rapporter-utredningar/01%20Polisen%20nationellt/M%C3%A4nniskohandel/Lagesrapport_14_Manniskohandel.pdf, p. 36. English version (2012), available at: http://polisen.se/Global/www%20och%20Intrapolis/Informationsmaterial/01%20Polisen%20nationellt/Engelskt%20informationsmaterial/Trafficking_1998_/Trafficking_report_13_20130530.pdf, p. 40.

⁽²⁹⁰⁾ The Swedish National Police Board, *Trafficking in human beings for sexual and other purposes: Situation report 14 (Människohandel för sexuella och andra ändamål, Lagesrapport 14, RPS Rapport 2014)* (2014) available at: http://polisen.se/Global/www%20och%20Intrapolis/Rapporter-utredningar/01%20Polisen%20nationellt/M%C3%A4nniskohandel/Lagesrapport_14_Manniskohandel.pdf, p. 37.

⁽²⁹¹⁾ Case study 4: Judgment B 3573-10 of the Malmö District Court (SE-004).

⁽²⁹²⁾ Information collected through consultation with national stakeholders (CMS), August 2014.

⁽²⁹³⁾ 'Criminal justice response', Department of Justice and Equality/Blue Blindfold website, available at: www.blueblindfold.gov.ie/website/bbf/bbfweb.nsf/page/ireland-sresponse-criminaljusticeresponse-en

⁽²⁹⁴⁾ Case study 1: Vilnius District Court, 1-62-172/2012.

⁽²⁹⁵⁾ Information obtained through stakeholder interview.

A similar issue was raised also with regard to Latvia, where the law sets a 48-hour limit from the moment of arrest within which sufficient reasons have to be shown before a judge who decides on the detention on remand ⁽²⁹⁶⁾. It has been pointed out that in some trafficking in human beings cases it is difficult to produce sufficient reasons within 48 hours ⁽²⁹⁷⁾.

Time limits for investigation have also been raised as being problematic. Pursuant to Article 234(1) of the Bulgarian Code of Criminal Procedure, the investigating authorities have to send the case to the prosecutor at the latest two months after the opening of the case ⁽²⁹⁸⁾. Pursuant to Article 26(1) of the Law on Combatting Human Trafficking, if within one month the victim declares his/her consent to collaborate with the investigation, she/he is granted special protection status (the special protection status implies accommodation in shelters and, in case of undocumented migrants, authorisation to remain in the territory of Bulgaria). Article 26(1) implies that, during this one month, the victim might not actually collaborate and, as a result, the actual investigation might be obstructed. The two-month time period for the investigating authorities to send the case to the prosecutor is therefore all the more demanding ⁽²⁹⁹⁾.

(c) Bringing charges against legal persons

Often victims of trafficking in human beings for forced labour are recruited through companies (e.g. employment agencies or companies offering job placements abroad). According to Article 5 of Directive 2011/36/EU, Member States are required to take measures to ensure that legal persons can also be held liable for committing as well as inciting, aiding and abetting, and attempting offences of trafficking in human beings. Most Member States have relevant legislation in place.

Nevertheless, desk research and stakeholder consultation carried out for this study revealed very few cases where legal persons were prosecuted for trafficking in human beings for forced labour. ⁽³⁰⁰⁾ Only one conviction was mentioned in the 23 GRETA reports.

In Romania, for example, several companies recruiting workers were investigated in the period 2009-2013 ⁽³⁰¹⁾, however, no sanctions were imposed on any of them ⁽³⁰²⁾. Most commonly these companies are punished for fraud, for which the penalties set out in the Romanian Criminal Code are rather lenient ⁽³⁰³⁾. Moreover, the prescription period for criminal liability for fraud is five years, regardless of the consequences.

In a Belgian case, the court of Ghent established the corporate liability of the supply chain under anti-trafficking laws in the case summarised below.

⁽²⁹⁶⁾ Article 263 of the Latvian Criminal Procedural Law.

⁽²⁹⁷⁾ Conclusion based on stakeholder interview.

⁽²⁹⁸⁾ There are possibilities open for extending this time frame.

⁽²⁹⁹⁾ *Handbook for combating the crime of human trafficking* (Steno, 2008) 25 (Наръчник за борба с престъплението трафик на хора, Стено, 2008), available at: http://combattrafficking.eu/sites/default/files/Trafik_na_hora_book_2.pdf

⁽³⁰⁰⁾ According to the TRACE (Trafficking as a Criminal Enterprise) project, carried out under the EU's seventh framework programme, the lack of cases on corporate liability is at the same time a trend and a challenge for the future. Rijken, C., Bosma, A., *Deliverable D1.1 of the project TRACE (trafficking as a criminal enterprise): A review of the implementation of the EU strategy on human trafficking by EU members*, available at: http://trace-project.eu/wp-content/uploads/2014/11/TRACE_D1.1_Final_compressed.pdf, p. 22.

⁽³⁰¹⁾ Directorate for Investigating Organised Crime and Terrorism Website (*Directia de investigare a infractiunilor de criminalitate organizata si terorism*), available at: <http://www.diicot.ro/index.php/arhiva/1088-comunicat-de-presa-28-04-2014>; Bota, D., 'Companies recruiting staff from DIOCT to investigate trafficking' ('Firme de recrutare a forței de muncă, anchetate de DIICOT pentru trafic de persoane') (6 December 2010), available at: <http://www.pressalert.ro/2010/12/firme-de-recrutare-a-forței-de-munca-anchetate-de-diicot-pentru-traffic-de-persoane>; Groza, D., 'Details of DIOCT file on trafficking in Dubai. An Italian key figure disappeared. The prosecutor on the case said: "I will not lose it"' ('Detaliile unui dosar DIICOT de trafic de persoane în Dubai. Un italian, personaj-cheie, dispărut fără urmă. Procurorul de caz: "Nu o să-l pierd"') (19 June 2014), available at: http://redesteptarea.ro/detaliile-unui-dosar-diicot-de-traffic-de-persoane-in-dubai-un-italian-personaj-cheie-disparut-fara-urma_1817494.html

⁽³⁰²⁾ U.S. Department of State, *2013 trafficking in persons report* (June 2013), available at: <http://www.state.gov/j/tip/rls/tiprpt/countries/2013/215550.htm>

⁽³⁰³⁾ Cîrchelari, A. and Financier, Z., 'Lawyer Anthony Obancia new partner in the litigation department Zamfirescu Racoti & Partners' ('Avocatul Antoniu Obancia, noul partener in departamentul litigii al Zamfirescu Racoti & Partners'), available at: http://www.medierenet.ro/2014/03/28/noul-cod-penal-faptele-de-inselaciune-se-prescriu-dupa-5-ani/#U_ZRUBkTVk

Case study 7: First Instance Court of Ghent, 19th chamber (Tribunal de Première Instance de Gand, 19ème chambre), Case No 2012/3925 (BE X)

Key facts: This case deals with the labour exploitation of foreign victims. A company (a chain of motorway cafes) used the services of a contractor for the cleaning of its bathrooms. That contractor used solely foreign employees who worked seven days a week from 7 am to 10 pm for EUR 45 a day.

Legislation applied: Criminal Code: Articles 66 (co-author of offence), 5 and 41bis (criminal liability of companies), 433quinquies and 433septies (human trafficking); Article 12 of the Act of 30 April 1999 on the occupation of foreign workers

Decision by the Court of First Instance of Ghent, 19th chamber: The court found that the end company was liable for abetting the crime of trafficking in persons, regardless of the lack of a direct legal relationship with the abused workers. The court held that even though the company was the beneficiary of the work of the trafficked persons and did not have any direct legal relationship with the victims, the abuses committed by the company which concluded the contracts with the workers and managed them would not have been possible without the company 'deliberately ignoring malpractices'. Outsourcing was also found to not be an excuse for 'deliberately ignoring the exploitation of its workers'.

Penalties/compensation: Both the company and the contractor employing the workers were sentenced to pay fines of EUR 528 000 and EUR 99 000 respectively. In addition, the offenders were sentenced to one to five years' imprisonment. The victims were awarded EUR 2 500 for moral and material damages.

(d) Penalties

While Member States have established severe and dissuasive penalties related to trafficking in human beings for forced labour offences, in practice the penalties applied are relatively low. The reason for low penalties and often suspended sentences is the lack of sufficient evidence to prove the seriousness or the extent of the offence committed due to the poor-quality victim and witness testimonies with little additional corroborating evidence and, in some cases, the court reasons that the actual harm inflicted is not grave enough to justify a harsh punishment ⁽³⁰⁴⁾.

For instance, in Luxembourg ⁽³⁰⁵⁾, a court found two defendants guilty of trafficking in human beings for forced labour concerning a child. The child was exploited for almost two years. The defendants were brought to the Correctional Chamber rather than to the Criminal Chamber on the basis of mitigating circumstances (complexity of the case with confusing statements by all parties, and absence of a criminal record on the part of both defendants). As a result, the offence was qualified as a misdemeanour for which the minimum penalty is three years' (rather than 10) imprisonment and a minimum fine of EUR 5 000 (rather than EUR 100 000). The criminal sanction was therefore the least severe penalty possible. The court also took the lack of criminal record of the defendant into account in the sentencing, imposing a sentence of imprisonment with full reprieve ⁽³⁰⁶⁾.

Another example of low penalties is found in Romanian case-law. The court of first instance stated that 'the acts of the defendant who ... had recruited, transported and accommodated 21 workers promising them paid employment, decent accommodation and food and then by threat had forced them to perform construction work in violation of laws on working conditions, wages and occupational health — meet the elements of the offence of trafficking in persons' ⁽³⁰⁷⁾. The court sentenced the defendant to five years of imprisonment and applied complementary punishment of prohibition of certain rights for a period of two years. However, the appeal courts deemed that the court of first instance in its sentence did not take into account the individual circumstances of the defendant, namely, that he was employed, 40 years old, without a criminal record and thus not a danger to society. On these grounds, the court of cassation suspended the prison sentence of three years for a probation period of eight years.

In the Netherlands, judges have wide discretion when it comes to sentencing. Unlike with other offences, due to the small number of relevant cases and frequent legislative changes, there are no landmark judgments (*straftoemeting*) ⁽³⁰⁸⁾ on trafficking in human beings for forced labour. Therefore, a clear assessment framework is missing and sentences for this offence differ. In the case-law analysed for this study, sentences varied from 10 months to four years of imprisonment. This, however, includes cases where the defendants were convicted on different grounds, including trafficking in human beings for forced labour. Nevertheless, other sources confirm that a conviction for traf-

⁽³⁰⁴⁾ See for example Case study 1: Case number 30186, 16 June 2010, Regional Court Montana (BG-001) (Решение по Наказателно дело No30186/2010, Районен Съд Монтана), available at: <http://legalacts.justice.bg/ShowMotive.aspx?actId=168535>

⁽³⁰⁵⁾ Case study 1: Arrêt No 249/2014 du 24 April 2014 du Tribunal d'arrondissement de Diekirch (LU-001.)

⁽³⁰⁶⁾ Case study 1: Arrêt No 249/2014 du 24 April 2014 du Tribunal d'arrondissement de Diekirch (LU-001.)

⁽³⁰⁷⁾ Penal Decision No 37 from 22 March 2010 of Olt Tribunal, p. 4.

⁽³⁰⁸⁾ Ninth report of the National Rapporteur (September 2013), available at: <http://www.dutchrapporteur.nl/reports/ninth/index.aspx>.

ficking in human beings in the Netherlands is usually sentenced with (unsuspended) custody, but sentences longer than four years are rare ⁽³⁰⁹⁾.

(e) Compensation

Compensation is a key issue for victims. The disbelief that victims will obtain compensation is cited as a factor in the lack of victim cooperation in the proceedings. The case-law analysed for this study, however, provides limited information about compensation for damages awarded to victims of human trafficking for forced labour. Compensation is often claimed outside of the criminal proceedings and the case-law rarely provides information on whether and how (e.g. civil or labour law proceedings, through a state compensation scheme) it was done.

From the information available, some challenges are identified for victims seeking compensation, the courts deciding on compensation and the enforcement of compensation awards. However, the findings cannot be generalised due to the significant differences between Member States as regards, for example, the conditions under which compensation is granted, the types of loss compensated or the methods used to calculate the amount of compensation.

■ Victims seeking compensation

According to Article 16 of Directive 2012/29/EU ⁽³¹⁰⁾, victims have the right to a decision on compensation from the offender in the course of criminal proceedings (except where national law provides for such a decision to be made in other legal proceedings). To exercise this right, in most Member States the victim has to pursue a claim against the offender.

The case studies show that victims do not always claim compensation or claim just part of it, or even waive this right during the proceedings ⁽³¹¹⁾. For instance, in case UK-09-1 the victims did not seek any compensation even though they were provided compensation claim forms ⁽³¹²⁾. In a Romanian case, RO-24-01 ⁽³¹³⁾, only one victim was awarded damages corresponding to the unpaid salary because the other victims claimed compensation only for moral suffering.

Often, one reason for victims not applying for compensation is the lack of sufficient information and legal assistance regarding their compensation rights and how to exercise them ⁽³¹⁴⁾. Legal assistance is usually provided to victims based on their financial situation. Victims of trafficking in human beings for forced labour often do not qualify for legal aid. For instance, in a Belgian case, BE-38-1 ⁽³¹⁵⁾, the victim was not entitled to legal aid because he was working and had a salary of his own at the time of the prosecution. He was supported by a specialised reception centre for victims, Payoke, that covered the costs of his lawyer (at that time, the centre received funding for this from the government). In a Slovenian case, SI-001 ⁽³¹⁶⁾, the victim was legally represented pro bono by a private law firm. The law firm was authorised to represent the victim upon agreement with the Ključ association —the centre for the fight against trafficking in human beings.

In some Member States filing a claim within the criminal procedure involves costs. In the Greek penal system, and according to judicial practice, victims usually submit a request to become a civil claimant. The fee for becoming a civil claimant is EUR 50 ⁽³¹⁷⁾. This may be another obstacle for victims, especially in cases where they do not qualify for legal aid or the aid provided does not cover the specific costs.

Other case studies, such as Slovenian case SI-002, demonstrate challenges posed by the cross-border nature of trafficking. In this case victims did not seek compensation as they wished to return home as soon as possible. It may be that victims were discouraged from exercising their right due to the length of proceedings or disbelief that they

⁽³⁰⁹⁾ Rijken, C., Bosma, A., *Deliverable D1.1 of the project TRACE (trafficking as a criminal enterprise): A review of the implementation of the EU strategy on human trafficking by EU members*, available at: http://trace-project.eu/wp-content/uploads/2014/11/TRACE_D1.1_Final.compressed.pdf, p. 50.

⁽³¹⁰⁾ Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA (OJ L 315, 14.11.2012, p. 57-73).

⁽³¹¹⁾ Case study 3: Judgment 1 T 1/2012 (CZ-003).

⁽³¹²⁾ Case study 3: T20140243 — Jurate Grigelyte (UK-009-1).

⁽³¹³⁾ Case study 2: Penal Decision No 1814/28 May 2014 of the High Court of Cassation and Justice (RO-24-01).

⁽³¹⁴⁾ See also GRETA reports, available at: http://www.coe.int/t/dghl/monitoring/trafficking/Docs/Monitoring/Country_Reports_en.asp

⁽³¹⁵⁾ Case study 4: Corr. Tournai, 6 September 2012 (French) (BE-38-1).

⁽³¹⁶⁾ Case study 1: K 109/2008, Novo Mesto Local Court, first instance (SI-001-1).

⁽³¹⁷⁾ Article 63 of the Greek Penal Procedure Code, as amended by Ministerial Decision 123827/23.12.2010, Government Gazette B'1991/2010.

would actually receive some compensation from the offenders. Victims may also leave due to the lack of means of subsistence to continue residing in the Member State where the exploitation took place, or for other practical reasons.

■ Compensation orders on behalf of victims

In some Member States such as the United Kingdom, Sweden, the Netherlands and Poland, compensation on behalf of the victim can be requested by the prosecution services or imposed *ex officio* by the courts.

In the United Kingdom, the prosecutors have wide discretion to decide whether or not to apply for a compensation order on behalf of a victim of trafficking in human beings. The Crown Prosecution Service Guidelines state that the prosecutor should be ready to assist the court, which includes drawing the court's attention to its powers to award compensation and inviting it to make such an order where appropriate ⁽³¹⁸⁾. No such request by prosecutors was identified in the United Kingdom case-law analysed for this study.

In Sweden, victims of trafficking can claim compensation through prosecutors. Pursuant to the Swedish Code of Judicial Procedure, the injured party may lodge a private claim for compensation for damages in conjunction with the prosecution of the offence. When making such a claim the prosecutor, upon the request of the injured party, prepares and presents this party's action, provided this will not result in any major inconvenience for the case and the claim is not manifestly ill-founded ⁽³¹⁹⁾. In all the Swedish cases analysed ⁽³²⁰⁾ prosecutors made compensation orders and victims were supported throughout the trial by counsels for injured parties, who are paid by the state.

In the Netherlands 'compensation orders can be imposed *ex officio*. The courts have the discretion to impose an order even if the aggrieved party has not submitted a claim ... A compensation order was also imposed *ex officio* in the appeal in the case of the asparagus farmer in Someren ⁽³²¹⁾ because the Court of Appeal arrived at a higher sum than the amount claimed in its estimate of the damages' ⁽³²²⁾. However, cases where the Dutch courts use their right to impose compensation *ex officio* are rare ⁽³²³⁾.

Similarly, in a Polish case, PL-005-1 ⁽³²⁴⁾, compensation was awarded to the victims based on the initiative of the court. According to the information obtained, only one of the victims applied for compensation, but the judgment awarded compensation to all of the identified victims.

■ Compensation awards by courts

In some Member States, such as Bulgaria and Cyprus, the chances of getting any form of compensation after conviction are very low and this might discourage victims from participating in the proceedings ⁽³²⁵⁾.

The amounts of compensation awarded to victims vary considerably among Member States. Differences can be explained by the individual facts of the case as well as the income and the living standards in a given Member State. Nevertheless, some case studies show that judges might not be sufficiently sensitised to the situation of victims of trafficking. For instance, in a Romanian case where three victims were exploited on the defendant's farm for around two years, the court considered that RON 5 000 (around EUR 1 050) for each victim was sufficient to compensate

⁽³¹⁸⁾ The guidelines are available at: http://www.cps.gov.uk/legal/s_to_u/sentencing_and_ancillary_orders_applications/#b02. See also Lam, J. and Skrivankova, K., *Opportunities and obstacles: Ensuring access to compensation for trafficked persons in the UK* (2009), Anti-Slavery International, available at: http://www.antislavery.org/includes/documents/cm_docs/2009/t/trafficking_and_compensation2009.pdf

⁽³¹⁹⁾ GRETA, *Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Sweden*, available at: http://www.coe.int/t/dghl/monitoring/trafficking/Docs/Reports/GRETA_2014_11_FGR_SWE_en.pdf, p. 143.

⁽³²⁰⁾ Case study 1: Judgment B 179-12 of the Skellefteå District Court, first instance (SE-001), Case study 2: Judgment B 2220-11 of the District Court of Hudiksvall, first instance (SE-002), Case study 3: Judgment B 1834-11 of the District Court of Hudiksvall, first instance (SE-003), Case study 4: Judgment B 3573-10 of the Malmö District Court, first instance (SE-004), Case study 5: Judgment B 5971-10 of the Svea Court of Appeal, second instance (SE-005).

⁽³²¹⁾ Case study 4: Judgment BT6501 of the District Court of Hertogenbosch, first instance (NL- 018(1)).

⁽³²²⁾ Dutch National Rapporteur in its assessment of case-law (2009-2012).

⁽³²³⁾ Heemskerck, M., Willemsen, E. (FairWork, September 2013), *Compensation for victims of human trafficking in the Netherlands*, available at: <http://lastradainternational.org/Isidocs/3087-Compensation%20for%20Victims%20of%20Human%20Trafficking%20in%20The%20Netherlands.pdf>, p. 23.

⁽³²⁴⁾ Case study 1: Regional Court in Legnica, III Criminal Division (court of first instance), III K 2/13 (PL-005-1).

⁽³²⁵⁾ USA Department of State, *Trafficking in persons report: country narratives* (2014), available at: <http://www.state.gov/j/tip/rls/tiprpt/countries/2014/index.htm>; GRETA also reports that no victim of human trafficking was granted compensation. GRETA, *Report concerning the implementation of the CoE Trafficking Convention by Bulgaria*, GRETA(2011)19, 14 December 2011, available at: http://www.coe.int/t/dghl/monitoring/trafficking/docs/Reports/GRETA_2011_19_FGR_BGR_en.pdf, para.221, p. 41.

their physical and mental suffering ⁽³²⁶⁾. Yet, in sentencing the offender the court acknowledged the special gravity of the offence, the violence with which the victims were kept in a state of slavery, the inhumane work conditions and the appalling accommodation. In a relatively similar situation in the Netherlands, a court awarded EUR 20 000 in moral damages to a victim who was forced to work for three years on the market under poor conditions for an unreasonably low salary ⁽³²⁷⁾.

Many Member State courts have difficulties in determining compensation due to the lack of benchmarks to assess material and non-material damages caused to victims of trafficking. In a Swedish case, SE-002, the court noted that there is no relevant case-law with regard to damages and therefore it used its own discretion to calculate the damages. The court did not elaborate on the calculation of damages other than that they were awarded based on objective factors which were not further specified. Also, in case LU-001, a tribunal in Luxembourg granted the victim compensation of EUR 5 000 based on simple evaluation with no reference to what seemed adequate ⁽³²⁸⁾.

Different approaches are taken by Member State courts in calculating compensation to victims of human trafficking. In Belgium, not all judges grant material compensation corresponding to unpaid salaries, based on the reasoning that such compensation would constitute unjustified benefits in case of illegal employment ⁽³²⁹⁾. Case studies from other Member States show that courts commonly calculate compensation based on unpaid or underpaid wages. In a Dutch case, illustrated below, the court calculated compensation for victims on the basis of the Dutch minimum wage.

Example from case study 4: Judgment BT6501 of the District Court of Hertogenbosch (NL- 018(1))

'In the appeal in the case against an asparagus farmer in Someren, the court of appeal awarded the aggrieved party claims related to unpaid salary. To calculate the compensation, the court first calculated how many hours the aggrieved party had worked for the suspect. With respect to aggrieved party X, it followed from the evidence that he had worked 12 to 14 hours a day for 22 days. The court found that the total number of hours could reasonably be fixed at 13 (hours per day) × 22 (days) = 286 hours. That total was multiplied by the minimum hourly wage applicable during the period of the offence (EUR 7.12), so the injured party was still owed a sum of EUR 2 026.32. Advances received, money for food and lodging and meal vouchers were deducted from that sum, leaving an amount of EUR 1 625.32.' ⁽³³⁰⁾

In a United Kingdom case, where compensation was sought using the Proceeds of Crime Act (POCA) legislation, which as a result is believed to be the first of its kind in the United Kingdom ⁽³³¹⁾, the county awarded the victim GBP 101 300.72 (around EUR 138 000). The compensation covers the salary the victim would have been able to command if she was legitimately employed to carry out the chores she was forced to do based on minimum wage, and on the premise that she worked for 12 hours a day, seven days a week ⁽³³²⁾.

In Finland, where there is no national minimum wage, compensation in case FI-006-1 was awarded for unpaid wages, based on the calculation of the unpaid wages applied for restaurant services, service labour union wage calculations and working time calculations by the police. The sums varied between EUR 9 886 and EUR 228 882 for unpaid wages and between EUR 8 000 and 35 000 for moral suffering. Moral damages were based on two considerations: first, the duration of the criminal activity and vulnerability of the victims; and second, compensating the victims in an equal way (all claimants with smaller claims received EUR 8 000 for pain and suffering).

⁽³²⁶⁾ Penal Decision No 18/07 February 2013 of Calarasi Tribunal, p. 8.

⁽³²⁷⁾ Case study 5: Judgment RBAMS, 2013, 8010 of the District Court of Amsterdam, first instance.

⁽³²⁸⁾ Conclusion based on stakeholder consultation (judge).

⁽³²⁹⁾ Belgium country fiche.

⁽³³⁰⁾ Case study 4: Judgment BT6501 of the District Court of Hertogenbosch, first instance (NL- 018(1)).

⁽³³¹⁾ Greater Manchester Police press release, 'Couple to pay £100 000 compensation to domestic victim', 15 October 2014, <http://gmp.police.uk/live/nhoodv3.nsf/WebsitesPagesLite/9ED2D7D864C02B8880257D7200501C84?OpenDocument>

⁽³³²⁾ Case study 1: Judgment of the Court of Appeal Criminal Division of 4 February 2014 (UK-002-1A and UK-002-1B; UK-002-2).

6.2. Challenges relating to victims'/witnesses' participation in the investigation/prosecution

As with other forms of trafficking in human beings, securing evidence from victims and corroborating that evidence is a main challenge in investigating and prosecuting trafficking in human beings for forced labour. Likewise, it is crucial that victims are supported and protected throughout and after their involvement in the criminal proceedings ⁽³³³⁾.

A number of factors affect victims' and witnesses' willingness to cooperate and participate in the investigation/prosecution. These include the fears experienced by the victim, including fear of retribution by the suspect or of deportation. Victims may also not identify themselves as victims for different reasons.

(a) Victims' fear of reprisals

The problem presented by the victim's fear of reprisals by the suspect emerged in a number of cases analysed for this study. For example, a case in Slovakia was unsuccessful mainly due to the fact that the victims were afraid to testify (another reason was linked to the legal status of the victims, explained below). There were more than 200 potential victims but most of them refused to testify. In this case, one victim who testified said that when she left she received constant threats over the phone. The defendants requested that she pay her debt and one of the defendants called her father in Ukraine threatening him. These calls were recorded by the investigators. According to them, in several cases the defendants were using aggression against the victims ⁽³³⁴⁾. In addition, the victims who were in Slovakia had to travel to the hearings from their place of residence (from the capital city Bratislava) to the court for more than 200 km on their own. The defendants lived in the same city as the victims ⁽³³⁵⁾.

(b) Victims' fear of deportation

Based on the Eurostat working paper, most of registered victims of trafficking in human beings are EU citizens. For the victims of trafficking who are non-EU nationals the fear of deportation is a commonly reported reason for their reluctance to cooperate with law enforcement authorities. The Cypriot police, for instance, have observed that victims who reside illegally are usually poorly educated and they sometimes think that they have no rights. Therefore, they feel that they will not be supported or given any help in their situation ⁽³³⁶⁾.

The Slovakian case mentioned above in relation to the victim's fear of reprisals also shows how the legal status of victims can negatively impact the investigation and prosecution of trafficking in human beings for forced labour ⁽³³⁷⁾. Due to the victims' status as irregular migrants, many of them were administratively deported back to Ukraine before the criminal investigation had even begun. At that moment, they were not yet considered as potential victims ⁽³³⁸⁾. However, when the investigation started, many of the victims were no longer possible to identify. In combination with other difficulties in this case (e.g. intimidation of victims by the suspects, the poor quality of the victim testimonies that were secured), the court found that the evidence collected was not enough to prove the guilt of the offenders for trafficking in human beings for forced labour.

(c) Victims do not perceive themselves as victims

Practice has shown that, especially with regard to trafficking in human beings for forced labour, victims are often not aware of the fact that according to Member State legislation they are victims of crime. This might be due to the fact that they are escaping very difficult living and working conditions in their home country. This was reported, for instance, by Italian ⁽³³⁹⁾ and Belgian stakeholders consulted for this study. Victims may also see the perpetrator as someone who is helping them. This may particularly be the case for more vulnerable victims such as persons with disabilities.

⁽³³³⁾ European Commission, *The EU rights of victims of trafficking in human beings*. Available at: http://ec.europa.eu/dgs/home-affairs/e-library/docs/thb_victims_rights/thb_victims_rights_en.pdf

⁽³³⁴⁾ Case study 1: BB-3T/13/2012 Plechov and others, Specialised Criminal Court (SK-001).

⁽³³⁵⁾ Case study 1: BB-3T/13/2012 Plechov and others, Specialised Criminal Court (SK-001).

⁽³³⁶⁾ Cyprus country fiche.

⁽³³⁷⁾ Case study 1: BB-3T/13/2012 Plechov and others, Specialised Criminal Court (SK-001).

⁽³³⁸⁾ Case study 1: Judgment B 179-12 of the Skellefteå District Court (SE-001).

⁽³³⁹⁾ Italy: information collected through consultation with national stakeholders (representative of law enforcement authorities).

A related issue is that victims, who are often from third countries, do not know their rights or the languages, conditions or culture ⁽³⁴⁰⁾. Victims frequently know that they are being exploited, but they do not know how to exercise their rights (in particular labour rights) and, importantly, are too scared of the authorities to make a complaint. This is particularly the case for undocumented workers who usually have less recourse to employment rights than other workers.

(d) Victims do not want to lose their source of income

Another reason that victims may be unwilling to participate in the investigation is that this would result in losing their source of income ⁽³⁴¹⁾. This can be particularly the case in countries with high unemployment rates. Some victims may also prefer civil redress (e.g. payment of unpaid wages) to a criminal prosecution, as it can be quicker and more empowering to victims. This, however, does not mean that the conduct does not constitute the offence of trafficking in human beings. According to Article 1 of Directive 2011/36/EU, the consent of a victim of trafficking in human beings to the exploitation, whether intended or actual, is irrelevant where any of the illicit means have been used (e.g. threat, use of force or other forms of coercion, fraud, deception).

(e) Lack of trust in authorities

General distrust in the justice system is one of the main reasons for failure to secure victim and witness testimony, for instance in Latvia ⁽³⁴²⁾. When it comes to trafficking in human beings offences, proceedings in Latvia are often lengthy and have a low rate of conviction ⁽³⁴³⁾. This inevitably leads to decreased trust in law enforcement agencies, and victims and witnesses show less willingness to cooperate.

Victims may also be reluctant to speak up due to a lack of trust in authorities, since in their home countries they often perceive them as corrupt ⁽³⁴⁴⁾. This point was raised in Germany and Bulgaria for example ⁽³⁴⁵⁾. Bulgarian victims trafficked abroad are more willing to trust the authorities of western European states than the Bulgarian authorities ⁽³⁴⁶⁾. The role of civil society is crucial in this process, as discussed, amongst others, in the context of the meetings of the EU Civil Society Platform against Trafficking in Human Beings, launched by Commission in May 2013, and bringing together more than a hundred civil society organisations including human rights organisations, migrant organisations and those working on the rights of women and children from EU Member States and third countries. The Commission has also launched and encouraged the usage of the EU Civil Society e-Platform to help even more civil society organisations to engage with the Commission and exchange information on actions against human trafficking.

(f) Other reasons

There are other reasons why victims choose not to participate in the investigation. For instance, the fear of being criminalised. The case-law analysed highlighted some examples where the police were alerted of the offence, but either did not immediately conduct an investigation or the victims were arrested ⁽³⁴⁷⁾. This fear of criminalisation deters victims from reporting trafficking in human beings for forced labour.

Finally, from the victims' point of view, it may be difficult for them to see what they gain from testifying: the victim cannot be certain that the trafficker will be imprisoned, especially if the trafficker resides abroad ⁽³⁴⁸⁾, and in some Member States compensation is difficult to obtain.

⁽³⁴⁰⁾ Finland: conclusion based on stakeholder interview (prosecutor, police).

⁽³⁴¹⁾ GRETA, *Report concerning the implementation of the CoE Trafficking Convention by Bulgaria*, GRETA(2011)19, 14 Dec 2011, available at: http://www.coe.int/t/dghl/monitoring/trafficking/docs/Reports/GRETA_2011_19_FGR_BGR_en.pdf, at para.221.

⁽³⁴²⁾ Conclusion based on stakeholder interview (judge, NGO, academic).

⁽³⁴³⁾ GRETA, *Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Latvia* (2012), available at: http://www.coe.int/t/dghl/monitoring/trafficking/Docs/Reports/GRETA_2012_15_FGR_LVA_public2_en.pdf, p. 39.

⁽³⁴⁴⁾ Renzikowski, J., 'Strafverfahren zu Menschenhandel zur Arbeitsausbeutung seit Einführung des §233 StGB' in BMAS and KOK (ed.) *Studie Entwicklung tragfähiger Unterstützungsstrukturen* (March 2011) 29. Confirmed by Federal Ministry of the Interior in coordination with the Federal Ministry of Justice and Consumer Protection.

⁽³⁴⁵⁾ GRETA, *Report concerning the implementation of the CoE Trafficking Convention by Bulgaria*, 14 Dec 2011, available at: http://www.coe.int/t/dghl/monitoring/trafficking/docs/Reports/GRETA_2011_19_FGR_BGR_en.pdf, para. 221; Interview with Petia Pushkarova (leading academic and author of the book *Human trafficking: Problems of the criminal law regime* (Ciela, 2012)) (document on file with the author).

⁽³⁴⁶⁾ Petrunov, G., 'The phenomena of human trafficking in Bulgaria' in *Just process for victims of human trafficking* (Георги Петрунов, 'Явлението Трафик на Хора в България' в Справедлив Процес за Жертвите на Трафик на Хора'), available at: <http://www.judgesbg.org/bgl/>, p. 60.

⁽³⁴⁷⁾ Case study 1: Case No 1-2643/2013 (DK-001-1).

⁽³⁴⁸⁾ Denmark: information collected through consultation with an NGO.

6.3. Challenges relating to the investigation and prosecution

(a) Collecting sufficient evidence to establish trafficking in human beings for forced labour

Issues related to evidence are, by far, the main problems faced in the prosecution of offences of trafficking in human beings⁽³⁴⁹⁾. The case studies highlighted a tendency of police to use ‘reactive’ investigation techniques that rely heavily on the testimony of the victim rather than ‘proactive’ techniques that seek to gather more physical evidence, such as surveillance. Other common challenges that relate to the collection of sufficient evidence are described below.

An interview with the Danish national police conducted for case study DK-002-1⁽³⁵⁰⁾ indicated that there is often no physical evidence for this type of case. This is particularly the case where psychological rather than physical means are used to control the victim. This is why the interrogations/statements are crucial to the case⁽³⁵¹⁾. While physical violence is in principle easy to identify, psychological or emotional violence, coercion or threats are more difficult to detect and prove as they may be based on cultural elements (e.g. religious belief) or on a threat to family members in the country of origin⁽³⁵²⁾.

The Greek police reported a trend according to which traffickers increasingly make use of psychological abuse and threats of financial harm instead of physical force as tools of coercion⁽³⁵³⁾ because the former are more difficult to prove during the police investigation and at trial⁽³⁵⁴⁾. Moreover, as the main means of evidence in cases of trafficking in human beings (including for forced labour) is the victims’ testimony⁽³⁵⁵⁾, quite often perpetrators are convicted in the first degree but are then acquitted in the second degree since the victim either leaves the country (and thus cannot testify again) or he/she withdraws his/her testimony⁽³⁵⁶⁾.

Particularly in larger cases, it was reported in several case studies that, during investigations, not enough attention was paid to the specific circumstances of the victim to secure evidence concerning their vulnerability or degrading working conditions, for example. A Finnish special attorney for victims interviewed for case FI-002⁽³⁵⁷⁾ stated that ‘this type of more precise investigation is easier in smaller cases, where there are not quite so many victims’. For instance, in this latter case, evidence on the victims’ working time was not gathered at the investigation stage. It is difficult to say whether this is due to a lack of resources or to investigators not realising how to properly investigate and gather evidence in the cases of trafficking in human beings for forced labour.

This issue was also raised in a case analysed in Croatia (HR-001⁽³⁵⁸⁾), which highlighted the failure of the prosecution to provide solid evidence to support their indictment (e.g. elements constituting the offence, thorough examination of witnesses). The prosecution based its indictment on the victim’s testimony during the investigation and on the testimony of witnesses who did not actually have exact information on activities and on the relationship between the victim and the perpetrator.

The length of proceedings can also have an impact on the victims’ and witnesses’ testimonies and the freshness of the evidence. One of the main difficulties with trafficking in human beings for labour cases reported in Cyprus is the duration of the court proceedings. A case may take from two to four years. In the meantime, victims start to forget the facts and data related to their case and this negatively affects the evidence they give in court, often resulting in case dismissals⁽³⁵⁹⁾. Similarly, according to a Finnish prosecutor interviewed for case study FI-006-1⁽³⁶⁰⁾ one particular problem in these cases relates to the rigid trial process. The victims are always and at every stage of the process heard personally — at the investigation stage and at the District Court and Court of Appeal. The victims’ sto-

⁽³⁴⁹⁾ Eurojust, *Strategic project on Eurojust’s action against trafficking in human beings: Final report and action plan*, October 2012, available at: [http://www.eurojust.europa.eu/doclibrary/Eurojust-framework/Casework/Eurojust %20action %20against %20trafficking %20in %20human %20beings %20 %28October %202012 %29/THB-report-2012-10-18-EN.pdf](http://www.eurojust.europa.eu/doclibrary/Eurojust-framework/Casework/Eurojust%20action%20against%20trafficking%20in%20human%20beings%20%28October%202012%29/THB-report-2012-10-18-EN.pdf)

⁽³⁵⁰⁾ Case study 2: Case No 1-2738/2013 (DK-002-1).

⁽³⁵¹⁾ Denmark: information collected through consultation with the national police.

⁽³⁵²⁾ Denmark: information collected through consultation with national stakeholders (representative of law enforcement authorities).

⁽³⁵³⁾ Greece: US State Department *Trafficking in persons report — 2011*, available at: <http://www.state.gov/documents/organization/164454.pdf>, p. 173.

⁽³⁵⁴⁾ *Ibid.*, p. 174.

⁽³⁵⁵⁾ Greece: information obtained through consultation with stakeholders (Public Prosecutor).

⁽³⁵⁶⁾ Greece: information obtained through consultation with stakeholders.

⁽³⁵⁷⁾ Case study 2: R12/1508, Turku Appeal Court, first instance (FI-002-1); R13/1070, Turku Appeal Court, second instance (FI-002-2).

⁽³⁵⁸⁾ Case study 1: Judgment Kž-586/09 (HR-001-2).

⁽³⁵⁹⁾ The Office of Combating Trafficking in Human Beings Questionnaire reply, dated 16/9/2014.

⁽³⁶⁰⁾ Case study 5: 4042, Pohjanmaa District Court, first instance (FI-006-1).

ries will be diluted during the process, and they forget elements. The best evidence is the freshest evidence; as time goes by the situation for the victims can get better, and the stories become less accurate and sharp. This may have an impact on how the courts view the forced labour and inhuman conditions.

As an additional difficulty, it has been emphasised that trafficking in human beings is typically committed as an organised crime. It requires additional intellectual and financial resources to keep up with the advanced technologies and other means used by the organised groups ⁽³⁶¹⁾. For instance, it is very difficult to prove the role of each member in the functioning of the group because it can be loosely structured (e.g. temporary partnerships). A Romanian case, RO-013-03 ⁽³⁶²⁾, provides an example of difficulties proving organised crime:

‘an organised crime group means a structured group, consisting of three or more persons, existing for a certain period of time and acting in a coordinated manner in order to commit one or more serious crimes, in order to obtain, directly or indirectly, financial or other material benefits. In this case, the evidence in front of the court of first instance did not confirm the existence of an organised crime group ... The result of the evidence was that among the defendants was a kinship — which does not exclude the existence of an organised crime group — but their movement in Finland was done separately, unbeknownst to the activities of trafficking in human beings among them. The existence of a family relationship and having opened accounts at the same bank on behalf of the defendants were not sufficient evidence to decide that there was an organised crime group involved in the sense required by the law. As such, the fact that the defendants were helping each other to exploit victims of trafficking cannot be used against them as an only ground for the offence of an organised crime group’ ⁽³⁶³⁾.

Finally, it is noteworthy that financial investigations were carried out to gather evidence corroborating victims’ and witnesses’ statements in only a few cases analysed for this study. Financial gain, however, is the sole motivation for those involved in trafficking, whether they are an individual trafficker or an organised crime network, and thus financial investigations should be an intrinsic part of all investigations ⁽³⁶⁴⁾.

(b) Credibility of victim testimonies

The credibility of information was also discussed in a number of cases, and issues such as contradictory statements by the victims have sometimes been a factor leading to acquittals or low sentences. As noted above, the length of proceedings can also have an impact on the victims’ and witnesses’ testimonies and the freshness of the evidence.

This question of credibility clearly impacted court decisions in some cases. For example, in the Cypriot case presented in the box below involving 90 victims from Romania, only three managed to give testimony at court due to the length of the trial (3 years). According to a labour inspector who was involved both in the investigation and during the trial as a key witness, the Department of Labour inspectors were interviewed for 2 days from morning till late at night. The conditions at the police station where the investigation took place were not very comfortable, as the alleged victims had no place to stand or sit. The police station was very small to fit the 131 people who were there to testify. Amongst the 131 people there were both witnesses and victims. The lack of places to sit or stand rendered the victims tired and forgetful. There was lack of communication due to the fact that the victims did not speak any Greek. They did not even speak English and there were no translators to facilitate investigation at the beginning. Their testimonies were found to be inconsistent by the court.

⁽³⁶¹⁾ Conclusion based on stakeholder interview (prosecutor and NGO).

⁽³⁶²⁾ Case study 3: Penal Decision No 3249/26 September 2011 of High Court of Cassation and Justice (RO-013-03).

⁽³⁶³⁾ Romania: Penal Decision No 3249/26 September 2011 of High Court of Cassation and Justice, pp. 19-20.

⁽³⁶⁴⁾ OSCE resource police training guide: trafficking in human beings — TINTD/SPMU publication series vol. 12 (2013), available at: <http://www.osce.org/secretariat/109935?download=true>, p. 22.

Cyprus case study 1: Republic of Cyprus v Ioanni Piripitsi and George Savva, Case No 248/2009, 30 March 2011 (CY-002)

Key facts: The alleged offence of trafficking for forced labour took place in Cyprus in 2008. The exploitation concerned the construction and hotel industries. The defendant ran an employment agency that cooperated with employment agencies in Romania. The defendant paid for the victims' airplane tickets and offered them the service of finding them jobs in Cyprus ⁽³⁶⁵⁾. When the victims arrived in Cyprus, the defendant provided them with accommodation. During the investigation, 11 people were discovered in accommodation owned by the defendant. The police found 201 passports and 97 identity cards of Romanian persons held by the defendant at the time ⁽³⁶⁶⁾.

Legislation applied: Articles 2, 3, 4, 5, 8, 13 and 17 of Law 87(I)/2007, Combating of Trafficking and Exploitation of Persons and the Protection of Victims Law; and Articles 5, 6 and 20 of the Penal Code Cap. 154.

Decision of the Permanent Criminal Court of Nicosia: The defendant was acquitted due to the fact that the victims' witness testimonies were found to be inconsistent. Concerning the accusation of trafficking for forced labour, the judge decided that according to the reliable witnesses' statements the part of the salary of the complainants that was withheld by their employer, was for the payment of the commission and the cost of the plane tickets, a consensual arrangement which was already known to the complainants before coming to Cyprus. Hence, the arrangement did not constitute trafficking for forced labour under Article 8 of the law.

In another case analysed in Denmark (DK-001 ⁽³⁶⁷⁾), the judge observed that the statements made in court by the injured parties on 13 July 2012 and 19 and 2 February 2014 respectively, as well as to the police in 2011, appeared incoherent and inadequate in a number of significant areas. Without the additional presentation of evidence, in particular in the form of the securing of evidence in 2011 prior to the injured parties' departure from Denmark, the court found the uncertainty about the sequence of events to be of such extent that the defendant's substantiated statement could not be rejected. In Luxembourg case LU-001, inconsistent testimonies were among the reasons to sentence the defendants to conditional imprisonment ⁽³⁶⁸⁾.

The credibility and quality of victim testimonies can also be undermined by subjective factors such as shame and fear. The strong feelings of shame often experienced by the victims, especially male victims, of trafficking in human beings for forced labour are among the explanations put forward for making these testimonies less valuable. Another factor highlighted in a case study for Slovakia was that the victims were intimidated by the offenders; some changed their testimonies or refused to testify at all ⁽³⁶⁹⁾. Victims can also be afraid of being excluded from their own community, for instance, when reporting to the police a perpetrator from the same village or community.

People who undergo a traumatic event, such as an assault, are almost never able to make consistent statements ⁽³⁷⁰⁾. This is a very general challenge. In the Netherlands this is addressed by the specific training of police officers on human trafficking. The formal investigative proceedings with victims in human trafficking cases are conducted by trained investigators only. Each police unit in the Netherlands (there are 10) has trained officers that are responsible for the formal intakes of victims of human trafficking. It was confirmed by one of the stakeholders that originally the focus was mostly on sexual exploitation, however this training/focus now covers the full scope of human trafficking.

(c) Defendants' obstruction of proceedings and intimidation of witnesses

The issue of defendants obstructing the investigation was also apparent in several case studies. An example from Finland on the difficulties experienced when the defendant was not detained during the process is outlined in the box below.

⁽³⁶⁵⁾ Republic of Cyprus v Ioanni Piripitsi and George Savva, Case No 248/2009, 30 March 2011.

⁽³⁶⁶⁾ Ibid.

⁽³⁶⁷⁾ Case study 1: Case No 1-2643/2013 (DK-001-1).

⁽³⁶⁸⁾ Case study 1: Arrêt No 249/2014 du 24 April 2014 du Tribunal d'arrondissement de Diekirch (LU-001).

⁽³⁶⁹⁾ Case study 1: BB-3T/13/2012 Plechov and others, Specialised Criminal Court (SK-001).

⁽³⁷⁰⁾ Statement by medical anthropologist Tankink, M., 'Netherlands first in the world with judges specialised in human trafficking cases' (*Nederland eerste ter wereld met rechters gespecialiseerd in mensenhandelzaken*), 18 April 2013, The Hague, available at: <http://www.rechtspraak.nl/Actualiteiten/Nieuws/Pages/Nederland-eerste-ter-wereld-met-rechters-gespecialiseerd-in-mensenhandelzaken.aspx>. This comment covers all forms of human trafficking.

Example of pressure exerted by defendants on victims (see case study FI-001-1) ⁽³⁷¹⁾

This case was prosecuted as human trafficking for forced labour but failed with regard to all aspects at the District Court. The main challenge in the case was that the alleged perpetrator or defendant was not detained during the process. There were threats against the alleged victims and the defendant could influence the victims during the process as he was not detained.

This case demonstrates the importance of segregating or detaining perpetrators so that they cannot influence the victims any further. They will try to threaten the victims. They also know how the systems work both in Finland and in the country of origin, they know the rules and they are able to abuse the situation further (stakeholder interview — prosecutor, Pohjanmaa).

In a case analysed in Poland (PL-005-1 ⁽³⁷²⁾), it was also apparent that the defendants might have pressured the victims into changing their testimony. The victims were (according to the judgment and the interview with the judge) forced to attend the hearing by the defendants, who remained their employers at the time of the hearing. They presented different testimonies in court than during the pre-trial stage. In the court, the victim claimed that working conditions were good. After their pre-trial testimonies were read out in court, they claimed that they had lied at pre-trial stage. In this case, the court however decided that their testimonies were not trustworthy and the defendants were convicted of trafficking of persons consisting of recruiting, transporting from Romania to Poland and keeping the Romanian nationals in houses in Poland in order to force them to work, taking advantage of their difficult situation (Article 189a of the Polish Criminal Code).

As noted in a case study in Slovakia, offenders have gone as far as to pretend to be victims and have provided testimonies in order to thwart investigations ⁽³⁷³⁾. Another practice by offenders has been observed in Sweden, where some of the perpetrators have changed their *modus operandi* and do not threaten or assault the victims anymore. Instead, they offer the victims more freedom and a larger share of the income. This often leads to the victims becoming more loyal to the perpetrator and less willing to testify.

A lack of cooperation by defendants was also noted in some cases. According to the Committee against Modern Slavery (CMS) interviewed for case study FR-001-3 ⁽³⁷⁴⁾, the defendant did not attend the meetings with the judges during the prosecution phase. The CMS explained that the fact that the defendant was not present at interviews had made the collection of evidence problematic.

(c) Protection measures during the trial

Another issue raised as a serious obstacle to the investigation and prosecution of trafficking in human beings for forced labour was the lack of sufficient protection measures for victims. In some cases analysed for Romania, for example, protection measures seemed to be rarely applied in practice. Often victims are heard but do not receive any protection or assistance. With no help from the authorities, victims are reluctant to cooperate. Most victims are threatened by traffickers with violence and retaliation (against themselves and their families) ⁽³⁷⁵⁾, but most of the time law enforcement authorities do not issue a protective order to prevent traffickers from contacting the victims ⁽³⁷⁶⁾.

In Greece it was also highlighted that, while legislation allows the recording of a victim's testimony in the investigation phase to be used at trial, in practice most courts lack the resources to make use of this possibility ⁽³⁷⁷⁾. Similarly, according to an NGO consulted in Denmark, while witness protection programmes are in place, they are often not applied ⁽³⁷⁸⁾.

(d) Requirement to testify in court in person

In most Member States victims are not required to testify in court in person but can be heard by alternative means. Article 123(2) of the Romanian Criminal Code states that, at the victim's request, the testimony of a victim will be

⁽³⁷¹⁾ Case study 1: 657/R/3389/06, Pohjanmaa District Court, first instance (FI-001-1).

⁽³⁷²⁾ Case study 1: Regional Court in Legnica, III Criminal Division (court of first instance), III K 2/13 (PL-005-1).

⁽³⁷³⁾ Information collected through consultation with national stakeholders (police).

⁽³⁷⁴⁾ Case study 4: 11-84119, Court of Cassation, third instance (FR-001-3).

⁽³⁷⁵⁾ Information collected through consultation with national stakeholders (police, 13 February 2013).

⁽³⁷⁶⁾ Information collected through consultation with national stakeholders (victim support centre, 2 December 2014).

⁽³⁷⁷⁾ US State Department, *Trafficking in persons report — 2014*, available at: <http://www.state.gov/documents/organization/226846.pdf>, p. 189.

⁽³⁷⁸⁾ Denmark country fiche: Information collected through stakeholder consultation (Prosecution services and NGO).

provided through an audio or video recording. However, Romanian authorities do not have the technical means to implement this provision ⁽³⁷⁹⁾. Thus, adult victims are heard in the courtroom in the presence of the traffickers ⁽³⁸⁰⁾. It has been explained that technical means (audio/video recordings) are also not used in Latvia, but for another reason: they create additional work for the investigative authorities ⁽³⁸¹⁾.

In Finland, for example, where victims must always be heard in person — including in the Courts of Appeal, it was noted that the victims' stories may become diluted in the process, and victims tend to forget things ⁽³⁸²⁾. Stakeholders noted that there should be a way of making greater use of videotaped evidence, including statements from the investigation stage — provided that the defendants and their representatives are given the possibility to question the victims and witnesses ⁽³⁸³⁾.

(e) Interpretation/translation issues

Problems with interpretation identified in the case studies included difficulties in identifying an appropriate interpreter. In SE-003 ⁽³⁸⁴⁾, for example, there were some difficulties with getting a Roma interpreter in Sweden.

In one case analysed, the victims' side did not accept the initially proposed interpreters as one spoke Urdu, which the victims did not understand, while the other who knew Bengali (Bangla dialect), was also a proposed defence witness ⁽³⁸⁵⁾. The court finally appointed a different Bengali-speaking interpreter (EL-002 ⁽³⁸⁶⁾).

6.4. Challenges relating to lack of training and resources

(a) Training for key actors on trafficking in human beings for forced labour

Article 18 (3) of Directive 2011/36/EU stipulates that Member States shall promote regular training for officials likely to come into contact with victims or potential victims of trafficking in human beings, including front-line police officers, aimed at enabling them to identify and deal with victims and potential victims of trafficking in human beings. Furthermore, Article 9(3) of the directive requires Member States to take the necessary measures to ensure that persons, units or services responsible for investigating or prosecuting the offences referred to in Articles 2 and 3 are trained accordingly. Most of the national experts reported that some training on trafficking in human beings for forced labour is provided to the relevant authorities involved in the investigation and prosecution of this offence (e.g. police, border guards, investigators, prosecutors, judges, judicial trainees, court officers, labour inspectors, social services and NGOs). However, a lack of understanding and experience among practitioners in the crime of trafficking in human beings for forced labour is reported in many Member States.

⁽³⁷⁹⁾ European Center for Legal Education and Research (ECLER), report on roundtable 'Together against human trafficking: challenges and practical lessons', redacted by Mihaela Achimescu (2014), p. 3.

⁽³⁸⁰⁾ Information collected through consultation with national stakeholders (NGO, 12 February, 2015).

⁽³⁸¹⁾ Latvia: conclusion based on stakeholder interview (prosecutor).

⁽³⁸²⁾ Finland: conclusion based on stakeholder interview (prosecutor).

⁽³⁸³⁾ Conclusion based on stakeholder interview (prosecutor).

⁽³⁸⁴⁾ Case study 3: Judgment B 1834-11 of the District Court of Hudiksvall (SE-003).

⁽³⁸⁵⁾ Information obtained through stakeholder consultation (February 2015).

⁽³⁸⁶⁾ Case study 2: Judgment 118/2014 (EL-002).

Illustration of the lack of expertise and/or attention to trafficking in human beings for forced labour

In May 2011, five Romanian cleaning staff sought help from an employee at a Danish petrol station who notified the police. However, upon the police's arrival, the Romanians were arrested and subsequently returned to their employer, despite there being strong indications of trafficking in human beings for forced labour. In June 2011, the Romanian Embassy in Denmark reported to the police that the Romanians were held against their will in a house, and the police therefore arrived at the premises. Subsequent to this, the family borrowed money from the Romanian Embassy for bus tickets to Romania ⁽³⁸⁷⁾. In June 2012, a police official was cited as regretting the police's handling of the case and for returning the Romanians to their employer ⁽³⁸⁸⁾. Eventually, investigation and prosecution was carried out, the case being decided by the District Court on 6 March 2014 (case No 1-2643/2013) ⁽³⁸⁹⁾.

Police officers, prosecutors and judges often have acquired relevant knowledge and skills as part of their professional education or on-the-job training, on a continuous or ad hoc basis, though usually not specific to forced labour.

The Bulgarian Commission for Combating Trafficking in Human Beings, for instance, reports that various training courses have been provided for investigators and judges ⁽³⁹⁰⁾. Also, prosecutors have undergone a one- or two-day training course on trafficking in human beings, and if there is a case which might concern this crime the case is distributed to these prosecutors ⁽³⁹¹⁾.

In Denmark, on the other hand, police officers and judges receive initial training as part of their professional education. Such training is often focused on the applicable legal framework and less on the identification of victims. Also, in Greece, training sessions are organised for the police ⁽³⁹²⁾ and the judiciary/prosecutors. Nevertheless, these officials are not trained in identifying cases of trafficking in human beings for forced labour and using a victim-centred approach ⁽³⁹³⁾.

In 2013, the Council of Europe recommended that training on trafficking in human beings and on identification of victims needs to be stepped up in France for all public stakeholders ⁽³⁹⁴⁾. There is specific training within the units of the police and gendarmerie that handle cases of trafficking in human beings at national level, but there is no training locally, and not among the judges. The interministerial plan for addressing trafficking in human beings makes the training of all actors a priority for the coming years.

In addition to the insufficient training, many national experts noted the lack of experience of the key actors in dealing with cases of trafficking in human beings for forced labour. As the number of such cases is rather low, professionals dealing with these cases have to learn on the job. As indicated in the Hungarian human trafficking strategy 2013-2016, due to the limited number of cases investigated, prosecuted and adjudicated, the actors involved in criminal proceedings do not have the expertise and knowledge to cover these cases. Similarly, in Finland, strong expertise is developing only in the areas where there have been more such cases ⁽³⁹⁵⁾. Expertise is mainly self-learned ⁽³⁹⁶⁾. Existing learning mechanisms and the knowledge gained by professionals in specific regions have not reached the whole country ⁽³⁹⁷⁾.

⁽³⁸⁷⁾ Halskov, M., 'The police sent forced labourers back to a rookery' (*Politiet sendte tvangsarbejdere retur til rotterede*), in *Fagbladet 3F* (June 2012); Højgaard, S. and Halskov, M., 'Large increase in human trafficking for forced labour' (*Stor stigning i menneskehandel til tvangsarbejde*), in *Fagbladet 3F* (June 2012); and Højgaard, S., Halskov, M. and Roman, D., 'Saved by the police' (*Reddet af politiet*), in *Fagbladet 3F* (January 2012).

⁽³⁸⁸⁾ Halskov, M., Højgaard, S. and Roman, D., 'Police regrets in case on human trafficking' (*Politiet beklager i sag om menneskehandel*), in *Fagbladet 3F* (June 2012).

⁽³⁸⁹⁾ The case is referred to in the media as the so-called 'Basement Case' (*Kældersagen*), and a summary of the case is available at: Courts of Denmark, '34-year-old man acquitted of trafficking' (*34 årig mand frifundet for menneskehandel*), Press release (6 March 2014). See also Halskov, M., 'The police: This is why cleaning staff is being exploited', in *Fagbladet 3F* (March 2014). The defendant was acquitted of trafficking in human beings for forced labour due to the insufficient and imprecise indictment itself. In addition, the judge made the observation that the burden of proof of forced labour had not been satisfied. Also, the defendant was acquitted of usury due to a lack of evidence.

⁽³⁹⁰⁾ *Report of the activities of the National Commission for Combating Trafficking in Human Beings* (Отчет за Дейността на Националната Комисия за Борна с Трафика на Хора за 2013) (2013) available at: <http://antitrafficking.government.bg/%D0%BD%D0%B0%D1%86%D0%B8%D0%BE%D0%BD%D0%B0%D0%BB%D0%B5%D0%BD-%D0%B4%D0%BE%D0%BA%D0%BB%D0%B0%D0%B4-2013/>, p. 25-27.

⁽³⁹¹⁾ Stakeholder consultation (Prosecutor, document on file with the author).

⁽³⁹²⁾ Information obtained through consultation with stakeholders (police). See also US State Department, *Trafficking in persons report — 2014*, available at: <http://www.state.gov/documents/organization/226846.pdf>, p. 188.

⁽³⁹³⁾ US State Department 'Trafficking in Persons Report — 2014', available at: <http://www.state.gov/documents/organization/226846.pdf>, p. 188.

⁽³⁹⁴⁾ GRETA, *Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by France* (January 2013), available at: http://www.coe.int/t/dghl/monitoring/trafficking/docs/Reports/GRETA_2012_16_FGR_FRA_publication_en.pdf, p. 10.

⁽³⁹⁵⁾ Finland: conclusion based on stakeholder interview.

⁽³⁹⁶⁾ Finland: conclusion based on stakeholder interview.

⁽³⁹⁷⁾ Finland: conclusion based on stakeholder interview.

National experts reported that there are occasions when national authorities, even the ones that have gained significant experience in cases of trafficking in human beings for forced labour, could share their experience and information more with each other. By way of illustration, the Greek special prosecutors who have been assigned to deal with trafficking in human beings cases in Athens do not have a comprehensive overview of the criminal briefs which are assigned to other prosecutors in other regions of Greece ⁽³⁹⁸⁾. The Hungarian human trafficking strategy 2013–2016 has also acknowledged the need for better cooperation between the different authorities, and in particular the establishment of smoother cooperation mechanisms (e.g. mailing systems, personal meetings, ensuring access to each other's databases) to ensure that cases of trafficking in human beings are successfully investigated, prosecuted and adjudicated ⁽³⁹⁹⁾.

Frequent staff changes are also reported to affect the capacity of the key actors to effectively address trafficking in human beings for forced labour. For instance, in Denmark and Latvia, significant staff turnover takes place in the police, resulting in the gained knowledge being lost and new staff still having to learn ⁽⁴⁰⁰⁾. Since no training is provided on a regular and continuous basis in either country, there are clearly not enough sufficiently experienced professionals to work with cases of trafficking in human beings for forced labour and to proactively engage in the identification of potential victims of human trafficking.

It is even more common that other actors that might be involved in cases of trafficking in human beings for forced labour, especially at the very beginning of the investigations (e.g. labour inspectors, asylum/immigration officials, local administrations ⁽⁴⁰¹⁾), sometimes lack knowledge and thus are not able to detect cases of trafficking in human beings for forced labour ⁽⁴⁰²⁾. This was noted in relation to most Member States, including Belgium, Estonia, Greece, Hungary, France, Italy, Ireland and Portugal. Some stakeholders pointed out that national indicators would help these actors to better identify potential cases of trafficking in human beings, enabling them to notify them to the police ⁽⁴⁰³⁾.

Examples of how insufficient training affects the investigation, prosecution and adjudication of cases were also identified in the case studies analysed. For instance, in Sweden, in one of the cases defendants were charged with usury instead of trafficking in human beings for forced labour due to the lack of relevant experience of prosecutors (SE-001 ⁽⁴⁰⁴⁾). In a case analysed in Cyprus (CY-002 ⁽⁴⁰⁵⁾), it was reported that there was no expert witness for the case regarding the condition of the house and therefore it was more difficult to prove in court that the victims had to live in conditions violating their human dignity ⁽⁴⁰⁶⁾.

Some stakeholders have suggested that in Member States where there are no specialised units or personnel assigned to deal with trafficking in human beings for forced labour, the situation could significantly improve by establishing such expert police or prosecutors' units ⁽⁴⁰⁷⁾, or even appointing specialised judges in courts, such as in the Netherlands ⁽⁴⁰⁸⁾.

Most stakeholders consulted for this study reported that more regular and specific legal training should be carried out to improve the knowledge and skills of the key professionals to address trafficking in human beings for forced labour. This would improve the identification of cases, the assistance and provision provided to victims and the collection of evidence for successful prosecutions securing the conviction of traffickers. Also GRETA's evaluation reports,

⁽³⁹⁸⁾ Greece: information obtained through consultation with stakeholders (NGOs).

⁽³⁹⁹⁾ Government Decree 1351/2013 (VI. 19) on the National Strategy 2013–2016 against Trafficking in Human Beings (1351/2013. (VI. 19.) Korm. Határozat az Emberkereskedelem Elleni Küzdelemről szóló 2013–2016 közötti Nemzeti Stratégiáról), available at: http://njt.hu/cgi_bin/njt_doc.cgi?docid=161267243445, p. 9 and p. 12.

⁽⁴⁰⁰⁾ Information obtained through consultation with stakeholders (NGOs, police, prosecution services).

⁽⁴⁰¹⁾ Interfederal Centre for Equal Opportunities (*Interfederaal Gelijke Kansen Centrum/Centre Interfédéral pour l'Égalité des chances*), 'Annual Report Human Trafficking and Human Smuggling 2010' (*Jaarverslag Mensenhandel en Mensensmokkel 2010/Rapport Annuel de Traite et Trafic des êtres humains 2010*) (2011) Brussel, IGKC, available at: http://www.diversiteit.be/sites/default/files/legacy_files/publications/rapport_annuel/JV-Mensenhandel2010/CGKR_JV_2010_mh_NL-web%281%29.pdf, p. 110.

⁽⁴⁰²⁾ Information collected through consultation with national stakeholders (NGO representative, representative of law enforcement authorities).

⁽⁴⁰³⁾ Information obtained through consultation with stakeholders (Public Prosecutor, NGO).

⁽⁴⁰⁴⁾ Case study 1: Judgment B 179-12 of the Skellefteå District Court (SE-001).

⁽⁴⁰⁵⁾ Case study 2, Nicosia Police Chief v. Nikos Strouthos [25 September 2013] No 19377/2010 [ref] (CY-002).

⁽⁴⁰⁶⁾ Information provided during interview with a labour inspector.

⁽⁴⁰⁷⁾ Finland: conclusion based on stakeholder interview.

⁽⁴⁰⁸⁾ Finland: conclusion based on stakeholder interview a research institute.

for instance on Ireland, call for the authorities to continue improving the knowledge and sensitivity of relevant professionals about human trafficking and the rights of victims, and the development of training programmes ⁽⁴⁰⁹⁾.

(b) Resource availability

Law enforcement officials in many Member States have insufficient human and financial resources to address trafficking in human beings for forced labour. The lack of resources relates to the training of staff, size of staff (especially in the police forces), the technical equipment and other services (such as translating/interpreting) available to law enforcement staff, as well as to the victims of crime. Last but not least, in many Member States insufficient funds are allocated for data collection and research on trafficking in human beings for forced labour. All these factors may affect the effectiveness of investigations carried out on trafficking in human beings for forced labour, potentially leading to fewer cases investigated, prosecuted and heard before the courts.

For instance, in Bulgaria the main issue noted was not the size of the law enforcement staff but insufficient staff training, the provision of which depends on the funds allocated for this purpose ⁽⁴¹⁰⁾. On the other hand, in Portugal there are sufficiently trained specialised teams on organised crime and/or trafficking in human beings, but the number of officers in these teams could be increased ⁽⁴¹¹⁾. Also, the Hellenic Police and the judiciary have sufficient resources to deal with cases of trafficking in human beings for forced labour ⁽⁴¹²⁾. However, there are serious shortcomings in the provision of accommodation to victims ⁽⁴¹³⁾; this concerns male victims in particular, since most shelters are addressed at women, primarily due to the fact that until recently the major focus was on victims of trafficking in human beings for sexual exploitation ⁽⁴¹⁴⁾. The Hungarian human trafficking strategy 2013-2016 ⁽⁴¹⁵⁾ notes that victim support organisations, including civil society associations that provide support to victims, are understaffed.

In Germany, resources are lacking in both the prosecution authorities and the courts. As it is only very rarely that the victims file a complaint which the police would have to address, no resources are made available to investigate cases of trafficking in human beings for forced labour proactively ⁽⁴¹⁶⁾. The lack of resources of prosecution authorities and courts results in lengthy proceedings. This in turn results in a less effective prosecution, in particular because the victims/witnesses cannot be found anymore ⁽⁴¹⁷⁾. In addition, the lack of resources is the reason for agreements ('deals') concluded between the court and the accused ⁽⁴¹⁸⁾. The victims are not involved in such deals and cannot pursue any claim for damages in this context ⁽⁴¹⁹⁾. They could, however, pursue such a claim independently.

As regards technical possibilities and conditions, some case studies illustrate how the lack of adequate means to react to different and exceptional situations, such as a large number of victims and witnesses, affect the success of a prosecution. For instance, in case CY-001 ⁽⁴²⁰⁾, there were over 130 victims and witnesses who did not fit in the small police station where the interviews took place. The lack of places to sit or stand rendered the victims tired and forgetful. Inconsistent testimonies were the reason why the court dismissed the case ⁽⁴²¹⁾.

⁽⁴⁰⁹⁾ GRETA, *Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Ireland — First evaluation round* (September 2013), available at: www.coe.int/t/dghl/monitoring/trafficking/Docs/Reports/GRETA_2013_15_FGR_IRL_public_en.pdf, p. 24.

⁽⁴¹⁰⁾ Information obtained through stakeholder consultation (academic).

⁽⁴¹¹⁾ Portugal: information collected through stakeholder consultation (victim support organisation).

⁽⁴¹²⁾ Greece: information obtained through consultation with stakeholders (Police; Public Prosecutor).

⁽⁴¹³⁾ Information obtained through consultation with stakeholders.

⁽⁴¹⁴⁾ *Transnational study on the characteristics of policies in the field of trafficking in human beings for labour exploitation 2009-2011*, p. 58.

⁽⁴¹⁵⁾ Government Decree 1351/2013 (VI. 19) on the National Strategy 2013-2016 against Trafficking in Human Beings (1351/2013. (VI. 19.) Korm. Határozat az Emberkereskedelem Elleni Küzdelemről szóló 2013–2016 közötti Nemzeti Stratégiáról), available at: http://njt.hu/cgi_bin/njt_doc.cgi?docid=161267243445, p. 16.

⁽⁴¹⁶⁾ Information provided by the Federal Ministry of the Interior in coordination with the Federal Ministry of Justice and Consumer Protection and personal communication with police officer from LKA Niedersachsen.

⁽⁴¹⁷⁾ Information provided by the Federal Ministry of the Interior in coordination with the Federal Ministry of Justice and Consumer Protection and stakeholder consultation (police).

⁽⁴¹⁸⁾ Renzikowski, J., 'Die Strafbarkeit der Arbeitsausbeutung', in Lück, H. (ed.) *Aktuelle Beiträge zur Rechtswissenschaft und zu ihren geistesgeschichtlichen Grundlagen* (2013), 14.

⁽⁴¹⁹⁾ Kröger, T., 'Vorstellung der KOK-Rechtsprechungsdatenbank', available at: http://www.kok-buero.de/fileadmin/Vorstellung_KOK-Rechtsprechungsdatenbank_BLAG_MH_27_5_01.pdf, p. 7.

⁽⁴²⁰⁾ Case study 1: Republic of Cyprus v Ioanni Piriotsi and George Savva, Case No 248/2009, 30 March 2011 (CY-001).

⁽⁴²¹⁾ Republic of Cyprus v Ioanni Piriotsi and George Savva, Case No 248/2009, 30 March 2011.

Some national experts have pointed out interpretation/translation difficulties during investigation and before courts. For example, Finland is a small country, thus the availability of qualified ⁽⁴²²⁾ and impartial interpreters might be questionable ⁽⁴²³⁾. The victims may speak a dialect/language for which it is difficult to find interpreters ⁽⁴²⁴⁾. It is possible to bring interpreters from abroad, for instance from Sweden ⁽⁴²⁵⁾, however, this is only done where there is strong evidence of trafficking in human beings for forced labour ⁽⁴²⁶⁾. Furthermore, there should be more resources for interpretation, especially before the courts. It is noted that interpreters can work for only 15 minutes at a time. They should have their own cubicle, to show that they are separate and independent from the parties and the proceedings ⁽⁴²⁷⁾.

Insufficient funds allocated to data collection and research activities on trafficking in human beings for forced labour have been acknowledged in relation to many Member States. To illustrate the issue, for instance, the National Commission for Combating Trafficking in Human Beings in Bulgaria, which is the principal body in Bulgaria mandated to collect information about trafficking in human beings, could not point to a single specific case dealing with trafficking in human beings for forced labour ⁽⁴²⁸⁾. The Research Institute on Criminology in Bulgaria has never conducted research on trafficking in human beings for forced labour, on how the crime is investigated or on what the difficulties in investigating and prosecuting it are ⁽⁴²⁹⁾.

The Hungarian human trafficking strategy 2013-2016 ⁽⁴³⁰⁾ and unofficial sources ⁽⁴³¹⁾ highlight the necessity of systematically collecting data on cases of trafficking in human beings by all actors. The low number of court judgments as opposed to the number of cases reported on by the media suggests the existence of problems regarding the investigation, prosecution and adjudication of cases of trafficking in human beings for forced labour. Reliable data could contribute to the better understanding of the issues at stake.

6.5. Challenges relating to lack of cooperation among national and intra-national authorities

Trafficking in human beings for forced labour is a complex crime affecting many different areas such as human rights, law enforcement, employment, occupational safety and health, immigration and border control, etc. For this reason, different actors at the national level must cooperate and coordinate their efforts in order to successfully identify, investigate and prosecute trafficking offences.

In most Member States national cooperation is reported to be sufficient and effective. Case studies, however, showed that labour inspectors who discover forced labour situations from workplace inspections, such as abusive practices of wage payment, unfair deductions, fraudulent contracts and abusive recruitment practices ⁽⁴³²⁾, were rarely involved in the identification or investigation of trafficking cases.

In some Member States, the lack of cooperation of national authorities was acknowledged as a major challenge in bringing prosecutions relating to trafficking in human beings for forced labour. Often there are no formal protocols in place and thus the role of different national authorities in these types of trafficking cases is not clear. In other Member States there are signed cooperation agreements, but there are instances where they have not been applied in practice. According to stakeholders this may be the result of a lack of human resources, a lack of knowledge and experience or, in certain cases, a lack of political will ⁽⁴³³⁾.

Furthermore, many cases of trafficking in human beings require close collaboration between national authorities of different states due to the transnational nature of the crime. According to Eurojust, cross-border judicial cooperation

⁽⁴²²⁾ Finland: conclusion based on stakeholder interview (Court).

⁽⁴²³⁾ Finland: conclusion based on stakeholder interview (Court; Police).

⁽⁴²⁴⁾ Finland: conclusion based on stakeholder interview (Research institute, Court, Prosecutor).

⁽⁴²⁵⁾ Finland: conclusion based on stakeholder interview (Police).

⁽⁴²⁶⁾ Finland: conclusion based on stakeholder interview (Police).

⁽⁴²⁷⁾ Finland: conclusion based on stakeholder interview (prosecutor).

⁽⁴²⁸⁾ Stakeholder consultation.

⁽⁴²⁹⁾ Letter No 196000 — 1336 from Dobrin Nesterov, Director of the Research Institute on Criminology in Bulgaria, 29 August 2014.

⁽⁴³⁰⁾ Government Decree 1351/2013 (VI. 19) on the National Strategy 2013-2016 against Trafficking in Human Beings (1351/2013. (VI. 19.) Korm. Határozat az Emberkereskedelem Elleni Küzdelemről szóló 2013–2016 közötti Nemzeti Stratégiáról), available at: http://njt.hu/cgi_bin/njt_doc.cgi?docid=161267243445, p. 13.

⁽⁴³¹⁾ *Trafficking in persons report* — Hungary.

⁽⁴³²⁾ Andrees, B., *Forced labour and human trafficking: a handbook for labour inspectors*, International Labour Office. — Geneva: ILO, 2008, p. 5.

⁽⁴³³⁾ Stakeholder interview (labour inspector), February 2015.

is assessed as lengthy in the best case scenario, and often as problematic. Many times it results in the unwillingness of the investigating authority to expand the investigations abroad. Cooperation in evidence collection proves to be difficult to achieve, mainly due to different admissibility requirements in national laws ⁽⁴³⁴⁾.

Case studies and interviews with national stakeholders revealed cases where the response provided by the authorities of other States was delayed ⁽⁴³⁵⁾ or the cooperation was ineffective ⁽⁴³⁶⁾. For instance, the only court case in Latvia concerning trafficking for forced labour (LV-001 ⁽⁴³⁷⁾) has been pending since 2009. One of the reasons for the delay is lengthy and difficult cross-border cooperation. Latvian authorities qualified the offence as trafficking in human beings for forced labour, but authorities abroad classified it as trafficking for sexual exploitation. In this case the victims were sent to a modelling agency abroad and on some occasions were forced to have sexual intercourse.

Cooperation between Member States, as well as between Member States and third countries that are potentially the source of trafficked persons, is essential to prevent crimes of trafficking in human beings rather than directly dealing with the prosecution of traffickers and victim aftercare. According to the Italian stakeholders interviewed, cooperation with competent authorities in a different state might improve through agreements or protocols aimed at facilitating international investigations concerning trafficking in human beings, including for forced labour ⁽⁴³⁸⁾.

A good practice in this direction has been launched, for example, by the United Kingdom government, which has strengthened its approach in addressing human trafficking crimes by intensively working with embassies and high commissions of key source countries. For instance, collaboration has been intensified between the Metropolitan Police, the Romanian national police and the Romanian Embassy to share intelligence ⁽⁴³⁹⁾.

The Finnish police often have representation in the source country or in a neighbourhood region. These officials can help and, for instance, create unofficial local cooperation ⁽⁴⁴⁰⁾. There are many source countries with which Finland does not have any official forms of cooperation. Better judicial cooperation with the other competent authorities would enable the Finnish authorities to gather all types of material evidence, including on money transfers ⁽⁴⁴¹⁾, which is an important method of obtaining further corroborative evidence.

The Slovakian Irregular Migration Unit, within the Bureau of Border and Alien Police, ensures collaboration and coordination with foreign partners in the investigation of international organised crimes related to trafficking in human beings. This unit has developed particularly strong cooperation with the United Kingdom, where many Slovak citizens fall victims to trafficking in human beings for forced labour.

The annual reports of the Romanian National Agency against Trafficking in Persons (2009-2012) illustrate strong international cooperation and many joint investigation teams, mainly with the United Kingdom, French and German authorities ⁽⁴⁴²⁾. The Hungarian human trafficking strategy 2013-2016 mentions the improved cooperation with authorities from different Member States, and in particular with Austria, Belgium, the Netherlands and Germany.

The Hellenic Police cooperate with foreign diplomatic authorities in Greece concerning the provision of assistance to victims of trafficking in human beings ⁽⁴⁴³⁾. One of the stakeholders also noted that as police officers participate in training sessions organised by the EU, they develop contacts with police officers abroad; therefore, when dealing

⁽⁴³⁴⁾ See also Eurojust, *Strategic project on Eurojust's action against trafficking in human beings: Final report and action plan*, October 2012, available at: <http://www.eurojust.europa.eu/doclibrary/Eurojust-framework/Casework/Eurojust%20action%20against%20trafficking%20in%20human%20beings%20%28October%202012%29/THB-report-2012-10-18-EN.pdf>

⁽⁴³⁵⁾ Information collected through consultation with national stakeholders.

⁽⁴³⁶⁾ Information collected through consultation with national stakeholders.

⁽⁴³⁷⁾ Case study 1: Judgment No K04-045-11/18, Judgment No PAK-271, Judgment No SKK-2/2013 (LV-001).

⁽⁴³⁸⁾ Information collected through consultation with national stakeholders (representative of law enforcement authorities).

⁽⁴³⁹⁾ See article published on the United Kingdom government's website under the 2010 to 2015 Conservative and Liberal Democrat coalition government, available at: <https://www.gov.uk/government/news/international-crack-down-on-human-trafficking>

⁽⁴⁴⁰⁾ Finland: conclusion based on stakeholder interview (prosecutor).

⁽⁴⁴¹⁾ Finland: conclusion based on stakeholder interview (Court).

⁽⁴⁴²⁾ National Agency against Trafficking in Persons, *Annual report 2009* (2009), p. 74-77; National Agency against Trafficking in Persons, *Annual report 2010* (2010), p. 24.

⁽⁴⁴³⁾ Reply of the Ministry of Citizen Protection to a parliamentary question on 'Combating the exploitation and violence of women. Protection of human rights in our country', 11.1.2012, available at: <http://www.parliament.gr/UserFiles/67715b2c-ec81-4f0c-ad6a-476a34d732bd/7559365.pdf>

with cases of cross-border trafficking in human beings (including for forced labour) they first contact them unofficially (as officially they act through Europol) ⁽⁴⁴⁴⁾.

Stakeholders from many Member States stated that cooperation with third countries is often difficult. Whereas within the EU there are many opportunities to cooperate on cross-border cases with the support of Eurojust, Europol and Frontex, there are fewer possibilities for cooperation with third countries.

Member States have signed mutual (bilateral) agreements with third countries to enhance cooperation. For instance, Greece has signed agreements with its neighbouring countries (e.g. Albania, the former Yugoslav Republic of Macedonia) and the relevant police forces meet whenever this is necessary. Such meetings aim to enhance the coordination of passport control and surveillance of non-supervised parts of the borders in order to address illegal migration, illegal trafficking of drugs/weapons/persons, etc. ⁽⁴⁴⁵⁾.

The Inter-Agency Council against Trafficking (IACAT) and the Dutch Embassy in the Philippines launched the Manila Dialogue on Human Trafficking. The Manila Dialogue allows the exchange of information between third countries and the Philippine government, in terms of both policy developments and information that is crucial to effectively address human trafficking ⁽⁴⁴⁶⁾.

Case studies provide examples of difficulties in cooperation with third countries having an adverse effect on the prosecution of offenders. In a case from Luxembourg (LU-001 ⁽⁴⁴⁷⁾), due to difficulties in obtaining and verifying evidence from China, the offenders received the smallest penalty possible for trafficking in human beings for forced labour. The offence was qualified as a misdemeanour, for which the minimum penalty is three years' (rather than 10) imprisonment and a minimum fine of EUR 5 000 (rather than EUR 100 000).

The Slovakian case (SK-001 ⁽⁴⁴⁸⁾) also demonstrated difficulties in international cooperation with third countries. The victims in this case were recruited through an employment agency established in Ukraine. The persons recruiting the victims were also from the same region of Ukraine as the victims. Due to difficulties in collecting evidence in Ukraine, such as hearing the witnesses abroad, there was insufficient evidence to convict the offenders ⁽⁴⁴⁹⁾.

Similarly, the German stakeholders noted that the cooperation of third countries is sometimes needed to find victims who could testify as witnesses. It may endanger the victims/witnesses to provide certain information on them to the authorities of some countries. For example, Chinese victims may be punished with the death penalty in China for certain offences under Chinese law they have committed while being trafficked/exploited ⁽⁴⁵⁰⁾. If authorities of certain third countries are contacted it can take around eight months to receive an answer. It is very difficult to plan the prosecution and hearings when it is so uncertain if and when the witnesses will appear ⁽⁴⁵¹⁾.

⁽⁴⁴⁴⁾ Information obtained through consultation with stakeholders (the police).

⁽⁴⁴⁵⁾ Reply of the Ministry of Citizen Protection to a parliamentary question on 'Combating the exploitation and violence of women. Protection of human rights in our country', 11.1.2012, available at: <http://www.parliament.gr/UserFiles/67715b2c-ec81-4f0c-ad6a-476a34d732bd/7559365.pdf>

⁽⁴⁴⁶⁾ For more information see: <http://philippines.nlembassy.org/news/2014/november/manila-dialogue-on-human-trafficking-launched.html>

⁽⁴⁴⁷⁾ Case study 1: Arrêt No 249/2014 du 24 April 2014 du Tribunal d'arrondissement de Diekirch (LU-001).

⁽⁴⁴⁸⁾ Case study 1: BB-3T/13/2012 Plechov and others (SK-001).

⁽⁴⁴⁹⁾ Stakeholder consultation (police).

⁽⁴⁵⁰⁾ Stakeholder consultation (police).

⁽⁴⁵¹⁾ Stakeholder consultation (government officials; police).

7. Concluding remarks

Trafficking in human beings for forced labour is a global phenomenon that lately has been receiving increased attention, and the problem appears to be on the rise. The trends, patterns and working methods of traffickers are changing in all the different forms of trafficking in human beings, adapting to changing patterns of demand and supply.

An effective criminal response, prosecution of offenders and redress for victims is one of the key priorities of the EU strategy towards the eradication of trafficking in human beings 2012–2016 (Priority C). Asset recovery also plays an important role in effective criminal justice responses to trafficking, not only because it undermines the financial gain of traffickers, but also because linking asset seizure to victim support is in line with a rights-based approach to human trafficking ⁽⁴⁵²⁾.

Trafficking in human beings for forced labour involves source countries, transit countries and destination countries, and the profile of some individual Member States is changing over time. Some Member States that were predominantly source countries are increasingly also destination and transit countries. Mechanisms at EU and national level need to recognise these changes.

Forced labour occurs in many industrial sectors, in both the formal and the informal economy. The effectiveness of identifying and responding to it varies. ‘Reactive’ investigation techniques seem to be often used relying heavily on victim testimonies, rather than ‘proactive’ techniques seeking to gather more physical evidence, such as through surveillance. Other actors involved in detecting forced labour, such as labour inspectors, often have limited investigation powers.

In the cases analysed for the study, the victims were predominantly EU citizens, particularly from eastern Europe (Romania, Bulgaria, Poland, Slovakia and the Czech Republic). The main source countries from outside the EU were Brazil, China, Morocco, Ukraine and Vietnam. Transnational cooperative efforts need to be focused strongly on these countries. Many Member States have already done so by strengthening collaboration with authorities from key source countries, thereby improving the prosecution of trafficking in human beings for forced labour.

The study shows that those most at risk of being trafficked for forced labour include migrant workers who have experienced poverty in their home country, persons with low levels of appropriate language skills and often with limited intellectual capacities, persons with a poor knowledge of their rights and the relevant legal framework and persons working in certain low-paid and poorly regulated industrial sectors. Trafficking for forced labour is also driven by a demand for workers and cheap labour ⁽⁴⁵³⁾. National action and international cooperation should focus on these elements so that efforts by the police, labour inspectorates, border agencies and other actors can be effectively targeted.

A key issue identified in this study relates to the wide-ranging understandings of what constitutes trafficking for forced labour. In particular, the scope of the meaning of forced labour, and in some instances restrictive interpretations by courts, lead to acquittals or cases being prosecuted under alternative offence provisions. The limited amount of case-law in this field does not help in directing decision-makers in this area.

There are also significant variations in the treatment of trafficking in human beings for forced labour in terms of police effectiveness, judicial responses and sentencing between Member States, and indeed in some instances within the same Member State. This unevenness may provide implicit incentives to traffickers to operate within particular jurisdictions, as the regime may appear far less harsh in some areas than in others.

There are also differences across Member States in the availability of compensation and restitution and post-‘rescue’ support for victims. This is a critical point, as lengthy and unsuccessful proceedings to obtain compensation discourage

⁽⁴⁵²⁾ United Nations Office of the High Commissioner for Human Rights, ‘UN expert calls for justice for all victims of human trafficking ... even the “imperfect” ones’, 26 June 2012, available at: <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=12290&LangID=E>

⁽⁴⁵³⁾ Inter-Agency Coordination Group against Trafficking in Persons, *Preventing trafficking in persons by addressing demand*, September 2014, available at: https://www.unodc.org/documents/human-trafficking/2014/ICAT_Demand_paper_FINAL.pdf, p. 3–4; Europol, *Knowledge product: Trafficking in human beings in the European Union*, 1 September 2011, p. 4 and 8.

victims from engaging in the proceedings. The lack of belief that victims will obtain compensation was indeed cited as a factor in the lack of victim cooperation in the proceedings.

Addressing trafficking in human beings for forced labour also requires the strengthening of international cooperation between Member States and third countries that are source countries for victims of trafficking, including the more effective exchange of information in cross-border cases. Some good practices were noted in this study in the form of mutual bilateral agreements between Member States and third countries to conduct joint investigations and share information, which led to successful prosecutions in some cases.

Given that most of the victims of trafficking in human beings are EU citizens, cooperation and coordination efforts at the EU level should be continued, including by strengthening the EU's Informal Network of National Rapporteurs or Equivalent Mechanisms.

Annex I: Legal framework and definitions applicable to prosecuting THB for forced labour

MS	Legislation specifically penalising THB for forced labour				
	Legislation penalising THB for forced labour	Main elements of the offence	Explicit reference to forced labour?	Definition of forced labour?	Penalties foreseen in the legislation
AT	Section 104a of the Austrian Criminal Code	The recruitment, harbouring or reception, transfer or offering to someone else of an adult person by using unfair means for the purpose of exploitation with intent.	Yes	The term 'forced or compulsory labour' is defined as practices which cannot yet be considered as slavery, but already constitute a reckless exploitation of the victim against his/her vital interests. (Section 104 of the Criminal Code)	Section 104a of the Austrian Criminal Code prohibits both sex trafficking and labour trafficking by imposing imprisonment from six months up to five years. If the perpetrator is in a criminal organisation or commits serious violence or gross negligence so that the victim's life is endangered the perpetrator will receive a term of imprisonment of between one to ten years. If the exploitation involves a minor the punishment is between one to ten years.
BE	Article 433quinquies of the Belgian Criminal Code (para. 1(3))	The recruitment, transportation, transfer, harbouring or reception of a person, or the taking or transferring out over him/her with the aim of (...) carrying out work or providing services in conditions that are contrary to human dignity (<i>non-official translation</i>). (Article 433quinquies of the Belgian Criminal Code (para. 1(3)))	Yes	The notion 'exploitation' includes forced labour or services, and is defined as 'carrying out work or providing services in conditions that are contrary to human dignity' (<i>non-official translation</i>). (Article 433quinquies of the Belgian Criminal Code)	Articles 433quinquies – 433octies of the Criminal Code: penalties in function of existence of aggravating circumstances (imprisonment of 1–20 years and monetary penalties). For example, if the victim is a minor (younger than 18 years old), this constitutes an aggravating circumstance (Article 433septies Criminal Code). The law of 24 June 2013, entered into force on 2 August 2013, introduced a new principle: monetary sanctions in proportion to the number of victims (the monetary fine is multiplied by the number of victims).

MS	Legislation specifically penalising THB for forced labour				
	Legislation penalising THB for forced labour	Main elements of the offence	Explicit reference to forced labour?	Definition of forced labour?	Penalties foreseen in the legislation
MS					<p>1) An individual who recruits, transports, hides or admits individuals or groups of people in view of using them for sexual activities, forceful labour shall be punished by deprivation of liberty of two to eight years and a fine from BGN 3 000 to 12 000</p> <p>2) Where the act under par.1 has been committed:</p> <ol style="list-style-type: none"> 1. with regard to an individual who has not turned 18 years of age; 2. through the use of coercion or by misleading the individual; 3. through kidnapping or illegal deprivation of liberty; 4. through abuse of a status of dependency; 5. through the abuse of power; 6. through promising, giving away or receiving benefits; 7. (added in 2013) by official or in relation to fulfilment of official duties, <p>The punishment shall be deprivation of liberty from three to 10 years and a fine from BGN 10 000 to 20 000</p>
	Article 159a, Section IX of the Bulgarian Criminal Code	Recruitment, transportation, hiding or admitting of individuals or groups of people in view of using them for (...) forceful labour (...) regardless of their consent.	Yes	No	<p>Article 159b</p> <p>(1) An individual who recruits, transports, hides or admits individuals or groups of people and guides them over the border of the country with the objectives under art. 159a, para. 1. shall be punished by deprivation of liberty from three to 12 years and a fine of up to BGN10 000 to 20 000</p> <p>2) Where the act under para. 1. has been committed in presence of characteristics under Article 159a, para. 2 and 3, the punishment shall be deprivation of liberty from five to 12 years and a fine from BGN 20 000 to 50 000</p> <p>Article 159c</p> <p>A person who takes advantage of a person who suffered from human trafficking for acts of debauchery, forceful labour or begging shall be punished by deprivation of liberty from three to 10 years and a fine from BGN 10 000 to 20 000</p> <p>Article 159d</p> <p>Where acts under articles 159a - 159c qualify as dangerous recidivism or have been committed at the orders or in implementing a decision of an organised criminal group, the punishment shall be deprivation of liberty from five to 15 years and a fine from BGN 20 000 to 100 000, the courts being also competent to impose confiscation of some or all possessions of the perpetrator</p> <p>Article 227(2)</p> <p>The punishment under Article 227(1) (deprivation of liberty for up to 4 years and a fine from BGN 2 000 to 20 000) is imposed upon a person who employs an illegally present immigrant on the territory of Republic of Bulgaria, in regard to whom the perpetrator knows to have been a victim of human trafficking. (Article 159a,b,c,d, Section IX of the Bulgarian Criminal Code)</p>

MS	Legislation specifically penalising THB for forced labour				
	Legislation penalising THB for forced labour	Main elements of the offence	Explicit reference to forced labour?	Definition of forced labour?	Penalties foreseen in the legislation
CY	MS	Law 87(I)/2007: Trading a person for the purposes of labour exploitation and submitting that person to forced labour or services, or any form of slavery or practices similar or servitude, or for the account of another person and the work is done in apparently different working conditions due to the use of:			
	Law 87(I)/2007 ‘The Law Combating the Trafficking and Exploitation of Human Beings and Victim Protection of 2007’ (Articles 2, 8 and 22)	<p>a) threats, and/or sexual exploitation of adult persons, or</p> <p>b) the use of force or other forms of coercion, and/or</p> <p>c) kidnapping, and/or</p> <p>d) wilful misconduct or fraud or deception, and/or</p> <p>e) abuse of power or capacity to exploit the vulnerability, and/or</p> <p>f) giving or receiving of payments or benefits to achieve the consent of a person having control over another person, and/or</p> <p>g) virtual debt.</p> <p>Law 60(I)/2014: Taking advantage of the work or services of a person, or submitting that person to labour exploitation or exploitation of their services, or any form of slavery or similar practices or servitude through:</p> <p>a) threats</p> <p>b) the use of force or other forms of coercion</p> <p>c) kidnapping</p> <p>d) fraud or deception</p> <p>e) abuse of power or capacity to exploit the vulnerability so that the person does not have any other acceptable possibility rather than to submit to the abuse</p> <p>f) giving or receiving of payments or benefits to achieve the consent of a person having control over another person</p>	Yes	No	The maximum penalty provided for a conviction of a trafficker is 6 years’ imprisonment for trafficking adults and 10 years’ imprisonment for trafficking minors.

MS	Legislation specifically penalising THB for forced labour				
	Legislation penalising THB for forced labour	Main elements of the offence	Explicit reference to forced labour?	Definition of forced labour?	Penalties foreseen in the legislation
MS		Czech Criminal Code 40/2009: Coll.) 1) Arranging by force, hiring, enticing, transporting, harbouring, detaining or setting up (conducting) a person (...), to be used by another person for (for the purpose of) e) forced labour or other forms of exploitation, or whoever profits from such conduct (...) 2) using violence, threats of violence or deceit or through an abuse of their error, distress or dependence (means), forces, arranges, hires, entices, transports, harbours, detains or sets up (conduct), to be used by another person for (for the purpose of) e) forced labour or other forms of exploitation, or whoever profits from such conduct (...)			The Czech Criminal Code 40/2009 Coll.:two to ten years' imprisonment The Criminal Code No 140/1961 Coll.:a maximum penalty of ten years' imprisonment. A person under 18 years of age and when a person uses violence, threats of violence or deceit or abuse of error, distress or addiction: imprisonment from two to ten years,
	Section 168, Articles 1) and 2) of the Czech Criminal Code 40/2009 Coll. Until 2010: Section 232a of the Criminal Code No 140/1961 Coll.	c)forced labour or other forms of exploitation 2)Using violence, threats of violence or deceit or abuse of error, distress or addiction, induces, procures, hires, transports, conceals, detains or, to use him for c)forced labour or other forms of exploitation	Yes	No	
DE	Articles 233 and 233a of the German Penal Code	Trafficking in human beings is covered by this offence only as far as it is considered as aiding and abetting with respect to the exploitation. Trafficking, i.e. recruiting, transporting, transferring, harbouring or receiving another person, is penalised separately. (Article 233a of the German Penal Code)	The relevant term under German law is 'labour exploitation'	Labour exploitation means exploiting another person's predicament or helplessness arising from being in a foreign country to subject him to slavery, servitude or bonded labour, or to make him take up or continue an occupation with him or a third person under working conditions that are in clear discrepancy to those of other workers performing the same or a similar activity (...)	Articles 233 and 233a of the German Penal Code: The punishment for forced labour is imprisonment between 6 months and 10 years (Same for persons under 21 years). If the offence only consists in aiding and abetting the punishment must be reduced by law. Trafficking humans is penalised separately in §233a. The punishment is imprisonment between 3 months and 5 years. The penalty shall be imprisonment from six months to ten years if the victim is a child, the offender through the act seriously physically abuses the victim or places the victim in danger of death; or the offender commits the offence on a commercial basis or as a member of a gang whose purpose is the continued commission of such offences. However, if the offences in §233 and 233a are fulfilled by the same person, §233a will not be relevant.

MS	Legislation specifically penalising THB for forced labour				
	Legislation penalising THB for forced labour	Main elements of the offence	Explicit reference to forced labour?	Definition of forced labour?	Penalties foreseen in the legislation
DK	Section 262a of the 'Criminal Code'	<p>1) The action: recruitment, transporting, transferring, housing or subsequently receiving another person, cf. Section 262a, 1st indent. 'Criminal Code'</p> <p>2) The use of certain means: unlawful coercion, illegal restraint, threats, unlawful inducement, encouragement or exploitation of a mistake (inter alia fraud or deception, abuse of power or of a position of vulnerability), another form of improper conduct (i.e. contrary to honest conduct), or the providing or receiving of payments or other considerations to obtain the consent to the exploitation from a person having control over another person, cf. Section 262a (1) (1)-(5) and (2) 'Criminal Code'</p> <p>3) The purpose of exploitation: prostitution, the making of pornographic photographs or movies, pornographic performances, forced labour, slavery or slavery-like conditions, criminal activities or removal of organs, cf. Section 262a (1) (5) and (2) 'Criminal Code'</p>	Yes	<p>The term forced labour is to be interpreted in accordance with applicable international instruments, including the ILO Convention No 29 of 28 June 1930 and No 105 of 5 June 1957, which provide inter alia that forced or compulsory labour means "all work or any service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily"</p>	Section 262a of the 'Criminal Code': imprisonment of no more than 8 years (no difference)

MS	Legislation specifically penalising THB for forced labour				
	Legislation penalising THB for forced labour	Main elements of the offence	Explicit reference to forced labour?	Definition of forced labour?	Penalties foreseen in the legislation
EE	Penal Code (Article 133, 133(1))	Placing a person in a situation where he or she is forced to work under unusual conditions, engage in prostitution, beg, commit a criminal offence or perform other disagreeable duties, or keeping a person in such situation, if such act is performed through deprivation of liberty, violence, deceit, threatening to cause damage, by taking advantage of dependence on another person, helpless or vulnerable situation of the person (Article 133(1) Penal Code)	No	No	<p>Penal Code (Article 133, 133(1)): 1 to 7 years' imprisonment</p> <p>(2) The same act, if:</p> <ol style="list-style-type: none"> 1) committed against two or more persons; 2) committed against a person of less than 18 years of age; 3) committed against a person in a helpless situation; 4) committed in a torturous or cruel manner; 5) serious health damage is caused thereby; 6) danger to life is caused thereby; 7) committed by two or more persons; 8) committed by taking advantage of official position; 9) serious consequences are caused thereby; <p>is punishable by 3 to 15 years' imprisonment;</p> <p>10) committed by a person who has previously committed a criminal offence provided for in this section or §§1331, 1332, 1333 or 175; is punishable by 3 to 15 years' imprisonment.</p> <p>[RT I, 13.12.2013, 5 – entry into force 23.12.2013]</p> <p>(3) An act provided for in subsection (1) or (2) of this section, if committed by a legal person, is punishable by a pecuniary punishment or compulsory dissolution.</p> <p>(4) For the criminal offence provided for in this section, the court shall impose extended confiscation of assets or property acquired by the criminal offence pursuant to the provisions of §832 of this Code.</p>

MS	Legislation specifically penalising THB for forced labour				
	Legislation penalising THB for forced labour	Main elements of the offence	Explicit reference to forced labour?	Definition of forced labour?	Penalties foreseen in the legislation
MS					<p>Greek Criminal Code (Article 323A) (1): imprisonment of up to 10 years and with a monetary penalty of between EUR 10 000 and EUR 50 000.</p> <p>(4): The perpetrator is punished with at least 10 years' incarceration and a monetary penalty from EUR 50 000 to EUR 100 000, in accordance with the preceding paragraphs, if the act:</p> <p>a) is against a minor or a person physically or mentally disabled</p> <p>b) is performed professionally</p> <p>c) is performed by a civil servant who commits or takes part in any way in the act in the performance of his duties or taking advantage of his position</p> <p>d) resulted in the serious physical harm of the victim or gravely endangered his life</p> <p>(5) Anyone who uses the means of paragraphs 1 and 2 to recruit a minor in order to use him in an armed conflict shall be punished with incarceration of at least 10 years and a monetary penalty from EUR 50 000 to EUR 10 000.</p> <p>(6) [The perpetrator] shall be punished with life imprisonment, in accordance with the preceding paragraphs, if the act resulted [in the victim's] death.</p>
EL	Greek Criminal Code (Article 323A)	<p>1. Anyone who by means of the threat of use of force or through the use of force or other forms of coercion or of imposition or abuse of authority or of abduction, recruits, transports, transfers within or outside the territory, retains, harbours, delivers with or without exchange to another or receives from another party a person for the purpose of removing tissue or body organs or of exploiting himself or another person, his work or begging, is to be punished (Greek Criminal Code (Article 323A) (1))</p>	Yes	No	

MS	Legislation specifically penalising THB for forced labour			
	Legislation penalising THB for forced labour	Main elements of the offence	Explicit reference to forced labour?	Definition of forced labour?
MS				<p><i>Penalties foreseen in the legislation</i></p> <p>Article 177(1) of the Spanish Criminal Code: 5 to 8 years' imprisonment. 4. A higher degree punishment than that foreseen in Section 1 of this Article shall be applied when:</p> <ul style="list-style-type: none"> a) The trafficking puts the victim in serious danger; b) The victim is a minor; c) The victim is especially vulnerable due to illness, disability or his situation. <p>Should more than one circumstance concur, the punishment shall be imposed in its upper half.</p> <p>5. A punishment higher in one degree than that foreseen in Section 1 of this Article shall be imposed, and absolute barring from six to twelve years for those who perpetrate such acts availing themselves of their status as an authority due to being agent or public officer thereof, if any of the circumstances also foreseen in Section 4 of this Article should also concur, the penalties shall be imposed in the upper half.</p> <p>6. A punishment higher in one degree than foreseen in Section 1 of this Article shall be imposed and special barring from profession, trade, industry or commerce for the time of the sentence, when the offender belongs to an organisation or assembly of more than two persons, even if transitory in nature, which perpetrates such activities. Should any of the circumstances foreseen in Section 4 of this Article concur, the penalties imposed shall be in the upper half. If the circumstance foreseen in Section 5 of this Article concurs, the penalties imposed shall be those stated in the upper half thereof.</p> <p>In the case of the managers, directors or persons in charge of such organisations or assemblies, the upper half of the punishment shall be applied, which may raise to the one immediately above it in degree.</p> <p>In all cases, the punishment shall be raised to the one immediately above in degree if any of the circumstances foreseen in Section 4 or the circumstance foreseen in Section 5 of this Article concurs.</p> <p>7. When, pursuant to the terms established in Article 31 bis, a legal person is responsible for the offences described in the Article, the punishment imposed thereon shall be a fine from three to five times the profit obtained. Pursuant to the rules established in Article 66 bis, the Judges and Courts of Law may also impose the penalties established in Sub-Sections b) to g) of Section 7 of Article 33.</p> <p>8. Provocation, conspiracy and proposition to commit human trafficking crime will be punished with a lower penalty.</p>
ES	Article 177 of the Spanish Criminal Code	<p>1. Whoever, by using violence, intimidation or deceit, or abusing a situation of superiority or need, or the vulnerability of a national or alien victim, were to induce, transport, transfer, receive or house such a victim for any of the purposes described below, within Spain, from Spain, in transit or with destination therein, shall be convicted of human trafficking and punished with the penalty of five to eight years of imprisonment:</p> <ul style="list-style-type: none"> a) Imposing on the victim forced work or services, slavery or practices similar to slavery or servitude or begging; b) Sexual exploitation, including pornography; c) Extraction of their bodily organs. (Title VII bis - Article 177 bis - About human trafficking of the Criminal Code) 	No	No

MS	Legislation specifically penalising THB for forced labour				
	Legislation penalising THB for forced labour	Main elements of the offence	Explicit reference to forced labour?	Definition of forced labour?	Penalties foreseen in the legislation
FI	The Criminal Code 39/1889 (Chapter 25 sections 3, 3a)	<p>1. A person who</p> <p>(1) by abusing the dependent status or vulnerable state of another person,</p> <p>(2) by deceiving another person or by abusing a mistake made by that person,</p> <p>(3) by paying remuneration to a person who has control over another person, or</p> <p>(4) by accepting such remuneration</p> <p>takes control over another person, recruits, transfers, receives or harbours another person for purposes of [...] forced labour [...] shall be sentenced for trafficking in human beings. (The Criminal Code 39/1889 (Chapter 25 sections 3))</p>	Yes	<p>1. A person who</p> <p>(1) by abusing the dependent status or vulnerable state of another person,</p> <p>(2) by deceiving another person or by abusing a mistake made by that person,</p> <p>(3) by paying remuneration to a person who has control over another person, or</p> <p>(4) by accepting such remuneration</p> <p>takes control over another person, recruits, transfers, receives or harbours another person for purposes of [...] forced labour [...] shall be sentenced for trafficking in human beings. (The Criminal Code 39/1889 (Chapter 25 sections 3))</p>	<p>The Criminal Code 39/1889 (Chapter 25 sections 3(1): imprisonment of at least 4 months and a maximum of 6 years. Section 3(a) (1): If, in trafficking in human beings, (1) violence, threats or deceitfulness is used instead of or in addition to the means referred to in section 3, (2) grievous bodily harm, a serious illness or a state of mortal danger or comparable particularly grave suffering is intentionally or through gross negligence inflicted on another person,(3) the offence has been committed against a child younger than 18 years of age or against a person whose capacity to defend himself or herself has been substantially diminished, or(4) the offence has been committed within the framework of a criminal organisation referred to in chapter 17, section 1a, subsection 4 and the offence is aggravated also when considered as whole, the offender shall be sentenced for aggravated trafficking in human beings to imprisonment for at least two years and at most ten years.</p>

MS	Legislation specifically penalising THB for forced labour			
	Legislation penalising THB for forced labour	Main elements of the offence	Explicit reference to forced labour?	Definition of forced labour?
MS				<i>Penalties foreseen in the legislation</i>
FR	Article 225-4-1 of the Criminal Code	<p>Human trafficking is the recruitment, transport, transfer, accommodation, or reception of a person for the purpose of exploitation, in one of the following circumstances:</p> <p>1° By means of the threat, use of force, violence or deception against a victim, her family or a person who has regular contact with the victim;</p> <p>2° Or either by a legitimate ascendant, natural or adoptive of this person or by a person who has power over them or abuses their position of power;</p> <p>3° Or by abuse of a position of vulnerability due to age, illness, physical or psychological deficiency or a pregnancy, visible or known by the perpetrator;</p> <p>4° Or in exchange or by receiving payments or any other benefits or of the promise of payments or benefits.</p> <p>The exploitation is to put the victim at one's disposal or to a third party, whether identified or not, so as to permit the commission against the victim of offences of [...] imposition of forced labour or services, [...]</p> <p>(Article 225-4-1 of the Criminal Code)</p>	Yes	<p>Article 225-4-1 of the Criminal Code: Human trafficking is punished by seven years' imprisonment and by a fine of EUR 150 000. According to Article 225-4-2, human trafficking is punished by 10 years' imprisonment and by a fine of EUR 1 500 000 when it is committed:</p> <p>1° against a minor;</p> <p>2° against a person whose particular vulnerability due to age, sickness, infirmity, to a physical or psychological disability, or to pregnancy, is apparent or known to the perpetrator;</p> <p>3° against two or more people;</p> <p>4° against a person who is outside the territory of the French Republic or upon his arrival on the territory of the French Republic;</p> <p>5° when the person has been brought into contact with the perpetrator through the use of a telecommunications network for the distribution of messages to a non-specified audience; 6° in circumstances which directly expose the person against whom the offence is committed to the immediate risk of death or of injuries of a nature to cause mutilation or a permanent disability;</p> <p>7° with the use of threats, constraints, violence or fraudulent behaviour against the party concerned, his family or someone who has a regular relationship with him;</p> <p>8° by a legitimate, natural or adoptive ascendant of the victim of the offence provided for by article 225-4-1 or by a person holding authority over him or who misuses the authority conferred by his position;</p> <p>9° by a person whose post requires him to participate in the fight against human trafficking or to uphold public order.</p>
HR	Article 106 of the Criminal Code Until 2013: Article 175 "Trafficking in human beings and slavery" of the Criminal Code	<p>"(1) Whoever uses threat or force, fraud, deception, kidnapping, abuse of authority or of a dependant by giving or receiving of pecuniary or other benefits in order to obtain the consent of the person who has control over another person, or in any other way recruits, transports, transfers, harbours or receives a person or exchanges or transfers control over a person with the purpose of abusing his/her work through forced labour or servitude, or (...)" (Article 106 of the Criminal Code)</p>	Yes	No
				Article 106 prescribes a penalty from 1 year to a maximum of 10 years of imprisonment for sex or labour trafficking and up to 15 years of imprisonment for the trafficking and exploitation of a child; or if an offence is committed by a group of persons or an official person in an official capacity or if by committing the offence perpetrators consciously endangered lives.

MS	Legislation specifically penalising THB for forced labour				
	Legislation penalising THB for forced labour	Main elements of the offence	Explicit reference to forced labour?	Definition of forced labour?	Penalties foreseen in the legislation
	The Hungarian Criminal Code. Prior to 1 July 2013, the offence providing penalising the trafficking in human beings was provided in the 'old' Criminal Code (Article 175(B). Since 1 July 2013 the relevant offence provision is set out in the 'new' Criminal Code (Article 192).	(1) Any person who sells, purchases, conveys or receives or exchanges a person for another person, as well as who recruits, transfers, accommodates, or hides a person for such purposes, commits a felony and is punishable by imprisonment of up to three years. (2) The penalty is imprisonment of between one to five years if the crime is committed for: (a) – (b) (c) labour purposes, (d) – (g). It constitutes an aggravated case under the 'old' Criminal Code, if the THB for forced labour is committed against a person who has not reached the age of 18. The penalty that could be imposed against the perpetrator is imprisonment of between five to 10 years. The penalty foreseen is even more severe (between five to 20 years) if the victim is below the age of 12	No- The 'new' Criminal Code's offence provision on trafficking in human beings does not contain an explicit reference to forced labour. Forced labour is understood to be covered by the term 'exploitation'.	Neither the 'old', nor the 'new' Criminal Code contains such a definition. Note though that there is a separate offence provision dedicated to 'forced labour': (1) Any person who forces another person by taking advantage of his/her vulnerable situation, or by force or by threat of force, to perform work against his/her will, is guilty of a felony punishable by imprisonment between one to five years. (2) The penalty shall be imprisonment between two to eight years if the crime of forced labour is committed: a) by tormenting the victim; b) by causing a significant injury of interests; or c) against a person under the age of eighteen years (the 'new' Criminal Code (Article 193).	the 'old' Criminal Code (Article 175(B)): imprisonment of up to 3 years. (2) The penalty is imprisonment of between one to five years if the crime is committed for: (a) – (b) (c) labour purposes, (d) – (g). It constitutes an aggravated case under the 'old' Criminal Code, if the THB for forced labour is committed against a person who has not reached the age of 18. The penalty that could be imposed against the perpetrator is imprisonment of between five to 10 years. The penalty foreseen is even more severe (between five to 20 years) if the victim is below the age of 12 the 'new' Criminal Code (Article 192): imprisonment of 1 to 5 years. The penalty is imprisonment of between five to 10 years of imprisonment if the victim is below the age of 18. The penalty is between five to 15 years of imprisonment if the victim is below the age of 14. The penalty is between five to 15 years of imprisonment if the victim is below the age of 18 given that: o the crime was committed in certain manners (e.g. by the use of violence) or with a specific purpose (e.g. for the unlawful use of human body); the crime resulted in a particularly great damage or constituted a danger to life; the crime was committed for the purpose of child pornography. The penalty is between five to 20 years of imprisonment if the victim is below the age of 14 given that: o the crime was committed in a certain manner (e.g. by the use of violence) or with a specific purpose (e.g. for the unlawful use of human body); the crime resulted in a particularly great damage or constituted a danger to life; the crime was committed for the purpose of child pornography.
		(3) – (7) [...] (8) In the application of this Section, 'exploitation' shall mean the abuse of power or of a position of vulnerability for the purpose of taking advantage of the victim forced into or kept in such situation' (the 'new' Criminal Code (Article 192))			
HU					

MS	Legislation specifically penalising THB for forced labour				
	Legislation penalising THB for forced labour	Main elements of the offence	Explicit reference to forced labour?	Definition of forced labour?	Penalties foreseen in the legislation
IE	The Criminal Law (Human Trafficking) Act 2008	<p>The term "trafficks" means, in relation to a person (including a child) —</p> <ul style="list-style-type: none"> (a) procures, recruits, transports or harbours the person, or (i) transfers the person to, (ii) places the person in the custody, care or charge, or under the control, of, or (iii) otherwise delivers the person to, another person, (b) causes a person to enter or leave the State or to travel within the State, (c) takes custody of a person or takes a person— (i) into one's care or charge, or (ii) under one's control, <p>or</p> <ul style="list-style-type: none"> (d) provides the person with accommodation or employment. <p>(Section 1 of the Criminal Law (Human Trafficking) Act 2008)</p> <p>Work or service which is exacted from a person under the menace of any penalty and for which the person has not offered himself or herself voluntarily (Section 1 of the Criminal Law (Human Trafficking) Act 2008)</p>	Yes	<p>Labour exploitation is also defined as including (a) subjecting the person to forced labour (including forcing him or her to beg), (b) forcing the person to render services to another person, or (c) enslavement of the person or subjecting him or her to servitude or a similar condition or state. (Section 1 of the Criminal Law (Human Trafficking) Act 2008 as amended by section 1 of the Criminal Law (Human Trafficking) (Amendment) Act 2013))</p>	The penalties for THB under the 2008 Act, including THB for forced labour, are up to a life sentence in prison and a fine at the discretion of the court. Children and mentally impaired: imprisonment of up to a life sentence and a fine at the discretion of the court.

MS	Legislation specifically penalising THB for forced labour				
	Legislation penalising THB for forced labour	Main elements of the offence	Explicit reference to forced labour?	Definition of forced labour?	Penalties foreseen in the legislation
MS		<p>The elements of THB for forced labour relate to movement, control and purpose of trafficking as follows:</p> <p>Movement: Article 601 of the Criminal Code criminalises the conduct of anyone who recruits, introduces into the territory of the State, moves outside the territory of the State, transports, transfers his/her authority over a person, hosts one or more persons who are placed or maintained in slavery or servitude (including forced labour).</p> <p>Control: Article 601 of the Criminal Code criminalises anyone who performs the above mentioned conduct over one or more persons, by means of deception, violence, threats, abuse of authority or taking advantage of a situation of vulnerability, of a situation of physical or mental inferiority or of a situation of need, or promises money or other benefits to the person who has authority over a person.</p> <p>Purpose of trafficking: Article 601 of the Criminal Code criminalises the conduct of those who perform the above mentioned conduct in order to induce a person or force him/her to working or sexual activities or to begging or to the performance of criminal activities that leads to the exploitation of that person or to undergo the removal of organs.</p>			
IT	<p>No provision specifically criminalises THB for forced labour. However, the Criminal Code criminalises THB and it criminalises slavery (including slavery for forced labour) (Articles 600, 601, 602)</p>		Yes	No	<p>Article 600 (slavery or servitude imposing coerced labour), Article 601 (trafficking in persons), Article 602 (purchase and sale of slaves): imprisonment from 8 to 20 years. Article 602 ter, 'Aggravating circumstances':</p> <p>'The penalty for the offences provided for by Articles 600, 601 and 602 shall be increased by one-third to one-half a) where the injured person is under 18 years of age; b) where the facts aim at the exploitation of the prostitution or at subjecting the injured person to the removal of organs; c) where a serious danger to the life or the physical or psychological integrity of the injured person is derived from the offence. Article 603 bis, 'Illicit brokering and labour exploitation':</p> <p>'Unless the fact is not considered a more serious crime, anyone who carries out organised brokering activities by recruiting workers or organising their working activity with a view to exploiting them and exposing them to violence, threat or intimidation, or taking advantage of their vulnerable condition or state of need shall be liable to a term of imprisonment of five to eight years and with a fine from EUR 1 000 to EUR 2 000 for each worker.</p>

MS	Legislation specifically penalising THB for forced labour				
	Legislation penalising THB for forced labour	Main elements of the offence	Explicit reference to forced labour?	Definition of forced labour?	Penalties foreseen in the legislation
MS	Law of 13 March 2009 on trafficking in human beings modified the Criminal Code, creating Articles 382-1 to 382-3 that contain the definition and prohibition of all forms of THB.	<p>The offence of THB involves the recruitment, transport, transfer, harbouring, accommodation of a person, the exchange or transfer of control over this person, in order to:</p> <p>(...)</p> <p>2) exploit the labour or services of that person in the form of forced or compulsory labour or service, servitude, slavery or similar practices and usually in conditions contrary to human dignity</p> <p>The definition of the offence of THB for forced labour contains three constitutive elements:</p> <ul style="list-style-type: none"> -Trafficking (recruitment, transport, transfer, harbouring, accommodation, exchange or transfer); -intent of exploitation (for labour, services); -exploitation in one form or the other (forced labour or service, slavery, servitude, or similar practices). 	Yes	No	<p>Article 382-1(2) of the Criminal Code: The offences of THBFL are misdemeanours punishable by 1 to 3 years' imprisonment and a fine of EUR 5000 to 10 000.</p> <p>The first range of aggravating circumstances is punishable by 3 to 5 years' imprisonment and a fine of EUR 10 000 to 50 000.</p> <p>The second range of aggravating circumstances are punishable by 5 to 10 years' imprisonment and a fine of EUR 50 000 to 100 000.</p>
LU					

MS	Legislation specifically penalising THB for forced labour				
	Legislation penalising THB for forced labour	Main elements of the offence	Explicit reference to forced labour?	Definition of forced labour?	Penalties foreseen in the legislation
MS		Any person, who sells, purchases or otherwise transfers or acquires or recruits another person, or holds in captivity a person by using physical violence or threats, or in any other way depriving the opportunity to resist, or by taking advantage of the victim's dependence or vulnerability, or using deception, or paying the money or providing other material benefits for an individual who controls the victim, if the perpetrator knew or intended that the victim, regardless of his/her consent, would be involved [...] labour exploitation, [...] (Article 147(1) of the Criminal Code of the Republic of Lithuania)			
LT	The Criminal Code of the Republic of Lithuania (Article 147)	Any person, who used physical violence, threats, deception or any other methods specified in Article 147 hereinabove, intending to illegally force another person to perform certain work or provide services, including engage in begging [...] ("Article 147(1) Exploitation for Forced Labour or Services of the Criminal Code) Usage of Person's Forced Labour or Services: A person who has enjoyed the work of another person or the provision of services, [...], being aware of, or must or could have known that the person is doing this job or providing these services due to the fact that this person was used for the purposes of exploitation under physical violence, threats, deception, or other means referred to in Article 147 of this Code [...] (Article 147(2) of the Criminal Code)	Yes	No	The Criminal Code of the Republic of Lithuania (Article 147): (Human Trafficking): by imprisonment for a term from two to ten years. (Exploitation for forced labour or services): by a fine or imprisonment for up to three years. Usage of Person's forced labour or services: a fine or imprisonment of up to two years. Article 157 (Sale of purchase of a child): imprisonment of three to twelve years.

MS	Legislation specifically penalising THB for forced labour				
	Legislation penalising THB for forced labour	Main elements of the offence	Explicit reference to forced labour?	Definition of forced labour?	Penalties foreseen in the legislation
LV	Article 154 of the Criminal Law	<p>THB according to the law is the recruitment, transportation, transfer, harbouring, concealment or reception of persons for the purpose of exploitation, committed by using violence or threats or by means of deceit, or by taking advantage of the dependence of the person on the offender or of his/her state of helplessness, or by the giving or obtaining of material benefits or benefits of another nature in order to achieve the consent of such person upon which the victim is dependent.</p> <p>Exploitation is the involvement of a person in prostitution or in other kinds of sexual exploitation, the compulsion of a person to perform labour, to provide services or to commit criminal activities, the holding of a person in slavery or other similar forms thereof (debt slavery, serfdom or the compulsory transfer of a person into dependence upon another person), the holding of a person in servitude or also the unlawful removal of a person's tissues or organs (Article 154 (3) of the Criminal Law).</p>	Yes	No	<p>Article 154 of the Criminal Law: The commission of THB is punishable by imprisonment for up to eight years, with or without confiscation of property. Trafficking in children is punished by imprisonment from three to 12 years, with or without confiscation of property and three-year supervision by probation officers. The same penalty applies to offences committed by a group of persons according to prior agreement. The penalty is increased to imprisonment from five to 15 years, with or without confiscation of property and the control of the police for up to three years for: THB endangering the victim's life or causing other serious consequences; or THB committed with severe cruelty or against a child younger than 14; THB carried out by an organised group. The punishment for every person is determined individually depending on the person's involvement in the offence, e.g. organiser vs. accomplice</p>
MT	Article 248A of the Criminal Code	<p>Only THB in general, not specifically for THB for forced labour. "trafficks a person" or "trafficks a minor" is defined as the recruitment, transportation, sale or transfer of a person, or of a minor, as the case may be, including harbouring and subsequent reception and exchange or transfer of control over that person, or minor, and includes any behaviour which facilitates the entry into, transit through, residence in or exit from the territory of any country for any of the purposes mentioned in the provisions of the code. (Article 248E of the Criminal Code)</p> <p>Trafficking for the purpose of exploitation covers (a) the production of goods or provision of services; or (b) slavery or practices similar to slavery; or (c) servitude or forced labour; or (d) activities associated with begging; or (e) any other unlawful activities not specifically provided for in the trafficking provisions of the code (Article 248A of the Criminal Code)</p>	Yes	<p>Yes- Exploitation includes requiring a person to produce goods and provide services under conditions and in circumstances which infringe labour standards governing working conditions, salaries and health and safety (Art. 248A(2) of the Criminal Code)</p>	<p>Article 248A of the Criminal Code: imprisonment from four to twelve years. Article 248 Whosoever trafficks a minor for any of the purposes mentioned in articles 248A to 248C, both inclusive, shall, on conviction be liable to the same punishment laid down in those articles, as the case may be, even if none of the means mentioned in article 248A(2) has been used:</p> <p>Provided that where any of the means mentioned in article 248A(2) has been used in the commission of the offence under this article the punishment for the offence shall be increased by one degree.</p>

MS	Legislation specifically penalising THB for forced labour				
	Legislation penalising THB for forced labour	Main elements of the offence	Explicit reference to forced labour?	Definition of forced labour?	Penalties foreseen in the legislation
MS		Any person who by force, violence or other act or threat of violence or other act, by extortion, fraud, or the misuse of authority arising from the actual state of affairs, by misuse of a vulnerable position or by giving or receiving of remuneration or benefits to obtain the consent of a person, recruits, transports, moves, accommodates or shelters, including the exchange or transfer of consent of that person, with the intention of exploiting that person or the removal of his organs;			
NL	Article 273f of the Criminal Code	The person that, by the means referred to under 1° (above), forces or moves another person to be available to perform labour or services or make his organs available or in the circumstances referred to under 1° undertake any act which he knows or reasonably must suspect that the other person thus makes available to perform labour or services or organs available wilfully profits from the exploitation of another person. (Article 273f of the Criminal Code)	Yes	No	Article 273f of the Criminal Code: when guilty of human trafficking, 'a person shall be punished with imprisonment not exceeding twelve years or a fifth category fine'. The fifth category (per 1 January 2014) is EUR 81.000. Article 273f also lists aggravating circumstances. Imprisonment can be up to 15 years if two or more persons that are organised commit the offence; if the person against whom the offence is committed has not yet reached the age of 19 or is considered vulnerable; or if the facts are accompanied or preceded by violence (Article 273f(3) Criminal Code). Other aggravating circumstances are serious bodily injury or death (Article 273(4) and (5) respectively, resulting in imprisonment up to 18 and 30 years or a fine of the fifth category).
PL	Article 115 §22 and §23 of the Criminal Code	Trafficking in human beings means 'the recruitment, transportation, delivery, transfer, harbouring or reception of a person using: 1) violence or illegal threat, 2) abduction, 3) deception, 4) misleading or exploiting an erroneous understanding or inability to adequately understand the action taken; 5) abuse of a relationship of dependency, the use of a critical situation or state of helplessness, 6) the award or acceptance of material or personal benefit or its promise to a person having custody or supervision of another person - in order to use this person, even with his or her consent, in particular, for prostitution, pornography or other forms of sexual exploitation, forced labour or services, begging, slavery or other forms of exploitation degrading human dignity or to obtain cells/tissues or organs in violation of the law.	Yes	No	Article 189a of the Criminal Code states 'Whoever commits trafficking of persons shall be punished with imprisonment for a period of time not shorter than three years'. Under this provision, also preparation of this crime is punished with imprisonment for five months up to five years. Slavery is prohibited by Article 8 of the law introducing the Criminal Code which states that 'Whoever causes submission of a person into slavery or retains this person in slavery or trades slaves shall be punished with imprisonment for a period of time not shorter than three years'.

MS	Legislation specifically penalising THB for forced labour				
	Legislation penalising THB for forced labour	Main elements of the offence	Explicit reference to forced labour?	Definition of forced labour?	Penalties foreseen in the legislation
MS					
PT	Article 160 of the Portuguese Criminal Code	<p>It includes offering, delivering, recruiting, soliciting, accepting, transporting, harbouring or receiving a person for purposes of exploitation, including sexual exploitation, labour exploitation, begging, slavery, removal of organs or exploitation of other criminal activities:</p> <ul style="list-style-type: none"> f) Through violence, abduction or serious threat; g) Through deception or fraud; h) With abuse of authority, resulting from relationship of hierarchical, economic, family or work dependence; i) Taking advantage of a mental incapacity or a situation of special vulnerability of the victim; or j) Upon obtaining the consent of the person who has control over the victim. <p>(Article 160(1) of the Criminal Code)</p>	<p>The relevant term under Portuguese law is 'labour exploitation'</p>	No	<p>Article 160 of the Portuguese Criminal Code: imprisonment from three to ten years.</p> <p>Article 160(2) in the case of minors, THB is also punished with imprisonment from three to ten years. In case any of the means listed above is used or the trafficker acts as a professional or with a profit intention, the imprisonment can go up to twelve years. The resort to the services of the victim when acknowledging the commission of a crime of THB is punished with imprisonment from one to five years (Article 160(6)); withholding, hiding, damaging or destroying the identity and travelling document of a person victim of THB is punished with imprisonment up to three years (Article 160(7)).</p>
RO	<p>Articles 210, 212 and 182(a) of the New Criminal Code: (Since 1 February 2014)</p> <p>Articles 12 and 13 of Law 678/2001 on preventing and combating trafficking in persons (used prior to 1 February 2014)</p>	<p>The New Criminal Code: The recruitment, transportation, transfer, harbouring or receiving of persons for the purpose of exploitation, committed: a) by coercion, abduction, deceit or abuse of authority; b) by taking advantage of the inability of the victims to defend themselves or to express their will or by benefiting from that person's state of obvious vulnerability; c) by giving, accepting or receiving money or other benefits to obtain the agreement of a person having authority over a minor (Article 210)</p> <p>"a) The exploitation of a person for forced labour or services, by means of threat or use of coercion;</p> <p>b) The employment of methods resembling slavery, deprivation of liberty or servitude." (Article 182)</p>	Yes	<p>The act of subjecting a person, in other cases than those provided for in the law, to any kind of labour against his/her will or to any kind of compulsory labour (Article 212 of the New Criminal Code)</p>	<p>Article 210 of the New Criminal Code: a term of imprisonment of between 3 to 10 years and with the prohibition of certain rights. (2) Trafficking in human beings committed by a public official in the performance of his/her duties shall be punished by a term of imprisonment of between 5 to 12 years and by the prohibition of certain rights. Article 211 (trafficking in minors): (1) The recruitment, transportation, transfer, harbouring or receiving of persons for the purpose of exploitation, shall be punished by a term of imprisonment of between 3 to 10 years and by the prohibition of certain rights.</p> <p>(2) If the offence was committed under the terms of Article 210 paragraph (1) or by a public official in the performance of his/her duties, the punishment is a term of imprisonment of between 5 to 12 years and the prohibition of certain rights. Article 216: "The offence of making use of the services stipulated in Article 182 when the beneficiary has prior knowledge that such services are performed by a victim of human trafficking or child trafficking, shall be punished with a term of imprisonment of between 6 months to 3 years or shall be fined if the action does not constitute a serious offence".</p>

	Legislation specifically penalising THB for forced labour				
	Legislation penalising THB for forced labour	Main elements of the offence	Explicit reference to forced labour?	Definition of forced labour?	Penalties foreseen in the legislation
MS					
SE	The Penal Code, chapter 4, section 1a	Trafficking involves "unlawful coercion, deception, exploitation of someone's vulnerability or by any other such improper means, recruits, transports, transfers, harbours or receives a person in order that he/she is exploited for the purposes of sexual exploitation, removal of organs, military service, forced labour, or other activity in a situation that puts the victim in distress" (The Penal Code, chapter 4, section 1a)	Yes	No	The Penal Code, chapter 4, section 1a: It imposes a maximum penalty of 10 years' imprisonment. Fines can be awarded under other provisions, e.g. violation of integrity or usury. A provision that is often applied in cases relating to THB for forced labour is 9:5 of the Penal Code on usury. It stipulates that a person who in connection with a contract or other legal transaction takes advantage of someone's distress, innocence or thoughtlessness or dependence relationship to him/her in order to obtain a benefit which is clearly disproportionate to the consideration afforded or for which no consideration will be provided, shall be sentenced for usury to a fine or imprisonment for at most two years.
SI	Article 113 of the Criminal Code of the Republic of Slovenia	"Trafficking" involves purchasing of another person, taking possession of them, accommodating them, transporting them, selling them, delivering them or using them in any other way, or recruiting them or exchanging them, or delegating supervision over them, or acting as a broker in such operations. The second element of the legal description is acting "for the purpose of exploiting" either "forced labour, enslavement or servitude". The consent of a victim of trafficking is not a condition for establishing the intended exploitation. The term "forced labour" covers also the exploitation of begging. (Article 113 of the Criminal Code)	Yes	No	Article 113 of the Criminal Code of the Republic of Slovenia: from 1 to 10 years' imprisonment, prescribed penalties if the offence is committed against a minor or with force, threats, deception, kidnapping or by way of exploiting a subordinate or dependent position, or by way of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person: from 3 to 15 years' imprisonment. If it is established that the criminal offence was committed out of greed: a fine may be imposed as an accessory sentence to the imposed imprisonment as the principal sentence, even when a fine is not expressly prescribed by the Statute

MS	Legislation specifically penalising THB for forced labour				Penalties foreseen in the legislation
	Legislation penalising THB for forced labour	Main elements of the offence	Explicit reference to forced labour?	Definition of forced labour?	
SK	The Criminal Code (Law No 300/2005 Coll.) (Section 179, 181 and Chapter 2, division 1)	<p>Trafficking involves: fraudulent actions, deceit, the restriction of human freedom, violence, the threat of violence, the threat of other serious harm, or other forms of force; or anyone who accepts or pays money or provides other advantages for obtaining the agreement of another person on whom someone is dependent; or anyone who misuses his/her position to lure, transport, harbour, transfer, or receive another person, whether with that person's consent or not, for the purpose of prostitution or any other form of sexual exploitation, including pornography, forced labour or the forced provision of services (...)</p> <p>In case of minors: anyone who lures, transports, harbours, transfers or receives a minor under the age of 18, whether with that person's consent or not, for the purpose of prostitution or any other form of sexual exploitation, including pornography, forced labour or the forced provision of services (...) (Section 179 of the Criminal Code)</p> <p>In the case of minors, it is not a requirement to prove the illicit means (fraud, use of force, threat of the use of force, abuse of the victim's position of vulnerability, etc.).</p>	Yes	No	<p>Section 179 of the Criminal Code: imprisonment for four to ten years. The same punishment shall be imposed on anyone who lures, transports, harbours, transfers or receives a minor under the age of 18. Section 181 sets out the following:</p> <p>(1) Whoever entrusts a child into the authority of another person for a reward for the purpose of exploiting them for child labour or any other purpose shall be punished by a prison sentence of between four to 10 years.</p> <p>(2) A prison sentence of seven to 12 years shall be imposed upon an offender if they committed an act referred to in Subsection 1</p> <p>a) and thus obtain a larger benefit for themselves or another person, or b) in a more serious manner of conduct.</p> <p>(3) A prison sentence of 12 to 20 years shall be imposed upon an offender if they committed an act referred to in Subsection 1</p> <p>a) and thus cause grievous bodily harm or death, or another particularly serious consequence, or</p> <p>b) obtain a significant benefit for themselves or another person.</p> <p>(4) A prison sentence of 20 to 25 years or a life prison sentence shall be imposed upon an offender if they committed an act referred to in Subsection 1</p> <p>a) and thus obtain a benefit of a large extent for themselves or another person, or</p> <p>b) and thus cause the death of several persons, or</p> <p>c) as a member of a dangerous group. Section 179, paragraph 3, goes as follows:</p> <p>(3) A prison sentence of seven to 12 years shall be imposed upon an offender if they committed an act referred to in Subsection 1 or 2</p> <p>a) and thus obtain a larger benefit for themselves or another person,</p> <p>b) and thus puts another person at risk of grievous bodily harm or death by such act,</p> <p>c) as a public official,</p> <p>d) against a protected person,</p> <p>e) out of a special motive, or</p> <p>f) in a more serious manner of conduct.</p>

MS	Legislation specifically penalising THB for forced labour				
	Legislation penalising THB for forced labour	Main elements of the offence	Explicit reference to forced labour?	Definition of forced labour?	Penalties foreseen in the legislation
UK	England and Wales The Modern Slavery Act 2015	Part 1 Offences, Clause 2 (Human trafficking) Subsection (1) makes it a criminal offence to arrange or facilitate the travel of another person with a view to their being exploited. Travel is defined in subsection (5) as arriving in, entering, departing, or travelling within any country. Subsection (2) sets out that exploitation includes slavery, servitude and forced or compulsory labour by reference to the offence under section 1.	Yes	References to holding a person in slavery or servitude or requiring a person to perform forced or compulsory labour are to be construed in accordance with Article 4 of the Human Rights Convention	Modern Slavery Act: (1) A person guilty of an offence under section 1 or 2 is liable— (a) on conviction on indictment, to imprisonment for life; (b) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine or both.
	Northern Ireland Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015	Part 1 Offences, Clause 2 (Human trafficking) Subsection (1) makes it a criminal offence to arrange or facilitate the travel of another person with a view to their being exploited. Travel is defined in subsection (4) as arriving in, entering, departing, or travelling within any country. Clause 3 (meaning of exploitation for the purposes of section 2) sets out that exploitation includes slavery, servitude and forced or compulsory labour by reference to the offence under Clause 1.	Yes	As above	
	Scotland The Immigration and Asylum (Treatment of Claimants, etc.) Act 2004	"Arranging or facilitating the arrival in or the entry into the UK of an individual, with the intention to exploit the person in the UK or elsewhere, or with the belief that someone is likely to" (section 4(1)). Under Section 4(2) a person additionally commits an offence if he arranges or facilitates travel within the UK of an individual in respect of whom he believes has been trafficked into the UK and he intends to exploit the person, or believes another person is likely to, whether in the UK or elsewhere. Under section 4(3), a person commits an offence if he arranges or facilitates the departure from the UK of an individual and he intends to exploit that person outside the UK, or believes another person is likely to, outside of the UK. (Section 4(4) of the Immigration And Asylum (Treatment Of Claimants, Etc.) Act 2004)	No	As above	A maximum penalty (on conviction on indictment) of 14 years' imprisonment and/or a fine. On summary conviction, to imprisonment for a term not exceeding twelve months, to a fine not exceeding the statutory maximum or to both.

Annex II: Key actors involved in the investigation/prosecution/prosecution of cases of THB for forced labour

MS	Key actors involved in the investigation/prosecution of cases of THB for forced labour			
	Investigation	Prosecution	Courts	Labour Inspectorate
AT	The Central Unit in the Federal Criminal Intelligence Service within the Federal Ministry of the Interior The Control Unit for Illegal Employment at the Federal Ministry of Finance Regional specialised police units	General Public Prosecution Office	Criminal courts	Labour Inspectorate at the Federal Ministry of Labour, Social Affairs and Consumer Protection
BE	The Central Service for Human Trafficking of the Federal Judicial Police Federal and Local Police	Federal Prosecutors Network of expertise for Human Trafficking under the authority of the College of Prosecutors-General	Criminal courts	Labour Inspector
BG	Public Prosecutors, or The specialised unit at the National Investigation Service for investigation of THB offences Anti-trafficking Unit (Chief Directorate for Combating Organised Crime at the Ministry of the Interior) Anti-organised Crime Unit (National Security Agency)	Public Prosecutors	Special criminal courts mandated inter alia to review cases of human trafficking which have been committed at the orders of an organised criminal group or when implementing a decision of an organised criminal group	No specific involvement in THB for forced labour cases
CY	The Office of Combating Trafficking in Human Beings of the Police	The Law Office of the Republic of Cyprus	District Courts; The permanent Criminal Court; The Supreme Court for Appeal cases	Department of Labour inspectors
CZ	Human Trafficking Department in the Organised Crime Unit of the Criminal Police Investigation Service Office of the Police Forced Labour Section of the Police	Public Prosecutors	Regional Courts (1st instance); High Courts (Appeal Courts)	No specific involvement in THB for forced labour cases. If the Ministry of Labour and Social Affairs of the Czech Republic identify potential THB cases when carrying out Labour Law compliance inspections, they report it to the Police.
DE	The Department for Trafficking in Human Beings at the Federal Criminal Police Office The investigation of THB cases comes under the competence of the <i>Länder</i> . Many <i>Länder</i> have special offices for Trafficking in Human Beings	The Department of Public Prosecution of the respective Land	Criminal Courts	No specific involvement in THB for forced labour cases

MS	Key actors involved in the investigation/prosecution of cases of THB for forced labour			
	Investigation	Prosecution	Courts	Labour Inspectorate
MS				
DK	The Police The Danish Centre against Human Trafficking (CMM)	The Director of Public Prosecutions (DPP)	24 District Courts (1 st instance) 2 High Courts Supreme Court	Labour Inspectors
EE	The Citizenship and Migration Division of the Police Police Prefectures' Criminal Police Bureaus and the Central Criminal Police	Public Prosecutor	County Courts Circuit Courts Supreme Court	Labour Inspectorate operating under the Ministry of Social Affairs
EL	The Hellenic Police	Public Prosecutor	Criminal Courts	Labour Inspectorate
ES	The Police (the National Police and the Civil Guard) The National Centre for Intelligence against Organised Crime	Public Prosecutor Judges	Supreme Court Audencia Nacional High Court Provincial Courts Courts of First Instance	Labour Inspectors
FI	Police (National Investigation Bureau and local units) Border guards in regions (e.g. Pohjanmaa) where there have been several investigations or cases, there are special police units dealing with THB for forced labour cases	(local) prosecutors	-	No specific involvement in THB for forced cases
FR	The police and gendarmerie officers Investigating judges	Public Prosecutor	The JIRS courts	The Labour Inspectorate (under the Ministry of Labour and Employment)
HR	The Organised Crime Department of the Police (Ministry of Interior) Border Police Department (Ministry of Interior)	Public Prosecutor (State Attorney's Office)	Municipal Criminal Courts County Courts Criminal High Court The Supreme Court	The Labour Inspectorate (within the Ministry of Labour and Pensions System)
HU	Police (the county (metropolitan) police headquarters) The Hungarian National Bureau of Investigation and the Sub-unit against trafficking in human beings under the supervision of the Operational Police Public Prosecutor	Public Prosecutor	Curia (highest court) Regional courts of appeal Regional courts (1st instance)	No specific involvement in THB for forced cases
IE	The Human Trafficking Investigation and Coordination Unit in An Garda Síochána (national police force)	Director of Public Prosecutions Office	-	No specific involvement in THB for forced cases

MS	Key actors involved in the investigation/prosecution of cases of THB for forced labour			
	Investigation	Prosecution	Courts	Labour Inspectorate
MS	The Carabinieri Corps (police force with military status) State Police (civil police force) Finance Corps (special police force and military corps) Specific branch of Public Prosecutors (Antimafia National Directorate and the Antimafia District Directorate)	Specific branch of Public Prosecutors (Antimafia National Directorate and the Antimafia District Directorate)	Assize courts (1st instance) Assize courts of appeal (2nd instance) Court of Cassation	The Provincial Labour Directorate (decentralised offices from the Ministry of Labour and Social Policy)
IT				
LU	The Organised Crime Unit of the Judiciary Police District Court's investigatory judge	Public Prosecutor	District Court's Correctional Chamber adjudicates on misdemeanours – or; Criminal Chamber –adjudicates on crimes. Supreme Court of Justice The Court of Cassation	The Labour and Mines Inspectorate
LT	Investigation unit of the municipal police Department (The Lithuanian Criminal Police Bureau)	The Lithuanian Criminal Police Bureau The respective city Prosecutor's office	Competent courts of general jurisdiction (i.e. Municipal courts at first instance and district courts in the event of severe felonies that may incur imprisonment of more than six years).	The State Labour Inspectorate under the Ministry of Social Security and Labour.
LV	The Unit for the Fight against Human Trafficking and Procuring of the State Police	Public Prosecutors	Criminal Courts	The State Labour Inspectorate
MT	Malta Police Force	Police (before the court of magistrates) Attorney General (before the Criminal Court)	The Court of Magistrates as a court of criminal jurisdiction may hear some cases. The Criminal court hears the remaining cases.	No specific involvement in THB for forced labour cases
NL	Royal Marechaussee (military police corps) The police The Immigration and Naturalisation Services The Inspection on Employment and Social Affairs Public Prosecutor (OM) Royal Military Police (KMar) Local authorities (communes) Taskforce on approaching human trafficking (Taskforce Aanpak Mensenhandel) Inspectorate for Social Affairs and Employment	Public Prosecutor (OM). A national prosecutor on human trafficking (and smuggling) has been appointed in each court (<i>parket</i>).	All 11 courts (<i>rechtbanken</i>) and 4 higher courts (<i>gerechtshoven</i>) there are specialised judges appointed to deal with THB cases.	As of 2012, the Social Affairs Inspectorate merges the organisations and activities of the Labour Inspectorate (AI); the Work and Income Inspectorate; and the Social Intelligence and Investigation Service (SIOD).

MS	Key actors involved in the investigation/prosecution of cases of THB for forced labour			
	Investigation	Prosecution	Courts	Labour Inspectorate
MS	police Border Guards	Public Prosecutors (The Department for Organised Crime and Corruption is responsible for human trafficking issues within the Prosecution Office.)	Criminal departments of regional and appeal courts. The third instance is the High Court (so far, no case on THB for forced labour has reached the High Court).	Labour Inspectorate
PL	Polícia Judiciária (Criminal police) Serviço de Estrangeiros e Fronteiras (the Portuguese Immigration and Borders Service)	Ministério Público (the Public Prosecution Service)	-	No specific involvement in THB for forced cases
PT	Public Prosecutors of the Directorate for Investigating Organised Crime and Terrorism The Directorate for Countering Organised Crime of the Police	Public Prosecutors of the Directorate for Investigating Organised Crime and Terrorism	District Court (1st instance) Regional Courts (2nd instance)	No specific involvement in THB for forced cases
RO	The police The National Criminal Investigation Department (Intelligence and Investigation Sections) The Border Police Public Prosecutor	Public Prosecutor	District Courts Courts of Appeal Supreme Court	The Work Environment Authority
SE	The police	Specialised Office of the State Prosecutor of the Republic of Slovenia	Specialised Departments at the District Courts	Labour Inspectorate
SI	Since 2013: The National Irregular Migration Unit within the Bureau of Border and Alien Police Until 2013: The Organised Crime Unit of the Police	Prosecutors from the Criminal Department of the General Prosecution Office and Prosecutors from the International Department of the Special Prosecution Office	Specialised Criminal Court (concerning organised crime) General courts	The National Labour Inspectorate
SK	The UK Border Agency (UKBA) The National Crime Agency The UK Human Trafficking Centre (UKHTC) Police	England, Wales, NI: Crown Prosecution Service (CPS). Scotland: Crown Office and Procurator Fiscal Service (COPFS)	Crown Court Court of Appeal Employment Tribunals	Labour inspectorate

Annex III: Case study references

MS	Case study number	Cases –study codes	Legal reference
AT	1	AT-001-1	Case number 15 Os 167/12s,
	2	• AT-002-1	Case number 041 S Hv 6/11t,
BE	1	BE-003-1	Corr. Antwerp, 26 January 2009, kamer 4C (Dutch)
	2	BE-11-1	Corr. Ghent, 16 November 2009, 19de k (Dutch)
	3	BE-33-1	Corr. Charleroi, 26 October 2012, 7de k (French)
	4	BE-38-1	Corr. Tournai, 6 September 2012 (French)
	5	BE-15-1	Corr. Tongeren, 7 October 2010, 9de k (Dutch)
	6	• BE-44-1	Corr. Ghent, 2 April 2012, 19de k (Dutch)
	7	• BE-45-1	Case No 2012/3925, first Instance Court of Ghent, 19th chamber (Tribunal de Première Instance de Gand, 19ème chambre),
BG	1	BG-001	Case number 30186, 16 June 2010, Regional Court Montana
	2	BG-002-1; BG-002-2	Sentence No 115, 30 October 2012, Regional Court Haskovo, Sentence No 8, 19 March 2013, District Court Haskovo; Decision No 415, 28 October 2013, Supreme Court of Cassation
	3	BG-003	Decision No.440, 7 June 2013, Private Criminal Law case No 673/2013
	4	BG-004	Sentence No.45, 26 January 2011, Criminal Law Case No 2849/2010
	5	BG-005	Agreement No.6, 24 January 2014, Criminal Law Case No 141/2014
	6	• BG-006	• Agreement No.200, 25 April 2013, Criminal Law Case, No 969/2013
CY	1	CY-001	Republic of Cyprus v Ioanni Piripitsi and George Savva, Case No 248/2009
	2	CY-002	Nicosia Police Chief v. Nikos Strouthos No 19377/2010
CZ	1	CZ-001	Judgment 17 T 6/2010
	2	CZ-002	Judgment 7 Tdo 1261/2013
	3	CZ-003	Judgment 1 T 1/2012
	4	CZ-004	Judgment 4 To 67/2013

MS	Case study number	Cases –study codes	Legal reference
DE	1	DE-001-01	Judgment of the District Court Hannover of 4 March 2009 – 89 Kls 2/07 6413 Js 12278/07
	2	DE-002-02	Ruling of the Federal Court of Justice of 13 January 2010 (3 StR 507/09)
	3	DE-001-03	Judgment of the District Court Hannover of 4 March 2009 – 89 Kls 2/07 6413 Js 12278/07.
	4	DE-002-1	Judgment of the Magistrate Court Hamburg – Sankt Georg of 22 February 2010 – 940 Ls 6500 Js 38/09 (494/09).
	5	DE-003-1	Judgment of the District Court Trier (Landgericht Trier) of 2 November 2011 – 8045 Js 9059/10.5 Kls
	6	DE-004-1	Judgment of the Magistrate Court Düsseldorf (Amtsgericht Düsseldorf) – 106 Ls-50 Js 208/07-58/07
DK	1	DK-001	Case No 1-2643/2013
	2	DK-002	Case No 1-2738/2013
EL	1	EL-001	Supreme Court Judgment No 673/2011
	2	EL-002	Judgment 118/2014
ES	1	ES-001-2	53/2009, 3 February 2009, Provincial Court of Barcelona
	2	ES-014-02	Judgment of the Provincial Court of Madrid 109/2012, 29 February 2012
	3	ES-011-2	Provincial Court of Málaga, 368/2012
	4	ES-15-3	Judgment of the Provincial Court of Teruel 00017/2011, 27 May 2011
	5	ES-03-2	Judgment of the Provincial Court of Lugo 41/2010, 29 March, Second Instance
	6	• ES-18-02	Judgment of the Provincial Court of Valencia 887/2013, 27 December, Proven Facts, para. 2,
FI	1	FI-001-1	657/R/3389/06, Pohjanmaa District Court
	2	FI-002-2	R13/1070, Turku Appeal Court
	3	FI-003-1	National reference not available, Pohjanmaa District Court
	4	FI-004-1	R12/2465, Helsinki District Court
	5	FI-006-1	4042, Pohjanmaa District Court
	6	FI-007-2	National reference not available, Vaasa Appeal Court
FR	1	FR-006-2	13-00129, Caen Court of Appeal
	2	FR-014-1	13337000168, Criminal Court of Evry
	3	FR-002-3	08-80787, Court of Cassation
	4	FR-001-3	11-84119, Court of Cassation
	5	FR-010-2	2010/00483, Investigation Chamber of the Versailles Court of Appeal 12-83938, Court of Cassation
	6	• FR-005-3b	09-88575, Court of Cassation, third instance (FR-005-3a); 12-83938, Court of Cassation, third instance

MS	Case study number	Cases –study codes	Legal reference
HR	1	HR-001	Judgment Kž-586/09;
	2	HR-002-1; HR-002-2	Judgment KO-1646/10 State v. D.K., 1st instance Judgment Kž-208/12 State v. D.K., 2nd instance
IT	1	IT-001	Judgment of the Court of Cassation 40045/10 of 24 September 2010
LT	1	LT-001	Vilnius District Court, 1-62-172/2012
LU	1	LU-001	Arrêt No 249/2014 du 24 Avril 2014 du Tribunal d'arrondissement de Diekirch
LV	1	LV-001	Judgment No K04-045-11/18, Judgment No PAK-271, Judgment No SKK-2/2013
NL	1	NL-002-1	Judgment BJ11282 of the Court of Rechtbank
	2	NL-003-3	Judgment BI7099 of the Supreme Court of the Netherlands
	3	NL-014-01	Judgment BP4006 of the District Court of The Hague - 1st instance
	4	NL-018-01	Judgment BT6501 of the District Court of Hertogenbosch
	5	NL-022-01	Judgment RBAMS, 2013, 8010 of the District Court of Amsterdam, 1st instance,
	6	NL-024-1)	Judgment BZ9113 (in conjunction with BZ9115; BZ 9117) of the District Court of Amsterdam, 1st instance
PL	1	PL-005-1	Regional Court in Legnica, III Criminal Division, III K 2/13
RO	1	RO-030-01	Penal Decision No 51RC/5.06.2014 of High Court of Cassation and Justice
	2	RO-026-01	Penal Decision No 1814/28 May 2014 of the High Court of Cassation and Justice
	3	RO-013-03	Penal Decision No 3249/26 September 2011 of High Court of Cassation and Justice
	4	RO-024-01	Penal Decision No 209/A/31.10.2013 of Cluj Court of Appeal
	5	RO-008-02	Penal Decision No 6/18.01.2010 of Craiova Court of Appeal
	6	• RO-014-03	• Penal Decision No 3888 from 2 November 2011 of High Court of Cassation and Justice
SE	1	SE-001	Judgment B 179-12 of the Skellefteå District Court
	2	SE-002	Judgment B 2220-11 of the District Court of Hudiksvall
	3	SE-003	Judgment B 1834-11 of the District Court of Hudiksvall
	4	SE-004	Judgment B 3573-10 of the Malmö District Court
	5	SE-005	Judgment B 5971-10 of the Svea Court of Appeal
SI	1	SI-001	K 109/2008, Novo Mesto Local Court; III Kp 155/2008, Novo Mesto Local Court
	2	SI-002	
SK	1	SK-001	BB-317/13/2012 Plechov and others (Specialised Criminal Court's database, available at: http://www.justice.gov.sk/Stranky/Sudne-rozhodnutia/Sudne-rozhodnutia.aspx)

MS	Case study number	Cases –study codes	Legal reference
UK (E&W)	1	• UK-002-1; UK-002-2	T20097724 Tallat Ashar, T20097724 Ilyas Ashar
	2	•	R v Khan, Khan and Khan [2010] EWCA Crim 2880
	3	• UK-007-2; UK-09-1	T20140243 - Jurate Grigelyte
	4 and 5	UK-009-1	T20100929 Saeeda Khan (first instance); [2011] EWCA Crim 1691, http://www.bailii.org/ew/cases/EWCA/Crim/2011/1691.html (Appeal)
	6	UK-001-2	T20101065, Rebecca Siima Balira
		UK-006-1	

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- ☐ 63/2012. 16 February 2012 (Westlaw/Aranzadi)
- ☐ 368/2012. 2 July 2012 (Westlaw/Aranzadi)
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- ☐ 76/2012. 27 October 2012 (Westlaw/Aranzadi)
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- ☐ 385/2013. 20 May 2013 (Westlaw/Aranzadi)
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- ☐ 631/2013. 17 October 2013 (Westlaw/Aranzadi)
- ☐ 887/2013. 27 December 2013 (Westlaw/Aranzadi)
- Sweden:
 - ☐ Case number B 179-12 (District Court of Skellefteå, the Archives. Also mentioned in the 2014 Trafficking of Human Beings report from the Swedish National Police Board)
 - ☐ Case number B 2220-11 (District Court of Hudiksvall, the Archives. Also mentioned in the 2014 Trafficking of Human Beings report from the Swedish National Police Board)
 - ☐ Case number B 1834-11 (District Court of Hudiksvall, the Archives)
 - ☐ Case number B 3573-10 (District Court of Malmö)
 - ☐ Case number B 421-08 (District Court of Solna)
 - ☐ Case number B 5971- 10 (Svea Court of Appeal)
- The Netherlands:
 - ☐ ECLI:NL:GHLEE:2009:BJ9385 (<http://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:GHLEE:2009:BJ9385>)
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- ☐ ECLI:NL:GHSGR:2010:BK9406 In relation: BK9372 (<http://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:GHSGR:2010:BK9406&keyword=BK+9406>)
- ☐ ECLI:NL:GHSHE:2010:BL5492 (<http://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:GHSHE:2010:BL5492&keyword=BL+5492>)
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- ☐ ECLI:NL:GHARN:2011:BQ9861 (<http://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:GHARN:2011:BQ9861&keyword=LJN+BQ9861>)
- ☐ ECLI:NL:RBSGR:2011:BR3337 (<http://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:RBSGR:2011:BR3337&keyword=LJN+BR+3337>)
- ☐ ECLI:NL:RBSHE:2011:BT6501 (<http://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:RBSHE:2011:BT6501&keyword=LJN+BT6501>)
- ☐ ECLI:NL:RBALK:2011:BU8346 (<http://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:RBALK:2011:BU8346&keyword=LJN+BU+8346>)
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 - ☐ T20097724 Tallat Ashar (thelawpages.com)
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 - ☐ U20130281/T20127287 Imrich Bodor (thelawpages.com)

- ☐ U20130359/T20127280 Abdul Sabool Shinwary (thelawpages.com)
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- ☐ [2011] EWCA Crim 1691, Case No: 201102228 C2 (R. v. SK) (<http://www.bailii.org/cgi-bin/markup.cgi?doc=/ew/cases/EWCA/Crim/2011/1691.html&query=Asylum+and+Immigration+and+human+and+trafficking+and+labour&method=boolean>)
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 - ☐ Interfederal Centre for Equal Opportunities (*Interfederaal Gelijke Kansen Centrum/Centre Interfédéral pour l'Égalité des chances*), 'Annual Report Human Trafficking and Human Smuggling 2010' (*Jaarverslag Mensenhandel en Mensensmokkel 2010*/'*Rapport Annuel de Traite et Trafic des êtres humains 2010*') (2011) Brussels, IGKC, available at: http://www.diversiteit.be/sites/default/files/legacy_files/publications/rapport_annuel/JV-Mensenhandel2010/CGKR_JV_2010_mh_NL-web%281%29.pdf
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 - ☐ Latvian Ministry of the Interior, Guidelines for the identification of trafficking in human beings for forced labour (2012), available at: <http://www.iem.gov.lv/files/text/identificesanas%20vadlinijas.pdf>
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- The Netherlands:
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 - Ninth report of the Dutch National Rapporteur (September 2013)
 - Statement by medical anthropologist Tankink M., 'Netherlands first in the world with judges specialised in human trafficking cases' ('*Nederland eerste ter wereld met rechters gespecialiseerd in mensenhandelzaken*'), 18 April 2013, The Hague, available at: <http://www.rechtspraak.nl/Actualiteiten/Nieuws/Pages/Nederland-eerste-ter-wereld-met-rechters-gespecialiseerd-in-mensenhandelzaken.aspx>

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- Belgium:
 - Belgian Website of the DG Social Inspection of the Federal Public Service Social Security, available at: <http://socialsecurity.fgov.be/nl/over-de-fod/organogram/sociale-inspectie/sociale-inspectie.htm>
- Bulgaria :
 - The National Intelligence Service website, available at: <http://www.nrs.bg/za-nas/misiya-prioriteti-zadachi?highlight=YToxOntpOjA7czoxMjoiOYLrgNCwOYTQuNC6Jt9>
- Cyprus:
 - 'The Office of Combating Trafficking in Human Beings', Cyprus Police website, available at: <http://www.police.gov.cy/police/police.nsf/All/B62C14B4889EC3A3C22578A900271B28?OpenDocument>
- Italy:
 - Italian 'National Antimafia Office', Ministry of Justice Website, available at: http://www.giustizia.it/giustizia/it/mg_2_10_1.wp
- Romania:
 - Romanian Directorate for investigating organised crime and terrorism website (*Directia de investigare a infractiunilor de criminalitate organizata si terrorism*), available at: <http://www.diicot.ro/index.php/arhiva/1088-comunicat-de-presa-28-04-2014>
- Slovakia:
 - Slovakian Official website of Specialised Criminal Court, available at: <http://www.specialnysud.sk/>
- The Netherlands:
 - The website of the Dutch police, available at: <http://www.politie.nl/onderwerpen/mensenhandel.html>

Annex V: Case studies on case-law in selected Member States

AUSTRIA

Case study 1: AT-001-01

Summary of the case	Official summary not available: Two defendants were charged with tormenting and neglecting minors under Section 92 (1) StGB, with using severe threats or force to cause a person to do, suffer or omit an act under Section 105 (1), 106(1) and with trafficking in human beings under Section 104a and fraud under Section 146, 147, 148 StGB. During the period of May 1999 until April 2004 the defendants hosted an underage girl (born in 1987) in their house, and tortured her mentally and physically, deprived her of her liberty and childhood, forced her to do domestic work by threatening her and her family to death. In addition, the defendants faked documents in order to receive child support from the State. The Regional Court for Criminal Matters in Vienna found them guilty of the abovementioned offences and imposed a sentence of four years' imprisonment on both of the defendants. The defendants as well as the public prosecutor brought appeals against the judgments to the Supreme Court. The Supreme Court of Justice set the judgment aside for reasons of missing evidence and referred the case back to the Regional Criminal Court for in Vienna, where it is still pending.	
Competent Court	Supreme Court (Oberster Gerichtshof) case number 15 Os 167/12s.	
Legal provision applied	<ul style="list-style-type: none"> • Tormenting and neglecting of minors under Section 92 (1) StGB; • Severe use of threats or force to cause a person to do, suffer or omit an act under Section 105 (1), 106(1) StGB; • Trafficking in human beings for the purposes of labour exploitation under Section 104a StGB; • Fraud under Section 146, 147, 148 StGB. 	
Sentence/compensation awarded	Four years' imprisonment for both of the defendants. The appeal is still pending.	
Date/period of forced labour (month/year)	2 May 1999 until 30 April 2004	
Profile of the victim(s) (e.g. country of origin, gender, age, occupation of the victim prior to the incident of forced labour)	Country of origin	Chechnia / Russia
	Gender	Female
	Age	12 to 19 years old
	Sector	Domestic work sector
	Migratory status	Russian citizen, refugee status in Austria
Knowledge of local language		Some knowledge, not proficient.

How was the victim recruited and how did they come to be in the situation of forced labour?	The defendants (a couple) took the victim under unknown circumstances together with their own child to Austria and asked for asylum with false documents. They pretended that the victim was adopted and kept her as a house slave for several years. Her refugee status was initially granted. A procedure to withdraw her refugee status as well as to extradite the defendants is still pending before the Court.	
Elements of vulnerability	The victim had no school education. She felt dependent on and naively trusted the defendants. She did not consider herself a victim.	
Identification/ reporting of offences	The victim reported the offence to the authorities (e.g. the police, labour inspectorate) himself/herself	No
	The authorities began the investigation <i>ex officio</i>	
	The case was brought to the attention of the authorities by an association/NGO	X
	Other (please specify)	The NGO ORS Betreuungsgorganisation which supports refugees reported the case to the asylum authority and the Ministry of Interior.
	Which authority/unit was responsible for the criminal investigation of this case?	Ministry of Interior.
Criminal investigation	How long after the victim started being subject to forced labour did the criminal investigation of the matter begin?	Unknown
	What was the length of the investigation?	Around six months.
	What were the difficulties in the bringing this case to the court?	Both suspects were not willing to testify, as they did not think they were doing anything wrong and said the victim was lying. It was difficult to find good translators for Chechenian.
	Was the victim required to testify at the pre-trial stage of the proceedings? If yes, did the authorities use any mechanisms to protect the safety of the victim (e.g. via a witness protection programme) or protect him/her from secondary victimisation?	The victim was under a victim protection programme from the moment of reporting the crime until the judgment at the pre-trial stage. The support organisation for trafficking in women (Betreuungsstelle des Frauenhandels) offered psychological support. The lowest security standard was applied. When testifying before and during the proceedings, the 'Victim Assistance Services' (Prozessbegleitung) gave psychological and legal support and ensured that her identity was not revealed. The victim was provided with housing in an unknown location.
	Were there any problems/issues pertaining to the collection of evidence?	No particular difficulties were identified. However, the victim was scared and reluctant to testify.

Court proceedings	Was the victim required to testify in court? If yes, what effect is the witness testimony perceived to have had on the successful prosecution of the offenders?	Yes, the victim testified in court and the testimony was the main evidence used to prosecute the offenders.
	If the victim testified in court, did he/she do so in camera, in the courtroom (in the defendant's presence) or the court used the victim's testimony during the investigation phase?	She testified in camera without the defendants present.
	Did the victim seek compensation for the damages suffered (e.g. by constituting himself/herself as a civil claimant)? If yes, did he/she receive support by the State (e.g. legal representation/legal aid)?	Not known.
	What type of evidence was submitted to the court? Where there any issues with the admissibility of evidence?	Only the victim's testimony.
	How long did it take for the court to issue its judgment (for first instance cases, from the prosecution; for second and third instance cases, from the day the appeal was filed)?	The first instance decision was on 6 September 2012. The defendants as well as the public prosecutor brought appeals against the judgments to the Supreme Court. On 22 May 2013, the Supreme Court set the judgment aside for reasons of lack of evidence and referred the case back to the Regional Criminal Court in Vienna, where it is still pending. It thus took the court around 8 years to issue its first instance judgment.
Delivery of the court judgment	Was the defendant found innocent/guilty? If he/she was found innocent, was it due to procedural grounds or because the evidence presented was insufficient not substantiate his guilt?	The defendant was found guilty.
	Was the victim awarded compensation for damages/moral pain and suffering? What was the court's reasoning?	Not known.
	Did the victim receive any kind of support by public authorities (e.g. social workers)/NGOs?	The victim was under a victim protection programme during the entire proceeding. She was provided with legal advice, legal representation and psychological help.
Victim support		
Resources (financial and human resources)	Insufficient resources (human and financial) did not hinder the investigation/prosecution in this specific case.	
Role of labour inspectors	The labour inspector did not play a contributing role during the prosecution of the case.	
Case study source	Interview with Government Official. A copy of the case was received from the Ministry of Justice upon application.	

Case study 2 – AT-002-01

Summary of the case	Official summary not available: The female defendant, who had a diplomatic status, was charged with trafficking in human beings under Section 104a of the StGB. During the period of July 2009 and December 2010, the defendant employed an Asian woman as a domestic worker through a recruitment agency based in the victim's home country. The victim had to work 70 hours per week for EUR 350 a month. The victim had to sleep in a room without windows and had to work for ten people. Her passport was taken away from her. The court acquitted the defendant for lack of evidence.	
Competent Court	Regional Criminal Court (Landesgericht fuer Strafsachen) in Vienna, case number 041 S HV 6/11t, court of first instance. The decision was not appealed.	
Legal provision applied	Section 104a of the StGB.	
Sentence/compensation awarded	N/A, as the defendant was acquitted.	
Date/period of forced labour (month/year)	July 2009 – December 2010	
Profile of the victim(s) (e.g. country of origin, gender, age, occupation of the victim prior to the incident of forced labour)	Country of origin	Asia (country not specified).
	Gender	Female
	Age	Mid thirties.
	Sector	Domestic worker in diplomatic household
	Migratory status	The victim had no residence permit
How was the victim recruited and how did they come to be in the situation of forced labour?	Knowledge of local language	The victim had no knowledge of German but enough English to make herself understood.
	The victim was recruited through an agency in her home country, which was not involved in the investigations or in the court proceedings.	
Elements of vulnerability	The victim had a medium level of education and was not allowed to enter into legal employment in Austria. It is not known to what extent she had experienced poverty in her home country or if there were any other elements of vulnerability.	
Identification/reporting of offences	The victim reported the offence to the authorities (e.g. the police, labour inspectorate) himself/herself	
	The authorities began the investigation <i>ex officio</i>	X
	The case was brought to the attention of the authorities by an association/NGO	The victim explained her situation to the Federal Ministry of Europe, Integration and Foreign Affairs when applying for a work visa. The authority informed the victim support organisation IBF LEFOE, which supported the victim in reporting the offence to the police.
	Other (please specify)	

Criminal investigation	<i>Which authority/unit was responsible for the criminal investigation of this case?</i>	Due to the diplomatic status of the defendant, the Federal Office for Protection of the Constitution and Fight against Terrorism (Verfassungsschutz) was in charge of investigating the case.
	<i>How long after the victim started being subject to forced labour did the criminal investigation of the matter begin?</i>	Around one and a half years later.
	<i>What was the length of the investigation?</i>	Five months
	<i>What were the difficulties in the bringing this case to the court?</i>	Finding enough evidence to prove the claim was difficult. This was mainly related to the fact that the Federal Office for Protection of the Constitution and Fight against Terrorism is not as experienced in TBH cases as the police.
	<i>Was the victim required to testify at the pre-trial stage of the proceedings? If yes, did the authorities use any mechanisms to protect the safety of the victim (e.g. via a witness protection programme) or protect him/her from secondary victimisation?</i>	The victim was under a victim protection programme from the moment she reported the crime until the judgment. When testifying before and during the proceedings, the 'Victim Assistance Services' (Prozessbegleitung) gave the victim psychological and legal support and ensured that her identity would not be revealed.
Court proceedings	<i>Were there any problems/issues pertaining to the collection of evidence?</i>	Despite other witnesses being available and willing to testify, the victim's testimony remained the main evidence, which proved not to be sufficient.
	<i>Was the victim required to testify in court? If yes, what effect is the witness testimony perceived to have had on the successful prosecution of the offenders?</i>	Yes, the victim testified in court. However, given the defendant's acquittal, the testimony proved not to be sufficient for a successful prosecution and conviction.
	<i>If the victim testified in court, did he/she do so in camera, in the courtroom (in the defendant's presence) or the court used the victim's testimony during the investigation phase?</i>	She testified in camera in the absence of the defendant.
	<i>Did the victim seek compensation for the damages suffered (e.g. by constituting himself/herself as a civil claimant)? If yes, did he/she receive support by the State (e.g. legal representation/legal aid)?</i>	The victim sought compensation as a civil claimant and was supported by the victim support organisation IBF LEFOE, which included free legal representation.
	<i>What type of evidence was submitted to the court? Where there any issues with the admissibility of evidence?</i>	The victim's testimony. Despite other witnesses being available, they were not interviewed, which was allegedly due to a lack of experience of the prosecuting authority with such crimes as well as a lack of resources.
Delivery of the court judgment	<i>How long did it take for the court to issue its judgment (for first instance cases, from the prosecution; for second and third instance cases, from the day the appeal was filed)?</i>	As the decision was not appealed, the judgment was delivered on the same day as the trial.
	<i>Was the defendant found innocent/guilty? If he/she was found innocent, was it due to procedural grounds or because the evidence presented was insufficient not substantiate his guilt?</i>	The defendant was acquitted for lack of evidence.
	<i>Was the victim awarded compensation for damages/moral pain and suffering? What was the court's reasoning?</i>	The victim was granted around EUR 20,000 compensation by the Labour Court. However, given the diplomatic immunity of the defendant, the judgment has not yet been executed.

Victim support	Did the victim receive any kind of support by public authorities (e.g. social workers)/NGOs?	The victim was under a victim protection programme from the moment she reported the crime until the Labour Court judgment. She was provided with legal advice, legal representation, accommodation, psychological help and (the successful) support in finding employment.
Resources (financial and human resources)		Insufficient resources (human and financial) did not hinder the investigation/prosecution in this specific case.
Role of labour inspectors		The labour inspector did not play a contributing role in prosecuting the case.
Case study source		A copy of the judgment and interview with NGO.

BELGIUM

Case study 1: BE-003-1 (Corr. Antwerp, 26 januari 2009, kamer 4C (Dutch))

Summary of the case ⁽⁴⁵⁵⁾	<p>Facts: This case deals with the economic (and sexual) exploitation of a young Moroccan girl (14 years old) by a lawyer in Antwerp (Belgium). The lawyer is prosecuted for, amongst others, human trafficking and rape. Another co-accused person is also prosecuted for human trafficking. Both were convicted by the Court.</p> <p>The lawyer travelled to Morocco with a Moroccan friend (co-accused) in order to find a young and innocent, virgin girl for sexual purposes. The mother of the selected girl allowed her to leave given the excuse that she would be able to study and that she would be cared for. Once the girl arrived, she was exploited as a free labour force (cleaning lady) and she only received shelter and food. The girl had never attended school, and when she complained about this, she was threatened. She had given all her Moroccan identity documents to the lawyer and did not have valid residence documents for Belgium (she had assumed that she would marry the lawyer in order to regularise her stay, but it did not happen).</p> <p>The girl was also obliged to have sexual relations with the accused. She was raped several times by the lawyer. In addition, she was physically abused by the lawyer and his mother. Her body was marked with traces of cigarette-ends and lashes. During the sexual abuse, the lawyer filmed her. She was not allowed to leave the house on her own.</p> <p>After several months, the lawyer was tired of the girl and dumped her on the street. She spoke to a Moroccan lady at the tram stop, who helped her and provided shelter. After some time, the girl had to be admitted in a closed psychiatric hospital. The girl died in a car accident before the Court proceedings started.</p> <p>Judgment: The Court found the accused guilty of THB and rape. The sentence was 5 years' imprisonment (2 years effectively) + a fine of EUR 5 500, as well as compensation of EUR 5 000 for moral damages to the mother of the victim. The co-accused was found guilty of THB. He received a sentence of 2 years' imprisonment and a fine of EUR 2 750.</p> <p>Key quotes of the judgment:</p> <p>Section 2.2.2:</p> <p><i>The court referred (...) to the situation of poverty and precarious conditions in which [the victim] lived in Morocco. Once she arrived she was engaged in free domestic work and only received shelter and food. She never had the possibility to attend school, and when she made remarks about this, she was threatened. [The victim] had given all her official documents to the accused upon her arrival in Belgium, and only when she was completely dumped and left to fend for herself, she made a complaint with the police.</i></p> <p><i>False hopes were created in order that the naive underage victim was convinced to join the co-accused to come to Belgium, where she was forced to live and work for the accused in degrading conditions. The facts of human trafficking are considered to be proven.</i></p> <p>On appeal: The convicted appealed against the decision. On appeal, the judge confirmed the decision of the Court of First Instance and imposed a more severe punishment: 8 years' imprisonment instead of 5 years. The convicted appealed in cassation but it was rejected in a decision of 26 October 2010. (For more details, see section on 'other comments').</p> <p>Court of First Instance of Antwerp, Criminal Section</p> <p>Article 433 quinquies of the Criminal Code (human trafficking)</p> <p>Article 375 of the Criminal Code (rape)</p> <p>Sentence: 5 years' imprisonment (2 years effectively) + EUR 1 000.</p> <p>Compensation: EUR 5 000 compensation for moral damages (to the mother of the victim – the victim died in a car accident before the start of the court proceedings).</p> <p>The facts took place from September to November 2004.</p>
Competent Court	
Legal provision applied	
Sentence/compensation awarded	
Date/period of forced labour (month/year)	

⁽⁴⁵⁵⁾ Summary is based on the information provided by the Interfederal Centre for Equal Opportunities (Interfederaal Gelijke Kansen Centrum/Centre Interfédéral pour l'Égalité des chances), published on their website (case law database) and in their *Annual Report Human Trafficking and Human Smuggling 2007* ('Jaarverslag Mensenhandel en Mensensmokkel 2007'/Rapport Annuel Traite et Trafic des Êtres Humains 2007) (2008) Brussel, IGKC, available at: http://www.diverstet.be/diverstet/files/File/publications/rapport_annuel/CGKR_jv_mensenhandel_NL-lowres.pdf, p. 100-101; official judgment of the case, available at: http://www.diverstet.be/sites/default/files/legacy_files/Rechtspraak_jurisdiction/mensenhandel_TEH/2009/09-01-26_c_Antwerpen.pdf

Profile of the victim(s) (e.g. country of origin, gender, age, occupation of the victim prior to the incident of forced labour)	Country of origin	Morocco
	Gender	Female
	Age	14 years old
	Sector	Activities of households as employers
	Migratory status	Illegal residence
	Knowledge of local language	The victim did not speak Dutch (language in Antwerp), but she spoke French (one of the national languages) and Moroccan.
How was the victim recruited and how did they come to be in the situation of forced labour?	<p>The lawyer (accused) had travelled to Morocco with a Moroccan friend (co-accused) in order to find a young and innocent, virgin girl. They stayed one week in Morocco. In a poor Moroccan village, the lawyer organised a 'testing'. Together with the co-accused and the brother-in-law of the victim, the lawyer passed by several houses where girls lived who wanted to marry. The lawyer did not want a lady but a young, ignorant girl. He selected a 14 years old girl who was a virgin. Initially, the mother of the girl refused, but the brother-in-law managed to convince her with the argument that the girl would be treated well in Belgium. The co-accused told the family that the lawyer would take care of her, and that he would help her, also financially, to finish her studies. The lawyer promised to arrange her residence documents. The mother of the girl trusted the accused because of his professional background as a lawyer. He gave EUR 2 000 to the poor family in exchange for the girl.</p> <p>The lawyer travelled back to Belgium. Two weeks later, the girl also travelled to Belgium with a false passport and accompanied by the co-accused. The girl stayed with the lawyer and his mother. She was raped, physically abused and forced to work as a domestic worker. She did not have the possibility to attend school.</p>	
	<ul style="list-style-type: none"> • Young age (14 years) of the victim. • Extreme poverty of the victim and her family (the victim declared that she felt traded for money). • The victim had no valid residence documents and was forced to give her Moroccan identity documents to the lawyer. 	
Identification/reporting of offences	X	
	The victim reported the offence to the authorities (e.g. the police, labour inspectorate) himself/herself	The girl made a complaint with the police services, on 17 November 2004, with the help of the Moroccan family who helped her after she was dumped on the street by the accused.
	The authorities began the investigation <i>ex officio</i>	N/A
	The case was brought to the attention of the authorities by an association/NGO	N/A
	Other (please specify)	N/A

Criminal investigation	Which authority/unit was responsible for the criminal investigation of this case?	<p>The investigation judge carried out himself the interrogation and investigation in Morocco. During the interrogation of the victim's mother, she denied having received money for her daughter. She admitted that the lawyer explicitly asked for her daughter because she was the prettiest girl of the family. Being asked whether the girl was willing to leave for Belgium, the mother replied that this was indeed the case because her daughter wanted to help her family financially, to continue her studies, and possibly to work as a domestic worker for the lawyer. The mother denied any involvement of her son-in-law in this matter. This information contradicted the information obtained through the Moroccan family who helped the girl: the family of the victim had admitted over the phone that 'it was our fault'. The mother confirmed that a Moroccan man had contacted her in the name of the lawyer in order to request her to withdraw the complaint in exchange for money. She said that she had refused this.</p> <p>The case was prosecuted by the General Prosecutor.</p> <p>2 months:</p> <ul style="list-style-type: none"> Facts: September–November 2004; Start of investigations: November 2004; Public hearing before the Court: September 2008. <p>2004–2008: 4 years.</p>
	How long after the victim started being subject to forced labour did the criminal investigation of the matter begin?	<p>The victim died in a car accident in 2005, before the Court proceedings started.</p> <p>This case was used by the Federal Centre of Migration as an argument to expand the legal definition of human trafficking to include sexual exploitation: the accused could only be convicted on the basis of economic exploitation, not sexual exploitation, because of a legal lacuna that has now been resolved.</p>
	What was the length of the investigation?	<p>The police services interrogated the victim a few days after they were informed about the situation. The hearing was recorded on video.</p> <p>The victim made use of the status of victim of human trafficking. As a result, she received the standard protection mechanisms (this does not include protection of her family).</p>
	What were the difficulties in the bringing this case to the court?	<p>The victim died in a car accident in 2005, before the Court proceedings started. Although her testimony was recorded on video, she could no longer be interviewed during in the course of the proceedings. However, she was heard before she died about her exploitation. The hearing was recorded on video.</p>
	Was the victim required to testify at the pre-trial stage of the proceedings? If yes, did the authorities use any mechanisms to protect the safety of the victim (e.g. via a witness protection programme) or protect him/her from secondary victimisation?	<p>The victim died in a car accident in 2005, before the Court proceedings started.</p>
Court proceedings	Were there any problems/issues pertaining to the collection of evidence?	<p>The victim died in a car accident in 2005, before the Court proceedings started.</p>
	Was the victim required to testify in court? If yes, what effect is the witness testimony perceived to have had on the successful prosecution of the offenders?	<p>The victim died in a car accident in 2005, before the Court proceedings started.</p>
	If the victim testified in court, did he/she do so in camera, in the courtroom (in the defendant's presence) or the court used the victim's testimony during the investigation phase?	<p>The victim died in a car accident in 2005, before the Court proceedings started.</p>
	Did the victim seek compensation for the damages suffered (e.g. by constituting himself/herself as a civil claimant)? If yes, did he/she receive support by the State (e.g. legal representation/legal aid)?	<p>The mother of the victim constituted herself as a civil claimant. She sought and received compensation for moral damages (EUR 5 000).</p>
	What type of evidence was submitted to the court? Where there any issues with the admissibility of evidence?	<p>Declarations of the victim, the family of the victim, the family who helped the victim after she was dumped on the street by the accused, the mother of the accused and the co-accused. Also witnesses in Morocco were interrogated during the investigation mission.</p>

Delivery of the court judgment	How long did it take for the court to issue its judgment (for first instance cases, from the prosecution; for second and third instance cases, from the day the appeal was filed)?	August 2008-January 2009: 5 months.
	Was the defendant found innocent/guilty? If he/she was found innocent, was it due to procedural grounds or because the evidence presented was insufficient not substantiate his guilt?	The accused was found guilty of THB and rape. The co-accused was found guilty of THB.
	Was the victim awarded compensation for damages/moral pain and suffering? What was the court's reasoning?	The victim died in a car accident in 2005, before the Court proceedings started. The mother of the victim constituted herself as a civil claimant. She sought and received compensation for moral damages (EUR 5 000). The Court took into account the fact that the mother had agreed to send her daughter to Belgium in order to work for the accused.
Victim support	Did the victim receive any kind of support by public authorities (e.g. social workers)/NGOs?	Pag-asa, an association providing psychological, legal, practical and housing assistance to victims of human trafficking, assisted the victim 8 days. Also after her death, the association followed the case.
Resources (financial and human resources)	No particular problems could be identified in terms of financial or human resource shortages ⁽⁴⁵⁶⁾ .	
Role of labour inspectors	No labour inspector was involved in the prosecution of this case.	
Case study source	• Judgment available on the website of the Centre for Equal Opportunities & Federal Migration Centre (http://www.diversite.be/jurisprudence?field_verdict_jurisdiction_tid=All&created%5Byear%5D=All&field_verdict_category_tid=531&field_verdict_grounds_tid=All).	
	• The Federal Centre of Migration (Federaal Migratiecentrum/Centre fédéral Migration), caselaw database and Annual Reports on Human Trafficking and Human Smuggling (Jaarverslagen Mensenhandel en Mensensmokkel/Rapports Annuels Traite et Trafic des êtres humains);	
	• Interview with research institute, police, an NGO.	

⁽⁴⁵⁶⁾ General remark: The resources (financial and human) used in a human trafficking case, are determined by the Prosecutor's Office (that has to decide on which investigations the means are spent). There is no public information available on how the available means are spent in human trafficking cases in the different districts.

Case study 2: BE-11-1 (Corr. Ghent, 16 november 2009, 19de k (Dutch))

	<p>Facts: This case deals with the illegal employment of several Chinese individuals in a restaurant by two Dutch individuals of Chinese origin. Among the Chinese individuals were one underage person (16 years) (S.W.) and students. The Dutch individuals were prosecuted for the illegal employment of these persons. In addition, they were prosecuted for human trafficking, human smuggling and assistance in illegal immigration vis-à-vis the underage employee. The alleged underage victim received EUR 6 per hour for her work, as well as shelter and food.</p> <p>Judgment: The Court did not accept the THB charges. The accused offered assistance and shelter, but this was not with the aim to employ these persons in conditions that are contrary to human dignity. The Court made reference to international definitions and <i>travaux préparatoires</i>, and was of the opinion that the notion of 'employment in conditions contrary to human dignity' implies forced labour, such as slavery or servitude. The Court found that there was no coercion, abuse of power or fraud what concerns the employment of the underage person.</p> <p>Note that the "modus operandi" which is included in the definition of human trafficking in Article 2 of Directive 2011/36/EU (threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of abuse of power or of a position of vulnerability, or of the giving or receiving of payments or benefits) is not included in the Belgian definition as a constitutive element of THB (neither the 2005 nor the 2013 definition). It is the same with respect to children and with respect to adults. In the Belgian law, the "modus operandi" is an aggravating circumstance leading to more severe penalties (Article 433septies of the Criminal Code). While the judge in this case referred to 'international texts', in particular the 2002 EU definition (Council Framework Decision of 19 July 2002 on combating trafficking in human beings, article 1), stating the <i>modus operandi</i> (the 'means') as a constitutive element of THB, the judge seems to have overlooked that, according to the 2002 EU definition, the means are irrelevant where a child is concerned. Above all, the reasoning of the judge is remarkable because it seems to add a legal requirement to the criminal law provision on THB (while the Belgian law is not in violation of EU law, since it is more stringent/severe in nature).</p> <p>The accused persons were therefore acquitted of the THB charges. They were equally acquitted of human smuggling and assistance in illegal immigration. The Prosecution Services did not appeal the Court's judgment. The accused were convicted for illegal employment and for violations of labour laws and social security laws.</p> <p>Key quotes of the judgment:</p> <p><i>It is therefore clear that employment in conditions that are contrary to human dignity means forced employment, such as slavery, servitude or similar situations.</i></p> <p><i>The following elements demonstrate that there is no coercion, abuse of power or fraud in the employment of S.W.:</i></p> <ul style="list-style-type: none"> • Upon her arrival, H.X.F. arranged for a declaration of arrival and she continued to insist at the immigration service on valid residence and employment documents; • She was registered on 10 January 2006 for part-time education and attends Dutch courses since 1 September 2005; • She was officially considered as a dependent person of H.X.F. on 22 January 2006; • She possesses of a learning agreement since 12 January 2006; • On the same day, immediate declaration of her employment was done; • S.W. mentions that she attends courses and helps, at her own initiative, with the welcoming of guests, cleaning, etc.; • She sleeps in a modern room; • The appointed guardian testifies that there is a relationship of trust between S.W. and the accused; <p>(...)</p>
Competent Court	Court of First Instance of Ghent, Criminal Section

Legal provision applied	Article 433 quinquies of the Criminal Code (human trafficking)	
	Article 77 bis of the Law of 15 December 1980 regarding the access to the territory, the residence, the stay and the removal of foreigners (human smuggling)	
	Article 77 of the Law of 15 December 1980 regarding the access to the territory, the residence, the stay and the removal of foreigners (assistance in illegal immigration)	
	Article 12 para. 1 (1)(a) of the Law of 30 April 1999 regarding the employment of foreign employees (illegal employment)	
	Articles 4-8 and 9bis of the Royal Decree of 5 November 2002 implementing the immediate declaration of employment (violation of social security law)	
Sentence/compensation awarded	Article 6 of the Royal Decree of 23 October 1978 regarding the keeping of social documents and article 123 of the Law of 3 July 1978 regarding the labour agreements (violation of labour law)	
	Case dismissed as far as human trafficking, human smuggling and assistance in illegal immigration is concerned – no sentence/compensation.	
	With respect to the illegal employment and the violations of social security and labour laws, the accused were imposed a monetary fine of EUR 13 750 and EUR 2 750 respectively.	
Date/period of forced labour (month/year)	The facts took place between September 2005 and March 2006.	
Profile of the victim(s)	<i>Country of origin</i>	China
	<i>Gender</i>	At least one of the victims was a female.
	<i>Age</i>	One of the victims was 16 years old (female victim, S.W.).
		No information on the other victims.
	<i>Sector</i>	Accommodation and food service activities.
	<i>Migratory status</i>	Temporary residence permit (at least until 11 December 2005).
How was the victim recruited and how did they come to be in the situation of forced labour?	<i>Knowledge of local language</i>	With respect to the female victim of 16 years old, it is probable that she spoke a little bit of Dutch, as she was following Dutch courses. No information on the other victims.
	The female victim of 16 years old had been a victim of human trafficking in the past when she was brought from China to Spain. She was 11 years old at that time. In Spain, she had to work in order to refund her travel costs. There is no evidence whatsoever that the accused in this case has been involved in that situation. In September 2006, the girl left Spain and came to Belgium with the assistance of the accused. The persons concerned declared they were far family members, that the girl was no longer happy in Spain and therefore came to Belgium. It is not clear whether the accused were involved in the taking or transferring of control over the girl. It is clear, however, that they provided shelter and took care of her.	
	No information on the other victims.	
Elements of vulnerability	Young age (16 years) of one of the victims.	
Identification/reporting of offences	The victim reported the offence to the authorities (e.g. the police, labour inspectorate) himself/herself	N/A
	The authorities began the investigation <i>ex officio</i>	N/A
	The case was brought to the attention of the authorities by an association/NGO	N/A
	Other (please specify)	X
	The police services received an anonymous tip declaring the facts on 19 December 2005. As a result, they carried out an inspection on 18 March 2006. On that day, the female underage victim was found working for the accused.	

Criminal investigation	Which authority/unit was responsible for the criminal investigation of this case?	The Investigation Judge and the Labour Prosecutor.
	How long after the victim started being subject to forced labour did the criminal investigation of the matter begin?	6 months: <ul style="list-style-type: none"> Facts: September 2005–March 2006; Start of investigations: 18 March 2006; Public hearing before the Court: 19 October 2009.
	What was the length of the investigation?	2006-2009: 3 years.
	What were the difficulties in the bringing this case to the court?	No particular difficulties in the bringing of this case to the court were identified.
	Was the victim required to testify at the pre-trial stage of the proceedings? If yes, did the authorities use any mechanisms to protect the safety of the victim (e.g. via a witness protection programme) or protect him/her from secondary victimisation?	The female underage victim was interrogated about her situation several times by the police services, including in March, May and November 2006. She was assigned a guardian and was placed in a reception centre where she received protection.
Court proceedings	Were there any problems/issues pertaining to the collection of evidence?	There were no particular problems regarding the collection of evidence. The Court found that there was no evidence of coercion, abuse of power or fraud by the defendant what concerns the employment of the female underage victim (note that the judge seems to have overlooked that, according to the 2002 EU definition, the means are irrelevant where a child is concerned).
	Was the victim required to testify in court? If yes, what effect is the witness testimony perceived to have had on the successful prosecution of the offenders?	The female underage victim was not required to testify in court.
	If the victim testified in court, did he/she do so in camera, in the courtroom (in the defendant's presence) or the court used the victim's testimony during the investigation phase?	N/A
	Did the victim seek compensation for the damages suffered (e.g. by constituting himself/herself as a civil claimant)? If yes, did he/she receive support by the State (e.g. legal representation/legal aid)?	The female underage victim did not seek compensation.
	What type of evidence was submitted to the court? Where there any issues with the admissibility of evidence?	The fact that the passport was taken from the female underage victim by the defendants was not considered to constitute sufficient evidence of coercion.

Delivery of the court judgment	How long did it take for the court to issue its judgment (for first instance cases, from the prosecution, for second and third instance cases, from the day the appeal was filed)?	October-November 2009; 2 months.
	Was the defendant found innocent/guilty? If he/she was found innocent, was it due to procedural grounds or because the evidence presented was insufficient not substantiate his guilt?	The defendant was found innocent because there was no evidence substantiating the THB charges.
	Was the victim awarded compensation for damages/moral pain and suffering? What was the court's reasoning?	No compensation was awarded: the case was dismissed.
	Did the victim receive any kind of support by public authorities (e.g. social workers)/NGOs?	A guardian was appointed and the female underage victim was housed in a reception centre.
Resources (financial and human resources)	No particular problems were identified in relation to the availability of financial or human resources.	
Role of labour inspectors	It is not clear from the judgment and the interviews whether labour inspectors were involved.	
Case study source	<ul style="list-style-type: none"> Judgment available on the website of the Centre for Equal Opportunities & Federal Migration Centre (http://www.diversite.be/jurisprudence?field_verdict_jurisdiction_tid=All&created%5Byear%5D=All&field_verdict_category_tid=531&field_verdict_grounds_tid=All). The Federal Centre of Migration (Federaal Migratiecentrum/Centre fédéral Migration), case-law database and Annual Reports on Human Trafficking and Human Smuggling (Jaarverslagen Mensenhandel en Mensensmokkel/Rapports Annuels Traite et Trafic des êtres humains); Interview with research institute. 	

Case study 3: BE-33-1 (Corr. Charleroi, 26 oktober 2012, 7de k (French))

Summary of the case	<p>Facts: This case deals with the economic exploitation of a large number of mainly Bulgarian victims. The accused had established several companies in construction that exclusively operated in the capacity of subcontractor and never as a contractor/client. The victims were employed as false self-employed persons on construction sites. The accused had arranged their housing on the construction site. He asked the victims to work the first day on trial, did not provide security clothing and never complied with his financial promises. At the end of the first day, he told the victims that they did not carry out the work appropriately and did not provide a contract.</p> <p>One of the Bulgarian victims filed a complaint on 24 April 2009 with the police services. He declared that he, and several other Bulgarians, had worked almost 6 months for the accused, from the early morning until the late evening. For this work he had received EUR 300, while he was promised EUR 130 per day. He was under the delusion that he was employed legally, based on the documents he had signed upon the invitation by the accused. These documents did not regularise his stay as promised, but established a situation of false self-employment.</p> <p>The accused was prosecuted for several offences under labour and social security laws regarding a large number of workers (approximately 50 persons – the exact number is unknown). He was also prosecuted and condemned for THB regarding one worker (Y.K.). The Court did not award compensation for material damages (corresponding to unpaid salaries) to the THB victim because it was of the opinion that such compensation would constitute an illegitimate, unjustified advantage since it was based on illegal employment.</p> <p>Key quotes of the judgment:</p> <p><i>Whereas the compensation claim of Y.K. for material damages totalling EUR 27 855.52 based on the unpaid salaries must be declared inadmissible.</i></p> <p><i>(...)</i></p> <p><i>Whereas (...) it should be reminded that a civil claim, in order to be admissible, must be justified by a legitimate interest, which is not the case here.</i></p> <p><i>(...)</i></p> <p><i>That, in effect, in requesting the payment of salaries for non-declared work (...), the act of Y.K. pursues the reparation of an illegitimate interest, and therefore is contrary to the public order.</i></p>
Competent Court	Court of First Instance of Charleroi, Criminal Section
Legal provision applied	<p>Article 433 quinquies of the Criminal Code (human trafficking)</p> <p>Several provisions (unspecified) of the Royal Decree of 5 November 2002 implementing the immediate declaration of employment (violation of social security law)</p> <p>Articles 2, 3, 4 §1, 12-1° A, 14, 16, 17, 18 and 22 of the Law of 30 April 1999 regarding the employment of foreign employees (illegal employment)</p>
Sentence/compensation awarded	<p>Sentence (for all of the offences together): 1 year's imprisonment (probation for half of it)+ EUR 5 500.</p> <p>With respect to Y.K., the THB victim:</p> <p>Compensation: demand for material compensation dismissed because the employment had been illegal (unjustified advantage). Damage for moral compensation was previously allowed in a judgment of 20 January 2012 (by default). The victim provisionally received EUR 1 000 on a moral damage estimated at EUR 2 500.</p>
Date/period of forced labour (month/year)	The economic exploitation and illegal employment of the victims took place between 2007 and 2009.

Profile of the victim(s)	Country of origin	Mainly Bulgaria (one victim from Brazil)
	Gender	Male
	Age	The victim of human trafficking, Y.K., was 39 years old at the moment of exploitation.
	Sector	Construction
	Migratory status	Illegal residence
	Knowledge of local language	Unknown
How was the victim recruited and how did they come to be in the situation of forced labour?	One worker (Bulgarian) mentioned that he was recruited through Bulgarian friends.	
	No information is available on the other victims.	
	No information is available on the specific element of 'trafficking'.	
Elements of vulnerability	Illegal residence status.	
Identification/reporting of offences	The victim reported the offence to the authorities (e.g. the police, labour inspectorate) himself/herself	X
	The authorities began the investigation <i>ex officio</i>	One victim filed a complaint with the police on 24 April 2009.
	The case was brought to the attention of the authorities by an association/NGO	N/A
	Other (please specify)	N/A
		X
	On 18 March 2009, the local police of Charleroi was called upon by metro inspectors, when a person refused to pay for the ticket and to identify himself. He was brought to the police office, where he declared that he had been economically exploited. The police consequently informed the Labour Prosecutor, who requested to inform the specialised police unit for human trafficking and the Social Inspection.	

Criminal investigation	Which authority/unit was responsible for the criminal investigation of this case?	The Labour Prosecutor and the Social Inspection services, with the assistance of the police services.
	How long after the victim started being subject to forced labour did the criminal investigation of the matter begin?	What concerns the victim of human trafficking, Y.K., more than 2 years. The facts took place between January and June 2007.
	What was the length of the investigation?	With respect to all victims, the exploitation took place from 2007 to 2009. Start of investigations: April-March 2009 Public hearing before the court: December 2011.
	What were the difficulties in the bringing this case to the court?	April-March 2009 – December 2011: 2.5 years.
	Was the victim required to testify at the pre-trial stage of the proceedings? If yes, did the authorities use any mechanisms to protect the safety of the victim (e.g. via a witness protection programme) or protect him/her from secondary victimisation?	There were no difficulties in the bringing this case to the court.
Court proceedings	Were there any problems/issues pertaining to the collection of evidence?	Several workers were interrogated by the police and social inspection services during the investigation.
	Was the victim required to testify in court? If yes, what effect is the witness testimony perceived to have had on the successful prosecution of the offenders?	There were no particular problems regarding the collection of evidence.
	If the victim testified in court, did he/she do so in camera, in the courtroom (in the defendant's presence) or the court used the victim's testimony during the investigation phase?	The victim Y.K. was not present in the court. He was represented by his lawyer who repeated the pre-trial declarations of various victims during the adversarial debates before the court.
	Did the victim seek compensation for the damages suffered (e.g. by constituting himself/herself as a civil claimant)? If yes, did he/she receive support by the State (e.g. legal representation/legal aid)?	N/A
	What type of evidence was submitted to the court? Where there any issues with the admissibility of evidence?	One victim (Y.K.) constituted himself as a civil claimant and sought compensation for damages. <ul style="list-style-type: none">• Victim declarations;• Witness declarations;• Recorded telephone conversations;• Observation missions (visits to the construction sites).
Delivery of the court judgment	How long did it take for the court to issue its judgment (for first instance cases, from the prosecution; for second and third instance cases, from the day the appeal was filed)?	December 2011 – January 2012: 2 months. Judgment by default (defendant's absence): 20 January 2012, judgment after trial: 26 October 2012. There was no appeal.
	Was the defendant found innocent/guilty? If he/she was found innocent, was it due to procedural grounds or because the evidence presented was insufficient not substantiate his guilt?	The defendant was found guilty of offences under labour and social laws regarding several workers and of THB regarding one worker.
	Was the victim awarded compensation for damages/moral pain and suffering? What was the court's reasoning?	The Court refused to award compensation for material damages (unpaid salaries) to the victim who constituted himself as a civil claimant and requested this compensation (Y.K.). the Court found that such compensation would constitute an unjustified advantage because it was based on illegal employment.

Victim support	Did the victim receive any kind of support by public authorities (e.g. social workers/NGOs)?	Y.K. made use of the status of THB victim. This status enables the person to obtain a temporary, and later on, possibly, permanent residence document. One of the conditions to enjoy this benefit is an effective cooperation with the judicial authorities in the prosecution of the perpetrator of human trafficking ⁽⁴⁵⁷⁾ . The victim in that case also enjoys assistance by a specialised reception centre, including housing, psychological and practical support.
Resources (financial and human resources)	There were no particular problems in terms of financial or human resources. The procedure took a long time, but this is not exceptional or specific to this case: cases of human trafficking are generally complex and time-consuming.	
Role of labour inspectors	The inspection services were involved in the investigation activities (no more details available). They were contacted upon the instruction of the Prosecution Services, who were informed by the police services.	
Case study source	<ul style="list-style-type: none"> Judgment available on the website of the Centre for Equal Opportunities & Federal Migration Centre (http://www.diversite.be/jurisprudence?field_verdict_jurisdiction_tid=All&created%5Byear%5D=All&field_verdict_category_tid=531&field_verdict_grounds_tid=All). The Federal Centre of Migration (Federaal Migratiecentrum/Centre fédéral Migration), case-law database and Annual Reports on Human Trafficking and Human Smuggling (Jaarverslagen Mensenhandel en Mensensmokkel/Rapports Annuels Traite et Trafic des êtres humains); Interview with research institute and the Labour Prosecution Services. 	

⁽⁴⁵⁷⁾ Article 61/2–61/4 of the Law of 15 December 1980 on 'the access to the territory, the stay, the residence and the removal of foreigners' ('Wet betreffende de toegang tot het grondgebied, het verblijf, de vestiging en de verwijdering van vreemdelingen'/Loi sur l'accès au territoire, le séjour, l'établissement et l'éloignement des étrangers'), entered into force on 1 July 1981, Government Gazette 31 December 1980.

Case study 4: BE-38-1 (Corr. Tournai, 6 september 2012 (French))

Summary of the case	<p>Facts: This case deals with the economic exploitation of Chinese individuals by Chinese restaurant owners in Belgium. One of the victims declared that he arrived in Belgium via a 'snakehead' organisation (Chinese mafia). He had worked in different restaurants, and, through someone who was working there too, finally also in the restaurant of the accused in Doornik (Tournai) (no more information is available on his recruitment). He worked 14 hours per day (sometimes more) and received EUR 800 per month, later on – EUR 1 000. The working conditions were severe: he was not allowed to take breaks, his meals consisted of client leftovers, and he was also obliged to carry out renovation jobs. He was living in precarious circumstances. In case of police inspections, he and the other employees had to hide in a cave. When the accused found out that the victim was ill, he dumped him on the street in Antwerp, and threatened him with police reporting about his illegal residence.</p> <p>Another victim, Y.J., also made a complaint against the restaurant owners at the federal police services in January 2008 stating that he was a victim of human trafficking. Like the aforementioned victim, Y.J. arrived in Belgium through a 'snakehead organisation'. Via a newspaper announcement, he started working in the restaurant in Tournai. He worked 14 hours per day for a salary of EUR 400 per month from March 2006 to August 2007. He complained of the same severe working conditions as described above. When Y.J. asked for his unpaid salary, he was dumped on the street and threatened with the reporting of his illegal residence to the authorities.</p> <p>The restaurant owners were prosecuted and convicted for THB with regard to 6 victims ⁽⁴⁵⁸⁾, for human smuggling regarding 2 persons, for illegal employment with respect to 22 persons, and for violations of social security laws with regard to 12 persons.</p> <p>Judgment: The Court found that the THB charges were proven on the basis of declarations of the victims. They found themselves in a particularly vulnerable situation (see section 'elements of vulnerability'). Their labour and living conditions were contrary to human dignity.</p> <p>Key quotes of the judgment:</p> <p><i>It results from the totality of these elements and in particular the declarations of the different foreign workers, mostly severely dramatic, that they have been exploited in the context of human trafficking (...).</i></p> <p><i>Nothing can reasonably contest that these foreign workers found themselves in a particularly vulnerable situation, being without identity documents, in illegal residence and without resources, far away from their countries which they mostly left via clandestine networks in inhumane conditions, according to the description they gave.</i></p> <p><i>The number of workers indicates that the accused were aware of this precarious situation, and that they unscrupulously abused the dependence that the situation of the victims had created for them.</i></p> <p><i>The events clearly constitute a habitual activity since they took place during approximately 7 years and concerned different foreigners.</i></p> <p><i>The core element of Article 433 quinquies of the Criminal Code, consisting of the aim of carrying out work in conditions contrary to human dignity, is equally present given the labour and living conditions of the workers: low salaries, absence of social security, inhumanity in the labour relationship, excessive working hours and rudimentary housing conditions without a minimum comfort.</i></p> <p>Appeal: An appeal was filed against the decision regarding the penal issues. The judgment on appeal will probably be made in April-May 2015.</p>
Competent Court	Court of First Instance of Doornik, Criminal Section
Legal provision applied	<p>Article 433 quinquies of the Criminal Code (human trafficking)</p> <p>Article 77 bis of the Law of 15 December 1980 regarding the access to the territory, the residence, the stay and the removal of foreigners (human smuggling)</p> <p>Articles 4, 12, 14 and 17 of the Law of 30 April 1999 regarding the employment of foreign employees (illegal employment)</p> <p>Several provisions (unspecified) of the Law of 27 June 1969 on the social security of workers</p>
Sentence/compensation awarded	<p>Sentence: 2 years' imprisonment (probation) + EUR 5 500.</p> <p>Compensation:</p> <p>C.C.: EUR 22 017 (EUR 19 017 for material damages and EUR 3 000 for moral damages);</p> <p>Y.J.: EUR 40 480 (EUR 35 480 for material damages and EUR 5 000 for moral damages).</p>
Date/period of forced labour (month/year)	The facts took place between September 2005 and February 2008 what concerns all of the victims; from August 2006 to December 2007 what concerns the victim C.C.; and from March 2006 to August 2007 what concerns the victim Y.J.

⁽⁴⁵⁸⁾ Details are only available with respect to two victims, as they were assisted by the specialised reception centres, which provided the specific information.

Profile of the victim(s)	Country of origin	China
	Gender	Male
	Age	At the time of exploitation, C.C. was 33 years old and Y.J. was 30 years old.
	Sector	Accommodation and food service activities; renovation works
	Migratory status	Illegal residence
	Knowledge of local language	No knowledge of local language at the time of exploitation
How was the victim recruited and how did they come to be in the situation of forced labour?	Two of the victims declared that they ended up in Belgium in 2000 via a 'snakehead organisation' (Chinese mafia). Their passports were taken from them in Moscow. C.C. declared that he paid EUR 18 000 to this organisation.	
	C.C. started working in the restaurant in Doornik (Tournai) through someone who was already working there. He worked as a kitchen aid and renovator. Y.J. started working in the restaurant after he had read a newspaper announcement.	
Elements of vulnerability	No more information is available about their recruitment. The element of 'trafficking' remains unclear. The court did not elaborate on this.	
	<ul style="list-style-type: none"> The victims were far away from their homeland, which they had left via a clandestine network in inhumane conditions; 	
	<ul style="list-style-type: none"> The victims had no identity documents and, partially because of their low salary, no financial means; 	
	<ul style="list-style-type: none"> Their accommodation was rudimentary; 	
	<ul style="list-style-type: none"> They resided in Belgium illegally without social security; 	
	<ul style="list-style-type: none"> They did not speak the local language; They did not have knowledge of the local labour legislation. 	
Identification/reporting of offences		X
	The victim reported the offence to the authorities (e.g. the police, labour inspectorate) himself/herself	C.C. was interrogated in the Payoke premises on his own request (date unknown) by the federal police services in order to file a complaint of human trafficking committed by the restaurant owners. Another victim, Y.J., filed a complaint on 10 January 2008 at the federal police services against the restaurant owners, with the assistance of Pag-asa, and stated that he was a THB victim. As a result of his declaration, an inspection was carried out by both the police services and the Social Inspection services on 23 February 2008.
	The authorities began the investigation <i>ex officio</i>	There is no information on other victims. N/A
	The case was brought to the attention of the authorities by an association/NGO	N/A
	Other (please specify)	N/A

Criminal investigation	Which authority/unit was responsible for the criminal investigation of this case?	Investigation judge, General Prosecutor and Labour Prosecutor.
	How long after the victim started being subject to forced labour did the criminal investigation of the matter begin?	1 year and 5 months: <ul style="list-style-type: none"> Facts: August 2006-December 2007 (victim C.C.); March 2006-August 2007 (Y.J.); Start of investigations: January 2008. A global inspection (by both the police services and the Social Inspection) was organised in February 2008; Public hearing before the Court: March and June 2012.
Criminal investigation	What was the length of the investigation?	2008-2012: 4 years.
	What were the difficulties in the bringing this case to the court?	No particular difficulties were identified.
	Was the victim required to testify at the pre-trial stage of the proceedings? If yes, did the authorities use any mechanisms to protect the safety of the victim (e.g. via a witness protection programme) or protect him/her from secondary victimisation?	C.C. was interrogated on 20 March 2008 by the federal police services in the Payoke premises on his own request. Y.J. made a declaration at the federal police services on 10 January 2008 on his own initiative. No information on other victims.
	Were there any problems/issues pertaining to the collection of evidence?	During the investigation the main problem was to identify the other potential victims who worked in similar circumstances in the same restaurant and for the same employers. This was so because most of them were in illegal residence, and for the police it was in most cases impossible to get in contact with them.
	Was the victim required to testify in court? If yes, what effect is the witness testimony perceived to have had on the successful prosecution of the offenders?	The victims were not required to testify in court.
Court proceedings	If the victim testified in court, did he/she do so in camera, in the courtroom (in the defendant's presence) or the court used the victim's testimony during the investigation phase?	N/A
	Did the victim seek compensation for the damages suffered (e.g. by constituting himself/herself as a civil claimant)? If yes, did he/she receive support by the State (e.g. legal representation/legal aid)?	Three victims, among whom sought and received compensation for damages suffered by constituting themselves as civil claimants. Since C.C. did not have the right to a free legal aid lawyer (he was working and had a salary of his own at the moment of the prosecution), the specialised reception centre paid for his lawyer (at that time, the centre received funding for this from the government).
	What type of evidence was submitted to the court? Where there any issues with the admissibility of evidence?	The evidence mostly consisted of the declarations by the different victims (foreign workers), and the testimonies of two witnesses who had carried out works in the building where the foreigners worked and lived. Following these declarations, there was a house search where evidence was found that confirmed many elements of the declarations.

Delivery of the court judgment	How long did it take for the court to issue its judgment (for first instance cases, from the prosecution, for second and third instance cases, from the day the appeal was filed)?	March 2012–September 2012: 6 months.
	Was the defendant found innocent/guilty? If he/she was found innocent, was it due to procedural grounds or because the evidence presented was insufficient not substantiate his guilt?	The defendants were found guilty of THB, human smuggling, illegal employment and social security laws.
	Was the victim awarded compensation for damages/moral pain and suffering? What was the court's reasoning?	The victims were awarded compensation for both material damages and moral damages.
Victim support	Did the victim receive any kind of support by public authorities (e.g. social workers)/NGOs?	C.C. was supported by the reception centre Payoke. He received judicial, administrative and psycho-medical assistance. Y.J. was supported by the reception centre Pag-asa. He received similar assistance.
Resources (financial and human resources)	The investigation took a long time because of the many victims and the difficulties to identify them. Also, the restaurant owners were not cooperative in the beginning of the investigation.	
Role of labour inspectors	A multidisciplinary investigation was undertaken, but the labour inspection only had a secondary role, while most of the investigation activities were carried out by the police services. The victim C.C. did not have direct contact with the labour inspection.	
Case study source	<ul style="list-style-type: none"> Judgment available on the website of the Centre for Equal Opportunities & Federal Migration Centre (http://www.diversite.be/jurisprudence?field_verdict_jurisdiction_tid=All&created%5Byear%5D=All&field_verdict_category_tid=531&field_verdict_grounds_tid=All). The Federal Centre of Migration (Federaal Migratiecentrum/Centre fédéral Migration), case-law database and Annual Reports on Human Trafficking and Human Smuggling (Jaarverslagen Mensenhandel en Mensensmokkel/Rapports Annuels Traite et Trafic des êtres humains); Interview with research institute, NGOs and a prosecutor. 	

Case study 5: BE-15-1 (Corr. Tongeren, 7 oktober 2010, 9de k (Dutch))

Summary of the case	<p>Facts: This case deals with an association and a company of 7 persons, among them a number of Indian Sikhs, who were prosecuted for breach of trust, abuse of corporate assets, illegal employment, social security laws and, what concerns 4 of the accused, also for THB. They were acquitted of this charge. One defendant and the company were convicted for the other offences. The facts took place in the period 2005-2007 in Tongeren, Belgium. The operators of the business employed an unspecified number of Sikhs in illegal residence via their company as vendors at their market stall. They received EUR 20-25 per day, with the average monthly salary of EUR 400-500. Two of the victims were underage persons.</p> <p>A proactive investigation into the association of the accused indicated that the investments were disproportionate to the legal revenues. As a result, the authorities decided to carry out wiretapping and a financial audit. The wiretapping resulted in indications of human smuggling and THB with respect to the illegal employment of Sikhs on market stalls. The police and social inspection organised an inspection at a market stall of the company. They found a 16 years old Sikh in illegal residence working. During a house search, another ten Sikhs were found, one of whom was 13 years old. They lived in miserable conditions.</p> <p>Judgment: The Court found that it was only established that two underage persons were arrested at a market stall operated by the accused, and that these operators had also illegally employed a number of other young Indians. These elements do not satisfy the material constitutive elements of the concept of THB since no recruitment, transportation, transfer, harbouring or reception of a person, or the taking or transferring of control over this person could be proved. Furthermore, the Court found that, while the conditions in which the young Indians lived were miserable and contrary to human dignity, it was not demonstrated that these conditions were caused by the accused, or that they were to any extent involved in this.</p> <p>Key quotes of the judgment:</p> <p><i>Human trafficking requires a material element of recruitment, transportation, transfer, harbouring or reception of a person, or the taking or transferring of control over this person.</i></p> <p><i>(...)</i></p> <p><i>[The] material elements [in this case] do not fall under the notions of recruitment, transportation, transfer, harbouring or reception of a person, or the taking or transferring of control over this person.</i></p> <p><i>Furthermore, it is not proven that the employment took place in conditions contrary to human dignity. While the conditions of housing of the identified young people were inhumane, the investigation does not allow concluding that the accused were to any extent involved in this housing.</i></p>
Competent Court	Court of First Instance of Tongeren, Criminal Section
Legal provision applied	<p>Article 433 quinques of the Criminal Code (human trafficking)</p> <p>Artikel 491 of the Criminal Code (breach of trust)</p> <p>Article 492 bis of the Criminal Code (abuse of corporate assets)</p> <p>Article 4 of the Royal Decree of 5 November 2002 implementing the immediate declaration of employment (violation of social security laws)</p> <p>The provisions (unspecified) of the Law of 30 April 1999 regarding the employment of foreign employees (illegal employment)</p>
Sentence/compensation awarded	<p>THB charge dismissed – no sentence/compensation.</p> <p>One defendant and the company were found guilty of breach of trust, abuse of corporate assets, violations of social security laws and illegal employment. The defendant was sentenced to 1 year's imprisonment and EUR 16 500 fine for the first two offences; the company was sentenced to EUR 33 000 for the latter two offences.</p>
Date/period of forced labour (month/year)	The facts took place between October 2005 and June 2007.

Profile of the victim(s)	Country of origin	India
	Gender	Male
	Age	<ul style="list-style-type: none"> Two underage persons (13 years and 16 years). The other victims were adults.
	Sector	Wholesale and retail trade, repair of motor vehicles and motorcycles
	Migratory status	Illegal residence
How was the victim recruited and how did they come to be in the situation of forced labour?	Knowledge of local language	The underage victims only spoke their own language which was the same language as that of the accused.
	No information.	
Elements of vulnerability	<ul style="list-style-type: none"> Illegal residence of the victims Young age of two of the victims (13 years and 16 years) 	
	The victim reported the offence to the authorities (e.g. the police, labour inspectorate) himself/herself	N/A
Identification/reporting of offences	The authorities began the investigation <i>ex officio</i>	X
		The authorities carried out a proactive investigation into the association of the accused, which was followed by wiretapping, a financial audit, and a social inspection at the market stall.
	The case was brought to the attention of the authorities by an association/NGO	N/A
	Other (please specify)	N/A

Criminal investigation	Which authority/unit was responsible for the criminal investigation of this case?	The Investigation Judge and the General Prosecutor.
	How long after the victim started being subject to forced labour did the criminal investigation of the matter begin?	2 years: <ul style="list-style-type: none"> Facts: 2005-2007; Start of investigations: 2007; Public hearing before the Court: 2010.
	What was the length of the investigation?	3 years.
	What were the difficulties in the bringing this case to the court?	No information.
	Was the victim required to testify at the pre-trial stage of the proceedings? If yes, did the authorities use any mechanisms to protect the safety of the victim (e.g. via a witness protection programme) or protect him/her from secondary victimisation?	No information.
	Were there any problems/issues pertaining to the collection of evidence?	There were no particular problems pertaining to the collection of evidence (hearings, house searches, wiretapping and financial investigation). The Court found that it was not demonstrated that the criteria of THB were satisfied, neither that the miserable housing conditions of the alleged victims were caused by the defendants.
	Was the victim required to testify in court? If yes, what effect is the witness testimony perceived to have had on the successful prosecution of the offenders?	The victims were not required to testify in court.
	If the victim testified in court, did he/she do so in camera, in the courtroom (in the defendant's presence) or the court used the victim's testimony during the investigation phase?	N/A
	Did the victim seek compensation for the damages suffered (e.g. by constituting himself/herself as a civil claimant)? If yes, did he/she receive support by the State (e.g. legal representation/legal aid)?	The victims did not seek compensation.
	What type of evidence was submitted to the court? Where there any issues with the admissibility of evidence?	The wiretapping which was carried out in the context of the proactive investigation indicated a possibility of human smuggling and human trafficking. Subsequently, an inspection and a house search provided evidence of a group of Indians Sikhs living in miserable conditions.
Delivery of the court judgment	How long did it take for the court to issue its judgment (for first instance cases, from the prosecution; for second and third instance cases, from the day the appeal was filed)?	2010 (month unknown) – October 2010: less than one year.
	Was the defendant found innocent/guilty? If he/she was found innocent, was it due to procedural grounds or because the evidence presented was insufficient not substantiate his guilt?	The defendants were found innocent with respect to the charges of THB. They were found guilty of breach of trust, abuse of corporate assets, violations of social security laws and illegal employment.
	Was the victim awarded compensation for damages/moral pain and suffering? What was the court's reasoning?	The victims did not seek compensation.

Victim support	Did the victim receive any kind of support by public authorities (e.g. social workers)/NGOs?	The victims were not interested in the status of a THB victim. No more information is available.
Resources (financial and human resources)	Although the investigation had been finalised much earlier, the case appeared before the court in 2010 because of slow judicial settlement partly linked to capacity issues.	
Role of labour inspectors	The Social Inspection services, together with the police service, played an important role in the investigation (inspection at the market stall). No more details are available.	
Case study source	<ul style="list-style-type: none"> Judgment available on the website of the Centre for Equal Opportunities & Federal Migration Centre (http://www.diversite.be/jurisprudence?field_verdict_jurisdiction_tid=All&created%5Byear%5D=All&field_verdict_category_tid=531&field_verdict_grounds_tid=All). The Federal Centre of Migration (Federaal Migratiecentrum/Centre fédéral Migration), case-law database and Annual Reports on Human Trafficking and Human Smuggling (Jaarverslagen Mensenhandel en Mensensmokkel/Rapports Annuels Traite et Trafic des êtres humains); Interview with research institute. 	

Case study 6: BE-44-1 (Corr. Ghent, 2 april 2012, 19de k (Dutch))

Summary of the case	<p>Facts: This case deals with the economic exploitation by a Belgian national (of Sierra Leone origin) of a Sierra Leone national in Ghent, Belgium. The accused was prosecuted for THB and human smuggling, falsification of documents, and fraud.</p> <p>The victim paid USD 3 500 to the accused to be brought to Europe. The victim travelled via Guinea to Paris, and subsequently to Rijsel (Lille), with the Belgian identity card and the international passport of the accused. Only the picture was replaced by a picture of the victim. Upon his arrival in Ghent, the victim received free shelter at the home of the accused. In exchange, he had to work for the accused. The accused forced the victim to work for his account, sometimes under the identity of the accused, sometimes under a false identity. The accused searched work opportunities for the victim via employment agencies (outsourced labour). The victim's salary was paid on the account linked to the false identity, which was opened and managed by the accused. The victim himself did not receive any payment. He was brought from and to work every day by the accused. The victim was promised that he would be fully paid after six months. Based on the available bank data, the accused gained about EUR 16 000 from the labour of the victim.</p> <p>Judgment: The Court found the accused guilty of falsification of documents, fraud, human smuggling and THB, in conditions contrary to human dignity. Several persons could confirm that the victim carried out work under a false identity; the victim had no personal freedom; he was brought from and to work every day; the salary was paid on the account of the accused as a result of which the victim was left up to the goodwill of the accused; etc. The consent of the victim to the employment was irrelevant, as well as the fact that he had been employed in a normal work environment and in normal labour conditions. The Court found that the accused had abused the vulnerable position of the victim given his illegal residence, and the lack of social protection and financial means. The victim had no other reasonable choice than to be abused.</p> <p>Key quotes of the judgment:</p> <p><i>(...), the Court is of the opinion that there was economic exploitation, contrary to human dignity.</i></p> <p><i>The consent of the person to the intended or actual exploitation is irrelevant, as is the fact that G.M. [victim] was employed in a normal work environment and normal labour conditions.</i></p> <p><i>Abuse was made of the particularly vulnerable situation of G.M. as a result of his illegal and precarious administrative situation. As an illegally residing person, without valid residence documents of his own and without any social protection or financial support, he did not have another real and acceptable choice than to go to T.S. and undergo the abuse.</i></p> <p>The accused did not appeal the Court's judgment.</p>
Competent Court	Court of First Instance of Ghent, Criminal Section
Legal provision applied	<p>Article 433 quinquies of the Criminal Code (human trafficking)</p> <p>Article 77 bis of the Law of 15 December 1980 regarding the access to the territory, the residence, the stay and the removal of foreigners (human smuggling)</p> <p>Several provisions (unspecified) of Chapter IV of the Criminal Code (falsification of documents)</p> <p>Several provisions (unspecified) of Chapter II of the Criminal Code (fraud)</p>
Sentence/compensation awarded	<p>Sentence (for all the offences together): 3 years' imprisonment (of which 18 months on probation) + EUR 11 000 + criminal forfeiture worth EUR 54 315 (the latter goes to victims as far as they do not receive the compensation from the convicted).</p> <p>Compensation: EUR 10 625 (mixed moral and material damages).</p>
Date/period of forced labour (month/year)	<p>The facts took place from August 2007 to November 2007 (transportation from Sierra Leone to Ghent and subsequent employment) and from August 2009 to October 2010 (individual vocational training at the Flemish employment agency VDAB and subsequent employment). Between November 2007 and August 2009, the victim was in an asylum procedure: after he had become ill, the defendant suggested him to apply for asylum. During this procedure, he resided in an asylum centre first, and afterwards in social housing. When his application was rejected, he was forced to leave the social housing and saw no other option than to return to the defendant.</p>

Profile of the victim(s)	Country of origin	Sierra Leone
	Gender	Male
	Age	In 2007, he was 22 years old.
	Sector	Outsourced labour
	Migratory status	Illegal residence
	Knowledge of local language	At the time of the facts, he did not have any knowledge of the local language.
How was the victim recruited and how did they come to be in the situation of forced labour?	<p>The victim and the accused, both of Sierra Leone origin, met in Sierra Leone. The accused was known for bringing people to Europe against payment. The victim paid USD 3 500. The victim travelled via Guinea to Paris, and subsequently to Rijssel (Lille), with the Belgian identity card and the international passport of the accused. Only the picture was replaced by a picture of the victim. Upon his arrival in Ghent, the victim received free shelter at the home of the accused. In exchange, he had to work for account of the accused, who searched for employers via employment agencies.</p>	
Elements of vulnerability	<ul style="list-style-type: none"> • Illegal residence of the victim; • Lack of financial means; • No knowledge of the local language; • Illness of the victim during the period of exploitation; • No knowledge of (social) legislation in Belgium/no knowledge of his rights as a worker. 	
Identification/reporting of offences	The victim reported the offence to the authorities (e.g. the police, labour inspectorate) himself/herself	X
	The authorities began the investigation <i>ex officio</i>	The victim filed a complaint with the police in March 2011 on the advice of Payoke.
	The case was brought to the attention of the authorities by an association/NGO	N/A
	Other (please specify)	N/A

Criminal investigation	Which authority/unit was responsible for the criminal investigation of this case?	The Investigation Judge, General Prosecutor and the Federal Police of Ghent.
	How long after the victim started being subject to forced labour did the criminal investigation of the matter begin?	4 years: <ul style="list-style-type: none"> Facts: August-November 2007 and August 2009–October 2010; Start of investigations: March 2011, at the initiative of the victim; Public hearing before the court: November 2011.
	What was the length of the investigation?	March 2011–November 11: 8 months.
	What were the difficulties in the bringing this case to the court?	No particular difficulties were identified.
	Was the victim required to testify at the pre-trial stage of the proceedings? If yes, did the authorities use any mechanisms to protect the safety of the victim (e.g. via a witness protection programme) or protect him/her from secondary victimisation?	The victim made several declarations about his economic exploitation. He also had a confrontation with the accused in December 2011. No information on protection mechanisms for the victim.
Court proceedings	Were there any problems/issues pertaining to the collection of evidence?	There were no particular problems regarding the collection of evidence.
	Was the victim required to testify in court? If yes, what effect is the witness testimony perceived to have had on the successful prosecution of the offenders?	The victim was not required to testify in court but his earlier made declarations were repeated in court through his lawyer.
	If the victim testified in court, did he/she do so in camera, in the courtroom (in the defendant's presence) or the court used the victim's testimony during the investigation phase?	N/A
	Did the victim seek compensation for the damages suffered (e.g. by constituting himself/herself as a civil claimant)? If yes, did he/she receive support by the State (e.g. legal representation/legal aid)?	The victim constituted himself as a civil claimant and sought compensation for both moral and material damages. Since the victim did not have the right to a free legal aid lawyer (his income at that time was a little too high), the specialised reception centre paid for his lawyer (at that time, the centre received funding for this from the government).
	What type of evidence was submitted to the court? Where there any issues with the admissibility of evidence?	The facts were demonstrated on the basis of bank investigations into the various payments of salaries, inspection of Dimona-declarations (compulsory declaration of employment), and inspection of the places of employment and conversations with file managers of the employment agencies.
Delivery of the court judgment	How long did it take for the court to issue its judgment (for first instance cases, from the prosecution; for second and third instance cases, from the day the appeal was filed)?	November 2011– April 2012: 5 months
	Was the defendant found innocent/guilty? If he/she was found innocent, was it due to procedural grounds or because the evidence presented was insufficient not substantiate his guilt?	The defendant was found guilty of THB, human smuggling, falsification of documents and fraud.
	Was the victim awarded compensation for damages/moral pain and suffering? What was the court's reasoning?	The victim was awarded compensation for both moral and material damages. The criminal forfeiture was assigned to the victim (see above section on sentence/compensation).

Victim support	Did the victim receive any kind of support by public authorities (e.g. social workers)/NGOs?	The victim was supported by the reception centre Payoke. He received judicial, administrative and psycho-medical assistance.
Resources (financial and human resources)	No particular problems could be identified in terms of financial or human resource shortages.	
Role of labour inspectors	According to reception centre Payoke, the labour inspectors did not have any direct contact with the victim. However, based on the mentioned investigation activities, it is probable that the police services were in touch with the social inspectors.	
Case study source	<ul style="list-style-type: none"> Judgment available on the website of the Centre for Equal Opportunities & Federal Migration Centre (http://www.diversite.be/jurisprudence?field_verdict_tid=All&created%5Byear%5D=All&field_verdict_category_tid=531&field_verdict_grounds_tid=All). The Federal Centre of Migration (Federaal Migratiecentrum/Centre fédéral Migration), case-law database and Annual Reports on Human Trafficking and Human Smuggling (Jaarverslagen Mensenhandel en Mensensmokkel/Rapports Annuels Traite et Trafic des êtres humains); Interview with research institute and NGO. 	

Case study 7: BE-45-1 First Instance Court of Ghent, 19th chamber (Tribunal de Première Instance de Gand, 19ème chambre), Case No 2012/3925

Summary of the case	<p>In this case No 2012/3925, the court of Ghent established corporate liability of the supply chain under anti-trafficking laws. The court held in 2012 that the end company was liable for abetting the crime of trafficking in persons, regardless of the lack of a direct legal relationship with the abused workers. In this case, a company (a chain of motorway cafes) used the services of a contractor for the cleaning of its bathrooms. That contractor used solely foreign employees who worked seven days a week from 7am to 10pm for EUR 45 a day. The court argued that even though the company was the beneficiary of the work of the trafficked persons and did not have any direct legal relationship with the victims, the abuses committed by the company which concluded the contracts with the workers and managed them would not have been possible without the company "deliberately ignoring malpractices". Outsourcing was also found to not be an excuse for 'deliberately ignoring the exploitation of its workers'.</p>	
Competent Court	First Instance Court of Ghent, 19th chamber (Tribunal de Première Instance de Gand, 19ème chambre), Case No 2012/3925.	
Legal provision applied	Criminal Code: Articles 66 (co-author of offence), 5 and 41bis (criminal liability of companies), 433quinquies and 433 septies (human trafficking)	
Sentence/compensation awarded	Article 12 of the Act of 30 April 1999 on the occupation of foreign workers	
Date/period of forced labour (month/year)	In this case both the contractor employing the workers and the order giver, who were fully aware of the victims' working conditions, were sentenced to pay fines of EUR 528 000 and EUR 99 000 respectively. In addition, the offenders were sentenced to one year to five years' imprisonment.	
Profile of the victim(s) (e.g. country of origin, gender, age, occupation of the victim prior to the incident of forced labour)	Different periods starting from 2006 until September 2008	
	Country of origin	Bulgaria, Moldavia, Greece, Germany (Kazakhstani origin) and Romania
	Gender	Information not available
	Age	Information not available
	Sector	Cleaning services of toilets in motorway cafes
How was the victim recruited and how did they come to be in the situation of forced labour?	Migratory status	Foreign workers
	Knowledge of local language	None or very little
Elements of vulnerability	<p>The victims were recruited through newspaper ads in their home countries. The ads were published by the sub-contractors of the motorway cafes.</p> <p>All workers were in a precarious social situation in their home country and in Belgium. In Belgium they were in an illegal, or at least insecure, administrative situation. They did not have any contact with Belgian society as they had no knowledge of Dutch, French, or German, were not able to provide themselves with transport or accommodation, and were dependent on their employers.</p>	
Identification/reporting of offences	The victim reported the offence to the authorities (e.g. the police, labour inspectorate) himself/herself	The offence was discovered by the authorities following social inspections which took place a few weeks after an anonymous complaint was made to the social inspection authority.
	The authorities began the investigation <i>ex officio</i>	Yes
	The case was brought to the attention of the authorities by an association/NGO	The case was brought to the attention of the authorities by an anonymous complaint. The companies were closely followed for a few years as a few irregularities had already been found in their paperwork in relation to their workers/employees.
	Other (please specify)	

Criminal investigation	Which authority/unit was responsible for the criminal investigation of this case?	Following the discovery of the offence, a criminal investigation was immediately initiated by the investigating judge.
	How long after the victim started being subject to forced labour did the criminal investigation of the matter begin?	The social inspection took place on 17 September 2008, the criminal investigation began on 18 September 2008.
	What was the length of the investigation?	The prosecuting chamber of the tribunal referred the case to the tribunal on 24 December 2010. (i.e. about 2.5 years later).
	What were the difficulties in the bringing this case to the court?	No information available.
	Was the victim required to testify at the pre-trial stage of the proceedings? If yes, did the authorities use any mechanisms to protect the safety of the victim (e.g. via a witness protection programme) or protect him/her from secondary victimisation?	The victims were interviewed during the investigation. Official reports were drafted with the details. These were used during the trial as evidence.
Court proceedings	Were there any problems/issues pertaining to the collection of evidence?	No information available.
	Was the victim required to testify in court? If yes, what effect is the witness testimony perceived to have had on the successful prosecution of the offenders?	No information available. The official reports of the investigation interviews were used during the trial.
	If the victim testified in court, did he/she do so in camera, in the courtroom (in the defendant's presence) or the court used the victim's testimony during the investigation phase?	No information available.
	Did the victim seek compensation for the damages suffered (e.g. by constituting himself/herself as a civil claimant)? If yes, did he/she receive support by the State (e.g. legal representation/legal aid)?	The victim(s) constituted themselves as civil claimants. No information is provided on whether all the victims constituted themselves as civil claimants or if they received support from the State.
	What type of evidence was submitted to the court? Where there any issues with the admissibility of evidence?	Various evidence from the investigations including: the official reports of the victims' interviews by the police, the interviews of the offenders and social inspection reports.
Delivery of the court judgment	How long did it take for the court to issue its judgment (for first instance cases, from the prosecution; for second and third instance cases, from the day the appeal was filed)?	The decision was adopted on 5 November 2012; almost 4 years after the start of the investigation.
	Was the defendant found innocent/guilty? If he/she was found innocent, was it due to procedural grounds or because the evidence presented was insufficient not substantiate his guilt?	The six defendants were found guilty.
	Was the victim awarded compensation for damages/moral pain and suffering? What was the court's reasoning?	The civil party to the proceedings was awarded EUR2500 for moral and material damages.
Victim support	Did the victim receive any kind of support by public authorities (e.g. social workers)/NGOs?	Information not available.
Resources (financial and human resources)	Information not available.	
Role of labour inspectors	Yes, the social inspection authority was involved due to the several infractions which were made to employment laws. The social inspection authority investigated the companies and took note of the elements of human trafficking in the case. It then transferred the case to the Federal Police for further investigation.	
Case study source	The Interfederal Centre for Equal Opportunities website: http://www.diversite.be/sites/default/files/legacy_files/Rechtspraak_jurisdiction/h12-11-05_c_Gent.pdf	

BULGARIA

Case study 1: BG-001

Summary of the case	<p>Official summary is not available.</p> <p>The defendant contacted two brothers who were unemployed and explained that he could find them work. He claimed that he could provide them with transportation to Sweden, accommodation and food in Sweden. The brothers contacted a relative who agreed to join them. The three men, the defendants, his daughter, and two other relatives travelled to Sweden by minibus. Once in Gävle, Sweden, the three men had to sleep outside without blankets. During the day, they picked blueberries. The defendant collected the blueberries, brought the fruits to the collection points and kept the profits for himself. He brought the men food three times per day, but did not pay them. After twenty days, the men left their place of employment and were captured by the police. After receiving assistance from the Swedish social services, their transportation back to Bulgaria was organised by the Bulgarian embassy.</p> <p>The defendant was found guilty of recruiting a group of people to work in Sweden, having transported them and transferred them over the border for the purpose of using them for forced labour to pick blueberries, and having deceived them and abused their position of dependency by leaving them without subsistence and transportation (Article 159b (2) of the Criminal Code: the crime of human trafficking).</p>	
Competent Court	Regional Court of Montana (1 st instance)	
Legal provision applied	Article 159a and Article 159b (human trafficking for forced labour), Criminal Code	
Sentence/compensation awarded	Two years of deprivation of liberty, a sentence to be suspended for a period of three years. No fine was imposed on the defendant.	
Date/period of forced labour (month/year)	21 July 2009 to 22 July 2009	
Profile of the victim(s) (e.g. country of origin, gender, age, occupation of the victim prior to the incident of forced labour)	Country of origin	All 3 victims were Bulgarian.
	Gender	Male
	Age	Not indicated in the judgment, but over 18.
	Sector	Berry picking, agriculture.
	Migratory status	The victims were Bulgarian citizens.
How was the victim recruited and how did they come to be in the situation of forced labour?	Knowledge of local language	It is highly unlikely that they understood Swedish.
Elements of vulnerability	The defendant directly recruited the victims by convincing them to travel with him to Sweden.	
Identification/reporting of offences	The victims were unemployed and very poor.	
	The victim reported the offence to the authorities (e.g. the police, labour inspectorate) himself/herself	No.
	The authorities began the investigation <i>ex officio</i>	Yes.
	The case was brought to the attention of the authorities by an association/NGO	The case was brought to the attention of the Bulgarian Ministry of Interior by the Bulgarian Embassy in Sweden.
	Other (please specify)	

Criminal investigation	Which authority/unit was responsible for the criminal investigation of this case?	The police.
	How long after the victim started being subject to forced labour did the criminal investigation of the matter begin?	It is not clear precisely when the criminal investigation began. But after the victims were repatriated from Sweden back to Bulgaria at the end of 2009, a criminal investigation was immediately initiated by the police.
	What was the length of the investigation?	Not possible to determine.
	What were the difficulties in the bringing this case to the court?	No difficulties identified. In fact, this was a very easy case because the defendant admitted his guilt and the victims acted as witnesses.
	Was the victim required to testify at the pre-trial stage of the proceedings? If yes, did the authorities use any mechanisms to protect the safety of the victim (e.g. via a witness protection programme) or protect him/her from secondary victimisation?	Yes, the victims testified.
Court proceedings	Were there any problems/issues pertaining to the collection of evidence?	No, there were no problems. The defendant admitted his guilt and the victims testified.
	Was the victim required to testify in court? If yes, what effect is the witness testimony perceived to have had on the successful prosecution of the offenders?	Yes, the victims testified. Their testimony had an effect, but based on the conclusions in the judgment, the confession of the defendant seemed to have played a much greater role.
	If the victim testified in court, did he/she do so in camera, in the courtroom (in the defendant's presence) or the court used the victim's testimony during the investigation phase?	Information not available.
	Did the victim seek compensation for the damages suffered (e.g. by constituting himself/herself as a civil claimant)? If yes, did he/she receive support by the State (e.g. legal representation/legal aid)?	Information not available.
	What type of evidence was submitted to the court? Where there any issues with the admissibility of evidence?	The evidence was a confession by the defendant and witness statements. There were no issues with admissibility of evidence.
Delivery of the court judgment	How long did it take for the court to issue its judgment (for first instance cases, from the prosecution; for second and third instance cases, from the day the appeal was filed)?	It took approximately half a year from the commission of the offence until the first instance judgment.
	Was the defendant found innocent/guilty? If he/she was found innocent, was it due to procedural grounds or because the evidence presented was insufficient not to substantiate his guilt?	The defendant was found guilty.
	Was the victim awarded compensation for damages/moral pain and suffering? What was the court's reasoning?	No. Nothing in the judgment indicates that victims asked for compensation in the first place.
Victim support	Did the victim receive any kind of support by public authorities (e.g. social workers)/NGOs?	The victims received assistance by the Swedish authorities prior to their repatriation back to Bulgaria.
Resources (financial and human resources)	This seems to be an easy case where a conviction was easily obtained.	
Role of labour inspectors	No indication that the labour inspectors had any role in the case.	
Case study source	The source for the above information is the actual judgment delivered by the court.	

Case study 2: BG-002

	Official summary is not available.	
Summary of the case	<p>The defendant (M.C.M.) was a farmer in Bulgaria. Since he and his family could not take care of all of the animals at the farm, he hired the alleged victim as a shepherd. The alleged victim lived in the premises provided by the farmer. However, after a certain period of time the shepherd (the victim) left the animals and went to another village to take care of the animals of other persons. The farmer informed the police that his shepherd was missing, but the police did not undertake any investigation since there was no evidence that a crime had been committed. The farmer received information that his shepherd was in another village and went to get him. Once he found him he forced him into his car and drove back to his village.</p> <p>The first instance court (the Regional Court in Haskovo) reached the conclusion that M.C.M. was innocent in relation to charges brought under Article 159c of the Criminal Court (A person who takes advantage of a person who suffered from human trafficking for acts of debauchery, forceful labour or begging, dispossession of bodily organs, tissues, cells or bodily liquids or holding him in forceful subjection, regardless of his consent shall be punished by deprivation of liberty from three to ten years and a fine from BGN 10 000 to 20 000). Contrary to this judgment, the second instance court (the District Court in Haskovo) reached the conclusion that M.C.M. was guilty of crimes under Article 159a(2)(3) (human trafficking for forced labour through kidnapping or illegal deprivation of liberty) and Article 159c of the Criminal Code (A person who takes advantage of a person who suffered from human trafficking for acts of debauchery, forceful labour or begging, dispossession of bodily organs, tissues, cells or bodily liquids or holding him in forceful subjection, regardless of his consent shall be punished by deprivation of liberty from three to 10 years and a fine from BGN 10 000 to 20 000 ⁽⁴⁵⁹⁾).</p> <p>The case was referred to the Supreme Court of Cassation. The main issue that the Supreme Court of Cassation had to review was how the District Court (the second instance court) approached the evidentiary assessment in the case. The Supreme Court of Cassation overruled the conviction and returned the case for review. In its new decision, the District Court in Haskovo held M.C.M. not guilty.</p>	
	Competent Court	Regional Court of Haskovo, District Court of Haskovo and The Supreme Court of Cassation
	Legal provision applied	Article 159a and Article 159b (human trafficking for forced labour), Criminal Code
	Sentence/compensation awarded	Acquittal
	Date/period of forced labour (month/year)	13 January 2012
Profile of the victim(s) <i>(e.g. country of origin, gender, age, occupation of the victim prior to the incident of forced labour)</i>	<i>Country of origin</i>	Bulgaria
	<i>Gender</i>	Male
	<i>Age</i>	It is not specifically indicated in the judgment, but it appears that the victim was an adult.
	<i>Sector</i>	Agriculture, forestry and fishing.
	<i>Migratory status</i>	The alleged victim was a Bulgarian national
	<i>Knowledge of local language</i>	The alleged victim knew the Bulgarian language.
How was the victim recruited and how did they come to be in the situation of forced labour?	The alleged victim was forced by the defendant into the latter's car and then driven to the village. However, there were no signs of physical abuse.	
Elements of vulnerability	In the judgment by the Regional Court of Haskovo, it is indicated that the alleged victim had reduced intellectual capacity.	

⁽⁴⁵⁹⁾ BGN 10 000 amounts to approximately EUR 5 000; BGN 20 000 amounts to approximately EUR 10 000.

Identification/reporting of offences	The victim reported the offence to the authorities (e.g. the police, labour inspectorate) himself/herself	No	
	The authorities began the investigation <i>ex officio</i>	No	
	The case was brought to the attention of the authorities by an association/NGO	No	
	Other (please specify)	One of the individuals who witnessed how the defendant forced the victim into his car filed a complaint to the police.	
	Which authority/unit was responsible for the criminal investigation of this case?	The police.	
	How long after the victim started being subject to forced labour did the criminal investigation of the matter begin?	The precise date when the investigation started is not available in the text of the judgment.	
	What was the length of the investigation?	Not available in the text of the judgment.	
Criminal investigation	What were the difficulties in the bringing this case to the court?	No difficulties identified.	
	Was the victim required to testify at the pre-trial stage of the proceedings? If yes, did the authorities use any mechanisms to protect the safety of the victim (e.g. via a witness protection programme) or protect him/her from secondary victimisation?	No.	
		There was a problem with the proper assessment of the evidence and this is why the case was referred to the Supreme Court of Cassation.	
		The main issue that the Supreme Court of Cassation had to review was how the District Court (the second instance court) approached the evidentiary assessment in the case. The Supreme Court of Cassation held that the second instance court made procedural mistakes because it disregarded Article 305(3) of the Criminal Procedure Code. The latter says that when there are contradictory pieces of evidence, the court has to explain and justify why some pieces of evidence are accepted as credible and why others are rejected. In case BG-002, the District Court did not explain how and why it assessed the factual evidence differently from the Regional Court (the first instance court).	
	Were there any problems/issues pertaining to the collection of evidence?	In addition, the District Court did not explain how the contradictions in the available evidence can be resolved. It did not conduct a careful and in-depth assessment of all of the available pieces of evidence. In particular, the District Court did not carefully analyse the alleged victim's conduct. The witnesses made contradictory statements and this was not addressed by the District Court. The District Court did not discuss the existence of a written contract between the alleged victim and the defendant. As a consequence of the above omissions, the Supreme Court of Cassation overruled the conviction and returned the case for review. Upon review, the conviction was overturned.	

Court proceedings	Was the victim required to testify in court? If yes, what effect is the witness testimony perceived to have had on the successful prosecution of the offenders?	No, the victim did not testify in court.
	If the victim testified in court, did he/she do so in camera, in the courtroom (in the defendant's presence) or the court used the victim's testimony during the investigation phase?	
	Did the victim seek compensation for the damages suffered (e.g. by constituting himself/herself as a civil claimant)? If yes, did he/she receive support by the State (e.g. legal representation/legal aid)?	No information identified.
	What type of evidence was submitted to the court? Where there any issues with the admissibility of evidence?	The main evidence used was witness statements.
Delivery of the court judgment	How long did it take for the court to issue its judgment (for first instance cases, from the prosecution; for second and third instance cases, from the day the appeal was filed)?	The event in relation to which charges for human trafficking were brought happened on 13 January 2012. There is no date indicated as to when precisely the investigation and prosecution started; however, since a complaint was filed to the police by one of the witnesses on 18 January 2012, it can be assumed that the investigation started soon after that. The Regional Court of Haskovo (the 1 st instance court) issued its judgment on 20 October 2012. So, it took about 10 months. The District Court (the second instance court) issued its judgment on 19 March 2013. So, it took about 5 months. The Supreme Court of Cassation issued its judgment on 28 October 2013. So, it took about seven months.
	Was the defendant found innocent/guilty? If he/she was found innocent, was it due to procedural grounds or because the evidence presented was insufficient not to substantiate his guilt?	The evidence produced was insufficient to substantiate the guilt of the defendant.
	Was the victim awarded compensation for damages/moral pain and suffering? What was the court's reasoning?	The victim was not awarded compensation as the defendant was found innocent.
	Did the victim receive any kind of support by public authorities (e.g. social workers)/NGOs?	No information identified.
Resources (financial and human resources)	This case does not indicate that any insufficiency of resources impacted the outcome.	
Role of labour inspectors	There is no indication that the labour inspectors played any role in this case.	
Case study source	Texts of the actual judgments delivered by the national courts.	

Case study 3: BG-003

Summary of the case	Official summary is not available.	
	<p>The case involved the recruitment of women in Bulgaria to go to Malta to clean hotel rooms. The person (his name was Genov) who recruited them posted advertisements in a newspaper. Three women responded and met with him. Genov explained to them what the job was (cleaning) and that they would be paid EUR 3.50 per hour. Genov also promised to find them accommodation for which the women themselves had to pay. These women (the victims in the particular case) together with four other women (seven altogether) travelled to Malta where they were met by the owner of the cleaning company. They were accommodated in premises hired by Genov. The women started working for EUR 3.50 per hour. They cleaned mainly restaurants. However, they were not given enough hours to work and for this reason the women were dissatisfied with their earnings. They were also dissatisfied with their living conditions. Some women found other jobs and accommodation. Two of them returned to Bulgaria.</p> <p>Once they were back in Bulgaria, these two women filed a complaint which gave a basis for a criminal investigation. The prosecutor took a decision, however, to discontinue the investigation since there was insufficient evidence indicating the commission of a criminal offence. The women challenged the prosecutor's assessment. With its Decision No.440, 07 June 2013, private criminal law case 673/2013, the Regional Court of Stara Zagora agreed with the decision of the prosecutor for dismissal of the proceedings on the ground that the factual circumstances did not disclose the commission of a crime.</p> <p>The reasoning of the Regional Court of Stara Zagora was as follows. There was no evidence that Genov recruited the women with the special intent (forced labour) as required by the definition of the crime of human trafficking. The court noted that in the Bulgarian criminal legislation there was no specific definition of forced labour, however, the ILO definition could be used. The elements of the latter definition were not fulfilled because all the women went to Malta and worked there voluntarily. The fact that the remuneration was insufficient given the hourly work and the high standards of living in Malta, cannot render the work as forced labour.</p>	
	Competent Court	Regional Court of Stara Zagora
	Legal provision applied	Article 1596(1) and Article 159a (human trafficking for forced labour), Criminal Code
	Sentence/compensation awarded	Not applicable.
Date/period of forced labour (month/year)	Approximately April – June 2011	
Profile of the victim(s) (e.g. country of origin, gender, age, occupation of the victim prior to the incident of forced labour)	Country of origin	Bulgaria
	Gender	Female
	Age	Adults
	Sector	Cleaning of hotel rooms and restaurants
	Migratory status	As EU nationals, Bulgarians have legal migration status in Malta.
How was the victim recruited and how did they come to be in the situation of forced labour?	Knowledge of local language	The women could not speak the local language in Malta.
	The women were recruited by the agent (the defendant) to go to Malta.	
Elements of vulnerability	No specific vulnerability was identified in the court's judgment. It is very likely that the women were unemployed and poor.	

Identification/reporting of offences	The victim reported the offence to the authorities (e.g. the police, labour inspectorate) himself/herself	Yes.	
	The authorities began the investigation <i>ex officio</i>		
	The case was brought to the attention of the authorities by an association/NGO		
	Other (please specify)		
	Which authority/unit was responsible for the criminal investigation of this case?	Police.	
Criminal investigation	How long after the victim started being subject to forced labour did the criminal investigation of the matter begin?	No information identified.	
	What was the length of the investigation?	No information identified.	
	What were the difficulties in the bringing this case to the court?	The case was never brought to trial stage because the proceedings were dismissed.	
	Was the victim required to testify at the pre-trial stage of the proceedings? If yes, did the authorities use any mechanisms to protect the safety of the victim (e.g. via a witness protection programme) or protect him/her from secondary victimisation?	The victims acted as witnesses. There is no indication that any measures for their protection were taken.	
	Were there any problems/issues pertaining to the collection of evidence?	No problems were identified.	
Court proceedings	Was the victim required to testify in court? If yes, what effect is the witness testimony perceived to have had on the successful prosecution of the offenders?	The case was not brought to trial stage.	
	If the victim testified in court, did he/she do so in camera, in the courtroom (in the defendant's presence) or the court used the victim's testimony during the investigation phase?	See above.	
	Did the victim seek compensation for the damages suffered (e.g. by constituting himself/herself as a civil claimant)? If yes, did he/she receive support by the State (e.g. legal representation/legal aid)?	See above.	
	What type of evidence was submitted to the court? Where there any issues with the admissibility of evidence?	See above.	
	How long did it take for the court to issue its judgment (for first instance cases, from the prosecution; for second and third instance cases, from the day the appeal was filed)?	See above.	
Delivery of the court judgment	Was the defendant found innocent/guilty? If he/she was found innocent, was it due to procedural grounds or because the evidence presented was insufficient not substantiate his guilt?	The case was dismissed. The Court considered that there was no evidence that Genov recruited the women with the specific intent of forced labour as required by the definition of the crime of human trafficking. The court noted that in the Bulgarian criminal legislation there was no specific definition of forced labour; however, the ILO definition could be used. The elements of the latter definition were not fulfilled because all of the women went to Malta and worked there voluntarily. The fact that the remuneration was insufficient given the hourly work and the high standards of living in Malta, cannot render the work as forced labour.	
	Was the victim awarded compensation for damages/moral pain and suffering? What was the court's reasoning?	No.	

Victim support	Did the victim receive any kind of support by public authorities (e.g. social workers)/NGOs?	No information identified.
Resources (financial and human resources)	No indication of insufficiency of resources.	
Role of labour inspectors	There is no indication that the labour inspectors in Bulgaria played any role. It does not make sense for them to play a role because the labour took place in Malta. So, it is the labour inspectors in Malta which could play some relevant role in these types of situations.	
Case study source	The decision by the Regional Court of Stara Zagora.	

Case study 4: BG-004

Summary of the case	<p>Official summary is not available.</p> <p>A child was adopted by a family. The family started to teach her how to steal (pickpocketing). In addition, they also 'sold' her into marriage to another family for whom she also had to do pickpocketing. When she refused to obey their orders, she was mistreated including by putting her into chains. She was also left to sleep in the bathroom and in the underground room of the house as disciplinary measures, and forced to do household work.</p> <p>She managed to escape and was assisted by the social services. In relation to these abuses, charges of human trafficking for forced labour and servitude were raised and some of the family members were found guilty of these charges. One of the defendants was found innocent in relation to the human trafficking charges. The judgment is very confusing and the reasoning is vague.</p>	
Competent Court	Regional Court of Pleven	
Legal provision applied	Article 159a(2)(1), 159a(2)(1)(4) and 159a(2)(1)(5) (human trafficking for forced labour)	
Sentence/compensation awarded	<p>The first defendant was sentenced to two years' imprisonment for the crime of human trafficking. The second defendant was found guilty of the crime of inhumane treatment and he received a fine of 1000 lv (EUR 500) to be paid to the state. The third defendant was sentenced to six months imprisonment for the crime of human trafficking. The fourth defendant was sentenced to one year suspended sentence for the crime of forcing a child to steal. The fifth defendant was found innocent of the crime of human trafficking.</p>	
Date/period of forced labour (month/year)	the beginning of 2003 – 15 September 2003	
Profile of the victim(s) (e.g. country of origin, gender, age, occupation of the victim prior to the incident of forced labour)	Country of origin	Bulgaria
	Gender	Female
	Age	Under 18 - minor
	Sector	Stealing and domestic work at home.
	Migratory status	Bulgarian national
How was the victim recruited and how did they come to be in the situation of forced labour?	Knowledge of local language	As a Bulgarian national, the victim knew the Bulgarian language.
	The victim was initially adopted by the family who subsequently started to abuse her.	
Elements of vulnerability	The victim was a child.	
Identification/reporting of offences	The victim reported the offence to the authorities. (e.g. the police, labour inspectorate) himself/herself	The victim herself contacted social services after she escaped.
	The authorities began the investigation <i>ex officio</i>	
	The case was brought to the attention of the authorities by an association/NGO	
	Other (please specify)	

Criminal investigation	Which authority/unit was responsible for the criminal investigation of this case?	The police.
	How long after the victim started being subject to forced labour did the criminal investigation of the matter begin?	No information identified.
	What was the length of the investigation?	No information identified.
	What were the difficulties in the bringing this case to the court?	No difficulties identified.
	Was the victim required to testify at the pre-trial stage of the proceedings? If yes, did the authorities use any mechanisms to protect the safety of the victim (e.g. via a witness protection programme) or protect him/her from secondary victimisation?	No information identified.
Court proceedings	Were there any problems/issues pertaining to the collection of evidence?	None identified.
	Was the victim required to testify in court? If yes, what effect is the witness testimony perceived to have had on the successful prosecution of the offenders?	Yes, the victim testified at court. Her testimony was accepted by the court as 'objective and consistent.'
	If the victim testified in court, did he/she do so in camera, in the courtroom (in the defendant's presence) or the court used the victim's testimony during the investigation phase?	No information identified.
	Did the victim seek compensation for the damages suffered (e.g. by constituting himself/herself as a civil claimant)? If yes, did he/she receive support by the State (e.g. legal representation/legal aid)?	Yes, she was a civil claimant.
	What type of evidence was submitted to the court? Where there any issues with the admissibility of evidence?	<ul style="list-style-type: none"> • Statements by the victim. • Records by various police offices which recorded the crimes committed by the victim. • Psychological examination of the victim. • Statements by an official from the child protection services. • Statements by police officers. • Statements by other witness.
Delivery of the court judgment	How long did it take for the court to issue its judgment (for first instance cases, from the prosecution; for second and third instance cases, from the day the appeal was filed)?	As described in the facts of the case, the girl managed to escape on 7 February 2007 and she was immediately assisted by the police and the social services. However, the investigation only started in 2009. The judgment by the Regional Court of Pleven was delivered on 26 January 2011.
	Was the defendant found innocent/guilty? If he/she was found innocent, was it due to procedural grounds or because the evidence presented was insufficient not substantiate his guilt?	As explained above, some defendants were found guilty and one was found innocent since the evidence presented was insufficient to substantiate a conviction.
	Was the victim awarded compensation for damages/moral pain and suffering? What was the court's reasoning?	The victim received 1000 lv (EUR 500) damages from the first defendant in relation to the crime of human trafficking. She received 1000 lv (EUR 500) damages from the second defendant, who was found guilty of inhumane treatment. The victim received 500 lv (EUR 250) from the third defendant in relation to the crime of human trafficking. She also received 1000 lv (EUR 500) from the fourth defendant in relation to the crime of forcing a child to steal.
Victim support	Did the victim receive any kind of support by public authorities (e.g. social workers)/NGOs?	Yes, the victim received support from public authorities.

Resources (financial and human resources)	There was a long time span between the victim's escape and the actual investigation and the eventual conviction (no information identified as to the reason for such a delay).
Role of labour inspectors	No role.
Case study source	The judgment by the Regional Court of Pleven.

Case study 5: BG-005

Summary of the case	No official summary is available.	
	This case was completed with an agreement between the prosecutor from the Special Prosecution Service and the defendant. The defendant accepted his guilt in relation to the following:	
	<p>1. In the period from 1 December 2010 to 20 January 2012 the defendant participated in an organised criminal group for the purpose of the commission of human trafficking within and outside Bulgaria. The judgment does not specifically indicate the end purpose of the trafficking in relation to the abovementioned time period. The defendant was sentenced to one year's imprisonment which was suspended for three years.</p> <p>2. In the period 1 Dec 2011 to 20 January 2012 the defendant participated in an organised criminal group, which transported a person (Mitko Tochev Marinov) to Italy for the purpose of his labour and forceful subjection. Forced labour was defined in the judgment pursuant to the ILO Forced Labour Convention and was understood to include deprivation of movement within a limited location, non-payment of wages, physical violence, including emotional violence. Forceful subjection was defined in the judgment as making the physical survival of the victim dependent on the will of the traffickers since the victim did not have the financial means to buy food and to pay for his accommodation. This was combined with limiting the movement of the victim which was made possible because the place where he was accommodated was remote and the victim did not have the financial means to pay for his transportation. In addition, the victim was 'accompanied' all the time by individuals who reported to the traffickers. Moreover, due to his poor financial means and his inability to move freely, the victim could not return to Bulgaria.</p> <p>In light of the above, the defendant was sentenced to 2 years' imprisonment, which was suspended for a period of four years. In addition, a fine was imposed on the defendant. The specific amount of the fine is not indicated in the text of the judgment.</p> <p>3. In the period 1 December 2011 to 6 December 2011, the defendant participated in an organised criminal group, which received a person (the name of the victim is abbreviated as К.Ж.Д.) in a house in the village of Marina di Sibari, Italy for the purpose of being used for forced labour and forceful subjection. Forced labour and forceful subjection were defined by the court in the abovementioned ways.</p> <p>The defendant was sentenced to two years' imprisonment, which was suspended for four years. In addition, a fine was also imposed on the defendant. The specific amount of the fine is not indicated in the text of the judgment.</p>	
	Competent Court	Special Criminal Court
	Legal provision applied	Article 159a, 1596, 159r (human trafficking for forced labour and forceful subjection), Criminal Code
Sentence/compensation awarded	The sentence included deprivation of liberty, as mentioned above; however, this was suspended. A fine was also imposed; however, the specific amount is not specified in the judgment.	
	The various offences occurred on the following dates:	
Date/period of forced labour (month/year)	<ul style="list-style-type: none"> • 1 December 2010 to 20 January 2012 • 1 December 2011 to 20 January 2012 • 1 December 2011 to 6 December 2011 	
Profile of the victim(s) (e.g. country of origin, gender, age, occupation of the victim prior to the incident of forced labour)	Country of origin	Bulgaria
	Gender	One of the victims was a man; however, the gender of the second victim is not specified.
	Age	The specific age is not indicated in the judgment. There is no indication that the victims were minors.
	Sector	Not indicated in the judgment.
	Migratory status	Not indicated in the judgment; however, as an EU national, the victims' status in Italy was not irregular.
	Knowledge of local language	Not indicated in the judgment; however, since the judgment points to the victims' isolation it assumed that they did not speak Italian.

How was the victim recruited and how did they come to be in the situation of forced labour?	Organised criminal group.	
Elements of vulnerability	The victims were poor and did not have the financial means to buy food and to pay for accommodation and transportation, including back to Bulgaria.	
Identification/reporting of offences	The victim reported the offence to the authorities (e.g. the police, labour inspectorate) himself/herself	Information not identified.
	The authorities began the investigation <i>ex officio</i>	Information not identified.
	The case was brought to the attention of the authorities by an association/NGO	Information not identified.
	Other (please specify)	Information not identified.
	Which authority/unit was responsible for the criminal investigation of this case?	Information not identified.
Criminal investigation	How long after the victim started being subject to forced labour did the criminal investigation of the matter begin?	Information not identified.
	What was the length of the investigation?	Information not identified.
	What were the difficulties in the bringing this case to the court?	Since the defendant admitted his guilt, it appears that there were no difficulties involved in the case.
	Was the victim required to testify at the pre-trial stage of the proceedings? If yes, did the authorities use any mechanisms to protect the safety of the victim (e.g. via a witness protection programme) or protect him/her from secondary victimisation?	Information not identified.
	Were there any problems/issues pertaining to the collection of evidence?	Since the defendant admitted his guilt, it does not appear that there were any problems/issues.
Court proceedings	Was the victim required to testify in court? If yes, what effect is the witness testimony perceived to have had on the successful prosecution of the offenders?	Information not identified.
	If the victim testified in court, did he/she do so in camera, in the courtroom (in the defendant's presence) or the court used the victim's testimony during the investigation phase?	
	Did the victim seek compensation for the damages suffered (e.g. by constituting himself/herself as a civil claimant)? If yes, did he/she receive support by the State (e.g. legal representation/legal aid)?	Information not identified.
	What type of evidence was submitted to the court? Where there any issues with the admissibility of evidence?	The main evidence was the defendant's confession of his guilt.

Delivery of the court judgment	How long did it take for the court to issue its judgment (for first instance cases, from the prosecution; for second and third instance cases, from the day the appeal was filed)?	As noted above, the offences were committed in 2010, 2011 and January 2012. The defendant was convicted on 24 January 2014. Accordingly, from the last offence in January 2012, it took two years until his conviction.
	Was the defendant found innocent/guilty? If he/she was found innocent, was it due to procedural grounds or because the evidence presented was insufficient not to substantiate his guilt?	The defendant was found guilty.
	Was the victim awarded compensation for damages/moral pain and suffering? What was the court's reasoning?	Information not identified.
	Did the victim receive any kind of support by public authorities (e.g. social workers)/NGOs?	Information not identified.
Resources (financial and human resources)		
Role of labour inspectors	No role of the Bulgarian and Italian labour inspectors is mentioned.	
Case study source	The text of the judgment.	

Case study 6: BG-006

Key elements	Conviction under Article 159a(2)(2) (Human trafficking for forced labour and forceful subjection), Criminal Code involving the exploitation in a steel company of two vulnerable victims (both with intellectual disabilities, one of them a minor).
Summary of the case	<p>No official summary is available.</p> <p>The perpetrator had a company which collected steel. He transported the two victims from their village to the site where the steel was collected. Before that the victims were homeless. The police found the victims at the site living in deplorable conditions. This was how the investigation was initiated. But for the police intervention, the victims would not have complained. Both victims had intellectual disabilities. One of them was a minor. The fact that the victim was a minor created many complications in the case since it was difficult to use the victims as witnesses. In addition, there was a difficulty in appointing a custodian to the minor who could represent his interests. The parents of the minor did not want to take care of him and were not interested in cooperating.</p> <p>There was also a need for making an examination of the victims' mental states, which further delayed the process. The victims were people with very low social status.</p> <p>The prosecutor initially had hesitations as to how to qualify the crime. Initially, the crime was qualified under Article 192 of the Criminal Code. Then, the prosecutor Mincho Niklov decided that the factual circumstances constituted the offence of human trafficking.</p> <p>Subsequently, it emerged that the defendant himself had an intellectual disability. After the case was concluded, he was accepted into an institution for people with intellectual disabilities. The perpetrator requested a renewal of the case due to his intellectual disability to the Supreme Prosecutor Office in Bulgaria. However, his request was rejected.</p> <p>The defendant accepted his guilt at the trial stage and for this reason an agreement could be reached and accepted by the Regional Court of Stara Zagora.</p>
Competent Court	Regional Court of Stara Zagora (first instance)
Legal provision applied	Article 159a(2)(2) (Human trafficking for forced labour and forceful subjection), Criminal Code
Sentence/compensation awarded	The sentence imposed was three years' imprisonment, which was suspended for five years. In addition, the Regional Court of Stara Zagora imposed on the defendant a fine amounting to 10 000 BG leva (approximately EUR 5 000) which he had to pay to the state. The defendant had to also pay BGN 567.17 (approximately EUR 280) in relation to any expenses during the trial.
Date/period of forced labour (month/year)	The first victim was subjected to forced labour from the beginning of 2011 until 4 March 2013. The second victim was subjected to forced labour from July 2012 until 15 November 2012.
Profile of the victim(s)	<i>Country of origin</i>
	Bulgaria
	<i>Gender</i>
	Both victims were male
	<i>Age</i>
Profile of the victim(s)	Specific age not indicated in the text of the judgment. One of the victims was a minor.
	<i>Sector</i>
	Collection of steel.
	<i>Migratory status</i>
How was the victim recruited and how did they come to be in the situation of forced labour?	The victims were Bulgarian nationals.
	As Bulgarian nationals, the victims certainly knew Bulgarian.
	The defendant himself recruited the victims.
Elements of vulnerability	Yes. Both victims had intellectual disabilities. One of them was a minor.

Identification/reporting of offences	The victim reported the offence to the authorities (e.g. the police, labour inspectorate) himself/herself	No.	
	The authorities began the investigation <i>ex officio</i>	Yes.	
	The case was brought to the attention of the authorities by an association/NGO	No.	
	Other (please specify)		
	Which authority/unit was responsible for the criminal investigation of this case?	The police.	
Criminal investigation	How long after the victim started being subject to forced labour did the criminal investigation of the matter begin?	Information not available.	
	What was the length of the investigation?	Information not available.	
	What were the difficulties in the bringing this case to the court?	One of the victims was a minor, which created a lot of complications in the case since it was difficult to use him as a witness. In addition, there was a difficulty in appointing a custodian to the minor who could represent his interests. There was also a need for making an examination of victims' mental states, which further delayed the process.	
	Was the victim required to testify at the pre-trial stage of the proceedings? If yes, did the authorities use any mechanisms to protect the safety of the victim (e.g. via a witness protection programme) or protect him/her from secondary victimisation?	Yes, they testified. No information is available on whether any protection measures were undertaken.	
	Were there any problems/issues pertaining to the collection of evidence?	Yes, see above.	
Court proceedings	Was the victim required to testify in court? If yes, what effect is the witness testimony perceived to have had on the successful prosecution of the offenders?	Yes. According to the interview with the prosecutor the victims' testimony was essential.	
	If the victim testified in court, did he/she do so in camera, in the courtroom (in the defendant's presence) or the court used the victim's testimony during the investigation phase?	Information not available.	
	Did the victim seek compensation for the damages suffered (e.g. by constituting himself/herself as a civil claimant)? If yes, did he/she receive support by the State (e.g. legal representation/legal aid)?	Information not available.	
	What type of evidence was submitted to the court? Where there any issues with the admissibility of evidence?	The victims testified. Yes, there were major issues with the admissibility of the evidence because one of the victims was a minor and, in addition, both victims had an intellectual disability.	

Delivery of the court judgment	How long did it take for the court to issue its judgment (for first instance cases, from the prosecution; for second and third instance cases, from the day the appeal was filed)? Was the defendant found innocent/guilty? If he/she was found innocent, was it due to procedural grounds or because the evidence presented was insufficient not to substantiate his guilt? Was the victim awarded compensation for damages/moral pain and suffering? What was the court's reasoning? Did the victim receive any kind of support by public authorities (e.g. social workers)/NGOs?	The first victim was subjected to forced labour from the beginning of 2011 until 4 March 2013. The second victim was subjected to forced labour from July 2012 until 15 Nov 2012. The Regional Court decided the case on 25 April 2013. The defendant was found guilty. In the judgment of the Regional Court of Stara Zagora, it is not indicated whether the victims requested and received any compensation. Information not available.
Victim support		
Resources (financial and human resources)	The issue of having to appoint a guardian to the victim who was a minor slowed down the proceedings. The examination of the victims' intellectual disabilities further delayed the proceedings.	
Role of labour inspectors	The labour inspectors did not play a role in this case.	
Case study source	- Text of the Agreement No.200, 25 April 2013, Criminal Law Case, No.969/2013, Regional Court of Stara Zagora. - Interview with a prosecutor.	

CYPRUS

Case study 1: CY-001

Summary of the case	<p>The defendant, a national of Cyprus, was prosecuted under Articles 2, 3, 4, 5, 8, 13 and 17 of Law 87(I)/2007, 'Combating of Trafficking and Exploitation of Persons and the Protection of Victims Law' and Articles 5, 6 and 20 of the Penal Code Cap 154. The defendant was accused of THB for forced labour under Article 8 of the above law.</p> <p>Facts: The alleged offence of trafficking for forced labour took place in Cyprus in 2008. The exploitation concerned construction and hotel industries. The defendant ran an employment agency which cooperated with employment agencies in Romania. The defendant paid for the victims' airplane tickets and offered them the service of finding them jobs in Cyprus⁽⁴⁶⁰⁾. When victims arrived in Cyprus, the defendant accommodated them. During the investigation, 11 people were discovered in accommodation owned by the defendant. The police found 201 passports and 97 identity cards of Romanian persons held by the defendant at the time⁽⁴⁶¹⁾.</p> <p><i>"The defendant managed a private employment agency which cooperated with various employment agencies in Romania. He paid for the employees/complainants airplane tickets and it was to their knowledge that the services he offered them to find employment would be paid for by them later on. His payment was made under agreement with the employees/complainants, at the presence of their employers, so that the defendant would receive a monthly payment from the employer which was deducted from their salary. The defendant also kept their passports, identity cards or other travel documents until he received the work permit and residence permit on the complainant's behalf. He returned their documents once the complainants were registered at the Social Insurance Office"</i>⁽⁴⁶²⁾.</p> <p>The prosecution lawyer stated that <i>"the exploitation was a result of the abuse of the defendants' position of power in order to compel the complainants"</i>.</p> <p>Judgment: The court decided that the prosecution failed to prove their case. The defendant was acquitted due to the fact that the victims' witness testimonies were found to be inconsistent.</p> <p>Concerning the accusation of THB for forced labour, the judge decided that according to the reliable witnesses' statements the part of the salary of the complainants, which was withheld by their employer, was for the payment of the commission and the cost of the plane tickets, a consensual arrangement which was already known to the complainants before coming to Cyprus. Hence, the arrangement did not constitute THB for forced labour under Article 8 of the Law⁽⁴⁶³⁾.</p> <p>Appeal: No appeal was filed.</p>	
	Competent Court	The Permanent Criminal Court of Nicosia – 1st Instance ⁽⁴⁶⁴⁾ .
	Legal provision applied	The defendant was prosecuted under Articles 2, 3, 4, 5, 8, 13 and 17 of Law 87(I)/2007, 'Combating of Trafficking and Exploitation of Persons and the Protection of Victims Law' and Articles 5, 6 and 20 of the Penal Code Cap. 154. Article 5 of the Penal Code Cap. 154 refers to the application of the Penal Code in the Republic of Cyprus. Article 6 provides for the adjudication of offences committed in a foreign country and Article 20 provides the rules of accomplices in a criminal offence. The defendant was accused of THB for forced labour under Article 8 of the above law ⁽⁴⁶⁵⁾ .
	Sentence/compensation awarded	The court decided that the prosecution failed to prove their case and the defendant was acquitted due to the fact that the victims' testimonies were found to be inconsistent ⁽⁴⁶⁶⁾ . No compensation was awarded.
	Date/period of forced labour (month/year)	December 2008 – November 2009 ⁽⁴⁶⁷⁾ .

⁽⁴⁶⁰⁾ Republic of Cyprus v Ioanni Piriptisi and George Savva, Case No 248/2009, 30 March 2011.

⁽⁴⁶¹⁾ Ibid.

⁽⁴⁶²⁾ Ibid.

⁽⁴⁶³⁾ Ibid.

⁽⁴⁶⁴⁾ Republic of Cyprus v Ioanni Piriptisi and George Savva, Case No 248/2009, 30 March 2011.

⁽⁴⁶⁵⁾ Ibid.

⁽⁴⁶⁶⁾ Ibid.

⁽⁴⁶⁷⁾ Information provided during interview with a Labour Inspector from the Department of Labour, February 2015.

Profile of the victim(s) <i>(e.g. country of origin, gender, age, occupation of the victim prior to the incident of forced labour)</i>	Country of origin	Around 90 Romanians and 1 from Moldova.	
	Gender	Male	
	Age	Not known. Most of the victims were young ⁽⁴⁶⁸⁾ .	
	Sector	Construction/Hotel Industry	
	Migratory status	EU citizens. Regular migrants.	
	Knowledge of local language	None, or very limited knowledge of English ⁽⁴⁶⁹⁾ .	
How was the victim recruited and how did they come to be in the situation of forced labour?	The alleged victims were recruited by employment agencies in Romania which cooperated with the defendant's private employment agency. The defendant paid for the complainants airplane tickets and offered them the service of finding employment in Cyprus ⁽⁴⁷⁰⁾ .		
Elements of vulnerability	Poverty in their home country, lack of education ⁽⁴⁷¹⁾ .		
Identification/reporting of offences	The victim reported the offence to the authorities (e.g. the police, labour inspectorate) himself/herself	X The case decision refers to a complaint filed against the defendant ⁽⁴⁷²⁾ .	
	The authorities began the investigation <i>ex officio</i>	-	
	The case was brought to the attention of the authorities by an association/NGO	X KISA NGO was involved in this case to help the complainants.	
	Other (please specify)	X Newspaper articles refer to a complaint being filed by the Romanian Embassy ⁽⁴⁷³⁾ .	

⁽⁴⁶⁸⁾ Ibid.⁽⁴⁶⁹⁾ Ibid.⁽⁴⁷⁰⁾ Republic of Cyprus v Ioanni Piriptisi and George Savva, Case No 248/2009, 30 March 2011.⁽⁴⁷¹⁾ Ibid.⁽⁴⁷²⁾ Ibid.⁽⁴⁷³⁾ Christodoulou, C., Diamantopoulou, A., Dourida, V., Michalaki, A., and Papantoniou-Frangouli, M., 'Trafficking for Labour in Cyprus' (2011), the Churches' Commission for Migrants in Europe, available at: http://www.ccme.be/fileadmin/files/ccme/20_Areas_of_Work/10_Slavery_-_Anti-Trafficking/National_reports/2011-03-Cyprus_Report_GOING_BEYOND.pdf

Criminal investigation	<i>Which authority/unit was responsible for the criminal investigation of this case?</i>	The Police Office of Combating Trafficking in Human Beings and the Law Office of the Republic of Cyprus ⁽⁴⁷⁴⁾ .
	<i>How long after the victim started being subject to forced labour did the criminal investigation of the matter begin?</i>	Not more than 12 months ⁽⁴⁷⁵⁾ . The criminal investigation started on 11 December 2008.
	<i>What was the length of the investigation?</i>	Around 1 month ⁽⁴⁷⁶⁾ .
	<i>What were the difficulties in the bringing this case to the court?</i>	The Romanian complainants were around 90 at the beginning. Due to the length of the trial (3 years), only 3 managed to give a testimony at court. Their testimonies were found to be inconsistent ⁽⁴⁷⁷⁾ . According to a labour inspector who was involved both in the investigation and during the trial as a key witness, the Department of Labour inspectors were interviewed for 2 days from morning till late at night. The conditions at the police station where the investigation took place were not very comfortable, as the alleged victims had no place to stand or sit. The police station was very small to fit 131 people who were there to testify. Amongst 131 people there were both witnesses and victims. The lack of places to sit or stand rendered the victims tired and forgetful. There was lack of communication due to the fact that the victims did not speak any Greek. They did not even speak English and there were no translators to facilitate investigation at the beginning. Yes, victims were required to testify during the investigation procedure. Victim protections mechanisms were available but they were not adequate. Most victims were threatened by the perpetrator and they did not manage to testify. This is the main reason why only 3 victims out of 90 testified. Victims received help to find employment, they received housing and alimentation benefits to secure their basic needs, yet the conviction was not secured because victims could not receive adequate protection from the defendant. Most victims in this case found a new place of employment almost immediately, around one week after they left the work arranged by the defendant.
	<i>Were there any problems/issues pertaining to the collection of evidence?</i>	Yes, the defendant's attitude was very brutal. He was offensive and rude towards the Labour Inspectors as well as the victims. Due to his connections he had the audacity to prevent Labour Inspectors from doing their job. The police was planning the raid at his premises for months. The raid was postponed more than once. When they finally raided the place, they took photographs and documents.

⁽⁴⁷⁴⁾ The Office of Combating Trafficking in Human Beings Questionnaire replies, dated 16/9/2014.

⁽⁴⁷⁵⁾ Republic of Cyprus v Ioanni Pripitsi and George Savva, Case No 248/2009, 30 March 2011.

⁽⁴⁷⁶⁾ Ibid.

⁽⁴⁷⁷⁾ Ibid.

Court proceedings	Was the victim required to testify in court? If yes, what effect is the witness testimony perceived to have had on the successful prosecution of the offenders?	Yes, they were required to testify. Their testimonies were found to be inconsistent. The prosecution failed to prove the case ⁽⁴⁷⁸⁾ .
	If the victim testified in court, did he/she do so in camera, in the courtroom (in the defendant's presence) or the court used the victim's testimony during the investigation phase?	This facility is used in certain cases in Cyprus now. It is not known if it was used this time.
	Did the victim seek compensation for the damages suffered (e.g. by constituting himself/herself as a civil claimant)? If yes, did he/she receive support by the State (e.g. legal representation/legal aid)?	There was no civil claim for compensation (since the criminal case was dismissed) ⁽⁴⁷⁹⁾ .
	What type of evidence was submitted to the court? Where there any issues with the admissibility of evidence?	Photographs and documents (contracts of employment, etc.) ⁽⁴⁸⁰⁾ .
Delivery of the court judgment	How long did it take for the court to issue its judgment (for first instance cases, from the prosecution; for second and third instance cases, from the day the appeal was filed)?	3 years at the 1st Instance Court ⁽⁴⁸¹⁾ .
	Was the defendant found innocent/guilty? If he/she was found innocent, was it due to procedural grounds or because the evidence presented was insufficient not to substantiate his guilt?	The court decided that the prosecution failed to prove their case and the defendant was acquitted due to the fact that the victims' testimonies were found to be inconsistent. His innocence was based on the lack of evidence to substantiate his guilt ⁽⁴⁸²⁾ .
	Was the victim awarded compensation for damages/moral pain and suffering? What was the court's reasoning?	N/A. The case was dismissed.
Victim support	Did the victim receive any kind of support by public authorities (e.g. social workers)/NGOs?	There is some controversy over this issue. In certain press articles it is reported that victims received all assistance foreseen by the law. The Minister of Labour announced that they offered them all assistance, accommodation, food, allowances and helped them register at the Department of Labour in order to find a new job. In addition, the Romanian Embassy in Nicosia expressed its gratitude and thankfulness for the way that the Ministry of Labour supported the victims by offering them food, accommodation, medical care, assistance to find new jobs and Greek language courses ⁽⁴⁸³⁾ . However, according to other media, the assistance offered was soon stopped. The NGO KISA denounced that only those whose testimonies the police would use were considered as trafficking victims and were eligible for the benefit the law foresees. A representative of KISA reported that the official shelter for trafficked persons refused to accommodate the victims because the shelter accepts only victims of THB for sexual exploitation ⁽⁴⁸⁴⁾ .
	Resources were reported to be limited as there were not many translators who spoke Romanian at the time of the investigation. The police had to postpone the raid to the perpetrator's premises more than once and there was no space at the police station, during the investigation process.	On the other hand, the Department of Labour stated that most of the victims were provided with assistance to get registered as unemployed, in order to receive a benefit. Then they were assisted in finding a new job within one or two weeks of the complaint.
Resources (financial and human resources)		

⁽⁴⁷⁸⁾ Republic of Cyprus v Ioanni Piriptisi and George Savva, Case No 248/2009, 30 March 2011.

⁽⁴⁷⁹⁾ Republic of Cyprus v Ioanni Piriptisi and George Savva, Case No 248/2009, 30 March 2011.

⁽⁴⁸⁰⁾ Ibid.

⁽⁴⁸¹⁾ Ibid.

⁽⁴⁸²⁾ Ibid.

⁽⁴⁸³⁾ Christodoulou, C., Diamantopoulou, A., Dourida, V., Michalaki, A., and Papantoniou-Frangouli, M., 'Trafficking for Labour in Cyprus' (2011), the Churches' Commission for Migrants in Europe, available at: http://www.ccme.be/fileadmin/filer/ccme/20_Areas_of_Work/10_Slavery___Anti-Trafficking/National_reports/2011-03-Cyprus_Report_GOING_BEYOND.pdf

⁽⁴⁸⁴⁾ Christodoulou, C., Diamantopoulou, A., Dourida, V., Michalaki, A., and Papantoniou-Frangouli, M., 'Trafficking for Labour in Cyprus' (2011), the Churches' Commission for Migrants in Europe, available at: http://www.ccme.be/fileadmin/filer/ccme/20_Areas_of_Work/10_Slavery___Anti-Trafficking/National_reports/2011-03-Cyprus_Report_GOING_BEYOND.pdf

Role of labour inspectors	<p>Although the case was unsuccessful, labour inspectors played a very important role. They helped the police with the investigation and the victims in getting registered first as unemployed in order to get social benefits for housing and alimentation and then in finding new employment. They also acted as witnesses in this case even though they did not received any adequate or continued training for this ⁽⁴⁸⁵⁾.</p> <p>There is a Joint Team from 2 departments, from the Department of Labour and the Department of Labour Inspection, who are responsible to raid premises with the help of the police, in order to investigate cases of alleged labour trafficking and/or labour law infringements. This Joint Team was created by a Decree issued by the Minister of Labour. This team was responsible to raid the premises for this investigation.</p>
Case study source	<ul style="list-style-type: none">• Christodoulou, C., Diamantopoulou, A., Dourida, V., Michalakieli, A., and Papantoniou-Frangouli, M., 'Trafficking for Labour in Cyprus' (2011), the Churches' Commission for Migrants in Europe, available at http://www.ccme.be/fileadmin/filer/ccme/20_Areas_of_Work/10_Slavery_..._Anti-Trafficking/National_reports/2011-03-Cyprus_Report_GOING_BEYOND.pdf.• Interview with Government Officials.• Republic of Cyprus v Ioanni Pripitsi and George Savva, Case No 248/2009, 30 March 2011.• Information provided during voluntary work with an NGO 2010-2011.• Information obtained from an international organisation.

⁽⁴⁸⁵⁾ Ibid.

Case study 2: CY-002

	<p>The defendant was prosecuted under Articles 2, 8, 16, 17, 22 and 23 of Law 87(I)/2007, 'Combating of Trafficking and Exploitation of Persons and the Protection of Victims Law'. The defendant was accused of THB for forced labour under Article 8 of the above law.</p> <p>Facts: The defendant was the owner of a farm in Nicosia district. He employed a large number of workers including Egyptians and Syrians. While managing the business he regulated the working hours and living conditions of the men. The men who were brought to Cyprus in order to work in the farm worked more than 10 hours a day for 7 days a week with a small brake. The workers' passports and their contracts were held by the defendant. Their pay was so insignificant that it could not cover their basic nutrition needs. Moreover, their salaries were withheld for one or two months. The men lived in degrading conditions in a cabin provided by the defendant. There were humidity problems and problematic drainage. The drainage caused waste leakage resulting in a site of contamination ⁽⁴⁸⁶⁾. The Department of Labour inspector testified at court that the living conditions inside the accommodation were appalling and unhealthy.</p> <p>According to one of the victim's testimony the defendant offered him a large sum of money in order to withdraw his complaint but the wounds of the troubles he went through were too deep to forgive the defendant and he wished to punish him. He mentioned that he worked 7 days a week, for 11 hours a day with 30 minutes break. He had no time to prepare food because of his working hours and he took no days off during the 8 months he worked there. After work, he returned to a "filthy slum" ⁽⁴⁸⁷⁾.</p> <p>Judgment: The court found the defendant guilty of THB for forced labour. According to the court, forced labour was established in the necessary degree for criminal cases (beyond reasonable doubt), because the men were forced to work more than 10 hours a day for 7 days a week with a small brake; their passports were taken away; they lived in an accommodation state of which was in violation of human dignity. The defendant abused the labour of the foreigners with a way indenting to fully submit them to his will and specifically by imposing on them forced labour 7 days a week from dawn till sunset and sometimes at night without adequate breaks.</p> <p>The court ruled on the following important legal concepts:</p> <ol style="list-style-type: none"> 1. "Abuse of power from a person against the employee derives from the positive action or behaviour of this person against the employee which results in illegal imposition of working conditions on the employee." 2. "The positive action or behaviour of the said person whose power is unequal to the power of the employee forces the employee to submit to the abuse." 3. "Abuse of power happens and results whenever the said person exercises power or influence due to its position of power... therefore the said person does not necessarily have to be the legal employer..." ⁽⁴⁸⁸⁾ <p>Appeal: No appeal of the court's decision identified.</p>
Summary of the case	
Competent Court	The District Court of Nicosia – 1st Instance ⁽⁴⁸⁹⁾ .
Legal provision applied	The defendant was prosecuted and convicted under Articles 2, 8, 16, 17, 22 and 23 of Law 87(I)/2007, 'Combating of Trafficking and Exploitation of Persons and the Protection of Victims Law'. He was found guilty of THB for forced labour under Article 8 of the above law ⁽⁴⁹⁰⁾ .
Sentence/compensation awarded	The sentence was not announced in the judgment. ⁽⁴⁹¹⁾ It is also not known if any compensation was awarded to victims in this case. Nevertheless, as GRETA notes, up to date, no compensation has ever been granted to THB victims in Cyprus ⁽⁴⁹²⁾ .
Date/period of forced labour (month/year)	The forced labour took place between 2009-2010 ⁽⁴⁹³⁾ .

⁽⁴⁸⁶⁾ Nicosia Police Chief v. Nikos Strouthos [25 September 2013] No 19377/2010, available only in Greek at www.cylaw.org

⁽⁴⁸⁷⁾ Ibid.

⁽⁴⁸⁸⁾ Nicosia Police Chief v. Nikos Strouthos [25 September 2013] No 19377/2010, available only in Greek at www.cylaw.org

⁽⁴⁸⁹⁾ Ibid.

⁽⁴⁹⁰⁾ Ibid.

⁽⁴⁹¹⁾ Sentencing in Cyprus is not announced/available to the public.

⁽⁴⁹²⁾ The 'Council of Europe Group of Experts on Action against Trafficking in Human Beings Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Cyprus'; Council of Europe website, available at: http://www.coe.int/t/dghl/monitoring/trafficking/docs/Reports/GRETA_2011_8_FGR_CYP_en_final.pdf, para. 161..p. 33

⁽⁴⁹³⁾ Nicosia Police Chief v. Nikos Strouthos [25 September 2013] No 19377/2010, available only in Greek at www.cylaw.org

Profile of the victim(s) (e.g. country of origin, gender, age, occupation of the victim prior to the incident of forced labour)	Country of origin	Mainly Syrians and Egyptians ⁽⁴⁹⁴⁾ .
	Gender	Male
	Age	Not known. Most of the victims were young ⁽⁴⁹⁵⁾ .
	Sector	Agriculture, forestry and fishing ⁽⁴⁹⁶⁾ .
	Migratory status	Third country nationals with legal and illegal residence status ⁽⁴⁹⁷⁾ .
	Knowledge of local language	None, or very limited knowledge of English.
How was the victim recruited and how did they come to be in the situation of forced labour?	This was not recorded in the case file and no information was provided by the stakeholders interviewed.	
Elements of vulnerability	Poverty in their home country, lack of education and ignorance and in some cases having no legal residence status. “Great financial hardship as well as fear were the reasons why the victims tolerated the defendant’s behaviour without filing a complaint” ⁽⁴⁹⁸⁾ .	
Identification/reporting of offences	The victim reported the offence to the authorities (e.g. the police, labour inspectorate) himself/herself	X The case decision refers to a complaint filed against the defendant ⁽⁴⁹⁹⁾ .
	The authorities began the investigation ex officio	-
	The case was brought to the attention of the authorities by an association/NGO	-
	Other (please specify)	X The police received a tip and a policeman went to investigate the site ⁽⁵⁰⁰⁾ .

⁽⁴⁹⁴⁾ Ibid.⁽⁴⁹⁵⁾ Ibid.⁽⁴⁹⁶⁾ Ibid.⁽⁴⁹⁷⁾ Ibid.⁽⁴⁹⁸⁾ Nicosia Police Chief v. Nikos Strouthos [25 September 2013] No 19377/2010, available only in Greek at www.cylaw.org⁽⁴⁹⁹⁾ Ibid.⁽⁵⁰⁰⁾ Ibid.

Criminal investigation	Which authority/unit was responsible for the criminal investigation of this case?	The Department of Labour, the Police Office of Combating Trafficking in Human Beings and the Law Office of the Republic of Cyprus ⁽⁵⁰¹⁾ .
	How long after the victim started being subject to forced labour did the criminal investigation of the matter begin?	From 1 to 1.5 years ⁽⁵⁰²⁾ .
	What was the length of the investigation?	Not more than 2 months ⁽⁵⁰³⁾ .
	What were the difficulties in the bringing this case to the court?	There were many difficulties during the investigation with gathering evidence for the case. The premises were situated next to a mining camp in the British Bases. The danger was that the mines were not deactivated at the time of the investigation. They could explode any minute. Both the lives of the victims and the investigation team were at risk. The labour inspectors and the police had to be accompanied by the UN. There was no expert witness for the case regarding the condition of the house and therefore it was more difficult to prove in the court that the victims had to live in conditions violating their human dignity. Further to the above, there was a consistent lack of coordination between the Department of Labour, the police and the Prosecution services. For instance, the witnesses of the Department of Labour were not prepared by the Prosecution services to testify in the case.
	Was the victim required to testify at the pre-trial stage of the proceedings? If yes, did the authorities use any mechanisms to protect the safety of the victim (e.g. via a witness protection programme) or protect him/her from secondary victimisation?	Yes, victims were required to testify during the investigation procedure. There were witness protection programmes available that were actually applied and worked in this case ⁽⁵⁰⁴⁾ .
	Were there any problems/issues pertaining to the collection of evidence?	As mentioned above, the premises were situated next to a mining camp in the British Bases. The Labour inspectors and the police had to be accompanied by the UN and during the investigation the people involved were afraid for their lives.
	Was the victim required to testify in court? If yes, what effect is the witness testimony perceived to have had on the successful prosecution of the offenders?	Yes, they were required to testify. Their testimonies were reliable ⁽⁵⁰⁵⁾ .
Court proceedings	If the victim testified in court, did he/she do so in camera, in the courtroom (in the defendant's presence) or the court used the victim's testimony during the investigation phase?	This facility is used in certain cases in Cyprus now. It is not known if it was used this time ⁽⁵⁰⁶⁾ .
	Did the victim seek compensation for the damages suffered (e.g. by constituting himself/herself as a civil claimant)? If yes, did he/she receive support by the State (e.g. legal representation/legal aid)?	Not known. Nevertheless, as GRETA notes, up to date, no compensation has been granted to THB victims in Cyprus ⁽⁵⁰⁷⁾ .
	What type of evidence was submitted to the court? Where there any issues with the admissibility of evidence?	Photographs of the house the victims lived in and the place of work, and documents such as employment contracts ⁽⁵⁰⁸⁾ .

⁽⁵⁰¹⁾ The Office of Combating Trafficking in Human Beings Questionnaire replies, dated 16/9/2014.

⁽⁵⁰²⁾ Nicosia Police Chief v. Nikos Strouthos [25 September 2013] No 19377/2010, available only in Greek at www.cylaw.org

⁽⁵⁰³⁾ Ibid.

⁽⁵⁰⁴⁾ Nicosia Police Chief v. Nikos Strouthos [25 September 2013] No 19377/2010, available only in Greek at www.cylaw.org

⁽⁵⁰⁵⁾ Nicosia Police Chief v. Nikos Strouthos [25 September 2013] No 19377/2010, available only in Greek at www.cylaw.org

⁽⁵⁰⁶⁾ Information provided during interview with the coordinator of the Multidisciplinary Group, February 2015.

⁽⁵⁰⁷⁾ The 'Council of Experts on Action against Trafficking in Human Beings Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Cyprus', Council of Europe website, available at: http://www.coe.int/t/dghl/monitoring/trafficking/docs/Reports/GRETA_2011_8_FGR_CYP_en_final.pdf, para. 161., p. 33.

⁽⁵⁰⁸⁾ Nicosia Police Chief v. Nikos Strouthos [25 September 2013] No 19377/2010, available only in Greek at www.cylaw.org

Delivery of the court judgment	How long did it take for the court to issue its judgment (for first instance cases, from the prosecution; for second and third instance cases, from the day the appeal was filed)?	Around 3 years in the first instance court ⁽⁵⁰⁹⁾ .
	Was the defendant found innocent/guilty? If he/she was found innocent, was it due to procedural grounds or because the evidence presented was insufficient not to substantiate his guilt?	The defendant was convicted under Articles 2, 8, 16, 17, 22 and 23 of Law 87(I)/2007, 'Combating of Trafficking and Exploitation of Persons and the Protection of Victims Law'. He was found guilty beyond any reasonable doubt of THB for forced labour under Article 8 of the above law ⁽⁵¹⁰⁾ .
	Was the victim awarded compensation for damages/moral pain and suffering? What was the court's reasoning?	Compensation must be claimed in a civil law case. As mentioned above, up to date, no compensation has ever been granted to THB victims in Cyprus ⁽⁵¹¹⁾ .
Victim support	Did the victim receive any kind of support by public authorities (e.g. social workers)/NGOs?	According to the Department of Labour, most of the victims were provided with assistance to get registered as unemployed, in order to receive social benefits (e.g. for housing and alimentation). Then they were assisted in finding new employment within one or two weeks of the complaint.
Resources (financial and human resources)	Resources were reported to be limited as there were not many translators to obtain accurate victim testimonies.	Thus, the main problem was difficulties in communication
Role of labour inspectors	Labour inspectors played a very important role. The responsible labour inspector in this case was also the key prosecution witness. She stated that "the living conditions inside the pre-fabricated house were appalling and unhealthy". Her testimony was mentioned in the court's decision ⁽⁵¹²⁾ .	
Case study source	The 'Council of Europe Group of Experts on Action against Trafficking in Human Beings Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Cyprus', Council of Europe website, available at: http://www.coe.int/t/dghl/monitoring/trafficking/docs/Reports/GRETA_2011_8_FGR_CYP_en_final.pdf . Interviews with Government Officials. Nicosia Police Chief v. Nikos Strouthos [25 September 2013] No 19377/2010, available only in Greek at www.cylaw.org . Information provided during voluntary work with an NGO 2010-2011. Information provided by an international organisation.	

⁽⁵⁰⁹⁾ Ibid.⁽⁵¹⁰⁾ Ibid.⁽⁵¹¹⁾ The 'Council of Europe Group of Experts on Action against Trafficking in Human Beings Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Cyprus', Council of Europe website, available at: http://www.coe.int/t/dghl/monitoring/trafficking/docs/Reports/GRETA_2011_8_FGR_CYP_en_final.pdf, para. 161, p. 33.⁽⁵¹²⁾ Nicosia Police Chief v. Nikos Strouthos [25 September 2013] No 19377/2010, available only in Greek at www.cylaw.org

CROATIA ⁽⁵¹³⁾

Case study 1: HR-001

Summary of the case	<p>In the case <i>State v. D.Š.</i> ⁽⁵¹⁴⁾, the defendant, a Croatian male citizen, was charged with, but acquitted of, THB for forced labour and slavery in respect of an adult male victim in Croatia. As regards the second male adult defendant, he was charged with violent behaviour, manifested through physical and verbal attacks, threats and intimidation of the victim in public.</p> <p>Facts: The prosecution claimed that the defendant established control over the first victim by use of force, threat, intimidation and physical attacks on the victim, taking advantage of the victim's vulnerability (the fact that he was poor, poorly educated and without family). The defendant exploited the victim's work in agriculture and farming by not paying him, limiting the victim's freedom of movement, exerting violence on the victim, providing very basic living conditions and forcing him to do hard physical work 18 hours per day.</p> <p>Judgment: The first instance court acquitted the defendant of the criminal offences of THB for forced labour and slavery and of violent behaviour, on substantive grounds. The evidence provided by the prosecution did not substantiate the guilt of the defendant and the perpetration of the alleged criminal offences. The victim's testimony given during investigation largely deferred from his testimony before the court (i.e. he reversed his testimony accusing the defendant). Based on that, the court made its ruling. The prosecution appealed this decision.</p> <p>On appeal: The appellate court upheld the ruling of the first instance court. According to the court's decision, the decisive factor for dismissal was failure of the prosecution to prove constituting elements of slavery and THB for forced labour in the defendant's behaviour towards the victim. The court held that the provisions of the ECHR (Articles 3 and 4 §1 and 2) and of the International Covenant on Civil and Political Rights (Article 8 §1, 2 and 3) provide an: <i>'interpretation of what does not fall within the scope of the term 'hard or forced labour' (Article 8 §1, 2 and 3).</i> ⁽⁵¹⁵⁾</p> <p>The appellate court also supported the first instance finding that: <i>"in order to establish a criminal offence of slavery or similar relationship, it requires that perpetrator of this offence had established a total authority and control over the victim as well as such appressing conditions which the victim cannot voluntarily change and escape from"</i> ⁽⁵¹⁶⁾, which was not proved in this particular case, neither that the defendant's criminal offence had elements of force as described by legal definition.</p> <p>As regards the defendant's acquittal for charges of violent behaviour against the second adult victim, the reason was the victim's testimony before the court in which he denied commission of the offence by the defendant. Even though the victim was examined during the investigation by the prosecutor, he was not questioned on the circumstances of the case. Therefore his testimony in investigation did not provide any information on the defendant's violent behaviour against him. According to the appellate court's findings, the prosecutor failed to question the victim on the circumstances of this offence.</p> <p>The defendant was previously sentenced for the same criminal offence of violent behaviour. The second victim also worked on the defendant's farm but left it because of the hard work.</p>	
	Competent Court	The Beli Manastir Municipal Court (the first instance) and the Osijek County Court (the second and final instance).
	Legal provision applied	Criminal charges against the perpetrator for criminal offence of THB for forced labour and slavery were brought based on:
	Sentence/compensation awarded	<ul style="list-style-type: none"> Article 175 §1 of the old Criminal Code, which provides a single provision for both criminal offences - THB for forced labour and for slavery and Articles 3 and 4 §1 and 2 of the ECHR and Article 8 §1, 2 and 3 of the International Covenant on Civil and Political Rights. <p>Criminal charges dismissed – no sentence or compensation.</p>
	Date/period of forced labour (month/year)	February 2006 – end of May 2007

⁽⁵¹³⁾ Judgments are not publicly available and have been provided upon request by the Municipal Courts.

⁽⁵¹⁴⁾ First instance judgment of the Municipal Court Beli Manastir, No K-162/07 from 07 July 2009.

⁽⁵¹⁵⁾ Second instance judgment of the County Court Osijek, No K-2-586/09 from 15 October 2009, p. 4. However, wording of the judgment in this sentence is very ambiguous and has twofold meaning: 1) that these international legal provisions provide for interpretation of the definitions which do not contain term 'hard or forced labour' 2) that these international legal provisions provide an interpretation of what does not fall within the scope of the term 'hard or forced labour'. (Author's remark).

⁽⁵¹⁶⁾ Ibid, p. 5.

Profile of the victim(s) (e.g. country of origin, gender, age, occupation of the victim prior to the incident of forced labour)	Country of origin	Croatia
	Gender	Male
	Age	Unknown
	Sector	Agriculture and farming
	Migratory status	Croatian citizen
	Knowledge of local language	Yes, a native speaker.
How was the victim recruited and how did they come to be in the situation of forced labour?	The victim, most probably an inhabitant of the village, voluntarily started to work for the perpetrator's family on their farm. Initially, he was given decent accommodation and food and was promised a monthly salary of around EUR 140. He worked from 4am until late in the afternoon or night. Soon after, the perpetrator (the son in the family) returned home to the village. He promised the victim a new house, a car and a driving licence, which he never accomplished.	
Elements of vulnerability	The victim had a very low level of education. This is the reason why the perpetrator considered the victim incapable of protecting his own status and rights before the competent institutions. The victim had no family, no proper living conditions and no income. According to the psychiatric court expert, the victim was receptive to suggestions (mid-level).	
Identification/reporting of offences	The victim himself reported the offence to the police	X
	The authorities began the investigation <i>ex officio</i>	X Based on the victim's criminal complaint filed with the police.
	The case was brought to the attention of the authorities by an association/NGO	/
	Other (please specify)	/
	Which authority/unit was responsible for the criminal investigation of this case?	The Beli Manastir Police and the Municipal Court – investigating judge, based on the criminal indictment brought by the Municipal State Attorney in Beli Manastir.
Criminal investigation	How long after the victim started being subjected to forced labour did the criminal investigation of the matter begin?	19 months.
	What was the length of the investigation?	3 months.
	What were the difficulties in bringing this case to the court?	Evidence, testimonies and investigation, however, no further details are available.
	Was the victim required to testify at the pre-trial stage of the proceedings? If yes, did the authorities use any mechanisms to protect the safety of the victim (e.g. via a witness protection programme) or protect him/her from secondary victimisation?	The victim testified in the investigation procedure and in the court, without any protective mechanisms.
	Were there any problems/issues pertaining to the collection of evidence?	Failure of the prosecution to provide solid evidence to support their indictment (e.g. constituting elements of the THB for forced labour, thorough examination of witnesses). The prosecution based its indictment on the victim's testimony provided during the investigation phase and on those of witnesses who did not have any exact information on the activities and on the relationship between the victim and the perpetrator.

Court proceedings	Was the victim required to testify in court? If yes, what effect is the witness testimony perceived to have had on the successful prosecution of the offenders?	Yes, testifying of victims in the court is the standard procedure. In this case, the court based its decision relying on the victim's testimony given in the court and not on the testimony given during the investigation since this was later denied by the victim. The court held that the evidence and circumstances of the case sufficiently proved that the victim reported this criminal offence because he was persuaded to do so and was under the influence of alcohol. The prosecution objected to such reasoning of the court in its appeal but to no avail.
	If the victim testified in court, did he/she do so in camera, in the courtroom (in the defendant's presence) or the court used the victim's testimony during the investigation phase?	The victim testified in the courtroom. There is no exact information on whether it was in the defendant's presence or not. According to the standard court practice, it is more than likely that he was examined in the presence of the defendant. The court also reproduced/read the victim's testimony given in the investigation phase.
	Did the victim seek compensation for the damages suffered (e.g. by constituting himself/herself as a civil claimant)? If yes, did he/she receive support by the State (e.g. legal representation/legal aid)?	No information on the eventual claim for compensation ⁽⁵¹⁷⁾ .
	What type of evidence was submitted to the court? Were there any issues with the admissibility of evidence?	Testimonies of the perpetrator, the victim, and the witnesses given in the court, reproduction of the testimonies from the investigation, inspection of payments, bank account, neuropsychiatric medical expertise and a letter from the Social Care Office. No issues with the inadmissibility of evidence.
Delivery of the court judgment	How long did it take for the court to issue its judgment (for first instance cases, from the prosecution; for second and third instance cases, from the day the appeal was filed)?	1 st instance judgment – 22 months and seven days from the indictment. 2 nd instance judgment – three months and eight days from the delivery of the 1 st instance judgment (no information on the date of the appeal).
	Was the defendant found innocent/guilty? If he/she was found innocent, was it due to procedural grounds or because the evidence presented was insufficient to not substantiate his guilt?	Defendant was found innocent due to insufficient evidence presented to substantiate his guilt (as held by the court). However, the second instance judgment had certain shortcomings in the explanation and interpretation of the THB for forced labour and slavery offences as defined by the international law (see the summary of the case).
Victim support	Was the victim awarded compensation for damages/moral pain and suffering? What was the court's reasoning?	No. The defendant was acquitted.
Resources (financial and human resources)	Did the victim receive any kind of support from public authorities (e.g. social workers)/NGOs?	According to the second instance judgment, the part regarding prosecutor's reasons for appeal, it follows that one was the failure of the competent institutions to provide the victim with needed support, most probably regarding identification of his poor living conditions and his status ⁽⁵¹⁸⁾ .
Role of labour inspectors	In this particular case, one of the prosecutor's appellate reasons against the first instance judgment was absence of the competent institutional support for the victim. The appellate court failed to address these allegations and to properly evaluate all the evidence (testimonies).	
Case study source	No involvement of labour inspectors.	
	Due to the time lapse in this case (since its finalisation until today, seven years have passed) it was not possible to obtain detailed information from the relevant institutions by way of interview. The legal analysis of the case is solely based on the written indictment, the first and the second instance judgments provided by the relevant courts ⁽⁵¹⁹⁾ .	

⁽⁵¹⁷⁾ As regards the legal assistance and legal aid provided to victims in respect of their claims for damages, there is no information available.

⁽⁵¹⁸⁾ Second instance judgment of the County Court Osijek, No Kž-586/09 from 15 October 2009, p. 4.

⁽⁵¹⁹⁾ Indictment of the Municipal State Attorney's Office in Beli Manastir, No K-DO-126/6 from 30 August 2006, first instance judgment of the Municipal Court Beli Manastir, No K-163/6 from 6 July 2008 and second instance judgment of the County Court Osijek, No Kž-587/8 from 14 October 2008.

Case study 2: HR-002

In the case *State v. D.K.* ⁽⁵²⁰⁾, the defendant, a Croatian male citizen, was charged with, and convicted of, THB for forced labour and slavery in respect of an adult male victim in Zagreb, Croatia. The case is currently pending before the appellate court for the fourth time.

Facts: The victim and defendant were acquaintances long before this event. Knowing about the victim's hardships in life, his family status (single without children), the victim's vulnerability, and with the intention of making use of him and establishing control over him, the defendant offered the victim employment in his car-wash, making him false promises about regular work and salary. Shortly after, the defendant started abusing the victim and exploiting his work for various, mostly useless, activities during the whole day, constantly offending and humiliating him. The defendant was physically and verbally attacking, humiliating and intimidating the victim in front of other workers. He shaved his whole body and washed him with mini-wash in front of the others, frightening him with his dog and threatening him with his gun. The defendant also exploited the victim to obtain material gain for himself, by forcing the victim to take bank credit in his own name but to give money to the defendant, which the victim did by mortgaging his own flat. At the same time, the defendant promised he would cover all the monthly credit instalments, which he never did and the bank initiated debt collection proceedings against the victim. Therewith, the defendant forcibly and financially blackmailed the victim and made him dependent on him and under his control. He took all his documents on bank credit, mortgage, flat, contracts and bank cards from the victim. He also forced the victim to sign several contracts with telecommunication operators in his own name, while the defendant used those numbers and phones without paying the bills, which he had promised the victim. The victim was living in the defendant's house in very poor conditions (storage attic). The defendant limited the victim's freedom of movement by constant control (phone calls, questioning, and surveillance). The victim lived in constant fear for his life and the lives of his relatives, suffering inhuman treatment, violence and threats that he will be killed if he reported the defendant to the police. This situation ended after 14 months by the defendant being arrested.

- **The first trial:**

Judgment: In the first trial, the defendant was acquitted of the charges for the criminal offence of THB for forced labour and slavery, because the court held that the evidence did not substantiate the guilt of the defendant and the perpetration of the alleged criminal offence. The court stated: *"Mentioned Convention and its Protocols do not specify what is to be considered slavery or to slavery similar relationship. The Criminal Code of the Republic of Croatia, in terms of Article 175 §1, does not contain a legal definition of slavery or similar relationship to slavery. Moreover, Croatian case law and criminal law theory also do not provide a definition of slavery or similar relationship to slavery in criminal terms. According to this court's view, and in terms of the criminal offence of slavery as set in Article 175 §1 of the Criminal Code, two fundamental human rights are protected - freedom of movement and freedom to work. Accordingly, the elements of this criminal offence are restriction of movement and forced labour of the victim. The defendant did not limit the victim's freedom of movement and did not force the victim to work"* ⁽⁵²¹⁾.

The court concluded that: *"In the case of slavery or similar relationship to slavery, in terms of Art. 175 §1, the perpetrator will not dismiss the victim from work and will not force him to leave, as the defendant repeatedly did to the victim. The victim does not walk around with a cell phone (...) does not receive any financial compensation for his work, as the victim, even though it was a miserable amount of HRK thirty per day, still received. The defendant materially exploited the victim, treated him in an inhuman and humiliating way, but this itself still does not constitute slavery or similar relationship to slavery"* ⁽⁵²²⁾.

Finally, the court held that the defendant committed the criminal offence of fraud (getting the bank credit on the victim's name by deception, which he used but did not pay for) and had violated the victim's right to work as he was not paying social and health contributions for the victim. However, the court did not find him guilty for mentioned offences as it would act *ultra vires*, i.e. it would exceed the charges stated in the indictment.

On appeal: Following the prosecutor's appeal, the appellate court quashed the first instance decision and remitted the case, stating in particular that: *"the first instance court has to take into account that the way of establishing modern slavery or to slavery similar relationship, differs in its goals and substance from those which characterised slavery in its initial form"* ⁽⁵²³⁾.

- **The second trial:**

Judgment: The court found the defendant guilty of THB for forced labour and slavery and sentenced him to two years of imprisonment, and ordering seizure of illegally obtained material gain (credit amount).

⁽⁵²⁰⁾ Judgments are not publicly available.

⁽⁵²¹⁾ First instance judgment of the Municipal Court Zagreb, No KO-113/5 from 24 May 2005, p. 3.

⁽⁵²²⁾ Ibid, p. 5.

⁽⁵²³⁾ Second instance judgment of the County Court Zagreb, No KŽ-1676/5 from 16 July 2006, p. 2.

Summary of the case	<p>The court stated: “In this particular case, the defendant acted contrary to the European Convention on Human Rights and its Protocols No 1, 4, 6, 7 and 11, which provisions prohibit it holding a person in slavery or servitude, forcing a person to perform forced or compulsory work and limiting persons’ right to freedom and liberty of movement. The characteristics of slavery as criminal offence, when put in a contemporary context, have several stages. In this way, perpetrators abuse the poverty and unemployment of victims, place them in inadequate living space, bind them with faked debt, limit and control their movement, force them to work without pay, abuse them physically, humiliate them and treat with personal or family member’s revenge. The protected object of this criminal offence is a person i.e. a victim. (...) The court found and established in defendant’s behaviour all subjective and objective characteristics of the criminal offence as set in Article 175 §1 of the Criminal Code, and found him guilty ⁽⁵²⁴⁾.” On appeal: Following the defendant’s and the prosecutor’s appeals, the appellate court accepted the first one (defendant’s appeal) and quashed the first instance decision, mostly due to the lack of the court’s explanation in respect of the seizure of illegally obtained material gain ⁽⁵²⁵⁾.</p> <ul style="list-style-type: none"> • The third trial: <p>Judgment: In the third trial, the first instance court found the defendant guilty as charged, sentenced him to two years of imprisonment and ordered the seizure of illegally obtained material gain for a different amount ⁽⁵²⁶⁾.</p> <p>On appeal: Following the defendant’s and the prosecutor’s appeals, the appellate court accepted the first one (defendant’s appeal) and quashed the first instance decision due to incorrectly and incompletely established facts. It ordered the first instance court to carry out a psychiatric expertise on the victim’s behaviour and on his “aptitude” for being a victim, because he never asked police, his brother or his friends, with whom he had contact, for help ⁽⁵²⁷⁾.</p> <ul style="list-style-type: none"> • The fourth trial: <p>Judgment: In the fourth trial, the first instance court found the defendant guilty as charged, sentenced him to two years of imprisonment and ordered the seizure of illegally obtained material gain as in its previous decision. It also conducted a medical examination of the victim. Psychologically, the victim was described as a passive-dependent personality. Consequently, the court amended its findings in respect of characteristics and stages of the slavery concept when put in contemporary context:</p> <p>“(...) the victim needs to have certain psychic attributes in terms of deficiency and improper functioning of personality, which is more than obvious in this particular case where, according to the psychiatric expertise, the injured person had suitable personality for this kind of victim. (...) From the guilt point of view, the defendant acted with direct intention as he was aware of his action and he wanted it ⁽⁵²⁸⁾.”</p> <p>The court also examined all material evidence (bank accounts, land registry records, contracts, bank transactions, payroll list etc.). When deciding on the sentence, it took into consideration all mitigating and aggravating circumstances of the case and the defendant’s conditions, sentencing him to the lowest possible sentence.</p> <p>On appeal: This case is currently pending before the appellate court for the fourth time. The prosecutor appealed against the low sentence.</p>
Competent Court	Municipal Criminal Court Zagreb
Legal provision applied	<p>Criminal charges against the perpetrator for the criminal offence of THB for forced labour and slavery, and sentence were brought based on:</p> <ul style="list-style-type: none"> • Article 175 §1 of the old Criminal Code, which provides a single provision for both criminal offences - trafficking in human beings for forced labour and for slavery and • The European Convention on Human Rights and Protocols 1, 4, 6, 7 and 11 to Convention. <p>The decision on the seizure of illegally obtained material gain was based on Article 82 of the Criminal Code.</p>
Sentence/compensation awarded	The defendant was sentenced to two years of imprisonment. However, this case is currently pending before the appellate court for the fourth time. The prosecutor appealed against the low sentence. No compensation was awarded to the victim in the criminal proceedings. He filed a separate civil claim for damages.
Date/period of forced labour (month/year)	13 July 2004 - 14 September 2005.

⁽⁵²⁴⁾ First instance judgment of the Municipal Criminal Court Zagreb (remitted case), No KO-3274/6 from 4 March 2008, p. 14 and 18.
⁽⁵²⁵⁾ Second instance judgment of the County Court Virovitica, No Kž-161/8 from 20 January 2009.
⁽⁵²⁶⁾ First instance judgment of the Municipal Criminal Court Zagreb (remitted case), No KO-1647/9 from 10 January 2010.
⁽⁵²⁷⁾ Second instance judgment of the County Court Bjelovar, No Kž-209/11 from 6 November 2011, p. 2.
⁽⁵²⁸⁾ First instance judgment of the Municipal Criminal Court Zagreb (remitted case), No KO-2729/11 from 11 February 2013, p. 29.

Profile of the victim(s)	Country of origin	Croatia
	Gender	Male
	Age	Approx. 38 at the time of the criminal offence in 2004.
	Sector	Private small business (car-wash)
	Migratory status	Croatian citizen
How was the victim recruited and how did they come to be in the situation of forced labour?	Knowledge of local language	Yes, a native speaker.
	The victim and defendant were acquaintances long before this event, since they were children. They met suddenly in 2002, in the city centre, had coffee and talked about the victim's life, status and hardships. Two years later, the defendant called the victim offering him work in his newly opened car-wash. Needing money, being unemployed and believing the defendant's promises, the victim accepted the defendant's offer and started to work for him.	
Elements of vulnerability	The victim had a low level of education, very low self-esteem, was not able to find employment, was living very modestly and had no family (except a brother and cousins). Psychologically, he was described as a passive-dependent personality.	
Identification/reporting of offences		X, partly.
	The victim reported the offence to the authorities (e.g. the police, labour inspectorate) himself/herself	Police identified this case through a report of the SOS hotline for THB victims (no information about who called, it might have been one of the victim's friends) and through criminal processing of the defendant. Accordingly, police officers visited the car-wash and asked the defendant for documents concerning the victim's employment. They also spoke with the victim, who answered their question on whether he considers himself a victim of THB for forced labour, shortly with yes. He was then escorted to the police station where he gave his statement.
	The authorities began the investigation <i>ex officio</i>	X, Yes.
	The case was brought to the attention of the authorities by an association/NGO	X, partly yes, through phone call reports of SOS hotline for THB victims. However, police had already conducted regular surveillance of the defendant's car-wash due to other criminal offences.
Other (please specify)		

Criminal investigation	Which authority/unit was responsible for the criminal investigation of this case?	The VI Police station of the Zagreb Police, Municipal State Attorney's Office Zagreb and investigating judge of the Municipal Criminal Court Zagreb.
	How long after the victim started being subjected to forced labour did the criminal investigation of the matter begin?	Some 13-14 months later.
	What was the length of the investigation?	Some four-five months.
	What were the difficulties in bringing this case to the court?	No difficulties in bringing the case to the court but rather proving before the court the constitutive elements of THB for forced labour.
	Was the victim required to testify at the pre-trial stage of the proceedings? If yes, did the authorities use any mechanisms to protect the safety of the victim (e.g. via a witness protection programme) or protect him/her from secondary victimisation?	Yes, the victim testified at the pre-trial stage of the proceedings. No particular protective mechanisms were applied. As regards his psychological trauma as a result of this criminal offence, the victim was put in the witness protection programme and was provided with psychiatric support.
Court proceedings	Were there any problems/issues pertaining to the collection of evidence?	No.
	Was the victim required to testify in court? If yes, what effect is the witness testimony perceived to have had on the successful prosecution of the offenders?	Yes, the victim testified in court as an injured party and his testimony, among other evidence, largely effected prosecution and accusation of the defendant.
	If the victim testified in court, did he/she do so in camera, in the courtroom (in the defendant's presence) or the court used the victim's testimony during the investigation phase?	Yes, the victim was examined twice (in 2006 and 2013), in court and in the defendant's presence. In the other sets of the criminal proceedings after second instance court's remittals, the court usually read the victim's testimony given before. It seems that the court did not use the victim's testimony from investigation.
	Did the victim seek compensation for the damages suffered (e.g. by constituting himself/herself as a civil claimant)? If yes, did he/she receive support from the State (e.g. legal representation/legal aid)?	Yes, in the civil proceedings, not in the criminal case. He did not receive any additional support from the State.
	What type of evidence was submitted to the court? Were there any issues with the admissibility of evidence?	Testimonies of the defendant, the victim and witnesses, records from three medical examinations, police testimony, police report on the search of defendant's home, car and person, telecommunication contracts, bank credit contract, mortgage agreement, excerpts from the victim's bank accounts, summary of salary payments, report from the central insurance register, medical documentation of the victim, printouts of the phone calls, texts and bills, dun letters for unpaid bank credit and phone bills. No issues with the inadmissibility evidence.

Delivery of the court judgment	How long did it take for the court to issue its judgment (for first instance cases, from the prosecution; for second and third instance cases, from the day the appeal was filed)?	First trial: 1 st instance judgment – four months and 15 days from the indictment; 2 nd instance judgment – 10 months and nine days from the prosecutor's appeal; Second trial: 1 st instance judgment – 17 months and 13 days from the delivery of the 2 nd instance judgment to the 1 st instance court; 2 nd instance judgment – 16 months and 17 days from the prosecutor's appeal; Third trial: 1 st instance judgment – 11 months and nine days from the delivery of the 2 nd instance judgment to the 1 st instance court; 2 nd instance judgment – app. 20 months and 23 days from the defendant's appeal; Fourth trial: 1 st instance judgment – 14 months and eight days from the delivery of the 2 nd instance judgment to the 1 st instance court. The case is currently pending before the 2 nd instance court.
	Was the defendant found innocent/guilty? If he/she was found innocent, was it due to procedural grounds or because the evidence presented was insufficient not to substantiate his guilt?	The defendant was found guilty and sentenced with two years of imprisonment. The court also ordered the seizure of illegally obtained material gain.
	Was the victim awarded compensation for damages/moral pain and suffering? What was the court's reasoning?	The victim filed a claim for material/moral damages in separate civil proceedings (no further information on the result). Under the Act on Pecuniary Compensation to Crime Victims, the victim is also entitled to claim damages for severe physical injuries, psychological trauma and lost gain as a consequence of a criminal offence. The claim has to be submitted to the Ministry of Justice within six months from the commitment of the criminal offence (²⁹). The victim could not file such claim because the offence occurred four years before the law was enacted.
	Did the victim receive any kind of support from public authorities (e.g. social workers)/NGOs?	Yes, the victim received psychiatric support within the witness support protection programme.
Resources (financial and human resources)	No particular insufficiencies which hindered the investigation or prosecution, except the difficulty for the prosecution to prove the constitutive elements of THB for forced labour, as set by the national and international law.	
Role of labour inspectors	The Labour Inspectorate was not involved and has no information on this particular case or any other case of THB for forced labour.	
Case study source	Interviews with judges, a labour inspector and a lawyer. Case-law analysis is based on the legal evaluation of indictments and judgments in two cases obtained from the respective courts.	

(²⁹) Act on Pecuniary Compensation to Crime Victims (Zakon o novčanaj naknadi žrtvama kaznenih djela), Official Gazette No 79/7, 26/10, 1 July 2007, available at: <http://www.zakon.hr/z/25j/Zakon-o-nov%C3%7Danoj-naknadi-%C4%Bertvama-kaznenih-djela>

CZECH REPUBLIC

Case study 1: CZ-001

Summary of the case	<p>The three defendants of Slovakian nationality were prosecuted and convicted of THB for 'other forms of exploitation' – an alternative offence to forced labour foreseen under the Czech Criminal Code penalising THB.</p> <p>Facts: In the period from the beginning of 2007 to April 2009, Lacko brothers from Czech Budejovice forced homeless people and workers from Poland and Slovakia to work for little money at a construction site in Lišov. Rastislav Lacko, together with his brother Zdenek and their relative Tomas Kubaloš, lured 22 people to work on the construction sites in Ěské Budejovice with the promise of earning up to CZK 150 per hour (EUR 5.3). In reality, the workers earned CZK 150 not per hour, but per day. The working day was far from the standard eight hours; sometimes twice the length. Some of the victims documents were withheld by the defendants and victims' freedom was restrained under threats (the victims were overseen by the defendants on the construction sites).</p> <p>Judgment: The court found the three defendants guilty of THB for other forms of exploitation being an offence committed by an organised group. They were sentenced to imprisonment of 10 and 4 years, and 3 years under probation respectively.</p> <p>The court used the term 'other forms of exploitation' which was defined as an act by which the defendants acquire any unjustifiable material gain from the performance of the victim. As the victims voluntarily took up the work (even though they were provided false information) the court did not consider the offence as THB for forced labour.</p> <p>According to the judgment, the defendants abused the distressful circumstances in which these persons were found. With regard to the term distress, the court stated that distress must be understood as an adverse condition of a person caused by adverse facts, which, taken as a whole, have resulted in restrictions of freedom of decision-making of such a person in distress. The victims found themselves in distress by the fact that they did not have any place to stay and had no steady source of income⁽⁵³⁰⁾.</p> <p>On appeal: The defendants appealed to the High Court. The High Court changed the sentence of one of the defendants from ten years of imprisonment to eight years and six months and withdrew the decision by which the defendants' car was seized as there was insufficient evidence that the car was purchased with money gained from the THB criminal activity. The Supreme Court upheld that decision.</p>
Competent Court	<p>The Regional Court in Ěské Budejovice as the first instance;</p> <p>The High Court in Prague as the second instance; and</p> <p>The Supreme Court as the third instance.</p>
Legal provision applied	<p>Charges were brought against three perpetrators according to:</p> <p>Section 232a, subsection 2, paragraph c), subsection 3, paragraph a) and subsection 4, paragraph b) of the Criminal Code No 140/1961 in force until 31. 12. 2009:</p> <p>(2) <i>Anyone shall be similarly punished, who uses violence, the threat of violence or deceit or through an abuse of their error, distress or dependence (means), forces, arranges, hires, entices, transports, harbours, detains or sets up (conduct), to be used (for the purpose of)</i></p> <p>a) <i>forced labour or other forms of exploitation.</i></p> <p>(3) <i>With imprisonment for a term of five to twelve years for an offender who</i></p> <p>a) <i>commits an offence referred to in paragraph 1 or 2 as a member of an organised group...</i></p> <p>(4) <i>With imprisonment for a term of eight to fifteen years for and who...</i></p> <p>b) <i>commits such an offence that he/she has intended to benefit largely from...</i></p>
Sentence/compensation awarded	<p>One perpetrator was sentenced to imprisonment of ten years, the second one for four years and the third one for three years under probation.</p> <p>The victims did not seek compensation, therefore no compensation was awarded.</p>

⁽⁵³⁰⁾ Vít Střelecký, Daniel Topinka et al.: Developments in Trafficking in Human Beings for the Purpose of Labour Exploitation. La Strada, Prague 2012, available at: <http://lastradainternational.org/isdocs/Trafficking%19n%19human%19beings%19for%19the%19purpose%19of%19labour%19exploitation.pdf>, p. 99.

Date/period of forced labour (month/year)	At least from the beginning of 2007 until 15 April 2009 – the date of the perpetrators' detention by the police.	
Profile of the victim(s) (e.g. country of origin, gender, age, occupation of the victim prior to the incident of forced labour)	Country of origin	Four victims were from Poland, five victims were from the Czech Republic, one victim was from the Ukraine and at least 12 more victims were from Slovakia.
	Gender	All victims were males.
	Age	Age of victims ranged from 29 to 54 years.
	Sector	Construction
	Migratory status	21 EU citizens. The status of the Ukrainian victim is unknown.
How was the victim recruited and how did they come to be in the situation of forced labour?	Knowledge of local language	Some of them were fluent, some of them with little or no knowledge of the local language.
		Victims were recruited in Prague in the streets, train stations, etc. (they were recruiting them at public places because they were looking for people with nowhere to live or work). They were promised work in Ěeské Budjovice where they were then brought by the perpetrators.
Elements of vulnerability		All of the victims were in a difficult social/living situation and in need of money. Personal documents of the victims were taken away by the perpetrators.
Identification/reporting of offences	The victim reported the offence to the authorities (e.g. the police, labour inspectorate) himself/herself	Some of the victims escaped and reported the offence to the authorities.
	The authorities began the investigation ex officio	-
	The case was brought to the attention of the authorities by an association/NGO	-
	Other (please specify)	-
	Which authority/unit was responsible for the criminal investigation of this case?	Police: The Unit of the Criminal Police and Investigation Police of the Czech Republic for Combating Organised Crime.
Criminal investigation	How long after the victim started being subjected to forced labour did the criminal investigation of the matter begin?	Around 2.5 years. From 2007 until the offence was reported (after 5 April 2009).
	What was the length of the investigation?	Approximately two years.
	What were the difficulties in bringing this case to the court?	There were no unusual difficulties during the investigation.
	Was the victim required to testify at the pre-trial stage of the proceedings? If yes, did the authorities use any mechanisms to protect the safety of the victim (e.g. via a witness protection programme) or protect him/her from secondary victimisation?	The victims testified at the pre-trial stage, they were questioned in private and their testimony served as the main evidence at the court proceedings.
	Were there any problems/issues pertaining to the collection of evidence?	There were no problems pertaining to the collection of evidence.

Court proceedings	Was the victim required to testify in court? If yes, what effect is the witness testimony perceived to have had on the successful prosecution of the offenders?	The victims were requested to testify at court, for those who could not be present their testimony was read from a transcript from the pre-trial stage.
	If the victim testified in court, did he/she do so by camera, in the courtroom (in the defendant's presence) or the court used the victim's testimony during the investigation phase?	The testimony was given in the courtroom.
	Did the victim seek compensation for the damages suffered (e.g. by constituting himself/herself as a civil claimant)? If yes, did he/she receive support from the State (e.g. legal representation/legal aid)?	The victims did not seek compensation.
	What type of evidence was submitted to the court? Were there any issues with the admissibility of evidence?	The testimony of the victims, the perpetrators, witnesses, the testimony of experts (medical records), the telecommunication records and bank records.
	How long did it take for the court to issue its judgment (for first instance cases, from the prosecution; for second and third instance cases, from the day the appeal was filed)?	The date of prosecution is unknown. The first judgment was issued on 24 February 2012. The final judgment was issued on 15 May 2012. The date when the appeal was filed is unknown.
Delivery of the court judgment	Was the defendant found innocent/guilty? If he/she was found innocent, was it due to procedural grounds or because the evidence presented was insufficient not to substantiate his guilt?	The defendants were found guilty of THB for other forms of exploitation. They were sentenced to imprisonment of ten years and four years, and three years under probation respectively.
	Was the victim awarded compensation for damages/moral pain and suffering? What was the court's reasoning?	None of the victims sought compensation.
Victim support	Did the victim receive any kind of support from public authorities (e.g. social workers)/NGOs?	The victims were offered to be a part of the Programme of Support and Protection of Victims which is funded by the Ministry of the Interior. It offers social support, such as psychological counselling, housing or whatever else the victim in his/her situation needs ⁽⁵³¹⁾ . There is no information about whether these victims participated in the programme.
Resources (financial and human resources)	There was no shortage of resources.	
Role of labour inspectors	Labour inspectors did not play any role in this case.	
Case study source:	<ul style="list-style-type: none"> Interviews with Government Officials. Judgment No 17 T 6/2010 (requested from the court). Vit Srelecky, Daniel Topinka et al.: Developments in Trafficking in Human Beings for the Purpose of Labour Exploitation. La Strada, Prague 2013 (available also at: http://lastradainternational.org/Isdocs/Trafficking%20in%20human%20beings%20for%20the%20purpose%20of%20labour%20exploitation.pdf). 	

⁽⁵³¹⁾ Available at: <http://www.mvrczjclanek/obchod-s-lidmi-pomoc-obetem.aspx>

Case study 2: CZ-002

Summary of the case	The three defendants of Ukrainian nationality were charged with and convicted of THB for 'other forms of exploitation' – an alternative offence to forced labour foreseen under the Czech Criminal Code penalising THB.	
	<p>Facts: From at least April to July 2008 (the exact length is not known) three men had lured Romanian citizens to the Czech Republic under the promise of finding them work. Upon arrival, the Romanian workers were forced to work, mainly in asparagus fields or in the meat-processing business, for much lower wages than promised and in very bad working conditions. The wages were not paid at all to some of the victims. Victims were also forced to work under the threat of violence (the defendants oversaw their work) and after work were locked up at the place where they lived.</p> <p>Judgment: The court found the defendants guilty of THB for other forms of exploitation and sentenced them to five years' imprisonment. The court used similar definitions as in the first case and also defined "other forms of exploitation" (which was not applied in the first case). It defined forced labour as any labour or service which a person performs under the threat of any type of punishment and which the person did not offer to do voluntarily. It also defined "other forms of exploitation" as any other activity of the defendant by which he/she acquires any unjustifiable material gain from the performance of the victim.</p> <p>On appeal: The first appeal was filed by the defendants. The High Court ordered the Regional Court to re-evaluate certain questions of the case (some of the evidence, its admissibility and credibility). However, neither of the courts dealt with the definition of forced labour which is why the Highest State Prosecutor appealed to the Supreme Court which cancelled both decisions and ordered the Regional Court to focus on the THB definitions, such as forced labour and other forms of exploitation.</p>	
Competent Court	The Regional Court in Ústí nad Labem as first instance;	
	The High Court in Prague as second instance; and The Supreme Court in Brno as third instance.	
Legal provision applied	Charges were brought against the alleged perpetrators in accordance with: Section 232a, subsection 2, paragraph c), subsection 3, paragraph a) of the Criminal Code No 140/1961 in force until 31. 12. 2009: (2) <i>Anyone shall be similarly punished, who uses violence, the threat of violence or deceit or through an abuse of their error, distress or dependence (means), forces, arranges, hires, entices, transports, harbours, detains or sets up (conduct), to be used (for the purpose of)</i> c) <i>forced labour or other forms of exploitation.</i>	
	(3) <i>With imprisonment for a term of five to twelve years for an offender who</i> a) <i>commits an offence referred to in paragraph 1 or 2 as a member of an organised group...</i>	
Sentence/compensation awarded	They were sentenced to imprisonment of five years. It is unknown whether any compensation was awarded. The victims were directed to civil courts to seek compensation.	
Date/period of forced labour (month/year)	From at least 1 April 2008 to 4 July 2008.	
Profile of the victim(s) (e.g. country of origin, gender, age, occupation of the victim prior to the incident of forced labour)	Country of origin	Romania
	Gender	Male
	Age	18 to 45
	Sector	Agriculture
	Migratory status	EU citizens
Knowledge of local language		Low to no knowledge

How was the victim recruited and how did they come to be in the situation of forced labour?	The victims were approached by the perpetrators directly. One of the perpetrators promised high earnings to the victims for work on asparagus fields in the Czech Republic.	
Elements of vulnerability	Victims were brought to the Czech Republic where they did not know the language, they did not have any financial means and their personal documents were taken away, so they were completely dependent on the perpetrators.	
Identification/reporting of offences	<i>The victim reported the offence to the authorities (e.g. the police, labour inspectorate) himself/herself</i>	X Some of the victims managed to escape and contacted the Romanian Embassy in Prague. The offence was then reported to the authorities.
	<i>The authorities began the investigation ex officio</i>	-
	<i>The case was brought to the attention of the authorities by an association/NGO</i>	-
	<i>Other (please specify)</i>	-
	<i>Which authority/unit was responsible for the criminal investigation of this case?</i>	Police: The Unit of the Criminal Police and Investigation Police of the Czech Republic for Combating Organised Crime
Criminal investigation	<i>How long after the victim started being subjected to forced labour did the criminal investigation of the matter begin?</i>	Around four months. From April 2008 until the offence was reported (after 4 July 2008).
	<i>What was the length of the investigation?</i>	Over a year.
	<i>What were the difficulties in bringing this case to the court?</i>	The evidence was sufficient thus there were no obstacles in bringing the case to court.
	<i>Was the victim required to testify at the pre-trial stage of the proceedings? If yes, did the authorities use any mechanisms to protect the safety of the victim (e.g. via a witness protection programme) or protect him/her from secondary victimisation?</i>	The victims testified at the pre-trial stage, they were questioned in private and their testimony served as the main evidence at the court proceedings.
	<i>Were there any problems/issues pertaining to the collection of evidence?</i>	Some of the victims and witnesses were back in Romania, but due to the cooperation of law enforcement authorities, it did not cause any problems.

Court proceedings	Was the victim required to testify in court? If yes, what effect is the witness testimony perceived to have had on the successful prosecution of the offenders?	The victims testified at court, the testimony of the ones who were back in Romania was read from the transcript from the pre-trial stage. The victims' testimony, taking into consideration other aspects of the case as well, had great value in the successful prosecution of the defendants.
	If the victim testified in court, did he/she do so by camera, in the courtroom (in the defendant's presence) or the court used the victim's testimony during the investigation phase?	The testimony was given in the courtroom.
	Did the victim seek compensation for the damages suffered (e.g. by constituting himself/herself as a civil claimant)? If yes, did he/she receive support by the State (e.g. legal representation/legal aid)?	The victims sought financial compensation from the defendants, but due to the fact that awarding this compensation would require more evidence, they were directed to civil courts to seek this compensation. This would be a private lawsuit and it is not possible to find out whether they filed the claim or not. The State informed them about this right at the court, but since this lawsuit falls under private law, the State cannot interfere.
	What type of evidence was submitted to the court? Were there any issues with the admissibility of evidence?	The testimony of the victims, the perpetrators, family members of the perpetrators, witnesses, testimony of experts (psychologists and psychiatrists about the mental condition of one of the perpetrators), home searches, police reports.
Delivery of the court judgment	How long did it take for the court to issue its judgment (for first instance cases, from the prosecution; for second and third instance cases, from the day the appeal was filed)?	There is no information as to when the court proceedings started. All proceedings in this case could have taken around five years. <ul style="list-style-type: none"> • The first judgment was issued on 15 June 2010. • The second judgment was issued on 20 January 2011. • The third judgment was issued on 2 May 2012 (by the first instance court). • The fourth judgment was issued on 3 December 2014 (by the Supreme Court).
	Was the defendant found innocent/guilty? If he/she was found innocent, was it due to procedural grounds or because the evidence presented was insufficient not to substantiate his guilt?	The defendants were found guilty of THB for other forms of exploitation.
	Was the victim awarded compensation for damages/moral pain and suffering? What was the court's reasoning?	The victims were directed to civil courts to seek compensation. It is not possible to find out if the victims constituted themselves as civil claimants or not.
	Did the victim receive any kind of support by public authorities (e.g. social workers)/NGOs?	The victims were offered to be a part of the Programme of Support and Protection of Victims which is funded by the Ministry of the Interior. It offers social support such as psychological counselling, housing or whatever else the victim in his/her situation needs. There is no information as to whether these victims participated in the programme.
Resources (financial and human resources)	There was no shortage of resources.	
Role of labour inspectors	Labour inspectors did not play any role in this case.	

Case study sources

- Interviews with Government Officials.
- Judgment No 2T 12/2009 (requested from the court);
- Judgment No 2 To 128/2010 (requested from the court);
- Judgment No 2 To 76/2012 (requested from the court);
- Judgment No 7 Tdo 1261/2013 (requested from the court);
- Vít Strelecký, Daniel Topinka et al.: Developments in Trafficking in Human Beings for the Purpose of Labour Exploitation. La Strada, Prague 2013 (available also at: <http://lastradainternational.org/lisdocs/Trafficking%20in%20human%20beings%20for%20the%20purpose%20of%20labour%20exploitation.pdf>).

Case study 3: CZ-003

Summary of the case	<p>The four defendants of Czech nationality were charged with and convicted of THB for 'other forms of exploitation' – an alternative offence to forced labour foreseen under the Czech Criminal Code penalising THB.</p> <p>Facts: The defendants abused the difficult social situation of the five victims. All of the defendants in cooperation with each other offered to organise for the victims to travel to the UK, where they would help them to find work. After arriving in the UK the defendants found jobs for three victims (through an employment agency) in a remote bakery where the victims worked twelve-hour shifts. The victims were forced by the defendants to hand over a considerable portion of their earnings to the defendants. The other two victims worked at a post office and anywhere where the defendants found work for them. The defendants took documents away from the victims, they also took almost all of the money the victims earned, they threatened them and in two cases they used violence. When they could not use the victims anymore, they sold them to another, unknown person. The victims stayed with this person for four months before they managed to escape. When the victims escaped they asked for help at the embassy and returned to the Czech Republic.</p> <p>Judgment: The court found the four defendants guilty of THB for other forms of exploitation and sentenced them to imprisonment of 5, 9 and 9.5 years. The defendants used the difficult living and social situation the victims were in at the time and, by deceit, convinced them to travel with them to the UK. The defendants accommodated the victims, but the money they were taking from their salary was significantly more than their actual expenses. An aggravating circumstance in this case was that the defendants committed THB as an organised group in more than one State (organised group assumes more than three people and in more than one State; it requires activity in at least two States), both conditions were met.</p> <p>On appeal: The defendants did not use their right to appeal.</p>	
Competent Court	Regional Court in Ústí nad Labem as the first instance court	
Legal provision applied	<p>Charges were brought against the perpetrator in accordance with:</p> <p>Section 168, subsection 2, paragraph e) and subsection 4, paragraph c) of the Criminal Code No 40/2009:</p> <p>(2) <i>The same punishment (imprisonment for two to ten years) shall apply to anyone who, as referred to in paragraph 1, uses violence, threats of violence or other serious harm or deceit or uses an error, distress or addiction, induces, procures, hires, seduces, transports, conceals, lures or hands over a person to be abused by another person:</i></p> <p>e) <i>forced labour or other forms of exploitation, or who benefits from such conduct.</i></p> <p>(4) <i>A term of imprisonment of eight to fifteen years or forfeiture of property shall be imposed on an offender who</i></p> <p>c) <i>commits such a crime in connection with an organised group operating in several states.</i></p> <p>The first perpetrator was sentenced to five years of imprisonment, the second one to nine years of imprisonment, the third one to nine years and six months of imprisonment and the fourth one to nine years of imprisonment.</p> <p>The exploitation of two victims lasted from 4 January 2010 to 9 April 2010 and for the other three victims for an unspecified period of time around the years of 2007 and 2008.</p>	
Sentence/compensation awarded		
Date/period of forced labour (month/year)		
Profile of the victim(s) (e.g. country of origin, gender, age, occupation of the victim prior to the incident of forced labour)	Country of origin	All victims were from the Czech Republic and the forced labour took place in the UK.
	Gender	Four males and one female
	Age	Age of the victims ranged from 18 to 27.
	Sector	Services (bakery, post office, etc.), differed for each victim.
	Migratory status	EU citizens
How was the victim recruited and how did they come to be in the situation of forced labour?	Knowledge of local language	Very low to no knowledge
	All victims were recruited by the perpetrators (they were approached directly by the perpetrators at a place where people in difficult living and social situations meet) to work in the UK. They were promised a well-paid job because all of them were in a financially difficult situation. In the UK, the job was found through recruitment agencies, but the victims had to give all or most of their salary to the perpetrators.	

Elements of vulnerability	All of the victims were in a difficult financial situation. Two of the males were paying child support, the woman's son was taken into State care in the Czech Republic (because she was unable to take care of him) and one of the men was less intellectually fit to fully comprehend the whole situation and had a tendency to submit to intellectually superior individuals. The defendants took documents away from the victims; they were taking almost all of the money the victims earned.	
Identification/reporting of offences	<i>The victim reported the offence to the authorities (e.g. the police, labour inspectorate) himself/herself</i>	X The victims escaped from the perpetrators' reach and sought help at the Czech Embassy in London. After their return to the Czech Republic the offence was brought to the attention of the authorities.
	<i>The authorities began the investigation ex officio</i>	-
	<i>The case was brought to the attention of the authorities by an association/NGO</i>	-
	<i>Other (please specify)</i>	-
	<i>Which authority/unit was responsible for the criminal investigation of this case?</i>	Police: The Unit of the Criminal Police and Investigation Police of the Czech Republic for Combating Organised Crime
Criminal investigation	<i>How long after the victim started being subjected to forced labour did the criminal investigation of the matter begin?</i>	It differed with each victim. The forced labour of two victims lasted from 4 January 2010 to 9 April 2010 and for the other three victims for an unspecified period of time around the years of 2007 and 2008. The criminal investigation started after their return to the Czech Republic. The exact date is unknown.
	<i>What was the length of the investigation?</i>	Approximately one year.
	<i>What were the difficulties in bringing this case to the court?</i>	There were no real difficulties because the police and the State prosecutor had sufficient evidence.
	<i>Was the victim required to testify at the pre-trial stage of the proceedings? If yes, did the authorities use any mechanisms to protect the safety of the victim (e.g. via a witness protection programme) or protect him/her from secondary victimisation?</i>	The victims testified at the pre-trial stage, they were questioned in private (in the police station, in the presence of investigators) and their testimony served as the main evidence at the court proceedings.
	<i>Were there any problems/issues pertaining to the collection of evidence?</i>	Since the offence was committed abroad, some of the evidence had to be acquired there, but due to excellent co-operation between the Czech and British authorities it did not cause any problems.
Court proceedings	<i>Was the victim required to testify in court? If yes, what effect is the witness testimony perceived to have had on the successful prosecution of the offenders?</i>	The victims testified in court. Their testimony was mostly the same as that given in the pre-trial stage. If it differed, they were read a transcript from their previous testimony and asked to explain. They agreed with the details of their previous testimony because they said that at that point they remembered it better.
	<i>If the victim testified in court, did he/she do so by camera, in the courtroom (in the defendant's presence) or the court used the victim's testimony during the investigation phase?</i>	The victims testified in the courtroom. The testimony from the investigation phase was brought up only if there were differences between that testimony and that given in the courtroom.
	<i>Did the victim seek compensation for the damages suffered (e.g. by constituting himself/herself as a civil claimant)? If yes, did he/she receive support from the State (e.g. legal representation/legal aid)?</i>	Only one of the victims claimed compensation and he waived this right during the trial.
	<i>What type of evidence was submitted to the court? Were there any issues with the admissibility of evidence?</i>	The testimony of the victims, the perpetrators, family members of the perpetrators, witnesses, testimony of experts (psychologists and psychiatrists about the mental condition of one of the victims), home searches in the Czech Republic and the UK, telecommunication records.

Delivery of the court judgment	How long did it take for the court to issue its judgment (for first instance cases, from the prosecution; for second and third instance cases, from the day the appeal was filed)?	The judgment was issued on 13 November 2012. The decision is always announced publicly in the courtroom and the defendants have the right to appeal within eight days from the delivery of the written judgment. The defendants did not use their right to appeal.
	Was the defendant found innocent/guilty? If he/she was found innocent, was it due to procedural grounds or because the evidence presented was insufficient not to substantiate his guilt?	All of the defendants were found guilty of THB for other forms of exploitation.
	Was the victim awarded compensation for damages/moral pain and suffering? What was the court's reasoning?	Only one of the victims claimed financial compensation for the lost money, but he waived this right during the trial.
Victim support	Did the victim receive any kind of support from public authorities (e.g. social workers)/NGOs?	The victims were offered to be a part of the Programme of Support and Protection of Victims which is funded by the Ministry of the Interior. It offers social support such as psychological counselling, housing or whatever else the victim in his/her situation needs. There is no information whether these victims participated in the programme.
Resources (financial and human resources)		
Role of labour inspectors		
Case study sources		
	<ul style="list-style-type: none"> Interviews with Government Officials. Judgment No IT 1/2012 (requested from the court). Vit Strelceky, Daniel Topinka et al.: Developments in Trafficking in Human Beings for the Purpose of Labour Exploitation. La Strada, Prague 2013 (also available at: http://lastradainternational.org/Isidocs/Trafficking%20in%20human%20beings%20for%20the%20purpose%20of%20labour%20exploitation.pdf). 	

Case study 4: CZ-004

Summary of the case	<p>The two defendants of Ukrainian nationality were charged with, and convicted of, THB for forced labour.</p> <p>Facts: Two men from the Ukraine were convicted for enticing Polish citizens to the Czech Republic under the promise of high income in the summer of 2007. Once the victims were transported to Brno and its surroundings, the defendants took their personal documents, mobile phones and held them for three days without food and money. The Polish citizens were then forced to work 10-12 hours a day, including weekends, as workers on construction sites. If someone refused to work under such conditions, he was forced by violence. Workers received only a fraction of the promised wage and were always kept waiting to receive the promised money.</p> <p>Judgment: The High Court in Olomouc found the two defendants guilty of THB for forced labour and sentenced them to three years of imprisonment. According to the court, the defendants brought Polish citizens for work to the Czech Republic under false information; they took their documents and forced them to work under threats of violence and actual physical violence. Thus, they met all the conditions for THB for forced labour stated in the Criminal Code.</p> <p>On appeal: The defendants appealed their sentence. The second instance court upheld the decision and changed only a part of the sentence decreasing the imprisonment period from three to two years. The imprisonment was conditionally postponed to a trial period of two and three years.</p>	
Competent Court	<p>The Regional Court in Brno as the first instance; The High Court in Olomouc as the second instance.</p>	
Legal provision applied	<p>Charges were brought against the alleged perpetrator according to:</p> <p><i>Section 232a, subsection 2, paragraph c) of the Criminal Code No 140/1961 in force until 31.12.2009:</i></p> <p><i>(2) Anyone shall be similarly punished, who uses violence, the threat of violence or deceit or through an abuse of their error, distress or dependence (means), forces, arranges, hires, entices, transports, harbours, detains or sets up (conduct), to be used (for the purpose of)</i></p> <p><i>c) forced labour or other forms of exploitation.</i></p>	
Sentence/compensation awarded	<p>The perpetrators were sentenced by the appeal court to imprisonment of two years. The imprisonment was conditionally postponed to a trial period of two and three years with surveillance over the defendants and the ban of business in the field of employment for five years (they were not allowed to do any type of business in the employment field, i.e. to establish an employment agency).</p>	
Date/period of forced labour (month/year)	<p>The forced labour took place for an unspecified period of time in August 2007.</p>	
Profile of the victim(s) (e.g. country of origin, gender, age, occupation of the victim prior to the incident of forced labour)	Country of origin	Poland
	Gender	Male
	Age	Not specified
	Sector	Construction
	Migratory status	EU citizens
How was the victim recruited and how did they come to be in the situation of forced labour?	Knowledge of local language	
	<p>The victims were recruited in Poland and offered a job in the Czech Republic. They were recruited by their contact person in Poland. He was specifically looking for unemployed persons in Poland. Then, they were taken to the border of Poland and the Czech Republic where they were picked up by the other perpetrators and taken to Brno where their personal documentation and mobile phones were taken away.</p>	

Elements of vulnerability	All of the victims were in a difficult social/living situation (they did not have steady jobs and needed money to support their families). They were taken to a country where they did not know the local language.	
Identification/reporting of offences	The victim reported the offence to the authorities (e.g. the police, labour inspectorate) himself/herself	X
	The authorities began the investigation <i>ex officio</i>	-
	The case was brought to the attention of the authorities by an association/NGO	-
	Other (please specify)	-
Criminal investigation	Which authority/unit was responsible for the criminal investigation of this case?	Police: The Unit of the Criminal Police and Investigation Police of the Czech Republic for Combating Organised Crime.
	How long after the victim started being subjected to forced labour did the criminal investigation of the matter begin?	There is no information on when the investigation started. The first judgment was issued on 24 May 2013.
	What was the length of the investigation?	As above.
	What were the difficulties in bringing this case to the court?	There were some difficulties due to the fact that the victims were Polish and by the time of the investigation they were back in Poland, whereas the defendants were from the Ukraine and one of them was not captured.
	Was the victim required to testify at the pre-trial stage of the proceedings? If yes, did the authorities use any mechanisms to protect the safety of the victim (e.g. via a witness protection programme) or protect him/her from secondary victimisation?	The victims testified at the pre-trial stage, they were being questioned in private (in the police station, in the presence of investigators) and their testimony served as the main evidence in the trial.
	Were there any problems/issues pertaining to the collection of evidence?	There were some difficulties due to the different nationalities of the victims and perpetrators and their absence in the Czech Republic, but due to successful cooperation between the Polish and Czech authorities, it did not obstruct the investigation.
	Was the victim required to testify in court? If yes, what effect is the witness testimony perceived to have had on the successful prosecution of the offenders?	Some of the victims testified in court, for the ones that were already in Poland their testimony was read as a written transcript from the pre-trial stage. The victims' testimony, taking into consideration other aspects of the case as well, had great value for the successful prosecution of the defendants.
Court proceedings	If the victim testified in court, did he/she do so by camera, in the courtroom (in the defendant's presence) or the court used the victim's testimony during the investigation phase?	The testimony was given in the courtroom.
	Did the victim seek compensation for the damages suffered (e.g. by constituting himself/herself as a civil claimant)? If yes, did he/she receive support by the State (e.g. legal representation/legal aid)?	None of the victims sought compensation.
	What type of evidence was submitted to the court? Were there any issues with the admissibility of evidence?	Testimony of the victims, records and photography from the place where the victims were held, criminal records of the perpetrators. There were no issues with the admissibility of evidence.

Delivery of the court judgment	<p><i>How long did it take for the court to issue its judgment (for first instance cases, from the prosecution; for second and third instance cases, from the day the appeal was filed)?</i></p> <p><i>Was the defendant found innocent/guilty? If he/she was found innocent, was it due to procedural grounds or because the evidence presented was insufficient not substantiate his guilt?</i></p> <p><i>Was the victim awarded compensation for damages/moral pain and suffering? What was the court's reasoning?</i></p>	<p>The beginning of the court proceedings is unknown. The first instance judgment was issued on 24 of May 2013. The second instance judgment was issued on 12 November 2013.</p> <p>The defendants were found guilty of THB for forced labour (two of them appealed and their punishment was changed to the one stated above).</p> <p>None of the victims sought compensation.</p>
Victim support	<p><i>Did the victim receive any kind of support from public authorities (e.g. social workers/NGOs)?</i></p>	<p>The victims were offered to be a part of the Programme of Support and Protection of Victims which is funded by the Ministry of the Interior. It offers social support such as psychological counselling, housing or whatever else the victim in his/her situation needs. There is no information about whether these victims participated in the programme.</p>
Resources (financial and human resources)	<p>There was no shortage of resources.</p>	
Role of labour inspectors	<p>Labour inspectors did not play any role in this case.</p>	
Case study sources	<ul style="list-style-type: none"> - Interviews with Government Officials. • Judgment No 4 To 67/2013 (requested from the court); • Judgment No 39 T 12/2012 (requested from the court); - Vit Srelecky, Daniel Topinka et al.: Developments in Trafficking in Human Beings for the Purpose of Labour Exploitation. La Strada, Prague 2013 (available also at: http://lastradainternational.org/lsdocs/Trafficking%20in%20human%20beings%20for%20the%20purpose%20of%20labour%20exploitation.pdf). 	

DENMARK

Case study 1: DK-001-I

Key elements	Conviction for THB for forced labour and usury regarding the exploitation of at least four named Romanians in the cleaning business during the period of 23 May 2011 to June 2011. Charges: the defendant was charged with THB for forced labour and usury regarding the exploitation of at least four named Romanians in the cleaning business during the period of 23 May 2011 to June 2011. Judgment: the defendant was acquitted of THB for forced labour due to the insufficient and imprecise indictment itself. Thus, the Judge found that the "[...]charge with violation of Section 262a (1) of the Criminal Code did not meet the requirements laid down in Section 834 (2) (4) of the Administration of Justice Act". Moreover, the Judge noted that the burden of proof of forced labour had not been satisfied. In addition, the defendant was acquitted of usury due to lack of evidence.		
Summary of the case	The Court's assessment of evidence: the Court noted that the statements made in Court on respectively 13 July 2012 and 19 and 20 February 2014 as well as to the Police in 2011 by the injured parties appeared "[...] incoherent and inadequate in a number of significant areas" ⁽⁵³²⁾ . Under these circumstances, the Court found that "[...] without the additional presentation of evidence, in particular in the form of the securing of evidence in 2011 - prior to the injured parties' departure from Denmark - [...] the uncertainty about the sequence of events is of such extent that the defendant's substantiated statement cannot be rejected" ⁽⁵³³⁾ . The judgment has been appealed by the Prosecution.		
Competent Court	Helsingør District Court (Retten i Helsingør), 1st instance.		
Legal provision applied - in terms of THB	Section 262a of the Criminal Code.		
Sentence/compensation awarded	The defendant was acquitted of THB for forced labour (Section 262a of the Criminal Code) due to the insufficient and imprecise indictment itself (Section 834 (2) (4) (requirements for the Prosecution's indictment) of the Administration of Justice Act). In addition, the Judge noted that the burden of proof of forced labour had not been satisfied. Moreover, the defendant was acquitted of usury (Section 282 of the Criminal Code) due to lack of evidence.		
Date/period of alleged forced labour (month/year)	23 May 2011 to 11 June 2011.		
Profile of the victim(s) (e.g. country of origin, gender, age, occupation of the victim prior to the incident of forced labour)	Country of origin	Romania (among others four named Romanians (a family)).	
	Gender	Both male and female.	
	Age	The four named Romanians: respectively 18-19, 37-38, 48-49 and 60-61 ⁽⁵³⁴⁾ .	
	Sector	One of the four named Romanians previously worked as a construction worker in Romania ⁽⁵³⁵⁾ .	
	Migratory status	EU citizens.	
	Knowledge of local language		
	No information is available about this.		

⁽⁵³²⁾ Emphasis added.⁽⁵³³⁾ Author's summary and translation of the case.⁽⁵³⁴⁾ Højgaard, S., Halskov, M. and Roman, D., 'Saved by the Police', in *Fagbladet 2F* (January 2011).⁽⁵³⁵⁾ Ibid.

How was the victim recruited and how did they come to be in the situation of alleged forced labour?	<p>The Judge noted that no information was provided in the indictment about</p> <ul style="list-style-type: none">• how the recruitment and transportation happened (cf. Section 262a, 1st indent); or• how unlawful coercion under Section 260 (cf. Section 262a (1) (1)), illegal restraint under Section 261 (cf. Section 262a (1) (2)) or threats under Section 266 (cf. Section 262a (1) (3)) were applied; or• which actions constituted another form of improper conduct (cf. Section 262a (1) (5)). <p>In addition, the Judge made the observation that the indictment only provided a partial description of:</p> <ul style="list-style-type: none">• how the condition on the use of unlawful inducement, encouragement or exploitation of a mistake was met (cf. Section 262a (1) (4)). <p>Moreover, the Judge made the observation that the indictment provided no information about</p> <ul style="list-style-type: none">• the conduct by which the work was forced through. <p>According to statements made by the defendant reproduced in the Court's record, the family arrived voluntarily to Denmark with the purpose of working in his cleaning company. However, due to age and failing health, which led the cleaning company that was the defendant's contracting party to reject three of the persons, they never worked for the defendant. The defendant moreover stated that he provided the family with the possibility to stay at his premises and also provided the family with small amounts of money to cover daily necessities until the point where the family could return to Romania. The defendant's statement was supported by inter alia certain witness statements.</p> <p>According to statements made by the four named Romanians in Romania to journalists writing for the trade journal <i>Fagbladet</i> 3F, the family's plan was to work in Denmark for a period of half a year up to one year in order to make enough money to pay for the hospital treatment of the illnesses one of the injured parties (the 48-49 year man) was suffering from. According to the four named Romanians, another family member in Romania concluded an agreement with the defendant; the defendant made arrangements for the arrival of the four named Romanians to Denmark by bus; the defendant threatened the four named Romanians subsequent to their arrival to Denmark; the four named Romanians were given the prospect of EUR 500 a month for 12 hours daily work, which constituted a much larger salary than that earned by one of the Romanians as a construction worker in Romania (less than EUR 2 000 a year); the defendant paid the four named Romanians no salary; the four named Romanians worked from 2 PM to 9 AM; the four named Romanians had no money for food and thus ate whatever food they found in the garbage cans at the institutions they cleaned; and the four named Romanians lived in the defendant's basement with no water or electricity together with four other Romanians, two of which escaped. The basement was rat infested ⁽⁵³⁶⁾.</p> <p>According to articles published by <i>Fagbladet</i> 3F, the Police's report of 11 June 2011 concluded that the defendant's house was unfit for human habitation and observed inter alia that the house was without electricity and water; marked by rats' excrements and with a foul smell of what was thought to be human excrements, food scraps and poor indoor climate ⁽⁵³⁷⁾.</p>
	<p>Age, health and poverty ⁽⁵³⁸⁾.</p>

⁽⁵³⁶⁾ Ibid.

⁽⁵³⁷⁾ Halskov, M., 'The Police sent forced labourers back to a rookery', in *Fagbladet* 2F (June 2011); and Halskov, M., Højgaard, S. and Roman D., 'Lived in packed rookery', in *Fagbladet* 2F (January 2011).

⁽⁵³⁸⁾ Højgaard, S., Halskov, M. and Roman, D., 'Saved by the Police', in *Fagbladet* 2F (January 2011).

Identification/reporting of offences	The victim reported the offence to the authorities (e.g. the police, labour inspectorate) himself/herself	With the assistance of an employee at a petrol station, 5 Romanian cleaning staff sought help from the Police in May 2011 . However, upon the Police's arrival, the Romanians were arrested and subsequently returned to their employer, despite there being strong indications of THB for forced labour (see above in table 6 in fine – where references are provided – and below).
	The authorities began the investigation <i>ex officio</i>	
	The case was brought to the attention of the authorities by an association/NGO	
	Other (please specify)	<p>In June 2011, the Romanian Embassy in Denmark reported to the Police that the Romanians were held against their will in a house, and the Police therefore arrived at the premises. Subsequent to this, the family borrowed money from the Romanian Embassy for bus tickets to Romania. The incident attracted much media attention, and eventually the circumstances surrounding the cleaning staff resulted in an investigation and prosecution (see above in table 6 in fine – where references are provided).</p> <p>According to the NEC, consulted for this study, on 11 June 2011 the incident was reported to the Police and a criminal investigation subsequently began. However, about one month and half subsequent to this, on 18 July, the case was shelved due to various challenges pertaining to the requirements of the Administration of Justice Act imposed on the Police to investigate whether charges may be brought against the defendant. In this context, the challenges are, among others, that:</p> <ul style="list-style-type: none"> • substantial evidence must be gathered; and • the case is about a specific type of exploitation that meets several requirements (cf. Section 262a). <p>It was the assessment of the Police that the evidence of the case was insubstantial. On 13 June 2012, the investigation started for the second time, following articles published in the trade journal Fagbladet 3F indicating that there was additional information in the case. North Zealand's Police re-opened the case on their own initiative ⁽⁵³⁹⁾.</p>

⁽⁵³⁹⁾ Information collected through consultation with the police.

Criminal investigation	Which authority/unit was responsible for the criminal investigation of this case?	North Zealand's Police.
	How long after the victim started being subject to forced labour did the criminal investigation of the matter begin?	The second investigation of the case started on 13 June 2012 and thus about 1 year after the offence started.
	What was the length of the investigation?	The investigation that started on 13 June 2012 lasted until the beginning of the trial. The Court was in session on 19 February 2014.
	What were the difficulties in the bringing this case to the court?	<p>According to the NEC, consulted for this study, generally speaking, these types of cases possess two substantial challenges:</p> <ul style="list-style-type: none"> • the position of evidence: including understanding what constitutes evidence sufficient to provide documentation. All aspects of Section 262a must be substantiated. While the Court must assess evidence, it is the task of the Police to gather evidence. To these types of cases, testimonies are crucial. Obviously, when statements constitute such crucial evidence, it remains a problem when victims change their testimonies or do not always tell the truth (for which there may be several reasons). When cases are constructed on the basis of statements, of course, the victims' credibility is substantial. Therefore, as an element of the CMM's protection programme, the injured parties are instructed - via their coaching - in the importance of telling the truth; and • the definition of THB for forced labour: including to obtain clarity regarding the interpretation of forced labour according to the explanatory remarks to Section 262a and the Palermo Convention, and also what constitutes THB in the context of forced labour, cf. above in tables 6 and 7.
	Yes, the victims testified to the Police and also in Court, including abroad, at the pre-trial stage. Including the statements given at the trial-stage in Court, the witnesses thus testified 4 times.	
	Was the victim required to testify at the pre-trial stage of the proceedings? If yes, did the authorities use any mechanisms to protect the safety of the victim (e.g. via a witness protection programme) or protect him/her from secondary victimisation?	<p>The victims were awarded assistance from CMM through the CMM's protection programme. The programme is part of the social efforts (and thus not the criminal efforts) and entailed, among other things:</p> <ul style="list-style-type: none"> • safe houses; • repatriation; • an educational course for minors; • that victims were returned with support (not expelled) and now are self-sufficient in their new tasks.
	Were there any problems/issues pertaining to the collection of evidence?	<p>According to the NEC, consulted for this study, generally speaking, in these types of cases the main problem is that often there is no physical evidence. This is caused by the fact that we are dealing with a sophisticated type of exploitation of the victims' social condition and vulnerability (inter alia poor living conditions). In specific cases certain physical circumstances may be poor, including living conditions and salary, but essentially the interrogations/statements are crucial to the case, cf. above in tables 6 and 7.</p> <p>In the judgment, the Judge referred to the lack of securing of evidence in 2011 prior to the injured parties' departure from Denmark.</p>

	<p>Was the victim required to testify in court? If yes, what effect is the witness testimony perceived to have had on the successful prosecution of the offenders?</p> <p>If the victim testified in court, did he/she do so in camera, in the courtroom (in the defendant's presence) or the court used the victim's testimony during the investigation phase?</p> <p>Did the victim seek compensation for the damages suffered (e.g. by constituting himself/herself as a civil claimant)? If yes, did he/she receive support by the State (e.g. legal representation/legal aid)?</p>	<p>Yes; and the Judge made the observation that the statements made in Court on respectively 13 July 2012 and 19 and 20 February 2014 - as well as to the Police in 2011 - by the injured parties appeared incoherent and inadequate in a number of significant areas. Without the additional presentation of evidence, in particular in the form of the securing of evidence in 2011 prior to the injured parties' departure from Denmark, the Court found the uncertainty about the sequence of events to be of such extent that the defendant's substantiated statement could not be rejected.</p> <p>All injured parties testified in Court in the defendant's presence ⁽⁵⁴⁰⁾.</p> <p>Yes; claims for compensation for injury (i.e. non-financial damages) were made in the criminal case pursuant to Section 26 (1) of the 'Act on Liability for Damages' (Erstatningsansvarloven ⁽⁵⁴¹⁾).</p> <p>Also, claims for compensation for lost earnings and claims for compensation for missing employment contracts were made.</p> <p>The potential victims of THB were provided with a support attorney ⁽⁵⁴²⁾.</p> <p>Statements from the defendant, witnesses, including the injured parties, police assistants, a special consultant, concern manager (koncerndirektør) and accountant. The statements were reproduced in the Court's record.</p> <p>Other types of evidence submitted to the Court were photos, email letter of 22 August 2011, statements of 19 March 2013 made before the Court in Timisoara, extract of a daily report of 24 May 2011, interpreter receipt of 24 May 2011, report on release, extract of daily report of 10 June 2011, ID card concerning persons encountered on 11 June 2011, payment from a cleaning company that was the defendant's contracting party, documents from the defendant's cleaning company's accountant, report about employers in the defendant's cleaning company in April 2011, invoice from the cleaning company that was the defendant's contracting party covering the period of 15 March 2011 to 14 April 2011, printout from SKAT about the defendant for 2010, 2011 and 2012, working hours compared to invoicing, reports from the CMM and extract of judicial examination of 19 July 2013.</p> <p>There were no issues with the admissibility of evidence.</p>
Court proceedings	<p>How long did it take for the court to issue its judgment (for first instance cases, from the prosecution; for second and third instance cases, from the day the appeal was filed)?</p>	Five months.
	<p>Was the defendant found innocent/guilty? If he/she was found innocent, was it due to procedural grounds or because the evidence presented was insufficient to substantiate his guilt?</p>	The defendant was found innocent of THB for forced labour due to procedural grounds (insufficient and imprecise indictment). Moreover, the Judge noted that the burden of proof of forced labour had not been satisfied.
	<p>Was the victim awarded compensation for damages/moral pain and suffering? What was the court's reasoning?</p>	N/A
Delivery of the court judgment		

⁽⁵⁴⁰⁾ Halskov, M. and Jensen, K., 'Romanians in the witness box: we are scared' (Rumænerne i vidneskranken: Vi er bange), in *Fagbladet 2F* (March 2013). When testifying, 2 of the 3 named Romanians are reported by *Fagbladet 2F* to have stated that they were afraid, and 0 of the injured parties is reported to have cried several times during her testimony. *Fagbladet 2F* was present during every hearing in Helsingør Court.

⁽⁵⁴¹⁾ Consolidation Act No 265 of 20 March 2013.

⁽⁵⁴²⁾ Halskov, M. og Jensen, K., 'Accused of forced labour met by requirement for compensation' (Tiltalt for tvangsarbejde mødt med krav om erstatning), in *Fagbladet 2F* (February 2013).

Victim support	<p>Did the victim receive any kind of support by public authorities (e.g. social workers)/NGOs?</p> <p>Yes; the victims were awarded assistance from CMM through the CMM's protection programme. The programme is part of the social efforts (and thus not the criminal efforts) and entailed, among other things:</p> <ul style="list-style-type: none"> • safe houses; and • repatriation; • an educational course for minors; • the victims were returned with support (not expelled) and now are self-sufficient in their new tasks. 	<p>The case is mentioned above in table 6 in fine as a possible illustration of actors' lack of expertise and/or awareness of THB for forced labour prior to the implementation of the NAP 2011-2014.</p> <p>Apart from issues relating to expertise and training, no issues regarding financial and human resources were raised.</p> <p>According to the NEC, consulted for this study, a strategic approach is applied in terms of THB being the type of case that has priority, which, in turn, results in the allocation of re-sources to this area.</p> <p>And in general, the challenges in these types of cases are:</p> <ul style="list-style-type: none"> • qualifications; and • the definition of forced labour in a Danish context. <p>Regarding qualifications, it is crucial that the right assistance is sought within the Police. The work in the area is coordinated by the NEC from which the local Police Districts may seek assistance. Thus, the NEC may direct the local Police Districts to appropriate persons, such as a specific Prosecutor.</p> <p>In addition, it is essential that the Police is familiar with the indicators of THB for forced labour and also with how to handle these types of cases. For this reason, among other things, five lessons about the area are taught at the Police Academy and two annual seminars are held - both in cooperation with the CMM.</p> <p>Concerning the definition of forced labour in a Danish context, we are dealing with interpretational issues. The Police hopes that the judgment of the District Court (or possibly 3rd instance) will provide clarity. The Police entered into an agreement with the Director of the Public Prosecutor, entailing that once a final judgment is issued, the Public Prosecutor together with the NEC will break down the Court's premises into a checklist - operational guidelines for the Police and Prosecution regarding the definition of forced labour.</p>
Role of labour inspectors	<p>Labour inspectors were not involved in the specific case. The Police does cooperate with the WEA and also conducts joint raids with the WEA. However, the involvement of the WEA regarding violation of legislation on working environment was not pertinent to the case.</p>	
Case study source	<ul style="list-style-type: none"> - Official transcript of case No 1-2643/2013; - articles published in Fagbladet 3f; and - Interview with the National Police. 	

Case study 2: DK-002-1

Key elements	<p>Defendants found not-guilty for THB for forced labour and usury regarding the exploitation of nine Romanians in the cleaning business during the period of October 2006 to 10 June 2013.</p> <p>Charges: the two defendants (father (defendant 1) and son (defendant 2)) were charged with THB for forced labour and usury regarding the exploitation of nine Romanians in the cleaning business during the period of October 2006 to 10 June 2013.</p> <p>In addition, defendant 1 was charged with violence, aggravated assault and unlawful coercion against one of the Romanians, and with threat against 2 of the Romanians. Additional charges were brought against defendant 2 with fraud against companies and unlawful possession of cell phone or similar in jail. Moreover, defendant 1 was charged with fraud against a number of companies.</p> <p>Facts of the case: a few of the Romanians performed renovation work at one of the defendants' properties in 2007. On the basis of the statements made, the Court took the view that the recruitment, transportation, housing and reception of the Romanians happened on a more systematic basis during the period of spring 2008 to summer 2011.</p> <p>All injured parties testified that they arrived to Denmark by bus and that defendant 2 made the arrangements for the journey and defrayed the expenses for the bus tickets; however, the expenses for the bus tickets were deducted from the injured parties' first salary.</p> <p>The Court took the view that upon request from defendant 2, one of the injured parties acquired most of the injured parties to Denmark (and later formed a relationship with defendant 1), and that two other injured parties acquired 2 of the injured parties to Denmark. In addition, another Romanian acquired other Romanians to the premises, and an additional number of 20-25 Romanians accordingly stayed at the premises.</p> <p>The injured parties had been offered the prospect of a monthly salary of DKK 3 000 (EUR 400), free board and lodging, cleaning work and an anticipated working time of eight hours a day five days a week. The Court took the view that the injured parties largely were paid the promised salary of DKK 3 000 (EUR 400) a month and that the salary was paid by defendant 2.</p> <p>The Court took the view that they drove together in cars from the premises around 2-3 AM to schools/institutions, where the injured parties performed cleaning work, and returned around 1-2 PM - occasionally earlier or later, and that they could work for up to 20 hours a day in connection with thorough cleaning.</p> <p>In addition to the cleaning work at schools/institutions, the Court took the view that three of the injured parties moreover performed cleaning work in the family's house or helped cook for the family and the injured parties.</p> <p>Based on the statements made, the Court took the view that mainly defendant 2 checked the work of the injured parties, but also that one of the injured parties (who also acquired most of the injured parties to Denmark) participated in instructing the injured parties in their work and in checking the performance of the work.</p> <p>With a few exceptions, including the injured party who at some point formed a relationship with defendant 1, the injured parties lived in a garage of one of the properties of the defendants with no water or lavatory, according to concurrent statements made by witnesses and the defendants. During the daytime, the injured parties used the lavatory in the house, and when the house was kept locked, the injured parties relieved themselves outside. The injured parties showered at those institutions they were cleaning. The injured parties were provided with one or two daily meals in the kitchen of the defendants' house.</p> <p>On the basis of several witness statements made, the Court took the view that if the Romanians announced their intention to leave the place, defendant 2 withheld their salary, and also that the Romanians who stayed with the family for only a few months received no salary. The employment contracts concluded were pro forma and the Court took the view that the Romanians were not aware of the fact that they signed contracts of employment.</p> <p>On the basis of statements made, the Court took the view that the Romanians were in possession of their ID papers and handed these papers over to defendant 2 only for the purpose of application for registration documents.</p> <p>Concurrent statements indicated that on various occasions defendant 2 yelled and threatened to return the Romanians if they did not perform the work in a satisfactory manner or stole. There was no additional basis for establishing that the Romanians had been subjected to threats.</p>
Summary of the case	

Profile of the victim(s) (e.g. country of origin, gender, age, occupation of the victim prior to the incident of forced labour)	Country of origin	Romania (nine Romanians – some of whom were related).
	Gender	Four females and five males
	Age	No information is available about this.
	Sector	Cleaning.
	Migratory status	EU citizens.
	Knowledge of local language	None (neither of English).
How was the victim recruited and how did they come to be in the situation of alleged forced labour?	<p>The Court took the view that upon request from defendant 2, one of the injured parties acquired most of the injured parties to Denmark (and at some stage formed a relationship with defendant 1), and that two other injured parties acquired two of the injured parties to Denmark. In addition, another Romanian acquired other Romanians to the premises, and an additional number of 20–25 Romanians accordingly stayed at the premises.</p> <p>All injured parties testified that they arrived to Denmark by bus and that defendant 2 made the arrangements for the journey and defrayed the expenses for the bus tickets; however, the expenses for the bus tickets were deducted from the injured parties' first salary.</p> <p>The injured parties had been offered the prospect of a monthly salary of DKK 3 000 (EUR 400), free board and lodging, cleaning work and an anticipated working time of 8 hours a day 5 days a week. The Court took the view that the injured parties largely were paid the promised salary of DKK 3 000 (EUR 400) a month and that the salary was paid by defendant 2.</p> <p>The Court took the view that they drove together in cars from the premises around 2–3 AM to schools/institutions, where the injured parties performed cleaning work, and returned around 1–2 PM – occasionally earlier or later, and that they could work for up to 20 hours a day in connection with thorough cleaning.</p> <p>In addition to the cleaning work at schools/institutions, the Court took the view that 3 of the injured parties moreover performed cleaning work in the family's house or helped cooking for the family and the injured parties.</p> <p>Based on the statements made, the Court took the view that mainly defendant 2 checked the work of the injured parties, but also that one of the injured parties (who also acquired most of the injured parties to Denmark) participated in instructing the injured parties in their work and in checking the performance of the work.</p> <p>In conclusion, the Court took the view that defendant 2 – with the assistance of inter alia one of the injured parties – recruited, transported, housed and received the Romanians, and that this happened on a more systematic basis during the period of spring 2008 to summer 2011. Since the Court took the view that on the basis of the statements made "[...] the recruited Romanians largely were paid the salary agreed upon", the Court did not find it "[...] to be substantiated to an extent sufficient for conviction that the defendants were guilty of human trafficking for forced labour, regardless of the fact that during certain periods, the Romanians worked for more time than they had been offered the prospect of" ⁽⁵⁴⁹⁾.</p>	
	Elements of vulnerability	Lack of Danish (and English) language skills and lack of knowledge about the conditions of the Danish labour market .
	Identification/reporting of offences	The victim reported the offence to the authorities (e.g. the police, labour inspectorate) himself/herself
		The authorities began the investigation <i>ex officio</i>
		The case was brought to the attention of the authorities by an association/NGO
	Other (please specify)	Helsingør Municipality reported the case to the Police who subsequently conducted a joint raid with SKAT on 10 June 2013 ⁽⁵⁵⁰⁾ .

⁽⁵⁴⁹⁾ Author's translation and emphasis.

⁽⁵⁵⁰⁾ Haliskov, M., 'Five persons arrested in case on human trafficking' (*Fem personer anholdt i sag om menneskehandel*), in *Faglæder 2F* (June 2012); and see above in table 3.

Criminal investigation	Which authority/unit was responsible for the criminal investigation of this case?	North Zealand's Police.
	How long after the victim started being subject to forced labour did the criminal investigation of the matter begin?	The criminal investigation was commenced on 30 April 2013, and thus about five years after the date of which the Court found that the more systematic offence started (i.e. Spring 2008). The investigation cannot begin before the offence is reported to the Police or before the Police launch an investigation on its own initiative. Obviously, a precondition for the latter is that the Police is aware of the matter. Thus, an official within the Police is cited for stating that the investigation was "[...] brief [and] intense".
	What was the length of the investigation?	The investigation was closed in November 2013 and thus lasted for about seven months.
	What were the difficulties in the bringing this case to the court?	<p>According to the NEC, consulted for this study, generally speaking, these types of cases possess two substantial challenges:</p> <ul style="list-style-type: none"> • the position of evidence: including understanding what constitutes evidence sufficient to provide documentation. All aspects of Section 262a must be substantiated. While the Court must assess evidence, it is the task of the Police to gather evidence. To these types of cases, testimonies are crucial. When statements constitute such crucial evidence, it remains a problem when victims change their testimonies or do not always tell the truth (for which there may be several reasons). When cases are constructed on the basis of statements, of course, the victims' credibility is substantial. Therefore, as an element of the CMM's protection programme, the injured parties are instructed - via their coaching - in the importance of telling the truth; and • the definition of THB for forced labour: including to obtain clarity regarding the interpretation of forced labour according to the explanatory remarks to Section 262a and the Palermo Convention, and also what constitutes THB in the context of forced labour, cf. above in tables 6 and 7. <p>The first indictment was received by the Court on 15 October 2013 and subsequently replaced by the indictment received by the Court on 28 January 2014.</p>
	Was the victim required to testify at the pre-trial stage of the proceedings? If yes, did the authorities use any mechanisms to protect the safety of the victim (e.g. via a witness protection programme) or protect him/her from secondary victimisation?	<p>Yes, the victims testified at the pre-trial stage. Three of the victims were detained before departing from Denmark; while some of the victims remained in Denmark, others left.</p> <p>The victims were awarded assistance from CMM through the CMM's protection programme. The programme is part of the social efforts (and thus not the criminal efforts) and entailed, among other things, safe houses.</p>
	Were there any problems/issues pertaining to the collection of evidence?	<p>According to the NEC, consulted for this study, generally speaking, in these types of cases the main problem is that often, there is no physical evidence. This is caused by the fact that we are dealing with a sophisticated type of exploitation of the victims' social condition and vulnerability (inter alia poor living conditions). In specific cases certain physical circumstances may be poor, including living conditions and salary, but essentially the interrogations/statements are crucial to the case, cf. above in tables 6 and 7.</p>

Court proceedings	Was the victim required to testify in court? If yes, what effect is the witness testimony perceived to have had on the successful prosecution of the offenders?	Yes; the injured parties testified in Court (the defendants were not convicted of THB for forced labour, but convicted of <i>inter alia</i> usury).
	If the victim testified in court, did he/she do so in camera, in the courtroom (in the defendant's presence) or the court used the victim's testimony during the investigation phase?	All injured parties testified in Court in the defendant's presence ⁽⁵⁵¹⁾ .
	Did the victim seek compensation for the damages suffered (e.g. by constituting himself/herself as a civil claimant)? If yes, did he/she receive support by the State (e.g. legal representation/legal aid)?	Yes, claims for compensation for injury (i.e. non-financial damages) were made in the criminal case pursuant to Section 26 (1) of the Act on Liability for Damages. Also, claims for compensation for lost earnings were made, which, however, the Court referred to potential civil proceedings. In addition, claims for compensation for missing employment contracts were made. The injured parties were provided with support attorneys ⁽⁵⁵²⁾ .
	What type of evidence was submitted to the court? Where there any issues with the admissibility of evidence?	Statements from the defendants and witnesses, including the injured parties, SKAT and CMM. The statements were reproduced in the Court's record. Other types of evidence submitted to the Court were sales agreement regarding the relevant property, photos of the relevant property in Denmark and also of a property in Serbia, description of the crime scene, transcript from the Central Business Register (CVR-register), memoranda from SKAT, employment contracts, information from Western Union, leasing agreement regarding cars, statement of account, co-operation agreement with one of the contractors, report about earnings from one of the contractors, additional photos, reports, pay slips, employment contracts, information regarding cars, invoices and other documents. In addition, for the purpose of substantiating a hierarchy, working conditions, the manner in which were spoken, roughness etc., a number of wiretaps were made and submitted due to the fact that such wiretaps may support other statements of the case ⁽⁵⁵³⁾ . There were no issues with the admissibility of evidence ⁽⁵⁵⁴⁾ .

⁽⁵⁵¹⁾ Halskov, M. and Jensen, K., 'Romanians in the witness box: we are scared', in *Fagbladet 2F* (March 2013). When testifying, O of the witnesses is reported by *Fagbladet 2F* to have stated that he was afraid. Another is reported to have stated that, contrary to other of the Romanians, he was not afraid of defendant 1. The Prosecutor of the case is cited by *Fagbladet 2F* for stating that 'none of the witnesses put forward requests for the removal of the defendants from the courtroom'. *Fagbladet 2F* was present during every hearing in Helsingør Court.

⁽⁵⁵²⁾ Halskov, M. and Jensen, K., 'Claim for millions against organisers for massive salary dumping' (*Millionkrav mod bagmænd for massiv løndumping*), in *Fagbladet 2F* (March 2013).

⁽⁵⁵³⁾ Information collected through consultation with the NEC, the National Police.

⁽⁵⁵⁴⁾ Information collected through consultation with the NEC, the National Police.

Delivery of the court judgment	How long did it take for the court to issue its judgment (for first instance cases, from the prosecution; for second and third instance cases, from the day the appeal was filed)?	<p>Six months for first instance judgment.</p> <p>About two years for the second instance judgment ⁽⁵⁵⁾.</p> <p>Both defendants were found innocent of THB for forced labour since the Court found that there was no basis for establishing the use of force, confinement, threats or inducement or exploitation of a mis-take. Therefore, it was a matter for the Court to establish whether 'another form of improper conduct' with the purpose of exploitation for forced labour occurred. Since the Court took the view that the recruited Romanians largely were paid the salary agreed upon, the Court did not find it to be sufficiently substantiated that the defendants were guilty of THB for forced labour, regardless of the fact that during certain periods, the injured parties worked for more time than they had been offered the prospect of.</p> <p>However, both defendants were found guilty of usury due to the systematic and severe exploitation of the Romanians, and the fact that the defendants obtained services significantly disproportional to what the defendants offered in return.</p> <p>When convicting the defendants of usury, the Court emphasised inter alia the fact that the injured parties did not speak Danish or English and stayed mainly in the garage or in the area nearby when they did not attend work to which they were transported and picked up from. Therefore, the injured parties had no actual possibility of becoming acquainted with the conditions of the Danish labour market.</p> <p>The Court moreover referred to inter alia the fact that during the period of March 2008 to July 2011, more than DKK 9 million (EUR 1 206 427) was paid to the defendants' cleaning companies from just one of its contractors. Against this background, the Court found that the Romanians had been subjected to systematic and severe exploitation, and that the defendants obtained services significantly disproportional to what they offered in return.</p>
	Was the defendant found innocent/guilty? If he/she was found innocent, was it due to procedural grounds or because the evidence presented was insufficient to substantiate his guilt?	<p>No; the injured parties were not awarded compensation for damages, as the Court found that there was no basis for awarding damages pursuant to Section 26 (1) of the Act on Liability for Damages.</p> <p>The injured parties were, however, awarded compensation for missing employment contracts.</p>
Victim support	Was the victim awarded compensation for damages/moral pain and suffering? What was the court's reasoning?	<p>Yes; the victims were awarded assistance from CMM through the CMM's protection programme. The programme is part of the social efforts (and thus not the criminal efforts) and entailed, among other measures, safe houses.</p>
	Did the victim receive any kind of support by public authorities (e.g. social workers)/NGOs?	

⁽⁵⁵⁾ Summary of the High Court sentence available at: <http://www.domstol.dk/oesirelandsret/nyheder/domsresumeeer/Pages/Domsagomudnyttelseafmaenskerengoesingsarbejdere.aspx>

Resources (financial and human resources)	Apart from issues relating to expertise and training, no issues regarding financial and human resources were raised.
Role of labour inspectors	Labour inspectors were not involved in the specific case. The Police does cooperate with the WEA and also conducts joint raids with the WEA. However, the involvement of the WEA regarding violation of legislation on working environment was not pertinent to the case.
Case study source	<ul style="list-style-type: none"> - Official transcript of case No 1-2738/2013; - articles published in Fagbladet 3F; - Interviews with a lawyer, a prosecutor and the National Police.

GREECE

Case study 1: EL-001

Summary of the case	<p>The full text is available on the website of the Supreme Court ⁽⁵⁵⁶⁾, by entering the number of the judgment in the general search field. The judgment is not accompanied by a summary prepared by the Court.</p> <p>However, such summaries are prepared by the administrators of the two main Greek legal databases, ISOKRATIS and NOMOS (to which the expert has access to). These summaries precede the text of the full judgment and cover the legal and factual background of the case.</p> <p>Summary from ISOKRATIS legal database: Human trafficking - repeated crime - specific and detailed reasoning -</p> <p>The conviction of the defendant for the offence of trafficking, conducted repeatedly, is correct and reasoned. He met a foreign woman while she was working in bars and had an affair with her. Then, exploiting their relationship, he began to exploit her labour by raising threats against her and her family who was in Romania. In particular, it was proved that, by telling her that if she refused to work and give him most of the money she received from her labour, he would harm her and her family in Romania, he succeeded [to obtain] amounts of money from her labour at various bars, while she was keeping only a small part of the amount.</p> <p>Summary from NOMOS legal database: Continuous trafficking. Objective and subjective constituent elements. Facts. Labour exploitation of foreign national (Romanian), who worked as an erotic dancer, through the use of threats by the defendant. Penal procedure. Appeal in cassation. Reasons. Lack of specific and detailed reasoning. Incorrect application and interpretation of substantive penal provision. Means of proof. Taken into consideration. The transfer of the foreigner or the facilitation of entry into Greece from a third country is not necessary. Whether the victim was permanently and completely under the physical power of the appellant and perpetrator of human trafficking. Absolute nullity. Defence – rights of the defendant. Reading document. Reading of the pre-investigation and investigation deposition of non-appearing witness. The appellant did not object to the reading. The judgment was correct and reasoned. Appeal in Cassation rejected.</p>	
	Competent Court	Supreme Civil and Criminal Court of Greece (Άρειος Πάγος), ruling on an appeal in cassation (αναίρετική δίκη).
Legal provision applied	Legal provision applied	Article 323A of the Greek Criminal Code.
	Sentence/compensation awarded	The Supreme Court rejected the appeal in cassation of judgment 1378, 1384/2010 of the Five-member Court of Appeal of Athens, which found the defendant guilty for THB for forced labour and sentenced him to incarceration of five years and a monetary penalty of EUR10 000.
Profile of the victim(s) (e.g. country of origin, gender, age, occupation of the victim prior to the incident of forced labour)	Date/period of forced labour (month/year)	October 2005 – 19 May 2006
	Country of origin	Romania.
	Gender	Female.
	Age	Born on December 1984 (approx. 21 years old in the beginning of period of forced labour).
	Sector	Entertainment/night-life.
	Migratory status	Non-EU citizen during the period in question (Romania became an EU MS in 2007. Additionally, Greece applied the two-year transitional period during which Romanian citizens did not have free access to the Greek labour market) ⁽⁵⁵⁷⁾ .
Knowledge of local language		Information not identified from the judgment.

⁽⁵⁵⁶⁾ Supreme Court, Judgment 672/2010 (Z: Penal), available at: <http://www.areiospagos.gr/en/INDEX.htm> (Section 'Court rulings').

⁽⁵⁵⁷⁾ Greek Ombudsman, Note on the integration of Romanian – Bulgarian citizens in the Greek labour market, 4.10.2006, available at: http://www.synigoros.gr/resources/6_10_roumania.pdf

How was the victim recruited and how did they come to be in the situation of forced labour?	<p>The victim met a friend (also female) in Romania, who suggested they went to Greece to work as waitresses for a monthly salary of EUR1 000. The friend of the victim said she knew a Romanian citizen in Greece who could help them find a job as waitresses. His uncle helped the two girls with getting passports (i.e. the judgment does not specify whether this were forged passports or if there were also other issues relating to residence/work permits) and gave each EUR 500 for their moves; they flew to Athens in October 2004. The defendant received them at the airport and originally installed them in the apartment of a friend. End of November 2004, the victim moved into another apartment, together with another young woman who was already working as an erotic dancer in a night club. In January of 2005, the victim started working as an erotic dancer in that same night-club, where, in October 2005, she met the defendant. It was proven that until then he did not have any involvement with her living and working conditions, nor the exploitation of her labour. The victim and the defendant developed a romantic relationship. It was also proven that since the beginning of their relationship he exploited her labour by raising threats against her and her family who was back in Romania. In particular, it was proven that, by telling her that if she refused to work and give him most of the money she received from her labour, he would harm her and her family in Romania. This way he succeeded to get the EUR170 out of the EUR200 she earned each night, leaving her with only EUR30. During this period and until 19.05.2006 the victim worked for him as a dancer in various bars – other than the one they met at – and continued to withhold EUR170 out of the EUR200 she earned each night.</p>	
Elements of vulnerability	<p>The victim was young and subject to a residence and working permit in Greece (no sufficient information on the actual legal status of the victim in the text of the Court judgment). She was also involved in a romantic relationship with the perpetrator.</p>	
Identification/reporting of offences	The victim reported the offence to the authorities (e.g. the police, labour inspectorate) himself/herself	Information not identified from the judgment.
	The authorities began the investigation ex officio	Information not identified from the judgment.
	The case was brought to the attention of the authorities by an association/NGO	Information not identified from the judgment.
	Other (please specify)	Information not identified from the judgment.
	Which authority/unit was responsible for the criminal investigation of this case?	Information not identified from the judgment.
	How long after the victim started being subject to forced labour did the criminal investigation of the matter begin?	Information not identified from the judgment.
	What was the length of the investigation?	Information not identified from the judgment.
Criminal investigation	What were the difficulties in the bringing this case to the court?	Information not identified from the judgment.
	Was the victim required to testify at the pre-trial stage of the proceedings? If yes, did the authorities use any mechanisms to protect the safety of the victim (e.g. via a witness protection programme) or protect him/her from secondary victimisation?	Some relevant information is included in the reasoning of the Supreme Court judgment. All the prosecution witnesses – including the victim – were not present during the trial at Second Instance. Their attendance was not possible as they were 'of unknown residence' (αγνώστου διαμονής) and therefore could not be located in a specific address. The testimonies they had given during the pre-investigation and investigation phase were read in Court. Information on the use of any protection mechanisms are not available.
	Were there any problems/issues pertaining to the collection of evidence?	Information not identified from the judgment.

Court proceedings	Was the victim required to testify in court? If yes, what effect is the witness testimony perceived to have had on the successful prosecution of the offenders?	Some relevant information is included in the reasoning of the Supreme Court judgment. All the prosecution witnesses – including the victim- were not present during the trial at Second Instance. Their attendance was not possible as they were ‘of unknown address’ (αγνωστού διαμονής).
	If the victim testified in court, did he/she do so in camera, in the courtroom (in the defendant’s presence) or the court used the victim’s testimony during the investigation phase?	Information not identified from the judgment.
	Did the victim seek compensation for the damages suffered (e.g. by constituting himself/herself as a civil claimant)? If yes, did he/she receive support by the State (e.g. legal representation/legal aid)?	Information not identified from the judgment.
	What type of evidence was submitted to the court? Where there any issues with the admissibility of evidence?	Some relevant –but very limited- information is included in the reasoning of the Supreme Court judgment. Amongst the evidence submitted and used by the Court of second instance there were also the pre-investigation and investigation testimonies of the victim and other prosecution witnesses.
	How long did it take for the court to issue its judgment (for first instance cases, from the prosecution; for second and third instance cases, from the day the appeal was filed)?	The appeal in cassation was brought before the Supreme Court on 12 July 2010 and the judgment was delivered on 6 April 2011.
Delivery of the court judgment	Was the defendant found innocent/guilty? If he/she was found innocent, was it due to procedural grounds or because the evidence presented was insufficient not substantiate his guilt?	The defendant was found guilty by the Five-member Court of Appeal of Athens and Supreme Court judgment 673/2011 rejected the appeal in cassation.
	Was the victim awarded compensation for damages/moral pain and suffering? What was the court’s reasoning?	N/A
Victim support	Did the victim receive any kind of support by public authorities (e.g. social workers)/NGOs?	Information not identified from the judgment.
Resources (financial and human resources)	No information related to resources identified.	
Role of labour inspectors	Information not identified from the judgment.	
Case study source	The text of the judgment as published on the Supreme Court website and on the legal databases NOMOS and ISOKRATIS.	

Case study 2: EL-002

Summary of the case	<p>The Court judgment⁽⁵⁵⁸⁾ is not publicly available nor is there an official summary. The case received wide media coverage. All information provided in this table is based on media sources and stakeholder consultation.</p> <p>In April 2013, the owner and front foreman and two other foremen of a strawberry farm in the town of New Manolada⁽⁵⁵⁹⁾, as well as the businessman financing the production, exclusively receiving and then distributing the strawberries to the market, were accused of shooting and wounding around 30 Bangladeshi strawberry-pickers who were demanding their unpaid wages; some of the immigrants were seriously injured⁽⁵⁶⁰⁾. The immigrants were working for low wages and were provided with materials to build shacks in which they lived all together. The victims got their food and products for personal hygiene from a specific local super-market that had an agreement with the producer and the respective costs were deducted from their monthly wage. The shooting occurred when the victims went on strike during the peak of the strawberry harvest season to claim the wages for the past six months and the owner of the farm hired other workers, causing tension in the field as the victims tried to prevent the newly brought strawberry-pickers from working. One of the foremen shot in the air to intimidate the victims and when they remained in the field, he opened fire on them. The court found that there was not enough evidence to establish the concept of vulnerability and acquitted all defendants for the unlawful act of THB for forced labour on the basis of Article 323A (CCP).</p>
Competent Court	Mixed-Member Jury Court of Patras (Μικτό Ορκωτό Δικαστήριο Πατρών). First instance.
Legal provision applied	<p>Judgment 118/2014 of the Mixed-Member Jury Court of Patras is considered to be final as regards the part on THB for forced labour because the court acquitted all the defendants, as regards the charge of THB for forced labour, unanimously. In that case, an appeal in cassation can only be submitted by the Prosecutor General of the Supreme Court. The verdict was reviewed by the Prosecutor General of the Supreme Court⁽⁵⁶¹⁾ that found that there were no grounds for appeal in cassation⁽⁵⁶²⁾. In general, however, similar requests for an appeal in cassation by the Public Prosecutor of the Supreme Court stand limited chances, especially when it comes to unanimous judgments of mixed jury courts⁽⁵⁶³⁾.</p> <p>Article 323A of the Greek Criminal Code (GCC).</p> <p>Additional charges were brought against the defendants for dangerous bodily harm, employment of citizens of a third country without a residence permit and unlawful possession and use of firearms.</p>
Sentence/compensation awarded	<p>Unanimous acquittal in respect THB for forced labour for all defendants. Only as regards the criminal act of dangerous bodily harm, the owner and front foreman and one of the other foremen were sentenced to incarceration of fourteen years and seven months and eight years and seven months respectively which were converted in to monetary penalties.</p> <p>The victims were awarded compensation on the basis of their request for civil action within the criminal proceedings (EUR50 each from each accused that was found guilty for each one of the 35 victims for moral damage).</p>
Date/period of forced labour (month/year)	Beginning of 2011 – April 2013.

⁽⁵⁵⁸⁾ Mixed-Member Jury Court of Patras (Μικτό Ορκωτό Δικαστήριο Πατρών). Judgment 117/2013 of 29.6.2013, elaborated during stakeholder consultation.

⁽⁵⁵⁹⁾ Located in the region of Ila in the western Peloponnese.

⁽⁵⁶⁰⁾ BBC news, 'Greece farm shooting: 29 injured in pay dispute', 17.3.2012, available at: <http://www.bbc.com/news/world-europe-22198700>. The Independent, 'Greek farmers who shot 27 workers for demanding pay walk free from court in 'scandalous, racist' verdict', 30.6.2013, available at: <http://www.independent.co.uk/news/world/europe/greek-farmers-who-shot-29-workers-for-demanding-pay-walk-free-from-court-in-scandalous-racist-verdict-9639274.html>. The Guardian, 'Greek court acquits farmers who shot 27 Bangladeshi strawberry pickers', 30.6.2013, available at: <http://www.theguardian.com/world/2013/jul/30/greek-court-acquits-farmers-shot-strawberry-pickers>. BBC news, 'Greek farmers charged with shooting migrants freed', 30.6.2013, available at: <http://www.bbc.com/news/world-europe-28588251>. A video recorded immediately after the shooting is available at http://www.ekathimerini.com/3dcgi/_w_articles_ws-ite0_0_17/3/2012_494494_e-Kathimerini_news_website_1732012.

⁽⁵⁶¹⁾ To Vima newspaper, 'Supreme Court prosecutor to examine Manolada shooting verdict', 07.2012, available at: <http://www.tvovima.gr/en/article/aid=620207>

⁽⁵⁶²⁾ Ekathimerini news website, 'No new Manolada trial, court rules', 29.9.2013, available at: http://www.ekathimerini.com/3dcgi/_w_articles_ws-ite0_0_29/9/2013_544171

⁽⁵⁶³⁾ Information obtained through stakeholder consultation (February 2014).

Profile of the victim(s)	Country of origin	Bangladesh.
	Gender	Male.
	Age	Ranging from 56 to 16 (years of birth between 1957 and 1997. The majority was in their late twenties –early thirties (born during the 1980s).
	Sector	Agriculture (strawberry fields).
	Migratory status	Irregular immigrants (vast majority).
	Knowledge of local language	Most of the victims did not know Greek. A few workers spoke some basic Greek.
How was the victim recruited and how did they come to be in the situation of forced labour?	The victims came to Greece voluntarily, in pursuit of better living conditions. They walked through several countries (i.e. Pakistan, Afghanistan, Turkey), in groups and most of them initially remained in Athens. In Athens most of them were unemployed or occasionally worked as itinerant peddlers. Other Bangladeshi immigrants working in Nea Manolada, for the same or other producer, encouraged them to come and work in the region. A few immigrants appeared to be 'in charge' of their compatriots in the form of groups. They were the ones in contact with the foremen of the farm, transferring these discussions to their compatriots, also explaining the terms of employment. They were also the ones taking note of the working hours of each of the workers and distributed the pay from the money they received from the foremen of the farm. The foremen supervised the victims during their work in the fields, using severe reprimands ⁽⁵⁶⁴⁾ .	
	Economic misery, illegal entry into the country, no knowledge of Greek language, fear and inability to resort to and to address State authorities for support, social exclusion, poor psychological state. The victims lived in shacks they had built near the strawberry fields, using materials that the defendant's provided. The victims were provided with basic goods (food and personal hygiene), from a specific local supermarket that had an agreement with the producer and the respective costs were deducted from their monthly wage. According to the victims' testimonies, before the shooting they had gone on strikes but returned to work after a few days under threats against their lives and the promise that they would soon get paid. Finally, according to the victims' testimonies, the foremen supervised them using severe reprimands, including verbal and physical assaults ⁽⁵⁶⁵⁾ .	
Identification/reporting of offences	The victim reported the offence to the authorities (e.g. the police, labour inspectorate) himself/herself	No.
	The authorities began the investigation ex officio	No.
	The case was brought to the attention of the authorities by an association/NGO	No.
	Other (please specify)	The incident of the shooting and the subsequent injury of the Bangladeshi workers initiated the investigation and arrest procedure. Wide media coverage followed and on the same day the Minister of Labour issued an urgent command for the Labour Inspectorate to also visit the region and investigate the case ⁽⁵⁶⁶⁾ .

⁽⁵⁶⁴⁾ Information obtained through stakeholder consultation (February 2014).

⁽⁵⁶⁵⁾ Information obtained through stakeholder consultation (February 2014).

⁽⁵⁶⁶⁾ To Vima newspaper: 'Eight foreign workers shot and seriously injured in Manolada Ηλείας γιατί ζήτησαν τα δεδουλευμένα 5 μηνών' Ασύλληπτοι οι δρόστες - Το Εργατικό Κέντρο Αμαλιάδας μιλά για «εργασιακό σκλαβοδράζικο» - Συναγερμό Πυροδότησαν και τραυματίσαν σοβαρά 7 αλλοδαπούς εργάτες στη Μανωλάδα Ηλείας γιατί ζήτησαν τα δεδουλευμένα 5 μηνών Ασύλληπτοι οι δρόστες - Το Εργατικό Κέντρο Αμαλιάδας μιλά για «εργασιακό σκλαβοδράζικο» - Συναγερμό 37χρονος για υπόθαλψη εγκληματία, 16.3.2012, available at: <http://www.tovima.gr/society/article/?aid=508389>

Criminal investigation	Which authority/unit was responsible for the criminal investigation of this case?	Local police and public prosecutor services of Amaliada.
	How long after the victim started being subject to forced labour did the criminal investigation of the matter begin?	On the basis of the fact that the majority of the victims were working for the specific producer since 2011 and the incident occurred in April 2013, this period would be approx. two and a half years.
	What was the length of the investigation?	From the date of the shooting incident (17 April 2013) and more or less until October 2013 ⁽⁵⁶⁷⁾ .
	What were the difficulties in the bringing this case to the court?	Information on the pre-trial phase was not identified.
	Was the victim required to testify at the pre-trial stage of the proceedings? If yes, did the authorities use any mechanisms to protect the safety of the victim (e.g. via a witness protection programme) or protect him/her from secondary victimisation?	The victims testified during the investigation phase. Protection mechanisms were not used and the victims were not put under a scheme to avoid secondary victimisation ⁽⁵⁶⁸⁾ .
	Were there any problems/issues pertaining to the collection of evidence?	Information on the pre-trial phase was not identified.

⁽⁵⁶⁷⁾ Information obtained through stakeholder consultation (February 2014).

⁽⁵⁶⁸⁾ Information obtained through stakeholder consultation (February 2014).

Court proceedings	Was the victim required to testify in court? If yes, what effect is the witness testimony perceived to have had on the successful prosecution of the offenders?	Yes. Most of the 35 victims testified in court ⁽⁵⁶⁹⁾ . The initially proposed interpreters were not accepted by the victims' side as one spoke Urdu that the victims did not understand, while the other who knew Bengali (Bangla dialect), was also a proposed defence witness ⁽⁵⁷⁰⁾ . The court finally appointed a different interpreter who spoke Bengali. The court did not find there was enough evidence to establish the concept of vulnerability ⁽⁵⁷¹⁾ . Most of the victims testified in court as witnesses of civil defence, in the defendants' presence. Parts of the victims' testimonies from the investigation phase were also read in court ⁽⁵⁷²⁾ .
	If the victim testified in court, did he/she do so in camera, in the courtroom (in the defendant's presence) or the court used the victim's testimony during the investigation phase?	In the Greek penal system and according to judicial practice, the victims usually submit a request to become a civil claimant ('δελωσών παράδοσος πολιτικής αγωγής'), in which case they are equipped with greater enforcement powers – and not just as simple witnesses. The fee for becoming a civil claimant is EUR50 ⁽⁵⁷³⁾ . In the Manolada case the victims (35 workers) launched such civil action within the criminal proceedings and requested EUR50 for moral damage ⁽⁵⁷⁴⁾ .
	Did the victim seek compensation for the damages suffered (e.g. by constituting himself/herself as a civil claimant)? If yes, did he/she receive support by the State (e.g. legal representation/legal aid)?	The award of this amount does not exclude the possibility of victims to seek full compensation before civil courts. In fact, this constitutes a very common practice, according to which only a symbolic compensation claim is launched within the criminal proceedings, in order for the victim to obtain the status of a party to the trial ⁽⁵⁷⁵⁾ . The transcript of the trial reflect that the request to become a civil claimant referred only to the offence of dangerous bodily injury and did not cover the act of THB for forced labour ⁽⁵⁷⁶⁾ .
	What type of evidence was submitted to the court? Where there any issues with the admissibility of evidence?	Documents, the victims' testimonies from the pre-investigation and investigation phase, photographs, videos, forensic reports, expert opinions, witness testimonies, pleas of the defendants ⁽⁵⁷⁷⁾ . There was an objection from the side of the defence concerning the admissibility of a video showing the businessman discussing with some of the victims as regards non-payment of wages, but it was withdrawn and the court took it under consideration ⁽⁵⁷⁸⁾ .

⁽⁵⁶⁹⁾ Information obtained through stakeholder consultation (February 2014).

⁽⁵⁷⁰⁾ Information obtained through stakeholder consultation (February 2014).

⁽⁵⁷¹⁾ Information obtained through stakeholder consultation (February 2014).

⁽⁵⁷²⁾ Information obtained through stakeholder consultation (February 2014).

⁽⁵⁷³⁾ Article 62 of the Greek Penal Procedure Code (PPC), as amended by Ministerial Decision 123826/22.11.2009, Government Gazette B'1990/2009.

⁽⁵⁷⁴⁾ Information obtained through stakeholder consultation (February 2014).

⁽⁵⁷⁵⁾ Information obtained through stakeholder consultation (February 2014).

⁽⁵⁷⁶⁾ Information obtained through stakeholder consultation (February 2014).

⁽⁵⁷⁷⁾ Information obtained through stakeholder consultation (February 2014).

⁽⁵⁷⁸⁾ Information obtained through stakeholder consultation (February 2014).

Delivery of the court judgment	How long did it take for the court to issue its judgment (for first instance cases, from the prosecution, for second and third instance cases, from the day the appeal was filed)?	After the completion of the investigation, the first instance decision of the Board of Misdemeanours' of Amaliada (Πρωτοβάθμιο Βούλευμα Συμβουλίου Πλημμελειοδικών Αμαλιάδας) was issued on January 2014. The second instance decision of the Board of Appeals' of Patras (Δευτεροβάθμιο Βούλευμα Συμβουλίου Εφετών Πατρών), was issued on April 2014 ⁽⁵⁷⁹⁾ .
	Was the defendant found innocent/guilty? If he/she was found innocent, was it due to procedural grounds or because the evidence presented was insufficient not substantiate his guilt?	Court proceedings started on 6 June 2014 and ended on 30 July 2014 with the delivery of the judgment ⁽⁵⁸⁰⁾ . All defendants were found innocent for the unlawful act of THB for forced labour on the basis of Article 323A (CCP). The court did not find there was enough evidence to establish the concept of vulnerability. ⁽⁵⁸¹⁾
	Was the victim awarded compensation for damages/moral pain and suffering? What was the court's reasoning?	The victims were awarded compensation on the basis of their request for civil action within the criminal proceedings (EUR 50 each from each defendant that was found guilty for each one of the 35 victims for moral damage) ⁽⁵⁸²⁾ .
Victim support	Did the victim receive any kind of support by public authorities (e.g. social workers)/NGOs?	The victims were legally represented at the pre-trial stage and during the court proceedings by two NGOs, namely the Greek Council for Refugees and the Hellenic League for Human Rights. The victims were granted residence permits as victims of THB ⁽⁵⁸³⁾ . No other kind of support was offered by public authorities.
Resources (financial and human resources)		General, inherent inefficiencies of the national public administration system have intensified during the crisis in Greece. The negative effects of austerity measures aiming to drastically reduce public spending have also interfered with the adequacy of staff as regards police and prosecution services. Labour Inspectorate services also face serious constraints due to the limited resources and increased flows of irregular immigrants. However, even before the current economic crisis, a clear strategy did not seem to have been formulated, particularly as regards prosecution structures for the phenomenon of THB for forced labour. In this case the resources inefficiencies were probably exacerbated by the fact that the case developed in an area outside the country's major urban centres ⁽⁵⁸⁴⁾ .
Role of labour inspectors		Information on the role of labour inspectors was not identified. On the day of the incident the Minister of Labour issued an urgent command for the Labour Inspectorate to also visit the region and investigate the case ⁽⁵⁸⁵⁾ .
Case study source		National and international media sources. Interview with lawyer.

⁽⁵⁷⁹⁾ Information obtained through stakeholder consultation (February 2014).

⁽⁵⁸⁰⁾ Kathimerini newspaper, 'The judgment and the future of immigrants in Manolada' (Η δικαστική απόφαση και το μέλλον των μεταναστών στη Μανωλάδα), 27/2013, available at: <http://www.kathimerini.gr/778415/gallery/epikairothta/ereynes/h-dikaslikh-apofash-kai-to-mellon-twn-metanastwn-sth-manolada> (see timeline of the case provided in the article).

⁽⁵⁸¹⁾ Information obtained through stakeholder consultation (February 2014).

⁽⁵⁸²⁾ Information obtained through stakeholder consultation (February 2014).

⁽⁵⁸³⁾ Information obtained through stakeholder consultation (February 2014).

⁽⁵⁸⁴⁾ Information obtained through stakeholder consultation (February 2014).

⁽⁵⁸⁵⁾ To Vima newspaper, 'Eight foreign workers shot and seriously injured in Manolada for asking six months pay – Perpetrators still not arrested – Labour Centre of Amaliada speaks of 'labour slavery' – 37 year-old arrested for harboring a criminal.' (Πυροβολισμοί και τραυματίσμοι εργάτες στη Μανωλάδα ΗΧΕΙΟς γιατί ζήτησαν τα δεδουλευμένα 5 μηνών Ασύλληπτοι οι δράστες – Το Εργατικό Κέντρο Αμαλιάδας οκλαβάει «εργασιακό οκλαβάει» - 37χρονος για υποβολή ενόρκια), 16.3.2012, available at: <http://www.tovima.gr/society/article/?aid=508389>

FINLAND

Case study 1: FI-001-1

Summary of the case	Unofficial summary: This was the first ever prosecution for THB for forced labour. The prosecutor accused two defendants for THB for forced labour and alternatively for extortionate work discrimination. There was one alleged victim. The case concerned working in an ethnic restaurant. The victim lived in accommodation organised by the defendants. He was subject to long working hours, 12 hour days during week days, 10 hour days during weekends and low pay (he was not even paid every month). The victim had a bank account but also the defendants had access to it. The victim was threatened by the defendants, e.g. death threats and subjected to physical abuse. The Court acquitted the defendants for all charges.		
Competent Court	Pohjanmaa District Court, first instance		
Legal provision applied	Criminal Code, Section 25(3)		
Sentence/compensation awarded	Not guilty		
Date/period of forced labour (month/year)	Two years and one month: 15 August 2004 until 16 September 2006		
Profile of the victim(s) <i>(e.g. country of origin, gender, age, occupation of the victim prior to the incident of forced labour)</i>	<i>Country of origin</i>		Vietnamese – 1 victim
	<i>Gender</i>		Male
	<i>Age</i>		
	<i>Sector</i>		Ethnic restaurant
	<i>Migratory status</i>		Initially entered with a tourist visa, then no record of the employment or residence permits.
How was the victim recruited and how did they come to be in the situation of forced labour?	<i>Knowledge of local language</i>		None.
Elements of vulnerability	The victim was recruited directly by the defendants in Vietnam and brought to Finland.		
	According to the victim testimony: Not too poor background, had finished high school and worked previously in Vietnam The victim was indebted to the defendants for them bringing him to Finland and for dowry money for a wife who was introduced by the defendants to him.		
	The victim reported the offence to the authorities (e.g. the police, labour inspectorate) himself/herself		X – the victim approached the police.
Identification/reporting of offences	The authorities began the investigation ex officio		
	The case was brought to the attention of the authorities by an association/NGO		
	Other (please specify)		

Criminal investigation	Which authority/unit was responsible for the criminal investigation of this case?	No information identified.
	How long after the victim started being subject to forced labour did the criminal investigation of the matter begin?	No information identified.
	What was the length of the investigation?	No information identified.
	What were the difficulties in the bringing this case to the court?	No information identified.
	Was the victim required to testify at the pre-trial stage of the proceedings? If yes, did the authorities use any mechanisms to protect the safety of the victim (e.g. via a witness protection programme) or protect him/her from secondary victimisation?	No information identified.
Court proceedings	Were there any problems/issues pertaining to the collection of evidence?	This case was prosecuted as human trafficking for forced labour but failed as to all aspects at the District Court. The main challenge in the case was that the alleged perpetrator or defendant was not detained during the process. There were threats against the alleged victim, and the defendant could influence the victim during the process as he was not detained. This case taught particularly how to run the proceedings in the human trafficking cases (stakeholder interview – prosecutor, Pohjanmaa).
	Was the victim required to testify in court? If yes, what effect is the witness testimony perceived to have had on the successful prosecution of the offenders?	Yes. The testimony was, however, set against other witness testimonies. The Court did not find all the elements of the testimony believable.
	If the victim testified in court, did he/she do so in camera, in the courtroom (in the defendant's presence) or the court used the victim's testimony during the investigation phase?	No. The victim testified with the other witness.
	Did the victim seek compensation for the damages suffered (e.g. by constituting himself/herself as a civil claimant)? If yes, did he/she receive support by the State (e.g. legal representation/legal aid)?	Yes, for both unpaid wages and mental suffering.
	What type of evidence was submitted to the court? Where there any issues with the admissibility of evidence?	<p>Written evidence:</p> <ul style="list-style-type: none"> • Letter to the victim's mother • Telephone bills • Photos • Work decision • Pay slips • Union restaurant wages • Lillqvist's letters to the police <p>Witness testimonies:</p> <ul style="list-style-type: none"> • Victim • Defendants • 5 other material witnesses

Delivery of the court judgment	How long did it take for the court to issue its judgment (for first instance cases, from the prosecution, for second and third instance cases, from the day the appeal was filed)?	7 months: The proceedings were brought to the Court on 2 September 2009 and the Court reached its Decision on 30 April 2010.
	Was the defendant found innocent/guilty? If he/she was found innocent, was it due to procedural grounds or because the evidence presented was insufficient not substantiate his guilt?	Not guilty. The Court did not find THB established: <ul style="list-style-type: none"> • The victim had come to Finland on his own volition, even if he was helped here by the defendants; • This was the second time the victim had entered into a work relation with the defendants; • The victim was not under the defendants' control: he was free to come and go; • It was not proven that the days were as long as claimed by the victim; • The victim still had control over his own passport and his own bank account
	Was the victim awarded compensation for damages/moral pain and suffering? What was the court's reasoning?	No - because the defendants were found not guilty.
Victim support	Did the victim receive any kind of support by public authorities (e.g. social workers)/NGOs?	Legal aid was granted.
Resources (financial and human resources)	Stakeholder interview – Prosecutor:	
	More resources are needed especially in relation to the interpretation services – one interpreter at the court can work only for 15 minutes at the time. Furthermore, the interpreters should have their own place at the court, separate from the prosecution or defence, preferably their own cubicle, to show that they are separate and independent from the parties and the proceedings. As there are so many cultural issues in these cases, a cultural interpreter could be appointed. This interpreter might be able to explain better the cultural differences both to the Finnish authorities and parties, as well as to the Finnish position to the victims. This kind of cultural interpretation should be included also in the police investigation to help the police on how to approach the persons coming from a particular culture, how to treat them.	
Role of labour inspectors	The labour inspector did not have a role in this case.	
Case study source	Court transcript	
	Interview with prosecutor	

Case study 2: FI-002-2

Summary of the case	Unofficial summary: This case is an appeal from the District Court of Varsinais-Suomi. The District Court did not convict the defendants of THB for forced labour but convicted the defendants for aggravated extortion and discriminate work discrimination with respect to several victims. One of the victims appealed to the Appeal Court in order to change the conviction for aggravated extortion to THB for forced labour.	
Competent Court	Turku Appeal Court, second instance	
Legal provision applied	Criminal Code, Section 25(3) – THB for forced labour	
Sentence/compensation awarded	Appeal Court: found the defendants not guilty of THB for forced labour, but upheld the conviction for aggravated extortion.	
	Imprisonment for three and half years for the several crimes committed – not simply for the aggravated extortion.	
	Compensation for unpaid wage was lowered by the Appeal Court	
	The victim, who appealed to change the conviction to THB for forced labour received more compensation: For unpaid wages the Appeal Court awarded EUR 26 704.42, plus interest, instead of EUR 25 168.63. This includes also holiday pay that was not paid by the defendant.	
Date/period of forced labour (month/year)	The Appeal Court also raised the amount awarded for mental suffering from EUR 1 000 to EUR 4 000.	
	The Appeal Court considered that the financial benefit that the defendant had gained from the aggravated extortion was particularly great, and had caused for the victim considerable injury or damage.	
	The appellant was working for the defendant between March 2008 and August 2008, and again between March 2009 and February 2010. On 2 February 2010, the appellant was fired.	
	Country of origin	Iran
Profile of the victim(s) (e.g. country of origin, gender, age, occupation of the victim prior to the incident of forced labour)	Gender	Male
	Age	Born: 12 August 1982
	Sector	Restaurant
	Migratory status	Asylum seeker
How was the victim recruited and how did they come to be in the situation of forced labour?	Knowledge of local language	None – only what was needed to give service at the shop
	The appellant was smuggled to Finland the first time from Greece. The Court did not accept that there was enough evidence to show that the defendant had organised the trip and sent him the travel money.	
Elements of vulnerability	Claims at the Appeal Court: indebted to the defendant, restricted to work and home (told not to go anywhere else), long working hours (from 6.30 until closing of the shop, after that in restaurant until 19.30), no knowledge of the local language or conditions, residing in a reception centre for refugees and supported by the Finnish government social security benefits for refugees.	

Identification/reporting of offences	The victim reported the offence to the authorities (e.g. the police, labour inspectorate) himself/herself	X – the victim approached the police.
	The authorities began the investigation ex officio	
	The case was brought to the attention of the authorities by an association/NGO	
	Other (please specify)	
	Which authority/unit was responsible for the criminal investigation of this case?	Border police, the border guard for Western Finland, crime prevention unit.
Criminal investigation	How long after the victim started being subject to forced labour did the criminal investigation of the matter begin?	Around three years.
	What was the length of the investigation?	Around one year. The investigation started in Spring 2011 and ended in March 2012. There have been several additional investigations in this case which have taken place even at the appeal stage.
	What were the difficulties in the bringing this case to the court?	See comments below.
	Was the victim required to testify at the pre-trial stage of the proceedings? If yes, did the authorities use any mechanisms to protect the safety of the victim (e.g. via a witness protection programme) or protect him/her from secondary victimisation?	Yes, the victims were interviewed at the pre-trial stage.
	Were there any problems/issues pertaining to the collection of evidence?	Stakeholder interview – special attorney for victims: The case did not result in a conviction of THB for forced labour as there was not enough evidence on how the victim entered into country, what was the role of the defendant and what the victims' working times were in Finland.

Court proceedings	Was the victim required to testify in court? If yes, what effect is the witness testimony perceived to have had on the successful prosecution of the offenders?	Yes, the victims were required to testify at the Appeal Court.
	If the victim testified in court, did he/she do so in camera, in the courtroom (in the defendant's presence) or the court used the victim's testimony during the investigation phase?	No, the victims testified in open court. The applicant was in safe housing provided by the Border Guards, and he was accompanied by the guards to help with the testimony.
	Did the victim seek compensation for the damages suffered (e.g. by constituting himself/herself as a civil claimant)? If yes, did he/she receive support by the State (e.g. legal representation/legal aid)?	Yes, to both questions. See above convictions and compensation.
	What type of evidence was submitted to the court? Where there any issues with the admissibility of evidence?	<p>Evidence presented at the Appeal Court:</p> <ul style="list-style-type: none"> • Written evidence: • Photographs of the calendars • Bank records and pay slips • Tax records • Employment agreements and records • Rental agreements • Mobile phone bills • Bus card usage records, • Building records • Social security records on victims • Asylum applications of the victims • Residence and work permit applications • Phone tapping evidence • Inspection reports • Police investigation requests • Video recordings of the statements • Pre-trial records • 65 witnesses were also heard (this includes the victim testimonies)

Delivery of the court judgment	How long did it take for the court to issue its judgment (for first instance cases, from the prosecution; for second and third instance cases, from the day the appeal was filed)?	Each case took approximately one year: The case was brought to the District Court on 30 March 2012 The District Court reached its decision on 22 March 2013 The Appeal Court made its final decision on 10 March 2014 Not guilty of THB for forced labour. The Appeal Court found that it was not possible to establish that the victim was recruited and kept in circumstances according to the requirements set out in the THB legislation. In particular, the Court did not find that the victim had been recruited for forced labour and his living conditions were adequate. Rather, the defendant was convicted for extortionate work discrimination – there was enough evidence to prove that the defendant had abused the situation, especially the lack of financial means by the victim, and his lack of knowledge of the Finnish labour laws, benefits and rights of employees.
	Was the defendant found innocent/guilty? If he/she was found innocent, was it due to procedural grounds or because the evidence presented was insufficient not substantiate his guilt?	Yes. The Appeal Court upheld the District Court's decisions to award the victims compensation for mental suffering (for the offence of extortionate work discrimination).
	Was the victim awarded compensation for damages/mor-al pain and suffering? What was the court's reasoning?	Yes, the victims were taken into the Joutseno victim support system.
Victim support	Did the victim receive any kind of support by public authorities (e.g. social workers)/NGOs?	
Resources (financial and human resources)	This was a very large case. Therefore, the investigation was lengthy and demanding on resources. Nevertheless, prosecution brought the case for THB for forced labour.	
	However, due to the breadth of this case – this case also included tax and food handling aspects – less attention could be paid for individual circumstances of the victims. This type of more precise investigation is easier in smaller cases, where there are not quite so many victims. For instance, the evidence on the victims' working time was never gathered at the investigation stage. It is difficult to say whether this is due to lack of resources or investigators not realising well how to investigate and gather evidence in the THB for forced labour cases (stakeholder interview: special attorney for victims).	
Role of labour inspectors	The labour inspectors were involved in the trial – there is no more specific record of their involvement.	
Case study source	Court reports Interview with a judge and lawyers.	

Case study 3: FI-003-1

Summary of the case	Unofficial summary: This is a case from the Pohjanmaa District Court. There were seven victims, all Vietnamese. The accused were two persons and a firm that employed the victims. The case concerned working in a glasshouse. The District Court convicted the defendants of aggravated extortion and assault rather than THB for forced labour. This case was appealed to the Appeal Court (Vaasa), which made its decision on 2 February 2015. The Appeal Court upheld the District Court's decision and convicted the defendant for aggravated extortion and assault.	
Competent Court	Pohjanmaa District Court, first instance	
Legal provision applied	Criminal Code, Section 25(3) And, alternatively to the THB for forced labour, Criminal Code, Section 36(17) aggravated extortion conjoined with charge for assault or grievous bodily harm, Criminal Code, Section 21(5)(1)	
Sentence/compensation awarded	The Court did not find the defendants guilty of THB for forced labour. The Court convicted the defendants for aggravated extortion and assault. One year of imprisonment.	
Date/period of forced labour (month/year)	4 years and one month: from 1 September 2009 until 9 October 2012. The victims were also awarded damages.	
Profile of the victim(s) (e.g. country of origin, gender, age, occupation of the victim prior to the incident of forced labour)	Country of origin	Vietnamese
	Gender	2 men and 5 women
	Age	
	Sector	Glasshouse - vegetable
	Migratory status	Regular
How was the victim recruited and how did they come to be in the situation of forced labour?	Knowledge of local language	No
	One of the defendants, who is also Vietnamese, had directly recruited the victims. The victims were promised secure jobs and better pay than in Vietnam. The employer told the victims that there would be costs for bringing them to Finland, EUR 5 000 to 9 500. It was possible to loan this money from the defendant. The victims were also provided opportunities to pawn or sell their possessions. There were therefore grave economic consequences for the victims.	
Elements of vulnerability	The victims were impoverished or indebted to the employers. The victims were in almost complete isolation. The victims were forbidden to be in contact with any other persons than the employers. The employer threatened with the return of the victims back to Vietnam if they did not do as told.	
	The victim reported the offence to the authorities (e.g. the police, labour inspectorate) himself/herself	
	The authorities began the investigation ex officio	
	The case was brought to the attention of the authorities by an association/NGO	
	Other (please specify)	X – the case was brought to the attention of the police by general public

Criminal investigation	Which authority/unit was responsible for the criminal investigation of this case?	Police
	How long after the victim started being subject to forced labour did the criminal investigation of the matter begin?	Information not identified.
	What was the length of the investigation?	Information not identified.
	What were the difficulties in the bringing this case to the court?	Information not identified.
	Was the victim required to testify at the pre-trial stage of the proceedings? If yes, did the authorities use any mechanisms to protect the safety of the victim (e.g. via a witness protection programme) or protect him/her from secondary victimisation?	Yes, the victims were required to give the pre-trial testimonies.
Court proceedings	Were there any problems/issues pertaining to the collection of evidence?	Information not identified.
	Was the victim required to testify in court? If yes, what effect is the witness testimony perceived to have had on the successful prosecution of the offenders?	<p>Yes, victims were required to testify in court. The Court used these testimonies to establish the situation of the victims in Vietnam and in Finland to establish whether the conditions for human trafficking were present. They testified for the following:</p> <ul style="list-style-type: none"> • Living situation in Vietnam • The working conditions and pay in Finland • Living conditions and their economic situation • How they had arrived to Finland, what were the different options available for them • How they were dependent on the defendant for their situation in Finland. What were the consequences of the costs incurred on the transport to Finland for the victims and their families
	If the victim testified in court, did he/she do so in camera, in the courtroom (in the defendant's presence) or the court used the victim's testimony during the investigation phase?	Information not identified.
	Did the victim seek compensation for the damages suffered (e.g. by constituting himself/herself as a civil claimant)? If yes, did he/she receive support by the State (e.g. legal representation/legal aid)?	Information not identified.
	What type of evidence was submitted to the court? Where there any issues with the admissibility of evidence?	<ul style="list-style-type: none"> • The defendant's telephone details • Text messages • Bank account details • Information on the condition of the victims in Vietnam • Work time sheets • Pay slips • The firm's books

Delivery of the court judgment	How long did it take for the court to issue its judgment (for first instance cases, from the prosecution; for second and third instance cases, from the day the appeal was filed)?	20 and half months. The proceedings were brought to the Court on 16 November 2012 and the Court made its decision on 3 October 2013.
	Was the defendant found innocent/guilty? If he/she was found innocent, was it due to procedural grounds or because the evidence presented was insufficient not substantiate his guilt?	The defendant was found guilty for alternative charges of aggravated extortion and assault. According to the Court there was not enough evidence to establish the THB for forced labour. The Court in particular did not consider that the victims were placed in an inhumane situation. The Appeal Court agreed with the District Court. One judge left a dissenting opinion holding that THB for forced labour was proven.
	Was the victim awarded compensation for damages/moral pain and suffering? What was the court's reasoning?	The victims were awarded damages, between EUR 7 000 and EUR 9 500.
Victim support	Did the victim receive any kind of support by public authorities (e.g. social workers)/NGOs?	They were entitled to legal aid.
Resources (financial and human resources)	The comments made in the earlier case (number 1) apply to this case too. The same stakeholder was interviewed with respect to both cases.	
Role of labour inspectors	No role identified.	
Case study source	The court reports Interview with a prosecutor.	

Case study 4: FI-004-1

Summary of the case	Unofficial summary: This is the so-called "Nail Studio" case. The victims were brought from Vietnam to Finland to work in a nail studio. They were not paid any salary while working for the defendants. One victim had also been forced to help at the home of the defendants with their children, cleaning the house and making breakfast and dinner. The Court found the defendants responsible for THB for forced labour. It was established in this case that the defendants had intended to exploit the victims, victims were misled, and the victims were in a vulnerable situation.	
Competent Court	The defendants appealed to the Appeal Court, but the Appeal was withdrawn.	
Legal provision applied	Helsinki District Court – first instance	
Sentence/compensation awarded	Criminal Code, Section 25 (3) – THB for forced labour The defendants were convicted for two years and four months in prison (probational sentence). The compensation for unpaid wages and mental suffering was separated early on from the criminal trial. After the appeal was withdrawn, the parties agreed on the compensation awards. There is no public record of this agreement.	
Date/period of forced labour (month/year)	The forced labour started in December 2010, and with respect to Thang the work started in November 2011. Work lasted until 2 December 2011.	
Profile of the victim(s) (e.g. country of origin, gender, age, occupation of the victim prior to the incident of forced labour)	Country of origin	Two victims, both Vietnamese.
	Gender	One male and one female victim.
	Age	Not known
	Sector	Nail salon
	Migratory status	Regular
How was the victim recruited and how did they come to be in the situation of forced labour)	Knowledge of local language	No. They also did not speak any English.
	The first victim was recruited through family contacts. She was asked to come to Finland to work on nails, she was told that she would be able to get wealthy there, and support her family. The negotiations were held with the first victim's cousin, who was one of the mothers of one of the defendants (Han's). The second victim was recruited to come and help the Nail Studio after it was discovered that the first victim was pregnant. The first victim recommended his employment to the defendants. Thang is the father of the first victim's child. The defendants negotiated with Thang about coming to Finland without the victim. Thang ended up paying 300 000 000 (three hundred million) Vietnamese dong to one of the defendants' mother for organising the transport and work in Finland. This was part of the EUR 25 000 that was requested from Thang.	

Elements of vulnerability	<p>The victim – the Court held that she was in particular in a vulnerable position because:</p> <ul style="list-style-type: none"> • Of her relationship with the accused – they were family members; • Her pregnancy, which had started before coming to Finland; • She was living with the defendant; • She did not know anyone apart from the defendants and their employees in Finland; • She did not speak any Finnish or English; • She was also told that since her arrival had incurred costs for the defendants, she was now indebted to them. <p>Thang was held to be in a vulnerable position because:</p> <ul style="list-style-type: none"> • He was indebted to his employees; • The victim was pregnant with his child, and she was held by the defendants and not being paid by them, and • He did not know any Finnish, Swedish or English. 	
	The victim reported the offence to the authorities (e.g. the police, labour inspectorate) himself/herself	
Identification/reporting of offences	The authorities began the investigation ex officio	
	The case was brought to the attention of the authorities by an association/NGO	
Criminal investigation	Other (please specify)	The victim's friend approached the police.
	Which authority/unit was responsible for the criminal investigation of this case?	Helsinki police.
	How long after the victim started being subject to forced labour did the criminal investigation of the matter begin?	Almost one year. The authorities were involved in late Autumn in 2011.
	What was the length of the investigation?	Around three – four months. The investigation started in late Autumn in 2011 and the proceedings were brought to the Court on 14 March 2012.
	What were the difficulties in the bringing this case to the court?	There were no reported problems. The defendants were detained throughout the procedure and this helped to organise a speedy trial.
	Was the victim required to testify at the pre-trial stage of the proceedings? If yes, did the authorities use any mechanisms to protect the safety of the victim (e.g. via a witness protection programme) or protect him/her from secondary victimisation?	Yes, there is a record of the pre-trial interviews with regard to both of the victims. No known safety measures.
	Were there any problems/issues pertaining to the collection of evidence?	No.

	Was the victim required to testify in court? If yes, what effect is the witness testimony perceived to have had on the successful prosecution of the offenders?	Yes. This was essential, the victim testimonies together with the corroborating witness testimonies and written evidence were used by the Court to establish that the victims were not paid, they were threatened by the defendants, subjected to long working hours, indebted to the defendants, and made to help the defendants and their family at home. The victims were brought to the victim support system, which organised safe housing, transportation and they were given the possibility to give testimony without the defendants being present – which they did not use (testimony was provided behind protective screens but with defendants present at the Court).
	If the victim testified in court, did he/she do so in camera, in the courtroom (in the defendant's presence) or the court used the victim's testimony during the investigation phase?	The victims were heard in the same court room where the defendants were present, but they were behind a protective screen.
Court proceedings	Did the victim seek compensation for the damages suffered (e.g. by constituting himself/herself as a civil claimant)? If yes, did he/she receive support by the State (e.g. legal representation/legal aid)?	Yes, the victims sought compensation for unpaid wages and mental suffering. See above with respect to the awards. The State paid the legal assistance of the victims. The defendants were held responsible also for these fees.
	What type of evidence was submitted to the court? Where there any issues with the admissibility of evidence?	<ul style="list-style-type: none"> • Victim and witness testimonies • Written evidence: • Telephone intercepts • The applications for residence and work permits • Bank statements and Forex transfer statements • Pre-trial interview statements
Delivery of the court judgment	How long did it take for the court to issue its judgment (for first instance cases, from the prosecution; for second and third instance cases, from the day the appeal was filed)?	16 days. The case was brought to the Court on 14 March 2012 and the Court issued its decision on 30 March 2012.
	Was the defendant found innocent/guilty? If he/she was found innocent, was it due to procedural grounds or because the evidence presented was insufficient not substantiate his guilt?	Both defendants were found guilty of THB for forced labour.
	Was the victim awarded compensation for damages/moral pain and suffering? What was the court's reasoning?	Yes, both victims were awarded compensation for mental suffering. The victim requested EUR 20 000 and was awarded EUR 15 000. Thang requested EUR 7 000 and was awarded EUR 5 000. This is what the Court deemed reasonable considering the circumstances of the case and the treatment of the victims (no further reasoning for awarding this amount was provided).
Victim support	Did the victim receive any kind of support by public authorities (e.g. social workers)/NGOs?	Yes, they had a special legal assistant assigned to the case, who was specifically looking after their needs. Furthermore, the victims were brought into the victim assistance system.
Resources (financial and human resources)		
Role of labour inspectors	None.	
Case study source	Court reports Interview with lawyers.	

Case study 5: FI-006-1

Summary of the case	Unofficial summary: This case related to the operation of three ethnic restaurants in Finland. The perpetrators (two) and victims (10) were from Vietnam. The District Court found in favour of prosecution and convicted the defendants for THB for forced labour in eight cases and for extortionate work discrimination in two cases.	
Competent Court	Pirkanmaa District Court, first instance	
Legal provision applied	Criminal Code, Section 25(3) – THB for forced labour	
Sentence/compensation awarded	<p>Both defendants were sentenced for:</p> <ul style="list-style-type: none"> • six years and 10 months imprisonment • Business prohibition for the period of four years • In addition, compensation was awarded for all victims for unpaid wages and mental suffering. The sums varied between EUR 228 881.65, with interest, and EUR 9 885.61, with interest, for unpaid wages, and between EUR 35 000, with interest, and EUR 8 000, with interest, for mental suffering. These latter calculations were based on two considerations: first for the duration of the criminal activity and vulnerability of the victims (see below), and second, on compensating the victims in an equal way (all claimants with smaller claims received EUR 8 000 for mental suffering). 	
Date/period of forced labour (month/year)	The first case started on 27 November 2006, and the operation was brought to an end on 24 January 2012.	
Profile of the victim(s) (e.g. country of origin, gender, age, occupation of the victim prior to the incident of forced labour)	Country of origin	10 victims – all Vietnamese, two of these victims were Chinese-Vietnamese
	Gender	Both male and female Male – six Female – four (wives of the male victims)
	Age	Adults, with families, one young male victim (not a minor) – son of one couple who were also victims.
	Sector	Ethnic restaurants
	Migratory status	Regular
How was the victim recruited and how did they come to be in the situation of forced labour?	Knowledge of local language	No – only Vietnamese, two could speak also Chinese (Mandarin) and one victim could speak a little English. Some families' children learned Finnish during the stay in Finland
	The employers recruited the victims directly from Vietnam. First the men were recruited and then they brought their wives and families later (two years later) with them. One of the victims knew the employers' family in Vietnam, the contract was made there.	

Elements of vulnerability	<ul style="list-style-type: none"> The employers gave loans for the victims to get to Finland, to get an apartment, to visit Vietnam. Poor family background – e.g. when employees wanted to leave or go back, they were told that they would not be able to provide a better future for their children No knowledge of the Finnish laws and conditions – e.g. the victims were told that they could not leave employment if the employee was indebted to the employer, or allowed to change employers at all, the employer could send the employee back and employees should feel gratitude towards the employers. The victims worked long days with few days off. They were threatened with deportation if victims did not obey the employers. The employers told the victims that it was not wise to contact the locals, including local Vietnamese and there may be trouble if the victims did that. Most of the victims were living with their employers at first. They subsequently lived in the housing organised by the employers. The victims were paid in their bank accounts, but later the employers asked for some money back. Some victims were related to employers, including one niece of the defendants. With regard to two of the victims it was not possible to establish the unsafe and dependant position of the victim – in this case the victims were in Finland because of the choice to stay with her husband rather than because they were dependent on the defendants. 	
	The victim reported the offence to the authorities (e.g. the police, labour inspectorate) himself/herself	
Identification/reporting of offences	The authorities began the investigation ex officio	
	The case was brought to the attention of the authorities by an association/NGO	
Criminal investigation	Other (please specify)	X - The general public notified the police – the police was contacted by bystanders. After this the police started an investigation into the operations of the defendants. Later, one of the victims joined in the investigation and helped the police.
	Which authority/unit was responsible for the criminal investigation of this case?	Police
	How long after the victim started being subject to forced labour did the criminal investigation of the matter begin?	No information identified.
	What was the length of the investigation?	No information identified.
	What were the difficulties in the bringing this case to the court?	None identified
	Was the victim required to testify at the pre-trial stage of the proceedings? If yes, did the authorities use any mechanisms to protect the safety of the victim (e.g. via a witness protection programme) or protect his secondary victimisation?	Yes, the victims were interviewed by the authorities at the pre-trial stage.
	Were there any problems/issues pertaining to the collection of evidence?	None identified

Court proceedings	Was the victim required to testify in court? If yes, what effect is the witness testimony perceived to have had on the successful prosecution of the offenders?	<p>Yes. The witness testimonies by the victims were crucial to the success of the case. The Court referred to these testimonies, their consistencies and inconsistencies in its conclusions to establish the key components of the human trafficking</p> <ul style="list-style-type: none"> • Whether the victims were misled to enter into the employment – the Court decided, yes, with regard to the length of the working days and days off; • Whether the victims were made to do the house work for the defendants, their employers – the Court decided again yes; • Whether it can be established that the victims were paid, and whether the housing and other maintenance support can constitute pay – the Court decided it was not the case here, since the accommodation was very crowded and there was no other purpose for it than to provide a place to sleep in; • What was the relationship between the victims and the defendants, to establish whether they were related to each other, or otherwise dependent on their employers – the Court decided that this was the case, since all the testimonies showed that there was a relationship with the defendants, the victims did not know any local languages (or English), they were told that it was not wise to contact outsiders, and the defendants were taking all the mail that was arriving to the victims; • Whether the victims were indebted to the defendants; • Whether the victims had any real options or choices that they could make: the Court accepted the testimonies that the victims would be sent back to Vietnam unless they obeyed the defendants.
	If the victim testified in court, did he/she do so in camera, in the courtroom (in the defendant's presence) or the court used the victim's testimony during the investigation phase?	Yes, there were damages awarded to the victims for mental suffering (see above)
	Did the victim seek compensation for the damages suffered (e.g. by constituting himself/herself as a civil claimant)? If yes, did he/she receive support by the State (e.g. legal representation/legal aid)?	Written evidence: tax reports, tax declarations (business income, employment income, VAT), business operation reports, calculation of the unpaid wages that is applied for restaurant services, service labour union wage calculations, working time calculations by the police, bank slips, EU Parliament conclusions on human rights situation in Vietnam, personnel records, 21 witness testimonies (including from the victims)
	What type of evidence was submitted to the court? Where there any issues with the admissibility of evidence?	Around two months. The case was brought to the District Court on 30 April 2012, and the Court made its decision on 29 June 2012.
	How long did it take for the court to issue its judgment (for first instance cases, from the prosecution; for second and third instance cases, from the day the appeal was filed)?	The defendants were found guilty of THB for forced labour with respect to eight out of 10 victims. In addition, with respect to one victim, the Court decided that it was not shown that the victim was placed in an inhumane situation, nor that the victim was misled. With respect to the final two victims, the Court decided that the defendants were guilty of extortionate work discrimination.
Delivery of the court judgment	Was the defendant found innocent/guilty? If he/she was found innocent, was it due to procedural grounds or because the evidence presented was insufficient not substantiate his guilt?	As mentioned above compensation was awarded for all victims for unpaid wages and mental suffering. The sums varied between EUR 228 881.65, with interest, and EUR 9 885.61, with interest, for unpaid wages, and between EUR 35 000, with interest, and EUR 8 000, with interest, for mental suffering. These latter calculations were based on two considerations, first for the duration of the forced labour and second, on compensating the victims in an equal way (all claimants with smaller claims received EUR 8 000 for mental suffering).

Victim support	Did the victim receive any kind of support by public authorities (e.g. social workers)/NGOs?	Yes, legal aid was granted. The victims were also taken into the Joutseno victim support system.
Resources (financial and human resources)	No issues identified.	
Role of labour inspectors	None.	
Case study source	Court reports Interview with a prosecutor.	

Case study 6: FI-007-2

Summary of the case	Unofficial summary: The District Court of Pohjanmaa had found one defendant guilty of THB for forced labour and two defendants guilty of extortionate work discrimination. The Appeal Court in Vaasa upheld the THB for forced labour conviction, but overturned the other two convictions for extortionate work discrimination.	
Competent Court	Vaasa Appeal Court – second instance	
Legal provision applied	Criminal Code, Section 25(3) – THB for forced labour	
Sentence/compensation awarded	The Appeal Court upheld the THB for forced labour conviction by the District Court.	
	District Court conviction: one defendant (Aliev) was found guilty of THB for forced labour. Sentence: three years and six months imprisonment Compensation: all victims were awarded compensation for unpaid wages and mental suffering. The awards ranged between EUR 313 and EUR 10 000 per victim for mental suffering, and between EUR 650 and EUR 17 200 for unpaid wages. The compensation had been calculated as per time and suffering exposed to. The District Court dismissed the community/association fines. The Appeal Court dismissed the penalties for extortionate work discrimination.	
Date/period of forced labour (month/year)	2 October 2008 – 9 August 2012	
Profile of the victim(s) (e.g. country of origin, gender, age, occupation of the victim prior to the incident of forced labour)	Country of origin	All victims are from Kyrgyzstan.
	Gender	All victims are male.
	Age	Not known.
	Sector	Wood work
	Migratory status	Regular
How was the victim recruited and how did they come to be in the situation of forced labour?	Knowledge of local language	None
	All victims were recruited locally, by word of the mouth. The defendant had a recruiter/contact in Kyrgyzstan.	
Elements of vulnerability	At first the victims were able to move around locally, but after a year or so, the victims were not allowed to leave the residence and place of work. They were staying at the housing organised by the defendant. The victims did not know the local languages and neither were they taught any. The defendant acted as an interpreter.	
	There was a duty of one year of employment initially. This changed into two years of required employment and the victims were threatened with a fine if they would leave earlier.	
	There is a record that the victims were indebted to the defendant.	
	The victims had no knowledge of the local labour laws, working hours or conditions.	
	The defendant confiscated the passports.	
	Initially pay was even lower than agreed – around EUR 400 per month instead of the agreed EUR 650 per month.	

Identification/reporting of offences	The victim reported the offence to the authorities (e.g. the police, labour inspectorate) himself/herself	
	The authorities began the investigation <i>ex officio</i>	X Through a foreign labour inspection.
	The case was brought to the attention of the authorities by an association/NGO	
	Other (please specify)	
	Which authority/unit was responsible for the criminal investigation of this case?	The local police unit
Criminal investigation	How long after the victim started being subject to forced labour did the criminal investigation of the matter begin?	Three years.
	What was the length of the investigation?	Around one year, see below.
	What were the difficulties in the bringing this case to the court?	
	Was the victim required to testify at the pre-trial stage of the proceedings? If yes, did the authorities use any mechanisms to protect the safety of the victim (e.g. via a witness protection programme) or protect him/her from secondary victimisation?	Yes, the victims gave statements to the police.
	Were there any problems/issues pertaining to the collection of evidence?	
Court proceedings	Was the victim required to testify in court? If yes, what effect is the witness testimony perceived to have had on the successful prosecution of the offenders?	Yes, the victims were called to testify both in the first and the second instances.
	If the victim testified in court, did he/she do so in camera, in the courtroom (in the defendant's presence) or the court used the victim's testimony during the investigation phase?	
	Did the victim seek compensation for the damages suffered (e.g. by constituting himself/herself as a civil claimant)? If yes, did he/she receive support by the State (e.g. legal representation/legal aid)?	Yes, see above the successful claims for compensation for unpaid wages and mental suffering. Yes, the victims were entitled to legal aid. It is clear from the Court records that the State paid the victims' legal fees.
	What type of evidence was submitted to the court? Where there any issues with the admissibility of evidence?	Written evidence was the same as the evidence in the first instance. This included: Kyrgyzstan country reports, photos, company register records. New evidence: report of the complaint for the police to start the investigation and new email evidence between one of the defendants and another person, wages payment slips.

Delivery of the court judgment	How long did it take for the court to issue its judgment (for first instance cases, from the prosecution; for second and third instance cases, from the day the appeal was filed)?	There was a police investigation into the premises in August 2011. This triggered some questions and investigation was started. The case was started on 23 November 2012 The District Court gave its decision on 28 January 2013. The Appeal Court reached its decision on 20 November 2013.
	Was the defendant found innocent/guilty? If he/she was found innocent, was it due to procedural grounds or because the evidence presented was insufficient not substantiate his guilt?	The Appeal Court in Vaasa upheld the THB for forced labour conviction
	Was the victim awarded compensation for damages/moral pain and suffering? What was the court's reasoning?	Yes, see above convictions and compensation. The victims made a reasonable request to the Court, and the Court could appreciate how the victims had suffered considerable losses.
	Did the victim receive any kind of support by public authorities (e.g. social workers)/NGOs?	The Joutseno victim support centre and the Vaasa reception centre were involved in helping the victims.
Resources (financial and human resources)	No issues reported.	
Role of labour inspectors	They provided evidence for the prosecution on the working conditions, pay and other benefits. The labour inspectors can inspect the work places and conduct interviews of the employees, if there is to be a criminal trial, the responsibility for the investigation will be transferred to the police or other law enforcement officials, such as border guards.	
Case study source	Court reports	
	Interview with a prosecutor.	

FRANCE

Case study 1: FR-006-2

Summary of the case	<p>S. K., the victim, was a political refugee of Cambodian origin. Between 2004 (no precise month is indicated) and January 2010, he worked in a stud farm for S. B. - and to a smaller extent her mother A. C. - without a work permit and without the authorities being informed of the situation. S. K. worked every day from 8am to 6pm, except on Sunday afternoons. He was subject to the following working conditions:</p> <ul style="list-style-type: none"> • A remuneration of EUR 100-150 per week that he spent on food. • No day of rest, no vacation. • No social benefits. • No heating in the room where the victim lived. • No medical monitoring, which resulted in the victim having to pull out one/several teeth by himself. <p>The first instance tribunal found the perpetrator guilty of imposing working conditions that were contrary to human dignity, providing insufficient remuneration and dissimulating the employment of an immigrant. However, it did not retain the offence of THB for forced labour.</p> <p>In its Decision of 18 February 2013, the Court of Appeal upheld the arguments of the Committee against Modern Slavery (CMS) and recognised the offence of THB for the purposes of forced labour.</p> <p>It confirmed the analysis of the first instance tribunal regarding the offences of imposition of working and living conditions contrary to human dignity, insufficient remuneration, and employment without a work permit. Most importantly, unlike the first instance court, it found that the THB for forced labour could be inferred from these offences.</p> <p>More specifically, the Court defined the offence of THB in light of the following requirements of Article 225-4-1 of the Criminal Code, as resulting from the 20 November 2007 law. THB is constituted when a perpetrator:</p> <ol style="list-style-type: none"> 1. Against a remuneration or another type of advantage, 2. transports, hosts, receives a person, 3. to put them at one's or someone else's disposal, 4. to subject them to working or living conditions which are contrary to human dignity.
Competent Court	<p>First instance: The first instance tribunal</p> <p>Second instance: Caen Court of Appeal</p>
Legal provision applied	<p>In the Criminal Code :</p> <ul style="list-style-type: none"> • Article 225-4-1 on THB; • Article 225-14 on working and living conditions contrary to human dignity imposed on a vulnerable person; • Articles 225-13 and 225-15-1 on insufficient remuneration; <p>In the Labour Code :</p> <p>Articles L.8251-1, L.8256-2, L.8256-3 and L.8256-4 on employment of an immigrant without work permit.</p>
Sentence/compensation awarded	<p>The Court of Appeal issued a penalty of one year of (suspended) imprisonment against S. B., the main perpetrator, in light of the seriousness of the facts, their duration and the refusal from the perpetrator to admit the offence. The first instance tribunal had condemned S.B. to a six month (suspended) prison sentence and EUR 3 000 criminal fine.</p> <p>The Court confirmed the amount of the compensation awarded by the first instance tribunal, of EUR 12 000. The Court jointly condemned S. B. and her mother A.C. S.B. and A.C. were jointly required to pay the compensation.</p>

Date/period of forced labour (month/year)	2004 - 18/01/2010	
Profile of the victim(s) (e.g. country of origin, gender, age, occupation of the victim prior to the incident of forced labour)	Country of origin	Cambodia
	Gender	Male
	Age	41 at the beginning of the commission of the offence
	Sector	Agriculture (stud farm)
	Migratory status	Political refugee, without a work permit
How was the victim recruited and how did they come to be in the situation of forced labour?	Knowledge of local language	
Elements of vulnerability	<p>The victim first worked for the defendant and her mother in the barges that they owned in Paris. Then, they brought him to Normandy without providing him with information as to the place where he would live. The victim had no means of transport there, except for a bicycle.</p> <p>The victim is described in the court decision as being "especially vulnerable", "intellectually weak" and with a poor command of the French language. In a psychiatric examination conducted on 16 April 2010, the victim was described as being intellectually disabled, regardless of the language and cultural issues. The victim was not regarded as unreliable but as someone particularly dependent and passive, in a way that would enable him to accept a potential situation of abuse.</p>	
Identification/reporting of offences	The victim reported the offence to the authorities (e.g. the police, labour inspectorate) himself/herself	No
	The authorities began the investigation ex officio	No
	The case was brought to the attention of the authorities by an association/NGO	Yes. The Commission against Modern Slavery (CMS) brought the case to the attention of the authorities. Note that prior to the Law 2013-711 of 5 August 2013 implemented Directive 2011/36/EU, there was no specific provision allowing associations addressing trafficking in human beings to intervene as a civil party. They could only rely on the general provisions set out in Article 2 of the Code of Criminal Procedure. This means that the CMS needed to prove that it suffered from a damage that was personal, certain and direct.
	Other (please specify)	This has changed with Law 2013-711 which introduced a new article 2-22 ⁽⁵⁸⁶⁾ .

⁽⁵⁸⁶⁾ According to Article 1-23 of the criminal code, 'All associations registered for at least 4 years at the date of the facts whose statutory purpose is to fight human trafficking can exercise the rights of the civil party with respect to the offences of human trafficking, slavery, abuse of a person in a situation of slavery, forced labour, servitude, as condemned by Articles 223-2 A to 223-2 C, 224-5-2 to 224-5-10, 224-15-2 and 224-15-3 of the criminal code. However, the association must receive the victim's consent. Where the victim is a minor or a protected adult, the consent must be provided by the legal representative.'

Criminal investigation	Which authority/unit was responsible for the criminal investigation of this case?	The investigation unit of Caen Gendarmerie, along with the Gendarmerie office of COB MEZIDON CANON. The COFIW provided support to those services in the course of the investigation.
	How long after the victim started being subjected to forced labour did the criminal investigation of the matter begin?	Six years. The file was transmitted to the substitute to the public prosecutor of Lisieux on 19 February 2010. A preliminary investigation was open.
	What was the length of the investigation?	Four months (25 February 2010 – 7 July 2010)
	What were the difficulties in bringing this case to the court?	The CMS found that there was some difficulty for the victim to provide a detailed description of the facts. There were special difficulties with dates and answers to some specific questions. The COFIW said it did not face specific difficulties during the investigation.
	Was the victim required to testify at the pre-trial stage of the proceedings? If yes, did the authorities use any mechanisms to protect the safety of the victim (e.g. via a witness protection programme) or protect him/her from secondary victimisation?	Yes, twice (3 March 2010 and 6 July 2010) and a confrontation with one of the suspected offenders.
	Were there any problems/issues pertaining to the collection of evidence?	No protection measure was implemented; only the presence of a member of the CMS was admitted during the 3 March 2010 hearing and during the confrontation.
Court proceedings		Unknown
	Was the victim required to testify in court? If yes, what effect is the witness testimony perceived to have had on the successful prosecution of the offenders?	Some testimonies were collected and elements on the financial situation of the suspected perpetrators were obtained, but the witnesses were not requested to provide their testimonies in court. Under French law, criminal procedure is mostly oral, so during a hearing, it is mostly the defendants who are interviewed. The victim is also questioned, but generally speaking the interview is less inquisitorial. In the case at hand, the obvious situation of vulnerability of the victim played an important role in the condemnation.
	If the victim testified in court, did he/she do so in camera, in the courtroom (in the defendant's presence) or the court used the victim's testimony during the investigation phase?	In the defendants' presence. Judges rely on the hearing in the criminal case in order to proceed with the interviews.
	Did the victim seek compensation for the damages suffered (e.g. by constituting himself/herself as a civil claimant)? If yes, did he/she receive support from the State (e.g. legal representation/legal aid)?	Yes, the victim constituted himself as a civil claimant, and was granted legal aid during the hearing.
	What type of evidence was submitted to the court? Were there any issues with the admissibility of evidence?	No information identified. Criminal procedure in France develops as follows : 1. Judges assess the accuracy of facts on the basis of the elements in the file. 2. They qualify the facts. Here, the action of the civil party resulted in the obtainment of the conviction of the mother of the perpetrator, and the introduction of the notion of THB, against the prosecutor's initial assessment of the facts.

Delivery of the court judgment	How long did it take for the court to issue its judgment (for first instance cases, from the prosecution; for second and third instance cases, from the day the appeal was filed)?	19 months. The Prosecutor decided on a first hearing on 5 October 2010. The first instance decision was issued on 5 July 2011. The defendant lodged an appeal on 8 July 2011. The Court of Appeal issued its decision on 18 February 2013.
	Was the defendant found innocent/guilty? If he/she was found innocent, was it due to procedural grounds or because the evidence presented was insufficient not to substantiate his guilt?	S. B. was found guilty before both the first instance and the second instance court. The Court of Appeal identified more grounds to condemn the defendant, and more specifically, it referred to the offence of THB. However, the Court of Appeal did not issue a condemnation based on THB because the public prosecutor did not appeal the first instance judgment. The Court of Appeal could only verify that the infractions were constituted and reached the necessary conclusions with respect to the civil action. Note that in such cases, the victim may access the Commission for the compensation of victims' offences in case the condemned individuals do not comply with a judgment against them.
	Was the victim awarded compensation for damages/moral pain and suffering? What was the court's reasoning?	Yes. S. B. and her mother were jointly condemned to pay EUR 12 000 to the victim for the compensation of his moral damage. The court specified that the amount covered the damage that had been done to S. K., regardless of the criminal assessment that had been done of the case. The court stated it did not issue a criminal fine so that the offenders could concentrate on the financial compensation of the victim.
Victim support	Did the victim receive any kind of support from public authorities (e.g. social workers)/NGOs?	Yes, the victim was supported by the CMS.
Resources (financial and human resources)	N/A	
Role of labour inspectors	No	
Case study source	<p>The information collected is based on the following:</p> <ul style="list-style-type: none"> • Analysis of the decision (Case 13-00129); • Interviews with NGOs. 	

Case study 2: FR-14-1

Summary of the case	<p>Mr J. H. and Mr J.P.G., adults under guardianship, worked for G. C. and his mother, both in charge of the family company in the fishing bait sector. More specifically, the victims were subject to the following working conditions:</p> <ul style="list-style-type: none"> • The number of working hours that was reported on their pay slips was inferior to the actual number of hours performed; • They barely received any payment; • Their activity was not declared to the authorities; • Their housing conditions were poor. <p>They were exposed to animals, to dust, to harmful noises and smells, and to low safety standards. The probability of a work accident was high.</p> <p>In a short decision, the court ruled that the various offences were constituted and condemned the perpetrators to a five and two years' imprisonment sanction along with EUR 33 000 of criminal penalty imposed on the main perpetrator, EUR 30 000 imposed on the mother and a significant compensation (EUR 252 000 imposed on the main perpetrator; EUR 94 303.19 imposed on the mother) for the civil damages.</p> <p>The court admitted the civil action of the Committee against Modern Slavery. It clarified that the perpetrators had committed the offence of THB against a vulnerable person, because they had:</p> <ol style="list-style-type: none"> 1. Recruited, transported, transferred and hosted the victims for the purposes of abusing them 2. In exchange of a remuneration or another advantage 3. Subjected them to working and living conditions that were contrary to human dignity 4. With the aggravating circumstance that the offence was committed against more than one person <p>The court specified that THB comprises the offence of submitting a vulnerable person to living conditions contrary to human dignity. Apart from the offence of THB, the Criminal Court retained the other offences, in particular:</p> <ul style="list-style-type: none"> • Insufficient remuneration (Articles L.8221-1 to L.8221-6 of the Labour Code); • Dissimulated work (Article L.8224-1 of the Labour Code). <p>Breach of the general requirements on hygiene and security on the workplace (Article L.4741-1 and Articles L.4111-1 to L.4111-6 of the Labour Code).</p>
Competent Court	Criminal Court of Evry
Legal provision applied	<p>In the Criminal Code:</p> <ul style="list-style-type: none"> • Articles 225-4-1 and 225-4-2 on THB for forced labour; • Articles 225-14 and 225-15 on working and living conditions contrary to human dignity; • Article 223-15-2 on the exploitation of a person in a situation of vulnerability; <p>In the Labour Code :</p> <ul style="list-style-type: none"> • Article L.8224-1 on dissimulated work; • Articles L.8221-1 to L.8221-6 on insufficient remuneration; Article L.4741-1 and Articles L.4111-1 to L.4111-6 on health and security requirements.

Sentence/compensation awarded	<p>The main perpetrator was condemned to five years of imprisonment and a EUR 33 000 fine. He was also condemned to pay a compensation of EUR 126 000 per victim, for a total of EUR 252 000. The compensation covered both the material and moral damages.</p> <p>The mother of the perpetrator was condemned to 24 months of imprisonment and a EUR 30 000 fine. She was condemned to pay a compensation of EUR 94 303.19 in relation to one victim only.</p>	
Date/period of forced labour (month/year)	01/08/2001- 10/09/2013	
Profile of the victim(s) (e.g. country of origin, gender, age, occupation of the victim prior to the incident of forced labour)	Country of origin	France
	Gender	Male
	Age	62 (born on 18 July 1952) and 72 (born on 31 July 1942)
	Sector	Fishing bait/lure Factory
	Migratory status	French nationals
How was the victim recruited and how did they come to be in the situation of forced labour?	<p>Poor knowledge of language and intellectual disability.</p> <p>J.P.G. was recruited 40 years before the beginning of the proceedings, when he lived in a centre for minors. J.H. had been recruited in the 1980s while living in a mental institution. At that time, the company was owned by the parents of G.C., who took over the business in 2001. J.P.G. believed that G.C. was his tutor. J.H. was very vulnerable due to a severe psycho-social disability. Both employees were recognised as disabled workers by the French administration. The victims lived at the work place, in two shacks that did not meet basic safety requirements.</p>	
Elements of vulnerability	The victims were in a particularly vulnerable situation, because of their advanced age, their illness, and the existence of a psychological and a physical disability.	
Identification/reporting of offences	<i>The victim reported the offence to the authorities (e.g. the police, labour inspectorate) himself/herself</i>	No. An employee of the company alerted the CMS. After meeting with J.P., the CMS transmitted the information to the COFIW.
	<i>The authorities began the investigation ex officio</i>	Yes. J.P.G. then filed a complaint on 26 July 2013.
	<i>The case was brought to the attention of the authorities by an association/NGO</i>	Yes.
	<i>Other (please specify)</i>	The CMS constituted itself as a civil party.
		In accordance with Article 11 of Directive 2011/36/EU, associations addressing trafficking in human beings were authorised to take part in criminal proceedings in the directive (the provision was transposed into article 2-22 of the Criminal Procedure Code in law 2013-711 of 5 August 2013).

Criminal investigation	Which authority/unit was responsible for the criminal investigation of this case?	The COFIW.
	How long after the victim started being subjected to forced labour did the criminal investigation of the matter begin?	Approximately 40 years for J.P.G. and 30 years for J.H.
	What was the length of the investigation?	April 2013 – September 2013
	What were the difficulties in bringing this case to the court?	N/A
Court proceedings	Was the victim required to testify at the pre-trial stage of the proceedings? If yes, did the authorities use any mechanisms to protect the safety of the victim (e.g. via a witness protection programme) or protect him/her from secondary victimisation?	Because of their situation of vulnerability, the victims were immediately brought by the gendarmes to the doctors after they were freed. The CSM assisted the victims. On 18 September 2013, a legal officer was designated and the victims were placed under guardianship. The COFIW specified that the victims did not receive special protection. However, the COFIW found new accommodation for the victims in a hotel after the police operation. According to the COFIW officer in charge of investigating the case, the victims' living conditions were especially bad. ("their living conditions were awful, they could not stay where they were living any longer").
	Were there any problems/issues pertaining to the collection of evidence?	No (according to the COFIW)
	Was the victim required to testify in court? If yes, what effect is the witness testimony perceived to have had on the successful prosecution of the offenders?	COFIW: One of victims was heard by the court. He was helped by a lawyer from the CMS. The other one was not heard by the court. Only the report made by a psychologist was read at the trial. Yes, his testimony was important to show how he had very bad living and working conditions. The defendant admitted to the facts, but not the charge of modern slavery. For him, the conditions were hard, but not inhuman.
	If the victim testified in court, did he/she do so in camera, in the courtroom (in the defendant's presence) or the court used the victim's testimony during the investigation phase?	One of victims was heard at the trial in the defendant's presence without camera.
Delivery of the court judgment	Did the victim seek compensation for the damages suffered (e.g. by constituting himself/herself as a civil claimant)? If yes, did he/she receive support from the State (e.g. legal representation/legal aid)?	Yes (see above). The amount of compensation granted is the highest ever issued. The victims did not receive legal aid.
	What type of evidence was submitted to the court? Were there any issues with the admissibility of evidence?	The CMS refers to financial documents of the company, photos of the accommodation, medical reports. The COFIW refers to hearings, analysis of bank accounts of both victims and offenders, findings, observations and social declarations.
	How long did it take for the court to issue its judgment (for first instance cases, from the prosecution; for second and third instance cases, from the day the appeal was filed)?	October 2013 – April 2014
	Was the defendant found innocent/guilty? If he/she was found innocent, was it due to procedural grounds or because the evidence presented was insufficient not to substantiate his guilt?	The defendants were found guilty.
Victim support	Was the victim awarded compensation for damages/moral pain and suffering? What was the court's reasoning?	The victims were awarded compensation for both the material and the moral damage they suffered. However, the court's judgment does not provide much detail as to the reasoning that prevailed.
	Did the victim receive any kind of support from public authorities (e.g. social workers)/NGOs?	Yes, the CMS constituted itself a civil party.
Resources (financial and human resources)	No issues identified.	

Role of labour inspectors	The stakeholders interviewed for the case study (see sources below) confirmed that the labour inspectors did not play a role in the cases
Case study source	<p>The information collected is based on the following sources:</p> <ul style="list-style-type: none">• Analysis of the decision;• Interviews with NGOs.

Case study 3: FR-002-3

	<p>M.S., an Ivorian national, was 15 years old when she was illegally brought to French territory to take care of the house of the A. Z. family, and their children. More specifically, the victim:</p> <ul style="list-style-type: none"> • Did not receive a remuneration; • Did not go to school; • Did not have any day off or vacation; • Was taking care of the children, doing the grocery shopping and the house cleaning; • Did not have a private space in the house. She was sleeping on a mattress on the floor in the same room as the children. <p>The Court of Appeal, in a decision of 17 December 2007, issued a civil penalty on the following grounds:</p> <ol style="list-style-type: none"> 1. Support to illegal stay in France; 2. Employment of an immigrant without a work permit; 3. Abuse of a person's situation of vulnerability to obtain unpaid services. <p>However, the Court of Appeal dismissed the claim based on the living and working conditions contrary to human dignity (Article 225-14 of the CC). In particular, the court noted that the alleged victim had affective relationships with the children of the family and had similar housing conditions as the family members.</p> <p>The Court of Cassation, for the first time, referred to the definition of forced labour. It stated that "All forced labour is contrary to human dignity". It upheld the argument of the victim that according to the case-law of the European Court of Human Rights (the "ECHR"), the fact of submitting a minor in a foreign country, in an illegal situation, fearing to be arrested by the police, to constant work without remuneration constitutes forced labour within the meaning of Article 4 of the European Convention on Human Rights.</p> <p>The Court of Cassation upheld the first instance Decision and the appeal Decision with respect to the three offences. Furthermore, it stated that the victim was also subject to forced labour, as defined by the ECHR, and therefore to working and living conditions that are incompatible with human dignity.</p>
Competent Court	<p>Court of Cassation</p> <p>Court of Appeal:</p> <ul style="list-style-type: none"> • Support to illegal stay in France; • Employment of an immigrant without a work permit; • Abuse of a person's situation of vulnerability to obtain unpaid services. <p>Court of Cassation:</p> <ul style="list-style-type: none"> • Article 225-14 of the Criminal Code on living and working conditions contrary to human dignity • Article 1382 of the Civil Code regarding civil damages • Article 4 of the European Convention on Human Rights <p>The Court of Cassation confirmed the award of a monetary compensation that had been decided by the Court of Appeal, along with the prison sentence of one month. The compensation was of EUR 5 000 and covered both material and moral damages.</p> <p>Because the Prosecutor did not appeal the Decision from the Appeal Court of 2007, the condemnation based on the public action was definitive. As a result, the defendant was sanctioned to one month of imprisonment for the offence.</p>
Sentence/compensation awarded	
Date/period of forced labour (month/year)	December 1994-July 2000

Profile of the victim(s) (e.g. country of origin, gender, age, occupation of the victim prior to the incident of forced labour)	Country of origin	Ivory Coast
	Gender	Female
	Age	15 years on date of recruitment
	Sector	Activities of households as employers: Non-diplomatic households as employers of child day carers
	Migratory status	Illegal
	Knowledge of local language	Low education level, difficulty to read.
How was the victim recruited and how did they come to be in the situation of forced labour?	The victim was brought by A. Z. to France, and had her passport confiscated immediately.	
Elements of vulnerability	The victim was especially vulnerable. She was a minor, and had no legal residence status. Her parents died during the period for which she was subjected to forced labour. She had a low level of education. She did not have a passport and was totally dependent on the family she was working for.	
Identification/reporting of offences	The victim reported the offence to the authorities (e.g. the police, labour inspectorate) himself/herself	
	The authorities began the investigation ex officio	
	The case was brought to the attention of the authorities by an association/NGO	The victim contacted a local association that reverted to the CMS. The CMS then contacted the police office in St Denis by a fax dated 14 June 2000. The police office opened an investigation on 15 June 2000 on the basis of sequestration (and not modern slavery, as suggested by the CMS). The police came to the alleged perpetrator's house but left without supporting the victim. The victim then fled from the house and went to the police office during the same evening and filed a complaint. The two associations took care of her.
	Other (please specify)	
	Which authority/unit was responsible for the criminal investigation of this case?	St Denis Police office (93)
	How long after the victim started being subjected to forced labour did the criminal investigation of the matter begin?	Five years and a half (5.5)
Criminal investigation	What was the length of the investigation?	The investigation was open on 15 June 2000 and closed on 22 June upon decision of the Prosecutor.
	What were the difficulties in bringing this case to the court?	The victim was not informed that her case was closed. She was informed on 18 May 2001 after she contracted a lawyer.
	Was the victim required to testify at the pre-trial stage of the proceedings? If yes, did the authorities use any mechanisms to protect the safety of the victim (e.g. via a witness protection programme) or protect him/her from secondary victimisation?	On 7 December 2001, the victim constituted herself a civil party and reopened the case before the Bobigny tribunal. The victim was subject to psychiatric investigations and was interviewed by an investigating judge in the presence of her lawyer.
	Were there any problems/issues pertaining to the collection of evidence?	The defendant did not attend the meetings with the judges.

Court proceedings	Was the victim required to testify in court? If yes, what effect is the witness testimony perceived to have had on the successful prosecution of the offenders?	Yes, at all court hearings, except in the Court of Appeal after the case was referred back by the Court of Cassation. She did not want to attend this hearing for fear of meeting the defendant again. According to the CMS, her presence in court had a favourable impact on the courts.
	If the victim testified in court, did he/she do so in camera, in the courtroom (in the defendant's presence) or the court used the victim's testimony during the investigation phase?	
	Did the victim seek compensation for the damages suffered (e.g. by constituting himself/herself as a civil claimant)? If yes, did he/she receive support from the State (e.g. legal representation/legal aid)?	The victim was an irregular migrant when she constituted herself a civil party so had to pay a fee to receive legal aid: EUR 500, as decided by the dean of the investigation judges.
	What type of evidence was submitted to the court? Were there any issues with the admissibility of evidence?	
Delivery of the court judgment		The following chronology applies to the case : 1. Civil party constitution: 7 December 2001; 2. Order by investigation judge: 26 January 2006; 3. 1st instance judgment: 2 November 2006; 4. Decision of Appeal Court: 17 December 2007; 5. Decision of Court of cassation: 13 January 2009; 6. Decision of Appeal Court: 1 March 2010.
	How long did it take for the court to issue its judgment (for first instance cases, from the prosecution, for second and third instance cases, from the day the appeal was filed)?	
	Was the defendant found innocent/guilty? If he/she was found innocent, was it due to procedural grounds or because the evidence presented was insufficient not to substantiate his guilt?	The defendant was found guilty by the Court de Cassation on the basis of: • Article 225-14 of the Criminal Code on living and working conditions contrary to human dignity • Support to illegal stay in France; • Employment of an immigrant without a work permit; • Abuse of a person's situation of vulnerability to obtain unpaid services.
	Was the victim awarded compensation for damages/moral pain and suffering? What was the court's reasoning?	Yes. EUR 5 000. The Court of Cassation confirmed the reasoning of the Court of Appeal with respect to the award of a civil compensation. It did not issue a specific reasoning to that effect. Pursuant to the Court of Appeal's decision, the amount covered both the material and the moral damages endured.
Victim support	Did the victim receive any kind of support from public authorities (e.g. social workers)/NGOs?	Yes. The CMS supported the victim by paying a lawyer. To this date, the victim has only received EUR 3 000.
Resources (financial and human resources)	No specific issues regarding resources were identified.	
Role of labour inspectors	The stakeholders interviewed for the case study (see sources below) confirmed that the labour inspectors did not play a role in the cases	
Case study source	The information collected is based on the following sources: • Analysis of the decision; • Interview with an NGO.	

Case study 4: FR-001-3

Summary of the case	<p>Ms A. Y., the perpetrator, brought Mrs B. X, the victim, to France. Mrs B. X. was taking care of her four children, including during long absences of the perpetrator;</p> <p>Mrs B. X. was subject to the following conditions:</p> <ul style="list-style-type: none"> • A remuneration of EUR 50/pm; • Her passport was confiscated from her and she had no identity documents; • Her situation was not declared to the entities in charge of social benefits/contributions; • She had no work permit; • She was working 15 hours/day; • She did not have one day off, or any vacation. <p>The first instance tribunal condemned the perpetrator to an imprisonment sentence.</p> <p>On 29 April 2011, Versailles Court of Appeal condemned the perpetrators to a civil compensation only, but it replaced the imprisonment sentence by a criminal fine of EUR 4 000. The Court of Appeal recognised the submission to working and living conditions contrary to human dignity and issued a monetary compensation of EUR 3 500 for the financial prejudice and EUR 1 500 for the moral pain.</p> <p>Before the Court of Cassation, Mrs B.X. claimed that the public prosecutor had under-qualified the facts, as she had also been subject to THB. However, the Court of Cassation confirmed the reasoning of the Court of Appeal, and found that it did not have an obligation to requalify the facts differently than the prosecutor. More specifically, the Court upheld the conviction for dissimulated work, insufficient/inexistent payment of a vulnerable person and employment without work permit, but it rejected the claim for THB. It confirmed that although Ms X did not receive payment, did not have a contract, did not have a work permit and was not declared to the French authorities for the purposes of social contribution, she was neither subject to THB nor to working and living conditions that were contrary to human dignity.</p> <p>The Court of Cassation rejected the following arguments brought by the victim pertaining to a definition of THB for the purposes of forced labour:</p> <ol style="list-style-type: none"> 1. THB is incompatible with human dignity: the working conditions that Mrs B. X. was experiencing were contrary to human dignity; 2. THB means the recruitment, transfer and hosting of a person, against a promise of remuneration, to put her at one's or someone else's disposal: Ms A. Y. had promised to the victim that she would have a job against a remuneration, and had organised her trip to France; 3. Forced labour implies that the victim is being under a threat: Mrs B. X. feared that the police would arrest her. She was especially vulnerable due to a physical condition and a situation of dependence towards her employer.
Competent Court	Court of Cassation
Legal provision applied	<p>In the Criminal Code:</p> <ul style="list-style-type: none"> • Article 225-4-1 on THB; • Article 225-14 on working and living conditions contrary to human dignity; • Article 225-13 <p>In international conventions:</p> <ul style="list-style-type: none"> • Articles 4, 6 and 7 of the European Convention on Human Rights ; • Article 15 of the Convention of the Council of Europe on fighting against THB; <p>Convention of the international labour organisation against forced labour.</p>

Sentence/compensation awarded	<p>Criminal penalty: EUR 4 000 of criminal penalty</p> <p>Civil penalties: EUR 3 500 for the material damage, EUR 1 500 for the moral pain.</p> <p>Sentence: The decision of the Court of Cassation refers to an imprisonment sentence without specifying the duration (the first instance judgment could not be found).</p>	
Date/period of forced labour (month/year)	June 2008-5 October 2008	
Profile of the victim(s) (e.g. country of origin, gender, age, occupation of the victim prior to the incident of forced labour)	Country of origin	Ivory Coast
	Gender	Female
	Age	26 at the date of the recruitment
	Sector	Activities of households as employers: Non-diplomatic households as employers of child day-carers
	Migratory status	Irregular status
How was the victim recruited and how did they come to be in the situation of forced labour?	Knowledge of local language	Good (French native speaker)
	Between April 2007 and June 2008, the victim worked for Ms Y. in Abidjan. She was then offered to come to France to take care of the four children while preparing for a competition for the Ivorian administration. Ms Y organised the formalities for the trip and stay in France. A few days after the victim was in France, Ms Y left her in the house, where she was supposed to take care of the household. She was in charge of the four children while their mother was absent for several weeks.	
Elements of vulnerability	The victim had no legal residence status. She had no friends and family in France. She had a serious disease that was maybe known to the perpetrator before she entered French territory.	
Identification/reporting of offences	The victim reported the offence to the authorities (e.g. the police, labour inspectorate) himself/herself	No
	The authorities began the investigation ex officio	No
	The case was brought to the attention of the authorities by an association/NGO	Yes. The CVMs reported the situation to Versailles on 24 February 2009, listing the existence of THB and working and living conditions contrary to human dignity. A preliminary investigation was launched and the victim officially filed a complaint on 7 July 2009.
	Other (please specify)	
	Which authority/unit was responsible for the criminal investigation of this case?	Police office of St-Germain-en-Laye (78)
Criminal investigation	How long after the victim started being subjected to forced labour did the criminal investigation of the matter begin?	One year (end June 2008 – July 2009)
	What was the length of the investigation?	Three months and a half (2/07/2009 – 14/10/2009)
	What were the difficulties in bringing this case to the court?	The Prosecutor chose not to prosecute on the basis of the offence of THB.
	Was the victim required to testify at the pre-trial stage of the proceedings? If yes, did the authorities use any mechanisms to protect the safety of the victim (e.g. via a witness protection programme) or protect him/her from secondary victimisation?	Yes. The victim was interviewed when she filed a complaint and when she was confronted with the perpetrator. A member of the CSM was admitted to assist the victim during the confrontation. Otherwise, no specific security measures were implemented.
	Were there any problems/issues pertaining to the collection of evidence?	According to the CSM, the defendant did not attend the meetings with the judges during the prosecution phase. The CSM explained that the absence of the defendant during the interviews had been an issue to collect evidence.

Court proceedings	Was the victim required to testify in court? If yes, what effect is the witness testimony perceived to have had on the successful prosecution of the offenders?	Yes. Outcome difficult to assess.
	If the victim testified in court, did he/she do so in camera, in the courtroom (in the defendant's presence) or the court used the victim's testimony during the investigation phase?	Yes, in the court-room.
	Did the victim seek compensation for the damages suffered (e.g. by constituting himself/herself as a civil claimant)? If yes, did he/she receive support from the State (e.g. legal representation/legal aid)?	Yes, the victim constituted herself as a civil claimant. She received legal aid.
	What type of evidence was submitted to the court? Where there any issues with the admissibility of evidence?	The home was investigated, testimonies were collected, the agenda of the victim was seized with all the appointments for the children. The chronology of the case is as follows : 1. First court hearing: 23 October 2009; 2. First instance judgment: 15 February 2010; 3. Decision of the Court of Appeal: 29 April 2011.
Delivery of the court judgment	How long did it take for the court to issue its judgment (for first instance cases, from the prosecution; for second and third instance cases, from the day the appeal was filed)?	The defendant was found guilty, but not on the basis of the offence of THB. The court confirmed that although Ms X did not receive payment, did not have a contract, did not have a work permit and was not declared to the French authorities for the purposes of social contribution, she was neither subject to THB nor to working and living conditions that were contrary to human dignity.
	Was the defendant found innocent/guilty? If he/she was found innocent, was it due to procedural grounds or because the evidence presented was insufficient not to substantiate his guilt?	Yes. The Court of Cassation confirmed the reasoning of the Court of Appeal.
Victim support	Did the victim receive any kind of support from public authorities (e.g. social workers)/NGOs?	Yes, the CMS supported the victim.
Resources (financial and human resources)	No specific issues regarding resources were identified.	
Role of labour inspectors	The stakeholders interviewed for the case study (see sources below) confirmed that the labour inspectors did not play a role in the cases	
Case study source	The information collected is based on the following sources: • Analysis of the decision; • Interview with an NGO.	

Case study 5: FR-010-2

	<p>On 10 October 2004, M. A., the victim, a Camerounese national arrived in France and was hosted at the house of the defendants, R. M. M. and his wife C. M. She worked for the couple under the following conditions:</p> <ul style="list-style-type: none"> • She was taking care of six children (two were new-borns); • She was doing the house work; • She was not remunerated; • She was not declared to the authorities; • She was regularly insulted; • She started school 13 months after her arrival, after the social services put pressure on the family. <p>[Note from the CMS: The situation of the family was monitored by the social services who first alerted the police and consulted the CMS for support to the victim. M.A. filed a complaint on 16 August 2006. The case was closed on October 2006, without any investigations on the alleged perpetrators, on the ground that the victim had lied about her age.]</p> <p>The victim relaunched the procedure by constituting herself a civil party on 20 May 2008.</p> <p>On 19 August 2008, a criminal investigation started on the grounds of dissimulated work, employment of an immigrant without a work permit, support to illegal stay in France, and THB.</p> <p>On 16 July 2009, the couple was prosecuted on the above grounds and for insufficient remuneration of a vulnerable or dependent person and submission of a vulnerable person to hosting conditions that are contrary to human dignity.</p> <p>On 11 February 2010, the first instance tribunal delivered an order establishing the charges on which the couple would be judged, and it dismissed the charge of THB. The civil party decided to appeal the decision to dismiss the charge of THB.</p> <p>The investigation chamber of the Appeal Court dismissed the plaintiff's appeal against the 1st instance tribunal's decision not to process the claim of THB for forced labour. It found that not all three requirements for THB were met, because the alleged victim had not been put at the disposal of a third party.</p> <p>More specifically, the investigation chamber examined the three following requirements of the Law No 2003-239 of 18 March 2003 on internal security (modified by Law No 2007-1631 of 20 November 2007):</p> <ol style="list-style-type: none"> 1. to recruit, transport, transfer and host a person; 2. against the promise of an advantage; 3. to put the person at someone else's disposal for the purposes of committing the offence of article 225-4-1 of the criminal code. <p>It reasoned that the third requirement implies that there is an exchange between two persons for the exclusive purpose of submitting someone to working conditions contrary to human dignity. Under this definition, there should be three persons involved in the process. Accordingly, the court found that the offence of submission of a person to working and living conditions contrary to human dignity could be retained, but not THB.</p> <p>In a later judgment of 29 November 2012, the same court issued a decision on the merits. It overruled the first instance judgment in that it had not recognised the abuse of a situation of vulnerability and the working and living conditions contrary to human dignity. Since the investigation chamber had not retained the offence of THB, the court was not in a position to issue a decision on this basis when it judged the case on the merits.</p>
Summary of the case	
Competent Court	Investigation Chamber of the Versailles Court of Appeal
Legal provision applied	Article 225-4-1 of the French Criminal Code on THB

Sentence/compensation awarded	No monetary compensation was awarded by the Investigation Chamber of the Versailles Court of Appeal because the investigation chamber did not judge on the merits but only on the grounds on which to prosecute the alleged perpetrator. In further proceedings on the merits, the same court condemned the perpetrator to a sentence of three years of suspended imprisonment and EUR 5 000 of monetary penalty on the basis of Articles 225-13, 225-15-1 and 225-19 of the Criminal Code. It also awarded EUR 10 000 of civil compensation.	
Date/period of forced labour (month/year)	October 2004-2006	
Profile of the victim(s) (e.g. country of origin, gender, age, occupation of the victim prior to the incident of forced labour)	Country of origin	Cameroon
	Gender	Female
	Age	23 years old at the beginning of the offence
	Sector	Activities of households as employers
	Migratory status	Irregular status
How was the victim recruited and how did they come to be in the situation of forced labour?	Knowledge of local language The victim was brought up by her grand-mother in Cameroon. Her grand-mother was a friend of C. M.'s mother. They arranged her departure to France where she was supposed to complete her studies. She was welcomed by C. M.'s family.	
Elements of vulnerability	The victim had no residence status and no work permit.	
Identification/reporting of offences	The victim reported the offence to the authorities (e.g. the police, labour inspectorate) himself/herself	Yes. The victim reported her situation to the local tribunal.
	The authorities began the investigation ex officio	No
	The case was brought to the attention of the authorities by an association/NGO	No
	Other (please specify)	

Criminal investigation	Which authority/unit was responsible for the criminal investigation of this case?	<p>The following services were involved in the investigations :</p> <ol style="list-style-type: none"> 1. Unit in charge of minors, Police office of Nanterre (92, Hauts-de-Seine) ; 2. Investigation judge at Nanterre tribunal following the party civil constitution; 3. Support of the COFIW and investigation unit of Chevilly-La-Rue (94). <p>October 2004 – August 2006: 21 months.</p>
	How long after the victim started being subjected to forced labour did the criminal investigation of the matter begin?	The first investigations lasted one month and a half.
	What was the length of the investigation?	The investigations conducted by the investigating judge started on 9 July 2008 and finished on 11 February 2010 when the judge decided to send the case to the court.
	What were the difficulties in bringing this case to the court?	<p>The CMS referred to the following difficulties:</p> <ul style="list-style-type: none"> • The first investigation was short and the unit not well trained, which resulted in a first decision to close the case; • The victim paid EUR 750 (paid by the CMS) in order to constitute herself a civil party; • The impossibility to characterise the offence of THB for the facts prior to the 20 November 2007 law, when the alleged perpetrator of the traffic is the same person as the victim's abuser. <p>The COFIW reported that it did not face specific difficulties.</p>
	Was the victim required to testify at the pre-trial stage of the proceedings? If yes, did the authorities use any mechanisms to protect the safety of the victim (e.g. via a witness protection programme) or protect him/her from secondary victimisation?	<p>Yes, the victim was heard after she filed an initial complaint before the investigation judge (in the presence of the lawyer, which is mandatory) and during the confrontation before the investigation judge.</p> <p>The COFIW specified that during the preliminary investigation, the victim had one interview at the premises of the CMS.</p> <p>No specific protection mechanism was put in place.</p>
Court proceedings	Were there any problems/issues pertaining to the collection of evidence?	The COFIW reported that it did not encounter specific difficulties to collect evidence.
	Was the victim required to testify in court? If yes, what effect is the witness testimony perceived to have had on the successful prosecution of the offenders?	Yes, before the tribunal and before the court of appeal. The judges were convinced by her explanations.
	If the victim testified in court, did he/she do so in camera, in the courtroom (in the defendant's presence) or the court used the victim's testimony during the investigation phase?	In the presence of the defendants, on the basis of the testimonies collected during the investigation.
	Did the victim seek compensation for the damages suffered (e.g. by constituting himself/herself as a civil claimant)? If yes, did he/she receive support from the State (e.g. legal representation/legal aid)?	Legal aid was granted after the victim constituted herself as a civil party and she obtained a regular permit to stay on French territory.
	What type of evidence was submitted to the court? Were there any issues with the admissibility of evidence?	The investigators interviewed 12 witnesses among social services and teachers, who confirmed the victim's working conditions.

Delivery of the court judgment	How long did it take for the court to issue its judgment (for first instance cases, from the prosecution; for second and third instance cases, from the day the appeal was filed)?	Seven months between the prosecution and the order of the first instance tribunal.
	Was the defendant found innocent/guilty? If he/she was found innocent, was it due to procedural grounds or because the evidence presented was insufficient not to substantiate his guilt?	The defendant was convicted of the offences of dissimulated work, employment of an immigrant without a work permit, support to illegal stay in France (but not of THB).
	Was the victim awarded compensation for damages/moral pain and suffering? What was the court's reasoning?	Yes.
	Did the victim receive any kind of support from public authorities (e.g. social workers)/NGOs?	Yes, the victim was supported by the CMS.
Resources (financial and human resources)	No specific issues regarding resources were identified.	
Role of labour inspectors	The stakeholders interviewed for the case study (see sources below) confirmed that the labour inspectors did not play a role in the cases	
Case study source	The information collected is based on the following sources:	
	<ul style="list-style-type: none"> • Analysis of the decision; • Interviews with NGOs. 	

Case study 6: FR-5-05

Summary of the case	<p>K. A. was 13 years old when she was brought to France in 2000 by a family relative. She was subject to the following working conditions:</p> <ul style="list-style-type: none"> • She was working 18 hours/day; • She was doing the housework and taking care of the children without remuneration; • She had limited social interaction and could not freely leave the house; • She claimed to have been physically molested; • She was sleeping on a mattress in the living room; • Her passport was taken from her. <p>The instruction chamber of the Court of Appeal confirmed the order of the investigation judge not to charge the defendant. It found that Mrs X. K. did not bring any evidence that she was subject to working and living conditions that are contrary to human dignity.</p> <p>On 29 March 2011, the Court of Cassation annulled the Court of Appeal's decision on the ground that the victim was taking care of many children without being remunerated and that her position of vulnerability was being abused. The Court of Cassation sent the case back to the Paris Court of Appeal.</p> <p>On 7 May 2012, the instruction chamber of the Paris Court of Appeal confirmed the charge of support to illegal stay of a foreign minor, but it dismissed the charges of THB and working conditions that are contrary to human dignity.</p> <p>Before the Court of Cassation, the appellant challenged the dismissal of the latter charges (THB and working conditions contrary to human dignity).</p> <p>The Court of Cassation overruled the decision of the Paris Court of Appeal regarding the subjection to working and living conditions contrary to human dignity. For the second time, it clarified that a minor who entered French territory in order to help a family relative without receiving remuneration and having her passport confiscated, was a vulnerable person within the meaning of Article 225-15-1 of the Criminal Code, and was subject to working and living conditions that were contrary to human dignity. It ordered the Court of Appeal to comply with its ruling.</p> <p>However, because the Prosecutor did not appeal the decision of the first and second instance judges not to prosecute the offence of THB, the Court of Cassation did not examine that charge. In the arguments before the Court of Cassation, the victim made a reference to forced labour (not THB) but the Court of Cassation did not address this question and pronounced a ruling based on Article 225-15-1 only.</p> <p>In its annual report for 2013, the CMS expressed criticism that the Public Prosecutor did not appeal the Court of Appeal's decision not to process the allegations of THB.</p> <p>[Note from the CMS: a hearing should take place before Orleans Court of Appeal; the specific date is not set yet due to internal procedural difficulties.]</p>
Competent Court	<p>Court of Cassation</p>
Legal provision applied	<p>In the Criminal Code:</p> <ul style="list-style-type: none"> • Articles 225-13 regarding insufficient remuneration; • Article 225-15-1 regarding a situation of vulnerability; • Article 225-14 regarding working and living conditions that are contrary to human dignity. <p>In the European Convention on Human Rights :</p> <ul style="list-style-type: none"> • Article 4; • Article 6; • Article 7.

Sentence/compensation awarded	The procedure is still pending.		
Date/period of forced labour (month/year)	2000-2006		
Profile of the victim(s) (e.g. country of origin, gender, age, occupation of the victim prior to the incident of forced labour)	Country of origin	Mali	
	Gender	Female	
	Age	13 when she entered into French territory	
	Sector	Activities of households as employers	
	Migratory status	Illegal	
How was the victim recruited and how did they come to be in the situation of forced labour?	Knowledge of local language	No knowledge	
	She was brought to France by the defendant. The victim claimed that the defendant was a family member, but according to the CSM the family bond had not been proven.		
Elements of vulnerability	The victim had an irregular status. She did not have any identity documents. She was a minor and did not speak any French.		
Identification/reporting of offences	The victim reported the offence to the authorities (e.g. the police, labour inspectorate) himself/herself	The CSM alerted the prosecutor by a letter of 25 October 2006.	
	The authorities began the investigation ex officio	No	
	The case was brought to the attention of the authorities by an association/NGO	Yes	
	Other (please specify)		

Criminal investigation	Which authority/unit was responsible for the criminal investigation of this case?	Police office of Châtenay-Malabry (92)
	How long after the victim started being subjected to forced labour did the criminal investigation of the matter begin?	Six years
	What was the length of the investigation?	The following chronology applies : 1. 16 November 2006: the Prosecutor decides to open a preliminary investigation; 2. 1 June 2007 : the investigation is closed and the prosecutor opens a judicial information. The investigating judge of Nanterre tribunal supervises the proceedings; 3. 13 January 2009 : the investigating judge closes the case; 4. 13 October 2009: Versailles Court of Appeal confirms the closure of the case.
	What were the difficulties in bringing this case to the court?	The CSM referred to the following difficulties : <ul style="list-style-type: none"> • Magistrates are not trained with respect to THB issues. • Some judges do not perceive the offence of THB as a breach of criminal law and rather perceive these as offences of labour law.
	Was the victim required to testify at the pre-trial stage of the proceedings? If yes, did the authorities use any mechanisms to protect the safety of the victim (e.g. via a witness protection programme) or protect him/her from secondary victimisation?	Yes. During the preliminary investigation and before the investigating judge. The presence of the CSM was not admitted during the confrontation.
Court proceedings	Were there any problems/issues pertaining to the collection of evidence?	None reported.
	Was the victim required to testify in court? If yes, what effect is the witness testimony perceived to have had on the successful prosecution of the offenders?	The case is ongoing.
	If the victim testified in court, did he/she do so in camera, in the courtroom (in the defendant's presence) or the court used the victim's testimony during the investigation phase?	
	Did the victim seek compensation for the damages suffered (e.g. by constituting himself/herself as a civil claimant)? If yes, did he/she receive support from the State (e.g. legal representation/legal aid)?	The victim was granted legal aid until the first decision of the Court of Cassation. Since then, she was not admitted because her revenues augmented. However, the CSM will support her financially as initially agreed.
	What type of evidence was submitted to the court? Were there any issues with the admissibility of evidence?	Witnesses were interviewed among social workers.
Delivery of the court judgment	How long did it take for the court to issue its judgment (for first instance cases, from the prosecution; for second and third instance cases, from the day the appeal was filed)?	
	Was the defendant found innocent/guilty? If he/she was found innocent, was it due to procedural grounds or because the evidence presented was insufficient not substantiate his guilt?	At this stage, the judicial proceedings concern the decision to sue or not. The Court of Cassation ordered the Court of Appeal to affirm that the victim was in a situation of vulnerability. However, the Court of Appeal will determine the exact extent and consequences of this ruling.
	Was the victim awarded compensation for damages/moral pain and suffering? What was the court's reasoning?	

Victim support	Did the victim receive any kind of support from public authorities (e.g. social workers)/NGOs?	The CMS supported the victim
Resources (financial and human resources)	No specific issues regarding resources were identified.	
Role of labour inspectors	The stakeholders interviewed for the case study (see sources below) confirmed that the labour inspectors did not play a role in the cases	
Case study source	The information collected is based on the following sources: <ul style="list-style-type: none">• Analysis of the decision;• Interview with an NGO.	

GERMANY

Case study 1: DE-001-01

Summary of the case	<p>Judgment of the District Court Hannover of 04.03.2009 – 89 KLS 2/07 6413 Js 12278/07</p> <p>The offender hired Moroccan citizens to work on Moroccan folklore events that he organised in Germany. He promised to pay them EUR 33 per performance-day and to provide them accommodation and meals. To this end he concluded written agreements with the Moroccans in German which they did not understand. In addition, he promised them that they would earn at least EUR 500–600 per month. The Moroccan citizens applied for working visa, received them and travelled to Germany. The offender accommodated the victims in places which were not appropriate for accommodation, often 4 persons in one room and with one shower for 40 persons. He did not pay them the agreed amount of EUR 33 per performance-day and only irregularly. He did not pay them at all in the months where there were no performances. The victims had little school education and did not speak German. They were not dexterous and because they were not from Germany they were not confident enough to ask for help from the German authorities. Moreover, they did not want to risk losing their legal status in Germany and be expelled to their home country also "out of shame" because they had come to Germany "to build up a better life". These circumstances were known to the offender and he took advantage of them to retain them in spite of the desolate situation of his company. He employed them under working conditions that were <i>"strikingly disproportionate to the working conditions of other employees practicing a comparable activity"</i>. In addition, he <i>"took advantage of the helplessness of the Moroccans to their stay in a foreign country"</i>. The Court found the offender guilty of human trafficking for forced labour in eight cases.</p>	
Competent Court	District Court Hannover (Landgericht Hannover), first instance.	
Legal provision applied	§233(1) sentence 1 StGB	
Sentence/compensation awarded	3 years 6 months imprisonment (reduced from 11 years for 8 cases and taking into account also punishment for professional trafficking of foreigners in 25 cases).	
Date/period of forced labour (month/year)	June 2003 – end 2007.	
Profile of the victim(s) (e.g. country of origin, gender, age, occupation of the victim prior to the incident of forced labour)	Country of origin	Morocco
	Gender	Male and female
	Age	Dates of birth between 1968 and 1976
	Sector	Cultural events
	Migratory status	Victims had working permits (only for the work for the offender)
How was the victim recruited and how did they come to be in the situation of forced labour?	Knowledge of local language	
Elements of vulnerability	The offender and his brother recruited the victims in Morocco (the offender is of Moroccan origin and has German citizenship). He also asked Moroccan musicians whom he met in Germany to search for people in Morocco.	
	Except in one case, the victims had only basic school education. They did not speak German. They had no cash because the offender hardly paid them any money. They were in a situation of dependence because their visa were issued only in relation to the work with the offender.	

Identification/reporting of offences	The victim reported the offence to the authorities (e.g. the police, labour inspectorate) himself/herself	Not indicated.
	The authorities began the investigation <i>ex officio</i>	Not indicated.
	The case was brought to the attention of the authorities by an association/NGO	Not indicated.
	Other (please specify)	
Criminal investigation	Which authority/unit was responsible for the criminal investigation of this case?	Not indicated.
	How long after the victim started being subject to forced labour did the criminal investigation of the matter begin?	The forced labour started in the second half of 2003. The offender was arrested in February 2007.
	What was the length of the investigation?	Not indicated.
	What were the difficulties in the bringing this case to the court?	Not indicated.
	Was the victim required to testify at the pre-trial stage of the proceedings? If yes, did the authorities use any mechanisms to protect the safety of the victim (e.g. via a witness protection programme) or protect him/her from secondary victimisation?	Not indicated.
	Were there any problems/issues pertaining to the collection of evidence?	Not indicated.
Court proceedings	Was the victim required to testify in court? If yes, what effect is the witness testimony perceived to have had on the successful prosecution of the offenders?	Yes. Effect not indicated.
	If the victim testified in court, did he/she do so in camera, in the courtroom (in the defendant's presence) or the court used the victim's testimony during the investigation phase?	Not indicated.
	Did the victim seek compensation for the damages suffered (e.g. by constituting himself/herself as a civil claimant)? If yes, did he/she receive support by the State (e.g. legal representation/legal aid)?	Not indicated.
	What type of evidence was submitted to the court? Where there any issues with the admissibility of evidence?	Testimonies of witnesses (victims and others), wiretapping of the telephone of the offender, complete confession of the defendant.
	How long did it take for the court to issue its judgment (for first instance cases, from the prosecution; for second and third instance cases, from the day the appeal was filed)?	Time from the arrest of the offender to the issuance of the judgment: around two years.
Delivery of the court judgment	Was the defendant found innocent/guilty? If he/she was found innocent, was it due to procedural grounds or because the evidence presented was insufficient not substantiate his guilt?	The defendant was found guilty.
	Was the victim awarded compensation for damages/moral pain and suffering? What was the court's reasoning?	Not indicated.
Victim support	Did the victim receive any kind of support by public authorities (e.g. social workers)/NGOs?	Not indicated.

Resources (financial and human resources)	Not indicated.
Role of labour inspectors	Not indicated.
Case study source	Judgment (District Court Hannover, Judgment of 04.03.2009 – 89 Kls 2/07 6413 Js 12278/07)

Case study 2: DE-001-02

Summary of the case	Ruling of the Federal Court of Justice of 13 January 2010 (3 StR 507/09) Regarding the facts, see above DE-001-01. The Federal Court of Justice annulled the judgment of the District Court Hannover for procedural reasons (the chamber of the court dealing with the matter was not the correct one). However, it commented nevertheless also on the reasoning of the first instance judgment. This comment is important because it has since been referred to in literature, as well as for example the annual report on Human Trafficking of the Federal Criminal Police Office. In the latter it is argued that the strict standards of the Federal Supreme Court of Justice established in the abovementioned ruling may lead to a non-application of §233 StGB in favour of provisions of the Penal Code which would be easier to prove ⁽⁵⁸⁷⁾ . The Court establishes that the offender must "cause a so far not-existing decision of the victim to enter into [such a] work relationship, or must dissuade the victim from his/her decision to terminate the work relationship".	
	Competent Court	Federal Court of Justice (Bundesgerichtshof)
	Legal provision applied	§233(1) sentence 1 StGB
	Sentence/compensation awarded	Not applicable. The Federal Court of Justice referred the case back to the court of first instance (see below Case Study 3)
Date/period of forced labour (month/year)		
Profile of the victim(s) (e.g. country of origin, gender, age, occupation of the victim prior to the incident of forced labour)	Country of origin	
	Gender	
	Age	
	Sector	
	Migratory status	
How was the victim recruited and how did they come to be in the situation of forced labour	Knowledge of local language	
Elements of vulnerability		
Identification/reporting of offences	The victim reported the offence to the authorities (e.g. the police, labour inspectorate) himself/herself	
	The authorities began the investigation <i>ex officio</i>	
	The case was brought to the attention of the authorities by an association/NGO	
	Other (please specify)	

⁽⁵⁸⁷⁾ Bundeslagebild Menschenhandel 2010, p. 14, available at: http://www.bka.de/nm_231619/DE/ThemenABisZ/Deliktbereiche/Menschenhandel/Lagebilder/lagebilder___nmn=true

Criminal investigation	Which authority/unit was responsible for the criminal investigation of this case?	
	How long after the victim started being subject to forced labour did the criminal investigation of the matter begin?	
	What was the length of the investigation?	
	What were the difficulties in the bringing this case to the court?	
	Was the victim required to testify at the pre-trial stage of the proceedings? If yes, did the authorities use any mechanisms to protect the safety of the victim (e.g. via a witness protection programme) or protect him/her from secondary victimisation?	
Court proceedings	Were there any problems/issues pertaining to the collection of evidence?	
	Was the victim required to testify in court? If yes, what effect is the witness testimony perceived to have had on the successful prosecution of the offenders?	
	If the victim testified in court, did he/she do so in camera, in the courtroom (in the defendant's presence) or the court used the victim's testimony during the investigation phase?	
	Did the victim seek compensation for the damages suffered (e.g. by constituting himself/herself as a civil claimant)? If yes, did he/she receive support by the State (e.g. legal representation/legal aid)?	
	What type of evidence was submitted to the court? Where there any issues with the admissibility of evidence?	
Delivery of the court judgment	How long did it take for the court to issue its judgment (for first instance cases, from the prosecution; for second and third instance cases, from the day the appeal was filed)?	
	Was the defendant found innocent/guilty? If he/she was found innocent, was it due to procedural grounds or because the evidence presented was insufficient not to substantiate his guilt?	
	Was the victim awarded compensation for damages/moral pain and suffering? What was the court's reasoning?	
Victim support	Did the victim receive any kind of support by public authorities (e.g. social workers)/NGOs?	
Resources (financial and human resources)		
Role of labour inspectors		
Case study source	Ruling of the Federal Court of Justice of 13 January 2010 (3 StR 507/09)	

Case study 3: DE-001-03

Summary of the case	Judgment of the District Court Hannover of 04.03.2009 – 89 KLS 2/07 6413 Js 12278/07 Regarding the facts, see above DE-001-01.		
Competent Court	District Court Hannover (Landgericht Hannover), first instance (referred back from Federal Court of Justice).		
Legal provision applied	§233 paragraph 1, paragraph 3 in connection with §232 paragraph 3 number 3 German Criminal Code		
Sentence/compensation awarded	2 years 7 months imprisonment		
Date/period of forced labour (month/year)	03/09/2003 until 31/07/2008		
Profile of the victim(s) (e.g. country of origin, gender, age, occupation of the victim prior to the incident of forced labour)	Country of origin	Morocco	
	Gender	Male and female	
	Age	Dates of birth between 1968 and 1976	
	Sector	Cultural events	
	Migratory status	Victims had working permits (only for the work for the defendant).	
	Knowledge of local language	None	
How was the victim recruited and how did they come to be in the situation of forced labour	Approached by defendant (compatriot) or their brothers/allies; victim was unemployed		
Elements of vulnerability	Except in one case, the victims had only basic school education. They did not speak German. They had no cash because the offender hardly paid them any money. They were in a situation of dependence because their visa were issued only in relation to the work with the defendant.		
Identification/reporting of offences	The victim reported the offence to the authorities (e.g. the police, labour inspectorate) himself/herself		
	The authorities began the investigation ex officio		The investigation was initiated by the authorities, following applications for residency for the victims. The German Embassy in Morocco had doubts that the declaration of taking on a job in Germany was correct.
	The case was brought to the attention of the authorities by an association/NGO		
	Other (please specify)		

Criminal investigation	Which authority/unit was responsible for the criminal investigation of this case?	Public prosecution/ Federal police
	How long after the victim started being subject to forced labour did the criminal investigation of the matter begin?	2007/2008
	What was the length of the investigation?	Around 2 years until indictment
	What were the difficulties in the bringing this case to the court?	Problems arose due to the high number of cases and the fact that the "victims" were at the same time delinquents (§95 Residence Act (AufenthG), §267 Criminal Code (StGB) (document forgery)). Furthermore, there was no willingness to testify from the part of the witnesses.
	Was the victim required to testify at the pre-trial stage of the proceedings? If yes, did the authorities use any mechanisms to protect the safety of the victim (e.g. via a witness protection programme) or protect him/her from secondary victimisation?	Witnesses were supposed to be interrogated during the investigation proceedings (see difficulties mentioned above), witness protection or other security programmes were not necessary. There was no threat by the defendants.
Court proceedings	Were there any problems/issues pertaining to the collection of evidence?	Yes, witnessing statements by the "victims" were almost impossible to obtain (see above).
	Was the victim required to testify in court? If yes, what effect is the witness testimony perceived to have had on the successful prosecution of the offenders?	Yes, difficulties pertained, false testimonies or incomprehensible talking. Means of evidence consisted mainly of official documents (false applications) and telephone supervision measures as well as only two to three useful testimonies by smuggled "victims".
	If the victim testified in court, did he/she do so in camera, in the courtroom (in the defendant's presence) or the court used the victim's testimony during the investigation phase?	Testimonies from the investigation proceedings can only be introduced in German criminal trials if the witnesses are out of reach (e.g. death or unknown residence for at least 3 months). Witnesses were interrogated at court in the public trial, protection measures were dispensable.
	Did the victim seek compensation for the damages suffered (e.g. by constituting himself/herself as a civil claimant)? If yes, did he/she receive support by the State (e.g. legal representation/legal aid)?	No, because they were themselves delinquents (answer provided by the Prosecutor contacted for the case study).
	What type of evidence was submitted to the court? Where there any issues with the admissibility of evidence?	Official documents: applications, residence notifications, contracts and similar, protocol of telephone supervisions
Delivery of the court judgment	How long did it take for the court to issue its judgment (for first instance cases, from the prosecution; for second and third instance cases, from the day the appeal was filed)?	Investigations by public prosecution since mid-March 2007 (not identifiable anymore) until 21/08/2008 First instance: 21/11/2008 until 04/03/2009 Revision instance: from 04/03/2009 until 13/01/2010 First instance after revision: from 13/01/2010 until 20/07/2010
	Was the defendant found innocent/guilty? If he/she was found innocent, was it due to procedural grounds or because the evidence presented was insufficient not substantiate his guilt?	No
	Was the victim awarded compensation for damages/moral pain and suffering? What was the court's reasoning?	No.
Victim support	Did the victim receive any kind of support by public authorities (e.g. social workers)/NGOs?	No, see above

Resources (financial and human resources)	Did investigation authorities face problems with providing the necessary resources for prosecution? None identified.
Role of labour inspectors	No
Case study source	Interview with a prosecutor. Judgment of the District Court Hannover of 04.03.2009 – 89 KLs 2/07 6413 Js 12278/07

Case study 4: DE-002-1

Summary of the case	Judgment of the Magistrate Court Hamburg – Sankt Georg of 22.02.2010 – 940 Ls 6500 Js 38/09 (494/09)	
	<p>The offender who is a Nigerian national hired the Nigerian victim to work for her in her hairdresser shop in Hamburg. To this end, the victim applied for a visa for Germany using a falsified birth certificate and pretending she was the sister of the offender. She had been told by the offender to proceed in such a way. She received the visa. Upon her arrival in Hamburg the offender asked her to hand over her passport. The victim stayed with the family of the offender. She slept in the same room as the offender's mother, on the floor. She worked from 9am – 10 pm, sometimes 11 pm, also on Saturdays. Apart from the work as a hairdresser she also had to keep the household of the offender. The offender explained to the victim that she would have to work without compensation for the first six months because the offender had paid the visa and the flight for her. By the time of the arrest of the victim because of her irregular status in Germany (8 weeks after her arrival in Germany), she was not paid. Each time the victim complained about the work, the outstanding compensation and the bad treatment that she received from the offender the latter threatened she would call the police who she described as dangerous and violent and would ask them to expel the victim from the country on the basis of her irregular migration status.</p> <p>The Court found the offender guilty of human trafficking for forced labour and argued that the offender took advantage of the fact that the victim resided illegally in Germany, was deprived of her passport and had no knowledge of German and of her rights to bring her to work for her as a hairdresser. The court acknowledged that the working conditions (six days a week up to 14 hours/day against only accommodation and meals) were strikingly disproportionate to the working conditions of other employees who practice a comparable activity.</p>	
	Competent Court	Magistrate Court Hamburg – Sankt Georg (Amtsgericht Hamburg – Sankt Georg), first instance.
	Legal provision applied	§233(1) StGB
Date/period of forced labour (month/year)	Sentence/compensation awarded	1 year 6 months in prison, including 1 year and 2 months for the THB for forced labour. The sentence was suspended on probation.
		31 July 2008 – 13 February 2009.
Profile of the victim(s) (e.g. country of origin, gender, age, occupation of the victim prior to the incident of forced labour)	Country of origin	Nigeria
	Gender	Female
	Age	Not indicated
	Sector	Hairdresser, private household
	Migratory status	Irregular (tourist visa issued based on false documents, no work permit)
How was the victim recruited and how did they come to be in the situation of forced labour?	Knowledge of local language	None.
		The victim was recruited through the sister of the offender who knew the victim from Nigeria because she had made her hair.
Elements of vulnerability		Irregular status, deprived of passport, no knowledge of German. Scared by the German police that had been purposefully described by the offender as dangerous and violent. No friends or family in Germany.

Identification/reporting of offences	The victim reported the offence to the authorities (e.g. the police, labour inspectorate) himself/herself	Not applicable.
	The authorities began the investigation ex officio	See below ('other').
	The case was brought to the attention of the authorities by an association/NGO	Not applicable.
	Other (please specify)	The offender called the police claiming the victim was her sister staying irregularly in Germany and refusing to leave. The police questioned the victim at the police station where she revealed her real identity and explained how she came to Germany and what had happened to her since. The judgment does not indicate whether the victim filed a complaint against the offender or whether the police then opened the investigation ex officio.
Criminal investigation	Which authority/unit was responsible for the criminal investigation of this case?	Not indicated.
	How long after the victim started being subject to forced labour did the criminal investigation of the matter begin?	8 weeks
	What was the length of the investigation?	Not indicated.
	What were the difficulties in the bringing this case to the court?	Not indicated.
	Was the victim required to testify at the pre-trial stage of the proceedings? If yes, did the authorities use any mechanisms to protect the safety of the victim (e.g. via a witness protection programme) or protect him/her from secondary victimisation?	Yes, the victim was questioned by the police and was taken into a witness protection programme.
	Were there any problems/issues pertaining to the collection of evidence?	No further witnesses could be found.
Court proceedings	Was the victim required to testify in court? If yes, what effect is the witness testimony perceived to have had on the successful prosecution of the offenders?	Yes, the victim had to testify in court. Her testimony was of paramount importance for the prosecution of the offender.
	If the victim testified in court, did he/she do so in camera, in the courtroom (in the defendant's presence) or the court used the victim's testimony during the investigation phase?	The victim testified in the hearing; it is not indicated whether it was in camera or in the courtroom and whether the offender was present.
	Did the victim seek compensation for the damages suffered (e.g. by constituting himself/herself as a civil claimant)? If yes, did he/she receive support by the State (e.g. legal representation/legal aid)?	The victim sought compensation for moral pain and suffering and compensation for damages. It is not indicated in the judgment whether she received support by the State but this is likely.
	What type of evidence was submitted to the court? Where there any issues with the admissibility of evidence?	Testimony of the victim, testimony of the police officer who had questioned the victim, other evidence (a suitcase containing personal items of the victim and a notebook of the victim).

Delivery of the court judgment	How long did it take for the court to issue its judgment (for first instance cases, from the prosecution; for second and third instance cases, from the day the appeal was filed)?	Time from start of police investigation to judgment: Around one year.
	Was the defendant found innocent/guilty? If he/she was found innocent, was it due to procedural grounds or because the evidence presented was insufficient not to substantiate his guilt?	The defendant was found guilty.
	Was the victim awarded compensation for damages/moral pain and suffering? What was the court's reasoning?	Yes, the victim was awarded compensation for damages/moral pain and suffering. The court reasoned that in light of the duration of the offence an amount of EUR 2 500 appeared justified. The court did not decide on the compensation for damages arguing that the determination of the amount would significantly delay the procedure.
Victim support	Did the victim receive any kind of support by public authorities (e.g. social workers)/NGOs?	Witness protection programme of the Police Office of Hamburg (I).
Resources (financial and human resources)	Not indicated.	
Role of labour inspectors	No role of labour inspectors.	
Case study source	Judgment of the Magistrate Court Hamburg – Sankt Georg of 22.02.2010 – 940 Ls 6500 Js 38/09 (494/09) and summary in Renzikowski, J., 'Strafverfahren zu Menschenhandel zur Arbeitsausbeutung seit Einführung des §233 StGB' in BMAS and KOK (ed.) Studie Entwicklung tragfähiger Unterstützungsstrukturen (March 2011), p. 32.	

Case study 5: DE-003-1

Summary of the case	<p>Judgment of the District Court Trier (<i>Landgericht Trier</i>) of 2 November 2011 – 8045 Js 9059/10.5 KLS</p> <p>The offender recruited 124 lorry drivers in the Czech Republic to work for his company in Germany. Between June 2008 and April 2010 they worked for him. When hiring them the offender promised the drivers that they would be paid according to tariffs that are common in Germany. The drivers, who did not speak German, worked for an hourly salary of EUR 2.62. The tariff would have been on average EUR 9.12. However, not even this salary was paid to the drivers. The offender set up an illegal catalogue of fines in case drivers did not comply with his instructions. The majority of the drivers worked for the offender up to six weeks without a day off. The offender threatened the drivers, who did not have a work permit, that he would dismiss them if they do not follow his instructions. The majority of the drivers obeyed because they hoped they would be paid and had no money to return to their country. They lived from their savings and from food they had brought from the Czech Republic. No social insurance was paid for the workers.</p> <p>The court found the offender guilty of THB for forced labour in 67 cases. It reasoned that he purposefully took advantage of the position of constraint of the drivers to make them work for his company.</p>	
Competent Court	District Court Trier (<i>Landgericht Trier</i>)	
Legal provision applied	§233(1), (3) StGB	
Sentence/compensation awarded	3 years 6 months imprisonment based on an agreement between the court and the defendant to accelerate the proceedings. This includes also punishment for other offences committed by the offender in this context, e.g. fraud.	
Date/period of forced labour (month/year)	June 2008 – April 2010	
Profile of the victim(s) (e.g. country of origin, gender, age, occupation of the victim prior to the incident of forced labour)	Country of origin	Czech Republic
	Gender	Male
	Age	Not indicated
	Sector	Transport of goods
	Migratory status	No work permit
How was the victim recruited and how did they come to be in the situation of forced labour	Knowledge of local language	None.
	The offender recruited the drivers in the Czech Republic.	
Elements of vulnerability	No language skills, no network in Germany, poor background.	
Identification/reporting of offences	The victim reported the offence to the authorities (e.g. the police, labour inspectorate) himself/herself	Not indicated.
	The authorities began the investigation ex officio	Not indicated.
	The case was brought to the attention of the authorities by an association/NGO	Not indicated.
	Other (please specify)	

Criminal investigation	Which authority/unit was responsible for the criminal investigation of this case?	Not indicated.
	How long after the victim started being subject to forced labour did the criminal investigation of the matter begin?	Not indicated.
	What was the length of the investigation?	Not indicated.
	What were the difficulties in the bringing this case to the court?	Not indicated.
	Was the victim required to testify at the pre-trial stage of the proceedings? If yes, did the authorities use any mechanisms to protect the safety of the victim (e.g. via a witness protection programme) or protect him/her from secondary victimisation?	Not indicated.
Court proceedings	Were there any problems/issues pertaining to the collection of evidence?	Not indicated.
	Was the victim required to testify in court? If yes, what effect is the witness testimony perceived to have had on the successful prosecution of the offenders?	It seems that only some victims had to testify in court because the defendant confessed.
	If the victim testified in court, did he/she do so in camera, in the courtroom (in the defendant's presence) or the court used the victim's testimony during the investigation phase?	Not indicated.
	Did the victim seek compensation for the damages suffered (e.g. by constituting himself/herself as a civil claimant)? If yes, did he/she receive support by the State (e.g. legal representation/legal aid)?	Not indicated.
	What type of evidence was submitted to the court? Where there any issues with the admissibility of evidence?	Not indicated. It seems testimonies of the victims were used as well as the confession of the offender.
Delivery of the court judgment	How long did it take for the court to issue its judgment (for first instance cases, from the prosecution; for second and third instance cases, from the day the appeal was filed)?	From the last offence (around October 2010) until issuance of the judgment: around 1 year.
	Was the defendant found innocent/guilty? If he/she was found innocent, was it due to procedural grounds or because the evidence presented was insufficient not to substantiate his guilt?	The defendant was found guilty.
	Was the victim awarded compensation for damages/moral pain and suffering? What was the court's reasoning?	Not indicated.
Victim support	Did the victim receive any kind of support by public authorities (e.g. social workers)/NGOs?	Not indicated.
Resources (financial and human resources)	Not indicated.	
Role of labour inspectors	Not indicated.	
Case study source	Judgment of the District Court Trier (Landgericht Trier) of 2 November 2011 – 8045 Js 9059/10.5 KLS	

Case study 6: DE-004-1

Summary of the case	<p>Judgment of the Magistrate Court Düsseldorf (Amtsgericht Düsseldorf) – 106 Ls-50 Js 208/07-58/07</p> <p>The two offenders – at the time husband and wife – who are both Polish citizens hired several Deaf persons from Poland to work for them in Germany. They promised them to arrange the necessary permits and to provide them accommodation and meals. Once in Germany, the offenders took away the Polish passports of the victims. They demanded from them to sell key holders. The offenders kept the largest part of the money that the victims earned for themselves and provided them with inadequate accommodation and insufficiently with meals. The male offender hit the victims when they did not do what he told them, when they came home too late or when they had not sold enough. In one case, the offender had promised the victim a salary of EUR 800 for four months of work but eventually she only received a few cents from him. In another case, the female offender demanded the victim to sell EUR 12 000 worth of key holders and threatened that if the target was not achieved the victim would not receive his passport back.</p> <p>The court found the defendant guilty of THB for forced labour. It reasoned that the offenders purposefully abused the position of constraint of the helpless victims to make them work for them.</p>	
Competent Court	Magistrate Court Düsseldorf (Amtsgericht Düsseldorf)	
Legal provision applied	§233(1) sentence 1, (3) StGB	
Sentence/compensation awarded	Former husband: 2 years of imprisonment on probation. Former wife: 1 year 6 months of imprisonment on probation.	
Date/period of forced labour (month/year)	2005 – 21 June 2007 (The victims arrived in Germany between 2005 and beginning of 2007, not clear until when the victims worked, but apparently nobody longer than 21 June 2007)	
Profile of the victim(s) (e.g. country of origin, gender, age, occupation of the victim prior to the incident of forced labour)	Country of origin	Poland
	Gender	both
	Age	Not indicated.
	Sector	Sales
	Migratory status	No work permit.
How was the victim recruited and how did they come to be in the situation of forced labour	Knowledge of local language	None.
Elements of vulnerability	<p>Personally by the offenders or via the internet.</p> <p>The victims are Deaf.</p>	
Identification/reporting of offences	The victim reported the offence to the authorities (e.g. the police, labour inspectorate) himself/herself	Yes, they came to the police to testify.
	The authorities began the investigation ex officio	No, the victims made a complaint to the police.
	The case was brought to the attention of the authorities by an association/NGO	-
	Other (please specify)	-

Criminal investigation	Which authority/unit was responsible for the criminal investigation of this case?	Firstly the police then the public prosecution was responsible for the criminal investigation of this case.
	How long after the victim started being subject to forced labour did the criminal investigation of the matter begin?	After two weeks for some victims and two months for other victims of forced labour the victims testified to the police.
	What was the length of the investigation?	The criminal investigation began 4-6 months after the testimony.
	What were the difficulties in the bringing this case to the court?	The length of the investigation was approximately 10 months.
	Was the victim required to testify at the pre-trial stage of the proceedings? If yes, did the authorities use any mechanisms to protect the safety of the victim (e.g. via a witness protection programme) or protect him/her from secondary victimisation?	The whereabouts of one of the defendants was unclear so they had to close the proceedings against him. Yes, the victims had to testify at the pre-trial stage of the proceedings. No, there were not any mechanisms used by the authorities to protect the safety of the victims.
Court proceedings	Were there any problems/issues pertaining to the collection of evidence?	None.
	Was the victim required to testify in court? If yes, what effect is the witness testimony perceived to have had on the successful prosecution of the offenders?	Yes, the witness testimony had the effect of a successful prosecution of the offenders, because the witness told a lot more than she has done before.
	If the victim testified in court, did he/she do so in camera, in the courtroom (in the defendant's presence) or the court used the victim's testimony during the investigation phase?	The victims mostly testified during the investigation phase. The witness testimonies for the court were held in Poland (the home country of the victims).
	Did the victim seek compensation for the damages suffered (e.g. by constituting himself/herself as a civil claimant)? If yes, did he/she receive support by the State (e.g. legal representation/legal aid)?	No, they did not seek compensation for the damages suffered.
	What type of evidence was submitted to the court? Where there any issues with the admissibility of evidence?	<ul style="list-style-type: none"> - Testimony of the victims - Confession of the offenders - The things the victims had to sell - Documents There were no problems with the admissibility of evidence.
Delivery of the court judgment	How long did it take for the court to issue its judgment (for first instance cases, from the prosecution; for second and third instance cases, from the day the appeal was filed)?	It took 4.5 years for the court to issue the judgment (first instance case).
	Was the defendant found innocent/guilty? If he/she was found innocent, was it due to procedural grounds or because the evidence presented was insufficient not to substantiate his guilt?	The two defendants were found guilty.
	Was the victim awarded compensation for damages/moral pain and suffering? What was the court's reasoning?	No, there was not any compensation for damages/moral pain and suffering.

Victim support	Did the victim receive any kind of support by public authorities (e.g. social workers)/NGOs?	No.
Resources (financial and human resources)	None.	
Role of labour inspectors	None.	
Case study source	Judgment of the Magistrate Court Dusseldorf (Amtsgericht Dusseldorf) – 106 Ls-50 Js 208/07-58/07 and interview with a prosecutor in February 2015.	

SPAIN

Case study 1: ES-001-2

Summary of the case	<p>Crimes against workers' rights: smuggling illegal workers. Absence: transfer of workers who do not have working papers by a temporary staffing firm to another with the same characteristics: irregular hiring in the administrative perspective.</p> <p>Default of security measures: Absence: absorption by the imprudent homicide crime: the risk generated affects to one worker.</p> <p>Imprudent homicide: Absence of a work accident. Drowning of a worker from a raft with security measures, without knowing the activity that the worker was carrying out. Absence of the omission of the security measures.</p> <p>Sentence: Absence of identification of a physical person in the proved facts. This omission generates defencelessness.</p>	
Competent Court	Provincial Court of Barcelona ⁽⁵⁸⁸⁾ (Second Instance)	
Legal provision applied	Article 312 of the Spanish Criminal Code ⁽⁵⁸⁹⁾ . This offence provision penalised the recruitment of workers by offering them false jobs or misleading working conditions or the employment of foreign workers without a work permit under conditions that prejudiced, removed or reduced their rights as established by law, collective agreements or employment contracts.	
Sentence/compensation awarded	There was no compensation awarded to the victim	
Date/period of forced labour (month/year)	Unknown	
Profile of the victim(s) (e.g. country of origin, gender, age, occupation of the victim prior to the incident of forced labour)	Country of origin	Morocco ⁽⁵⁹⁰⁾
	Gender	Male ⁽⁵⁹¹⁾
	Age	Unknown
	Sector	The company provided gardening services.
	Migratory status	Irregular
How was the victim recruited and how did they come to be in the situation of forced labour?	Knowledge of local language	No evidence
	<p>He was recruited by the factory through a temporary staffing firm, which was illegal according to the First Instance sentence ⁽⁵⁹²⁾.</p> <p>According to article 16.2 Spanish Workers Regulation ⁽⁵⁹³⁾, private employment agencies are forbidden. The law only allows the existence of public employment agencies.</p> <p>According to the facts probed, the business owners committed an illegal transfer of workers according to article 43 of the Spanish Workers' Regulation.</p>	

⁽⁵⁸⁸⁾ Audiencia Provincial de Barcelona

⁽⁵⁸⁹⁾ Hereinafter, CP Art. 311 establishes 'Q. Punishment by imprisonment from two to five years and a fine from six to twelve months shall apply to those who unlawfully traffic with labour.

(1). The same punishment shall be incurred by whoever recruits persons or leads them to leave their place of work by offering deceitful or false employment or working conditions and whoever employs foreign citizens without work permits under conditions that negatively affect, suppress or restrict the rights they are recognised by the legal provisions, collective bargaining agreements or individual contracts.'

⁽⁵⁹⁰⁾ According to the First Instance Decision (Juzgado de lo penal número 6 de Mataró).

⁽⁵⁹¹⁾ According to the First Instance Decision (Juzgado de lo penal número 6 de Mataró).

⁽⁵⁹²⁾ The firm who contracted the services of the victim was not a temporary staffing firm, because they did not have the authorisation according to the legal regulations. Even if the firm existed, it did not have as an objective relinquished of workers to other firms. The company was created without the required permissions to relinquish workers.

⁽⁵⁹³⁾ Estatuto de los trabajadores http://noticias.juridicas.com/8079/base_datos/Laboral/rdleg0-1996.html

Elements of vulnerability	The victim had no legal residence status.	
Identification/reporting of offences	The victim reported the offence to the authorities (e.g. the police, labour inspectorate) himself/herself	
	The authorities began the investigation <i>ex officio</i>	X
	The case was brought to the attention of the authorities by an association/NGO	
	Other (please specify)	
Criminal investigation	<i>Which authority/unit was responsible for the criminal investigation of this case?</i>	At the beginning the First Instance Court was in charge of the case (Juzgado de Instrucción número 7 de Mataró Diligencias Previas 666/2000 ⁽⁵⁹⁴⁾). When the investigation began, the labour inspection of Barcelona had a relevant role regarding their report about the lack of work risk measures. Based on their report the Penal Court (Juzgado de lo Penal número 1 de Mataró) understood that the homicide by negligence was caused by the lack of measures regarding the pond where the victim died.
	<i>How long after the victim started being subjected to forced labour did the criminal investigation of the matter begin?</i>	The victim started to work in the firm in April 2000 and he died in July 2000, so he worked in the firm for 3 months.
	<i>What was the length of the investigation?</i>	The investigation started 6 July 2000, when the victim died (Diligencias Previas 666/2000) and the First Instance decision (Juzgado de lo Penal número 1 de Mataró) is from February 2008. The Juzgado de lo Penal número 1 de Mataró started the opening of the oral phase in 2004. In the first instance decision the court recognise that there were undue delays during the opening of the oral phase of the case ⁽⁵⁹⁵⁾ .
	<i>What were the difficulties in bringing this case to the court?</i>	During the first instance, the court (Juzgado de lo Penal número 1 de Mataró) considered the manager of the company as responsible for a crime against foreign workers according to article 312 of the Spanish Criminal code. This decision was impugned by the manager. He considered that he could not be responsible of a crime considering that he was the legal representative of the firm. The Second Instance Court (Audiencia Provincial de Barcelona) considered that it was not possible to identify a physical person responsible of the security measures of the enterprise and the case was finally dismissed in second instance.
	<i>Was the victim required to testify at the pre-trial stage of the proceedings? If yes, did the authorities use any mechanisms to protect the safety of the victim (e.g. via a witness protection programme) or protect him/her from secondary victimisation?</i>	His testimony was not used during the trial because he died while he was working due to the unsafe working conditions. They used another witness testimony who's declaration probed that in the pond there were no safety signs to avoid accidents.
	<i>Were there any problems/issues pertaining to the collection of evidence?</i>	No. According to the first instance decision the evidence of the illegal hire of the victim were probed through the investigation of the labour inspection of Barcelona, who probed that the temporary staffing firm was illegal ⁽⁵⁹⁶⁾ .

⁽⁵⁹⁴⁾ The 'Diligencias Previas' are the investigatory measures adopted by the 'Juzgado de Instrucción' in order to determine the criminal act, the people involved in it and the competent organ. Information available in Spanish at <http://labogado.com/guia-legal/ante-la-justicia-penal/los-procedimientos-penales>

⁽⁵⁹⁵⁾ In Spain the penal jurisdiction always acts in two phases. The first part of the case is the investigation phase, the authority in charge is the Juzgado de Instrucción, in this case was the Juzgado de Instrucción number 6 of Mataró. Once the investigation is finished, the oral phase is opened. This second phase of the case is developed by the Juzgado de lo Penal. In this case the Juzgado de lo Penal number 0 of Mataró.

⁽⁵⁹⁶⁾ According to the Spanish legislation temporary staffing firms who can cede workers need special permissions from the Public Authorities. More information available in Spanish: <https://www.sistemanaempleo.es/agencias.html>

Court proceedings	Was the victim required to testify in court? If yes, what effect is the witness testimony perceived to have had on the successful prosecution of the offenders?	No. The victim died while he was working, there was no testimony about the conditions under which he was hired which were only available when the Labour Inspection of Barcelona investigated the firm and the temporary staffing firm.
	If the victim testified in court, did he/she do so in camera, in the courtroom (in the defendant's presence) or the court used the victim's testimony during the investigation phase?	The victim did not testify in the court as it has been explain before. There are no references about the way the rest of witnesses testified in court ⁽⁵⁹⁷⁾ .
	Did the victim seek compensation for the damages suffered (e.g. by constituting himself/herself as a civil claimant)? If yes, did he/she receive support from the State (e.g. legal representation/legal aid)?	According to the First Instance Court decision, the heirs of the victim received compensation from the State and renounced any compensation derived from the penalties imposed on the two persons found guilty.
	What type of evidence was submitted to the court? Were there any issues with the admissibility of evidence?	According to the report provided by the labour inspection of Barcelona, the unsafe working conditions were proved. The pond where the victim drowned was not marked according to the legal measures established by the work risk legislation.
Delivery of the court judgment	How long did it take for the court to issue its judgment (for first instance cases, from the prosecution; for second and third instance cases, from the day the appeal was filed)?	The investigation began in July 2000, the moment when the victim died. The first instance judgment (Juzgado de lo Penal número 1 de Mataró) is from 2004. The second Instance judgment (Audiencia Provincial de Barcelona) is from 2009.
	Was the defendant found innocent/guilty? If he/she was found innocent, was it due to procedural grounds or because the evidence presented was insufficient not to substantiate his guilt?	The process was extended due to court problems. This caused the court to consider the situation as an extenuating circumstance and imposed lower penalties on the defendants ⁽⁵⁹⁸⁾ .
	Was the victim awarded compensation for damages/moral pain and suffering? What was the court's reasoning?	The defendant was found innocent because it was not possible to prove that a physical person was responsible for the crime.
	Did the victim receive any kind of support from public authorities (e.g. social workers)/NGOs?	Yes. The hirers of the victim received an economical compensation from the Spanish State. But they renounced the compensation they could have received from the defendants.
Victim support		No evidence.
Resources (financial and human resources)		One of the problems mentioned, which are directly related to this case, is the difficulty to find evidence. On the other hand, in this case, the court considered that the crime against the worker was the illegal hiring but there was not a crime regarding article 31.2 of the Spanish Criminal Code related to crimes against foreign workers.
Role of labour inspectors		Labour inspectors started an investigation against the enterprise and the enterprise was penalised with a fine. While the labour inspectors were investigating they did not find any irregular situation regarding the workers or the safety conditions.
Case study source		The labour inspection started once the victim died and they found evidence about the lack of protection measures and the existence of an illegal temporary staffing firm through which the worker was hired.
		-Desk research. Court decisions (First and Second Instance) and information from part I of the study.

⁽⁵⁹⁷⁾ According to the First Instance Decision (Juzgado de lo Penal número 6 de Mataró).

⁽⁵⁹⁸⁾ According to the First Instance decision (Juzgado de lo Penal número 6 de Mataró).

Case study 2: ES-014-2

Summary of the case	No official summary available. The case is an appeal against the first instance judgment which found a company innocent for the charges of crimes against the rights of workers typified in Art. 312.2 of the Spanish Criminal Code ⁽⁵⁹⁹⁾ . Out of 56 workers, identified by the Labour Inspector and the Social Security, working at the leafletting company accused of committing crimes against the rights of workers, 16 of them were in an irregular situation in Spain (no work permit).	
Competent Court	Provincial Court of Madrid ⁽⁶⁰⁰⁾ , second instance.	
Legal provision applied	Art. 312.2 CP	
Sentence/compensation awarded	The defendant was found innocent.	
Date/period of forced labour (month/year)	Not identified	
Profile of the victim(s) (e.g. country of origin, gender, age, occupation of the victim prior to the incident of forced labour)	Country of origin	Not identified. The judgment only refers to the fact that out of 56 workers identified by the Labour Inspector and the Social Security, 16 of them were in an irregular situation in Spain (no work permit)
	Gender	Not identified
	Age	Not identified
	Sector	Leafletting, handing out advertising in the street
	Migratory status	Irregular migrants
How was the victim recruited and how did they come to be in the situation of forced labour?	Knowledge of local language	Not identified
Elements of vulnerability	There was no recruitment as such. The alleged victims responded to a job offer.	
Identification/reporting of offences	The facts of the case allege that some of the victims were irregular migrants.	
	The victim reported the offence to the authorities (e.g. the police, labour inspectorate) himself/herself	
	The authorities began the investigation ex officio	
	The case was brought to the attention of the authorities by an association/NGO	
	Other (please specify)	The case was started by the initiative of the Labour Inspector.

⁽⁵⁹⁹⁾ Hereinafter, CP Art. 311 establishes '0. Punishment by imprisonment from two to five years and a fine from six to twelve months shall apply to those who unlawfully traffic with labour.

1. The same punishment shall be incurred by whoever recruits persons or leads them to leave their place of work by offering deceitful or false employment or working conditions and whoever employs foreign citizens without work permits under conditions that negatively affect, suppress or restrict the rights they are recognised by the legal provisions, collective bargaining agreements or individual contracts.'

⁽⁶⁰⁰⁾ Audiencia Provincial de Madrid.

Criminal investigation	Which authority/unit was responsible for the criminal investigation of this case?	Juzgado de Instrucción number 51 of Madrid ⁽⁶⁰¹⁾ .
	How long after the victim started being subjected to forced labour did the criminal investigation of the matter begin?	Not identified. However, according to the reference number of the "Diligencias Previas" ⁽⁶⁰²⁾ and the judgment of the Juzgado de Instrucción ⁽⁶⁰³⁾ , the investigation took place in 2010.
	What was the length of the investigation?	Unknown. However, according to the reference number of the "Diligencias Previas" ⁽⁶⁰⁴⁾ and the judgment of the Juzgado de Instrucción ⁽⁶⁰⁵⁾ , the investigation took place in 2010.
	What were the difficulties in bringing this case to the court?	No difficulties identified.
	Was the victim required to testify at the pre-trial stage of the proceedings? If yes, did the authorities use any mechanisms to protect the safety of the victim (e.g. via a witness protection programme) or protect him/her from secondary victimisation?	The facts of the case prove that the alleged victims testified at the investigation stage ⁽⁶⁰⁶⁾ . However, the judgment does not show that any special measure was taken in order to protect the alleged victims. Thus, it can be considered that these testimonies were gathered with the minimum guarantees established in jurisprudence of the Spanish Supreme and Constitutional Courts ⁽⁶⁰⁷⁾ .
Court proceedings	Were there any problems/issues pertaining to the collection of evidence?	The judgment does not refer to this circumstance.
	Was the victim required to testify in court? If yes, what effect is the witness testimony perceived to have had on the successful prosecution of the offenders?	Not identified.
	If the victim testified in court, did he/she do so in camera, in the courtroom (in the defendant's presence) or the court used the victim's testimony during the investigation phase?	Not identified.
	Did the victim seek compensation for the damages suffered (e.g. by constituting himself/herself as a civil claimant)? If yes, did he/she receive support from the State (e.g. legal representation/legal aid)?	This information cannot be retrieved from the facts of the case.
	What type of evidence was submitted to the court? Were there any issues with the admissibility of evidence?	Testimony of alleged victims and official police report ⁽⁶⁰⁸⁾ .

⁽⁶⁰¹⁾ 'Investigatory Court of Madrid number 50' (Juzgado de Instrucción de Madrid número 50). In Spain, the judicial proceedings are carried out under the division between the criminal investigation and the oral hearings. Both are the competence of judges, but the judge in charge of the investigation cannot be in charge of the oral hearings. This way the independence and objectivity of the proceedings are ensured. Therefore, the criminal investigation is carried out by the 'Investigatory Courts/Judges' (Juzgados o Jueces de Instrucción).

⁽⁶⁰²⁾ The 'Diligencias Previas' are the investigatory measures adopted by the 'Juzgado de Instrucción' in order to determine the criminal act, the people involved in it and the competent organisation. Information available in Spanish at <http://iabogado.com/guia-legal/ante-la-justicia-penal/los-procedimientos-penales>. The reference number in this case is 7575/2009, which implies that the 'Diligencias' took place sometime in 2009.

⁽⁶⁰³⁾ Judgment of the Investigatory Court, 28 December 2009 (Auto del Juzgado de Instrucción de 28 de diciembre de 2009).

⁽⁶⁰⁴⁾ The 'Diligencias Previas' are the investigatory measures adopted by the 'Juzgado de Instrucción' in order to determine the criminal act, the people involved in it and the competent organisation. Information available in Spanish at <http://iabogado.com/guia-legal/ante-la-justicia-penal/los-procedimientos-penales>. The reference number in this case is 7575/2009, which implies that the 'Diligencias' took place sometime in 2009.

⁽⁶⁰⁵⁾ Judgment of the Investigatory Court, 28 December 2009 (Auto del Juzgado de Instrucción de 28 de diciembre de 2009).

⁽⁶⁰⁶⁾ Judgment of the Provincial Court of Madrid 108/2011, 28 February 2011, First legal ground (Auto de la Audiencia Provincial de Madrid 108/2011 de 28 de febrero, Razonamiento Jurídico Primero).

⁽⁶⁰⁷⁾ Judgment of the Supreme Court 348/2001, 21 February (Sentencia del Tribunal Supremo STS 348/2001 de 21 de febrero).

⁽⁶⁰⁸⁾ Judgment of the Provincial Court of Madrid 108/2011, 28 February 2011, First legal ground (Auto de la Audiencia Provincial de Madrid 108/2011 de 28 de febrero, Razonamiento Jurídico Primero).

Delivery of the court judgment	How long did it take for the court to issue its judgment (for first instance cases, from the prosecution; for second and third instance cases, from the day the appeal was filed)?	The judgment does not refer to the exact dates from the filing of the appeal to the court issuing its decision. However, the first instance judgment dates of 29 December 2010 and the judgment in second instance is of 29 February 2012. Moreover, one of the appeals against the first judgment was dismissed on 6 April 2011 ⁽⁶⁰⁹⁾ . Hence, the proceedings in second instance took at least a year.
	Was the defendant found innocent/guilty? If he/she was found innocent, was it due to procedural grounds or because the evidence presented was insufficient not to substantiate his guilt?	The defendant was found innocent due to the lack of sufficient grounds to consider that a crime against the rights of workers as typified in Art. 312.2 CP was committed. This was argued by the court based on the fact that employing workers, who have no working permit, does not automatically amount to the crime set in Art. 312.2 CP as established by the jurisprudence of the Spanish Supreme Court ⁽⁶¹⁰⁾ .
	Was the victim awarded compensation for damages/moral pain and suffering? What was the court's reasoning?	No.
Victim support	Did the victim receive any kind of support from public authorities (e.g. social workers)/NGOs?	Unknown. However, the case was started by the initiative of the Labour Inspector ⁽⁶¹¹⁾ which implies the support from public authorities in this kind of cases.
Resources (financial and human resources)	-	
Role of labour inspectors	This case was brought to the attention of the police by the Labour Inspector ⁽⁶¹²⁾ .	
Case study source	'Judgment of the Provincial Court of Madrid 109/2012, 29 February 2012' (Auto de la Audiencia Provincial de Madrid 109/2012 de 29 de Febrero).	

⁽⁶⁰⁹⁾ 'Judgment of the Provincial Court of Madrid 108/2011, 28 February 2011, Second Fact' (Auto de la Audiencia Provincial de Madrid 108/2011 de 28 de Febrero, Hecho Segundo).

⁽⁶¹⁰⁾ 'Judgment of the Provincial Court of Madrid 108/2011, 28 February 2011, First legal ground, paras. 3 -8' (Auto de la Audiencia Provincial de Madrid 108/2011 de 28 de Febrero, Razonamiento Jurídico Primero, párrafos cuarto a séptimo).

⁽⁶¹¹⁾ 'Judgment of the Provincial Court of Madrid 108/2011, 28 February 2011, First legal ground, para 0' (Auto de la Audiencia Provincial de Madrid 108/2011 de 28 de Febrero, Razonamiento Jurídico Primero, párrafo primero).

⁽⁶¹²⁾ Ibid.

Case study 3: ES-011-2

Summary of the case	Official summary not available. The case involved nine defendants. However, the charge of crimes against the rights of workers typified in Art. 312 of the Spanish Criminal Code ⁽⁶¹³⁾ was only brought against two of the defendants. The alleged seven victims were musicians who performed in the discotheque owned by one of the defendants. The Provincial Court of Málaga considered that the facts did not constitute a crime against the rights of workers. Two elements have to concur to consider the existence of such a crime: (1) that the victim is a foreigner and has no work permit; and (2) that there has to be an exploitation work relationship between the suspect and the victim. It can be considered that such exploitation exists when the job conditions harm, suppress or limit the labour rights recognised for workers by legal provisions, collective agreement or the individual work contract ⁽⁶¹⁴⁾ . The lack of a work permit is not sufficient to consider the concurrence of a situation of exploitation. The Spanish Supreme Court has considered that, even if an immigrant has no working permit or is not registered with the Social Security system, his/her labour rights might still be materially effective. In this case, the irregular employment situation could be subject to an administrative offence but does not automatically amount to the crime typified in Art. 312 CP ⁽⁶¹⁵⁾ . Therefore, in the case at stake, the court considered that the defendants had not committed a crime against the rights of workers because the alleged victims were paid for their work, could request a job permit and one of them had registered with the Social Security. However, the court indicated that the conduct could constitute an administrative offence and that, in this case, the alleged victims would have to seek redress before the administrative courts.	
	Competent Court	Provincial Court of Málaga (Audiencia Provincial de Málaga, Andalucía, Spain). Second instance.
Sentence/compensation awarded	Legal provision applied	The Public Prosecutor brought the charges in basis of Art. 312 CP. The charges for crimes against the rights of workers were repealed by the court considering that the elements required for such a crime were not present in the current case, i.e. (1) that the victim is a foreigner and has no work permit; and (2) that there has to be an exploitative work relationship between the suspect and the victim. It can be considered that such exploitation exists when the job conditions harm, suppress or limit the labour rights recognised for workers by legal provisions, collective agreement or the individual work contract ⁽⁶¹⁶⁾ . In this case the victims were paid for their work; the victims were granted a work contract if they requested it; and one of the victims was registered with the Social Security system. In fact, this situation was favourable to two of the alleged victims, who admitted to working in other venues and had more flexibility to choose where they performed. Thus, the court considered that the second element – the situation of exploitation – did not concur in the case at stake. Hence, the conduct did not constitute a crime against the rights of workers as typified in Art. 312 CP but could amount to an administrative offence.
	Date/period of forced labour (month/year)	Unknown
Profile of the victim(s) (e.g. country of origin, gender, age, occupation of the victim prior to the incident of forced labour)	Country of origin	Unknown
	Gender	2 females, 5 males
	Age	Unknown
	Sector	Entertainment (discotheque)
	Migratory status	Unknown. However, from the facts of the case it is known that all of them are identified by Foreigners Identification Number ⁽⁶¹⁷⁾ .
Knowledge of local language		Unknown. However, from the facts of the case it can be assumed that the victims knew Spanish. There is no indication in the judgment that the victims required the assistance of an interpreter or a translator. In addition, the judgment does not refer to the costs of these services when resolving the costs of the proceedings. In Spain, if such services had been requested and used, it is common practice for the courts to determine the costs of these services together with the costs of the proceedings ⁽⁶¹⁸⁾ .

⁽⁶¹³⁾ Hereinafter, CP Art. 311 CP establishes '0. Punishment by imprisonment from two to five years and a fine from six to twelve months shall apply to those who unlawfully traffic with labour.

1. The same punishment shall be incurred by whoever recruits persons or leads them to leave their place of work by offering deceitful or false employment or working conditions and whoever employs foreign citizens without work permits under conditions that negatively affect, suppress or restrict the rights they are recognised by the legal provisions, collective bargaining agreements or individual contracts.'

⁽⁶¹⁴⁾ Judgment of the Spanish Supreme Court STS 994/1999, 29 June (RJ 1999, 6080), available in Spanish at <http://supremo.vlex.es/vid/libertad-trabajadores-16-1991-22-7-21-251-1-17726088>

⁽⁶¹⁵⁾ Judgments of the Spanish Supreme Court 11 December 2004 (RJ 2005, 3300), available in Spanish at http://supremo.vlex.es/vid/continuado-derechos-trabajadores-15-6-200671047_ga=0219059352.1076002588E+91.424188182E+9, and STS 1389/2003, 21 November (RJ 2003, 8018), available in Spanish at <http://supremo.vlex.es/vid/prostitucion-m-67-7-p-369-10-17444081>

⁽⁶¹⁶⁾ Judgment of the Spanish Supreme Court STS 994/1999, 29 June (RJ 1999, 6080), available in Spanish at <http://supremo.vlex.es/vid/libertad-trabajadores-16-1991-22-7-21-251-1-17726088>

⁽⁶¹⁷⁾ Número de identificación de Extranjero (NIE) is a number provided to foreigners who for their economic, professional or social interests are linked to Spain. Information available in Spanish at <http://www.interior.gob.es/en/web/servicios-al-ciudadano/extranjero/ciudadanos-de-la-union-europea/numero-de-identidad-de-extranjero-nie>

⁽⁶¹⁸⁾ Article 240 of the Spanish Criminal Procedure Law.

How was the victim recruited and how did they come to be in the situation of forced labour?	The facts of the case state that the alleged victims were offered an employment opportunity by the defendants ⁽⁶¹⁹⁾ . In addition, one of the alleged victims claimed that she was promised employment and an apartment. However, this apartment was never provided ⁽⁶²⁰⁾ . This false promise could be considered as deception.		
Elements of vulnerability	No concrete vulnerable situation. However, four of the alleged victims were irregular migrants ⁽⁶²¹⁾ .		
Identification/reporting of offences		X	(not all of the alleged victims; only two of them and another party, victim of a different crime committed by the same perpetrators)
	The victim reported the offence to the authorities (e.g. the police, labour inspectorate) himself/herself		
	The authorities began the investigation ex officio		
	The case was brought to the attention of the authorities by an association/NGO		
	Other (please specify)		

⁽⁶¹⁹⁾ Judgment of the Provincial Court of Málaga 367/2011, 1 June 2011, 'First established fact' (Sentencia de la Audiencia Provincial de Málaga 367/2011, 1 Julio 2011, Hecho Probado Primero).

⁽⁶²⁰⁾ Judgment of the Provincial Court of Málaga 367/2011, 1 June 2011, 'First Legal Ground, para. 10' (Fundamento de Derecho Primero, párrafo 10).

⁽⁶²¹⁾ Judgment of the Provincial Court of Málaga 367/2011, 1 June 2011, First established fact' (Sentencia de la Audiencia Provincial de Málaga 367/2011, 1 Julio 2011, Hecho Probado Primero).

Criminal investigation	Which authority/unit was responsible for the criminal investigation of this case?	In Spain, criminal investigations are carried out by the "Juez de Instrucción" (instruction judge) and/or the police. In this particular case, since some of the victims brought the claim directly before the "Juzgado de Instrucción" ⁽⁶²²⁾ , the criminal investigation was carried out under the auspices of the referred "Juzgado".
	How long after the victim started being subjected to forced labour did the criminal investigation of the matter begin?	The claim was filed on 22 March 2005. On 19 January 2006, the "Juzgado de Instrucción" ordered the Internal Affairs Unit of the National Police Corps ⁽⁶²³⁾ to carry out certain investigatory measures in relation to charges brought against some of the defendants (not for THB for labour exploitation). The criminal investigation started officially on 16 February 2006 with the "Diligencias Previas" ⁽⁶²⁴⁾ of the "Juzgado de Instrucción".
	What was the length of the investigation?	The judgment requesting the opening of the trial (ending the investigation phase ⁽⁶²⁵⁾) was adopted on 12 March 2008. However, the Public Prosecutor did not file the indictment until 19 March 2010. The judgment opening the oral proceedings ⁽⁶²⁶⁾ was not adopted until 6 November 2010 ⁽⁶²⁷⁾ . Such circumstance is considered as a mitigating circumstance ⁽⁶²⁸⁾ . Therefore, the investigation lasted four years.
	What were the difficulties in bringing this case to the court?	The case involved different defendants charged with different crimes. However, the court deemed that this did not vest the case with special complexity. From the facts of the case it can be deduced that one of its difficulties was the involvement of police agents in the commission of other crimes brought against the defendants. This entailed the Unit of Internal Affairs of the National Police Corps to carry out its own investigation.
	Was the victim required to testify at the pre-trial stage of the proceedings? If yes, did the authorities use any mechanisms to protect the safety of the victim (e.g. via a witness protection programme) or protect him/her from secondary victimisation?	At the same time, there was an appeal filed against the decision of the "Juzgado de Instrucción" ordering the end of the investigation phase. Nevertheless, this appeal was resolved on 15 December 2008. Thus, it cannot be considered as an impediment to the opening of the proceedings and the delay of the Public Prosecutor in filing the indictment ⁽⁶²⁹⁾ .
	Were there any problems/issues pertaining to the collection of evidence?	The judgment establishes that the victims testified during the investigatory phase ⁽⁶³⁰⁾ . However, no specific references to the measures adopted to protect the victim are specified in the judgment. In this case the court ordered the phone tapping of some of the defendants but not in relation to the crime against the rights of workers, the subject matter of this case study. However, the testimony of one of the victims, who was also one of the persons filing the initial claim, was proved to be contradictory and false to some extent ⁽⁶³¹⁾ . For example, this victim claimed that she was forced to live in the discotheque. This fact was proven false by the testimony of the other victims.

⁽⁶²²⁾ 'Investigatory Court of Marbella number 4' (Juzgado de Instrucción número 4 de Marbella). 'Judgment of the Provincial Court of Málaga 367/2011, 1 June 2011. First Legal Ground, para.8' (*Sentencia de la Audiencia Provincial de Málaga 367/2011, 1 Julio 2011, Fundamento de Derecho Primero, párrafo 8*).

⁽⁶²³⁾ *Unidad de Asuntos Internos del Cuerpo Nacional de Policía*.

⁽⁶²⁴⁾ The "Diligencias Previas" are the investigatory measures adopted by the "Juzgado de Instrucción" in order to determine the criminal act, the people involved in it and the competent organ. Information available in Spanish at <http://iabogado.com/guia-legal/ante-la-justicia-penal/los-procedimientos-penales>

⁽⁶²⁵⁾ Auto de incoación de procedimiento abreviado.

⁽⁶²⁶⁾ Auto de apertura del juicio oral. It must be understood that in Spain, judicial proceedings are divided into three phases. The first investigatory phase ("Diligencias Previas" or "Diligencias Preliminares") carried out by the "Juzgado de Instrucción". This first phase ends either with a judgment dismissing the proceedings ("auto de sobreseimiento") or a judgment ordering to proceed to the second phase of oral proceedings ("auto de incoación de procedimiento [name of the proceeding, which in this case was "procedimiento abreviado]"). In the latter case, the Public Prosecutor and the prosecuting parties have to file the indictment asking for the opening of the oral proceedings or asking for the dismissal of the proceedings. In view of the reply to this deed, the "Juzgado de Instrucción" will decide whether to dismiss the proceedings or open the oral phase ("auto de apertura del juicio oral"). This judgment opens the second phase of the proceedings: the oral phase. Articles 773-785 of the Spanish Criminal Procedure Law (Ley de Enjuiciamiento Criminal, LECr).

⁽⁶²⁷⁾ Judgment of the Provincial Court of Málaga 367/2011, 1 June 2011. Fourth Legal Ground, para. "D)" (*Sentencia de la Audiencia Provincial de Málaga 367/2011, 1 Julio 2011, Fundamento de Derecho Cuarto, Párrafo "D)"*).

⁽⁶²⁸⁾ Judgment of the Provincial Court of Málaga 367/2011, 1 June 2011. Sixth Legal Ground, para. "C)" and Ruling' (*Sentencia de la Audiencia Provincial de Málaga 367/2011, 1 Julio 2011, Fundamento de Derecho Sexto, Párrafo "C)" and Fallo*).

⁽⁶²⁹⁾ Judgment of the Provincial Court of Málaga 367/2011, 1 June 2011. (*Sentencia de la Audiencia Provincial de Málaga 367/2011, 1 Julio 2011, Fundamento de Derecho Cuarto, Párrafo "D)"*).

⁽⁶³⁰⁾ Judgment of the Provincial Court of Málaga 367/2011, 1 June 2011. First Legal Ground, para. 8' (*Sentencia de la Audiencia Provincial de Málaga 367/2011, 1 Julio 2011, Fundamento Jurídico Primero, Párrafo 8*).

⁽⁶³¹⁾ Judgment of the Provincial Court of Málaga 367/2011, 1 June 2011. Second Legal Ground, para. "A)" and Eight Legal Ground, para. 1' (*Sentencia de la Audiencia Provincial de Málaga 367/2011, 1 Julio 2011, Fundamento de Derecho Segundo, párrafo "A)" and Fundamento de Derecho Octavo, párrafo segundo*).

Court proceedings	Was the victim required to testify in court? If yes, what effect is the witness testimony perceived to have had on the successful prosecution of the offenders?	The proof related to the crime subject matter of this case study was substantially comprised of the testimony of the alleged victims ⁽⁶³²⁾ . During the oral hearings, this proof was practised under the guarantees of Art. 741 LECr and Art. 120 of the Spanish Constitution ⁽⁶³³⁾ .
	If the victim testified in court, did he/she do so in camera, in the courtroom (in the defendants' presence) or the court used the victim's testimony during the investigation phase?	The judgment only establishes that the testimony was collected and used with the guarantees of Art. 741 LECr and Art. 120 of the Spanish Constitution ⁽⁶³⁴⁾ . The lack of reference to any specific means (such as in camera testimony) suggests that no such methods were used.
	Did the victim seek compensation for the damages suffered (e.g. by constituting himself/herself as a civil claimant)? If yes, did he/she receive support from the State (e.g. legal representation/legal aid)?	The judgment establishes that the Public Prosecutor in the indictment requested damages for the victims for a value of EUR 1 000 each and EUR 6 000 for one of the victims ⁽⁶³⁵⁾ for the offence under Art. 312 CP.
Delivery of the court judgment	What type of evidence was submitted to the court? Were there any issues with the admissibility of evidence?	The evidence for the charge "crimes against the rights of workers" was constituted by the testimony of the alleged victims ⁽⁶³⁶⁾ . One of the victim's testimony was viewed with suspicion by the court due to the contradictory allegations between the investigation and oral hearings' phase. In addition, one of the other alleged victims contradicted certain assertions made by the victim in question ⁽⁶³⁷⁾ .
	How long did it take for the court to issue its judgment (for first instance cases, from the prosecution; for second and third instance cases, from the day the appeal was filed)?	The oral hearings in this case lasted almost eight months (from the judgment opening the oral hearings on 6 November 2010 to the ruling of the "Audiencia Provincial" on 2 July 2011).
	Was the defendants found innocent/guilty? If he/she was found innocent, was it due to procedural grounds or because the evidence presented was insufficient not to substantiate his guilt?	The charges of crimes against the rights of workers were dismissed. However, they were considered guilty, together with the other defendants in the case, for other charges. The dismissal of the charge was due to the fact that one of the two elements required for the facts to qualify as a crime was not present, i.e. the situation of exploitation.
Victim support	Was the victim awarded compensation for damages/moral pain and suffering? What was the court's reasoning?	Since the charge of crimes against the rights of workers was dismissed, no damages were awarded in this case.
	Did the victim receive any kind of support from public authorities (e.g. social workers)/NGOs?	Unknown. However, in Spain there is a Network Against Trafficking in Human Beings ⁽⁶³⁸⁾ . In addition, there are NGOs who support victims of trafficking, such as ACCEM ⁽⁶³⁹⁾ , Proyecto Esperanza ⁽⁶⁴⁰⁾ or Caritas ⁽⁶⁴¹⁾ and who have launched some of the cases before the courts.

⁽⁶³²⁾ 'Judgment of the Provincial Court of Málaga 367/2011, 1 June 2011, Second Legal Ground, para. "B)" (Sentencia de la Audiencia Provincial de Málaga 367/2011, 1 Julio 2011, Fundamento de Derecho Segundo, párrafo "B)").

⁽⁶³³⁾ 'Judgment of the Provincial Court of Málaga 367/2011, 1 June 2011, Second Legal Ground, para. "A)" (Sentencia de la Audiencia Provincial de Málaga 367/2011, 1 Julio 2011, Fundamento de Derecho Segundo, párrafo "A)").

⁽⁶³⁴⁾ 'Judgment of the Provincial Court of Málaga 367/2011, 1 June 2011, Second Legal Ground, para. "A)" (Sentencia de la Audiencia Provincial de Málaga 367/2011, 1 Julio 2011, Fundamento de Derecho Segundo, párrafo "A)").

⁽⁶³⁵⁾ 'Judgment of the Provincial Court of Málaga 367/2011, 1 June 2011, Second Fact, para. 1' (Sentencia de la Audiencia Provincial de Málaga 367/2011, 1 Julio 2011, Antecedente de Hecho Segundo, párrafo segundo).

⁽⁶³⁶⁾ 'Judgment of the Provincial Court of Málaga 367/2011, 1 June 2011, Second Legal Ground, para. "B)" (Sentencia de la Audiencia Provincial de Málaga 367/2011, 1 Julio 2011, Fundamento de Derecho Segundo, párrafo "B)").

⁽⁶³⁷⁾ 'Judgment of the Provincial Court of Málaga 367/2011, 1 June 2011, Second Legal Ground, para. "A)" (Sentencia de la Audiencia Provincial de Málaga 367/2011, 1 Julio 2011, Fundamento de Derecho Segundo, párrafo "A)").

⁽⁶³⁸⁾ Red Española contra la Trata de Personas, available at: <http://redcontralatrata.org/>

⁽⁶³⁹⁾ <http://www.accem.es/en/about-us/introduction>

⁽⁶⁴⁰⁾ <http://www.proyectoesperanza.org/>

⁽⁶⁴¹⁾ <http://www.caritas.es/>

Resources (financial and human resources)	Unknown
Role of labour inspectors	In this case, the facts imply that there was no intervention from the labour inspector. The case was brought before the competent court by some of the alleged victims themselves.
Case study source	Judgment of the "Audiencia Provincial de Málaga" 368/2012, 2 July.

Case study 4: ES-15-3

Summary of the case	No official summary available.	
	The case is an appeal against the judgment of the Provincial Court of Teruel ⁽⁶⁴²⁾ .	
	The case in first instance	
	The case involved two defendants who were found guilty in the first instance for a crime against foreign workers typified under Art. 318bis of the Spanish Criminal Code ⁽⁶⁴³⁾ .	
	The defendants had been deceiving Moroccan nationals to emigrate to Spain under a false offer of employment. In exchange for facilitating their entry into Spain, the defendants required the victims to pay large quantities of money. For such purposes, one of the defendants, who owned a carpentry company, requested 35 work and residence permits from the government sub-delegation. Twenty-three were granted.	
	Once the victims arrived in Spain, the defendants concluded work contracts with them and registered them with the Social Security system. However, out of the 23 victims, only 15 of them were really employed by the defendants. The rest of the victims (8) were placed in some apartments belonging to one of the defendants and stayed there under the promise of employment which was never fulfilled. Two of the victims acted as "acusación particular" (private prosecution) ⁽⁶⁴⁴⁾ .	
Competent Court	The defendants, a Spanish and a Moroccan national, were condemned in the first instance to two years' imprisonment and disqualification from voting. In addition, the defendants had to pay the sum of EUR 6 000 and of EUR 3 400 for damages for the amounts they had requested for the victims to pay in exchange of facilitating their entry into Spain.	
	The sentence in first instance was confirmed by the Supreme Court on appeal. In addition, the defendants also had to pay costs of the proceedings, including the legal fees paid by one of the victims who acted as private prosecution.	
	Supreme Court of Spain (third instance)	
	318bis CP	
	The defendants were condemned in the first instance to two years' imprisonment and disqualification from voting. In addition, the defendants had to pay the amount of EUR 6 000 and of EUR 3 400 to two of the victims for damages. This was confirmed by the Supreme Court on appeal. The Supreme Court also ruled that the defendants had to pay the costs of the proceedings too, including the legal fees which one of the victims incurred as private prosecution.	
	End of 2006, beginning of 2007	
Date/period of forced labour (month/year)		

⁽⁶⁴²⁾ Judgment of the Provincial Court of Teruel 16/2010, 26 May 2010 ('Sentencia de la Audiencia Provincial de Teruel 16/2010, de 26 de mayo de 2010, available in Spanish at <http://www.poderjudicial.es/search/dbAction?action=contentpdf&database=match=AN&reference=6078195&links=517%19BIS&optimize=20110804&publicinterface=true>

⁽⁶⁴³⁾ Hereinafter, CP Art. 317bis establishes '0. Whoever, directly or indirectly, promotes, favours or facilitates illegal trafficking or clandestine immigration of persons from, in transit and with their destination in another country in the European Union, shall be punished with the penalty from four to eight years' imprisonment.

1. Those who perpetrate the conduct described in the preceding Section for profit or using violence, deceit, or abusing a situation of superiority or of special vulnerability of the victim, or endangering life, personal health or integrity, shall be punished with the penalties in the upper half. Should the victim be a minor or incapacitated, this shall be punished with the penalties higher by one degree to those foreseen in the preceding Section.

2. The same penalties as in the preceding Section, and also that of absolute barring from six to twelve years, shall be incurred by those who perpetrate the acts availing themselves of their status as an authority, agent thereof or public officer.

3. The penalties higher by one degree to those foreseen in Sections 0 to 2 of this Article shall be imposed, in the respective cases, and special barring from profession, trade, industry or commerce for the term of the conviction, when the offender belongs to an organisation or assembly, even if transitory in nature, which perpetrates such operations.

In the case of managers, directors or those in charge of those organisations or assemblies, the upper half of the punishment shall be applied, that may be raised to the one immediately above it in degree. When, pursuant to the terms established in Article 30 bis, a legal person is responsible for the offences defined in this Title, the punishment of a fine from two to five years shall be imposed, or that from three to five times the profit obtained if the resulting amount were to be higher.

Pursuant to the rules established in Article 65 bis, the Judges and Courts of Law may also impose the penalties established in Sub-Sections b) to g) of Section 6 of Article 32.

4. The Courts of Law, taking into account the seriousness of the act and its circumstances, the conditions of the offender and the purpose he had intended, may impose the punishment lower by one degree to the relevant one stated.'

⁽⁶⁴⁴⁾ In Spain victims can act in the proceedings as "acusación particular" (private prosecutor), among other possibilities. Foreign citizens can also qualify as private prosecutors when they are directly affected by a crime. The "acusación particular" operates like a second prosecutor in the case: being granted the status of "party of the proceedings" with all the rights this entails, such as being able to introduce evidence, participate in all the stages of the proceedings or having the right to a motivated decision and a judicial review. Art. 269 to 279 of the Spanish Criminal Procedure Law (Ley de Enjuiciamiento Criminal, LECr) and information in Spanish available at: <http://labogado.com/guia-legal/ante-la-justicia-penal/la-partes-en-el-proceso-penal#1.7020102E+13>

Profile of the victim(s) (e.g. country of origin, gender, age, occupation of the victim prior to the incident of forced labour)	Country of origin	Morocco
	Gender	Male and female
	Age	Unknown
	Sector	Carpentry company
	Migratory status	Apparently legal since the victims had work and residence permits.
	Knowledge of local language	Unknown
How was the victim recruited and how did they come to be in the situation of forced labour?	In this case, one of the defendants, owner of a shell company, offered employment to the victims via the second defendant who, as a Moroccan national and using his acquaintances, reached the victims, deceiving them to accept the deal in exchange for a sum of money ⁽⁶⁴⁵⁾ .	
Elements of vulnerability	Although the judgment does not refer to any particular vulnerable circumstance, the fact that the victims were willing to leave their country of origin and to pay large amounts of money for it for an employment offer implies that they were in a vulnerable situation.	
	In addition, the judgment considers that Art. 318bis applies because of the vulnerable economic situation of the victims. Once they had arrived in Spain, they were placed by the defendants in some apartments and had little alternatives to exercise their fundamental human rights. In particular, the victims' rights of residence and movement were restricted since the documentation they had been granted was false and legal only in appearance ⁽⁶⁴⁶⁾ .	
Identification/reporting of offences	The victim reported the offence to the authorities (e.g. the police, labour inspectorate) himself/herself	
	The authorities began the investigation ex officio	
	The case was brought to the attention of the authorities by an association/NGO	
	Other (please specify)	Although neither the first nor the second instance judgments refer to this specific information, it can be implied from both judgments that the case started via the complaint of two of the victims who then acted in the proceedings as private prosecutors ⁽⁶⁴⁷⁾ .

⁽⁶⁴⁵⁾ Judgment of the Supreme Court 384/2011, 9 May, Preliminary Legal Ground¹ (Sentencia del Tribunal Supremo 384/2011, 9 de mayo, Fundamento de Derecho Preliminar), available in Spanish at <http://portaljuridico.lexnovaes/jurisprudencia/JURIDICO/140167/sentencia-ts-386-2013-sala-3-de-11-de-mayo-delitos-contra-los-derechos-de-los-ciudadanos-extra>

⁽⁶⁴⁶⁾ Judgment of the Supreme Court 384/2011, Fifth Legal Ground, para. 2^o (Sentencia del Tribunal Supremo 384/2011, 9 de mayo, Fundamento de Derecho Quinto, párrafo 2), available in Spanish at <http://portaljuridico.lexnovaes/jurisprudencia/JURIDICO/140167/sentencia-ts-386-2013-sala-3-de-11-de-mayo-delitos-contra-los-derechos-de-los-ciudadanos-extra>

⁽⁶⁴⁷⁾ In Spain victims can act in the proceedings as "acusación particular" (private prosecutor), among other possibilities. Foreign citizens can also qualify as private prosecutors when they are directly affected by a crime. The "acusación particular" operates like a second prosecutor in the case; being granted the status of "party of the proceedings" with all the rights this entails, such as being able to introduce evidence, participate in all the stages of the proceedings or having the right to a motivated decision and a judicial review. Art. 269 to 279 of the Spanish Criminal Procedure Law (Ley de Enjuiciamiento Criminal, LECr) and information in Spanish available at: <http://abogado.com/guia-legal/ante-la-justicia-penal/la-partes-en-el-proceso-penal#1.7020102E+13>

Criminal investigation	Which authority/unit was responsible for the criminal investigation of this case?	Investigatory Court number 2 of Teruel ⁽⁶⁴⁹⁾ . Although the Labour Inspector also visited the premises on different occasions ⁽⁶⁴⁹⁾ .
	How long after the victim started being subjected to forced labour did the criminal investigation of the matter begin?	<p>The dates of the investigation are not available in the judgments.</p> <p>The exploitation took place between the end of 2006 and the beginning of 2007. However, the first instance court did not rule its judgment until 27 May 2011. Nevertheless, it can be deduced that between the complaint before the authorities and the final ruling, all the necessary procedural steps were taken, including the investigation, the oral proceedings and the final sentencing phase.</p> <p>In addition, the first instance judgment establishes that the defendants were imprisoned in April and May of 2008⁽⁶⁵⁰⁾. Hence, this implies that the proceedings were already ongoing and that sufficient evidence had been brought to consider that the defendants had been involved in the crimes subject to the proceedings⁽⁶⁵¹⁾.</p> <p>The second phase of the proceedings (oral hearing) started in 2009 since the reference number of the proceeding is 6/2009⁽⁶⁵²⁾.</p>
	What was the length of the investigation?	The dates are not specified. However, taking into account the dates provided in the previous section, it can be considered that the investigations lasted at least a year and a half.
	What were the difficulties in bringing this case to the court?	Unknown
	Was the victim required to testify at the pre-trial stage of the proceedings? If yes, did the authorities use any mechanisms to protect the safety of the victim (e.g. via a witness protection programme) or protect him/her from secondary victimisation?	The judgments do not specify this information. However, taking into account that two of the victims acted as private prosecutor it is assumed that they provided their testimony during the investigative phase since, in order to qualify as private prosecutor, this is one of the requirements. ⁽⁶⁵³⁾
	Were there any problems/issues pertaining to the collection of evidence?	Unknown

⁽⁶⁴⁹⁾ Judgment of the Provincial Court of Teruel 16/2010, 26 May 2010, para.0' (Sentencia de la Audiencia Provincial de Teruel 16/2010, de 26 de mayo de 2010, párrafo 0), available in Spanish at <http://www.poderjudicial.es/search/doAction?action=contentpdf&datasematch=AN&reference=6078195&links=317%19BIS&optimize=20110804&publicinterface=true>

⁽⁶⁴⁹⁾ Judgment of the Supreme Court 384/2011, First Legal Ground, para. 3' (Sentencia del Tribunal Supremo 384/2011, 9 de mayo, Fundamento de Derecho Primero, párrafo 3), available in Spanish at <http://portaljuridico.lexnova.es/jurisprudencia/JURIDICO/140167/sentencia-ts-386-2013-sala-3-de-11-de-mayo-deltos-contra-los-derechos-de-los-ciudadanos-extra>

⁽⁶⁵⁰⁾ Judgment of the Provincial Court of Teruel 16/2010, 26 May 2010, para.0 and ruling' (Sentencia de la Audiencia Provincial de Teruel 16/2010, de 26 de mayo de 2010, párrafo 0 y Fallo), available in Spanish at <http://www.poderjudicial.es/search/doAction?action=contentpdf&datasematch=AN&reference=6078195&links=317%19BIS&optimize=20110804&publicinterface=true>

⁽⁶⁵¹⁾ Arts. 501 to 503 LECr.

⁽⁶⁵²⁾ Judgment of the Provincial Court of Teruel 16/2010, 26 May 2010, para.0' (Sentencia de la Audiencia Provincial de Teruel 16/2010, de 26 de mayo de 2010, párrafo 0), available in Spanish at <http://www.poderjudicial.es/search/doAction?action=contentpdf&datasematch=AN&reference=6078195&links=317%19BIS&optimize=20110804&publicinterface=true>

⁽⁶⁵³⁾ Art. 108 LECr

Court proceedings	Was the victim required to testify in court? If yes, what effect is the witness testimony perceived to have had on the successful prosecution of the offenders?	The victims testified during the oral hearings ⁽⁶⁵⁴⁾ .
	If the victim testified in court, did he/she do so in camera, in the courtroom (in the defendant's presence) or the court used the victim's testimony during the investigation phase?	There is no reference in the judgments that the testimony took place in camera. From the facts of the case it appears that the declarations made during the investigation phase were used during the oral hearings since some of the victims were acting as private prosecutors and, thus, had offered this testimony during the investigation. There is no reference in the second instance to any contradictions in such testimonies.
	Did the victim seek compensation for the damages suffered (e.g. by constituting himself/herself as a civil claimant)? If yes, did he/she receive support from the State (e.g. legal representation/legal aid)?	Two of the victims sought compensation, which they received. In addition, the defendants had to cover the costs of the proceedings, including the legal fees which one of the victims had incurred as a result of acting as private prosecutor.
	What type of evidence was submitted to the court? Were there any issues with the admissibility of evidence?	The court received both testimonial and documentary evidence. Testimony was offered, not only by the victims concerned, but also by the Labour Inspector, as well as by the defendants. In addition, documents concerning the legal status of the victims and of the company were included as evidence ⁽⁶⁵⁵⁾ .
Delivery of the court judgment	How long did it take for the court to issue its judgment (for first instance cases, from the prosecution; for second and third instance cases, from the day the appeal was filed)?	The judgment of the Provincial Court was issued on 27 May 2011 and the judgment of the Supreme Court was issued on 10 May 2012. Thus, it took almost a year to process the appeal.
	Was the defendant found innocent/guilty? If he/she was found innocent, was it due to procedural grounds or because the evidence presented was insufficient not to substantiate his guilt?	The defendants were found guilty at first instance. This was confirmed by the Supreme Court on appeal.
Victim support	Was the victim awarded compensation for damages/moral pain and suffering? What was the court's reasoning?	At first instance, and confirmed by the Supreme Court on appeal, one of the victims acting as private prosecution was awarded EUR 6 000 for damages. In addition, the legal fees for the intervention of the victim as private prosecutor were also awarded. Another victim received EUR 3 400 in compensation. These amounts correspond to the amounts they paid the defendants to facilitate their entry into Spain.
	Did the victim receive any kind of support from public authorities (e.g. social workers)/NGOs?	

⁽⁶⁵⁴⁾ Judgment of the Supreme Court 384/2011, 9 May, First Legal Ground, para. 3' (Sentencia del Tribunal Supremo 384/2011, 9 de mayo, Fundamento de Derecho Primero, párrafo 3), available in Spanish at <http://portaljuridico.lexnova.es/jurisprudencia/JURIDICO/140167/sentencia-ts-386-2013-sala-3-de-11-de-mayo-delitos-contralos-derechos-de-los-ciudadanos-extra>

⁽⁶⁵⁵⁾ Judgment of the Supreme Court 384/2011, 9 May, First Legal Ground' (Sentencia del Tribunal Supremo 384/2011, 9 de mayo, Fundamento de Derecho Primero), available in Spanish at <http://portaljuridico.lexnova.es/jurisprudencia/JURIDICO/140167/sentencia-ts-386-2013-sala-3-de-11-de-mayo-delitos-contralos-derechos-de-los-ciudadanos-extra>

Resources (financial and human resources)	-
Role of labour inspectors	In this case the Labour Inspector carried out visits to the premises of one of the defendants on the suspicion that the number of work and residence permits did not comply with the reality of a company that in practice was inoperative.
<i>Case study source</i>	Judgment of the Supreme Court 385/2012, 10 May Judgment of the Provincial Court of Teruel 00017/2011, 27 May 2011

Case study 5: ES-03-2

Summary of the case	In this case, the judgment ⁽⁶⁵⁶⁾ condemns one of the two defendants to three years and six months' imprisonment and to pay EUR 2 000 for damages for a crime against the rights of workers as typified under Article 312.2 of the Spanish Criminal Code ⁽⁶⁵⁷⁾ . The second defendant was acquitted.
Competent Court	There were eight victims (7 Uruguayan, 1 Brazilian), all of them men, employed in the building industry. Provincial Court of Lugo ⁽⁶⁵⁸⁾ , second instance.
Legal provision applied	Art. 312.2 CP. The Public Prosecutor also brought charges on the basis of Art. 311 CP ⁽⁶⁵⁹⁾ . Whilst the possible victims foreseen under Art. 312.2 CP are foreign workers without working permits, Art. 311 CP protects all workers, regardless of their nationality ⁽⁶⁶⁰⁾ . In this case, the court considered that Art. 312.2 CP was more appropriate due to the circumstances of the case ⁽⁶⁶¹⁾ . One of the two defendants was condemned to three years and six months' imprisonment and to pay EUR 2 000 for damages to three of the eight victims ⁽⁶⁶²⁾ . The damages were provided for because the victims concerned were subjected to more appalling circumstances as provided for in the next paragraph.
Sentence/compensation awarded	All of the victims were subject to the same poor working conditions: long working hours (including the weekends in some cases), low salary with discounts for the days of absence and no right to go to the authorities under the threat of being fired ⁽⁶⁶³⁾ . However, three of them were subjected to more appalling circumstances. Specifically, Virgilio, who broke his ribs as a consequence of a work accident, was forced, by the condemned defendant, not to report the accident under the threat of being fired. During the month Virgilio could not work, he did not receive any pay.
Date/period of forced labour (month/year)	Taking into account that the case was brought to the attention of the authorities in December 2006 ⁽⁶⁶⁴⁾ , the periods of exploitation were different for each of the victims ⁽⁶⁶⁵⁾ : <ul style="list-style-type: none"> - Agustín: 2 years and 4 months - Virgilio: 2 years - Maximo: since February 2005 - Eusebio: unknown - Octavio: since 15 December 2006 - Carlos María: since September 2006 - Ambrosio: since the end of 2004

⁽⁶⁵⁶⁾ Judgment of the Provincial Court of Lugo 40/2009, 28 March' (*Sentencia de la Audiencia Provincial de Lugo 40/2009 de 28 de marzo*).

⁽⁶⁵⁷⁾ Hereinafter, CP, available at: http://www.sanchezcervera-abogados.com/wp-content/uploads/2011/5/Criminal_Code_C%20%82digo_Penal.pdf. Art. 311.1. CP establishes "The same punishment [imprisonment from two to five years and a fine from six to twelve months] shall be incurred by whoever recruits persons or leads them to leave their place of work by offering deceitful or false employment or working conditions and whoever employs foreign citizens without work permits under conditions that negatively affect, suppress or restrict the rights they are recognised by the legal provisions, collective bargaining agreements or individual contracts."

⁽⁶⁵⁸⁾ *Audiencia Provincial de Lugo*.

⁽⁶⁵⁹⁾ Art. 310 CP establishes 'Punishment by imprisonment of six months to three years and a fine from six to twelve months shall be imposed on:

1. Those who, by deceit or abuse of a victim's need, impose working or Social Security conditions on a worker employed by them that damage, suppress or restrict the rights he is recognised by legal provisions, collective bargaining agreements or individual contracts.

2. Those who, in the event of a company's conveyance, with knowledge of the procedures described in the preceding Section, maintain such conditions imposed by another.

3. Should the conduct stated in the preceding Sections is carried out by means of violence or intimidation, the higher degree penalties shall be imposed.'

⁽⁶⁶⁰⁾ Judgment of the Provincial Court of Lugo 40/2009, 28 March, Second Legal Ground, para.0' (*Sentencia de la Audiencia Provincial de Lugo 40/2009 de 28 de marzo, Fundamento de Derecho Segundo, párrafo primero*).

⁽⁶⁶¹⁾ Judgment of the Provincial Court of Lugo 40/2009, 28 March, Second Legal Ground' (*Sentencia de la Audiencia Provincial de Lugo 40/2009 de 28 de marzo, Fundamento de Derecho Segundo*).

⁽⁶⁶²⁾ Judgment of the Provincial Court of Lugo 40/2009, 28 March, Ruling' (*Sentencia de la Audiencia Provincial de Lugo 40/2009 de 28 de marzo, Fallamos*).

⁽⁶⁶³⁾ Judgment of the Provincial Court of Lugo 40/2009, 28 March, Proven Facts, para. 1.2' (*Sentencia de la Audiencia Provincial de Lugo 40/2009 de 28 de marzo, Hechos Probados, párrafo 12*).

⁽⁶⁶⁴⁾ Judgment of the Provincial Court of Lugo 40/2009, 28 March, Proven Facts, para. 1' (*Sentencia de la Audiencia Provincial de Lugo 40/2009 de 28 de marzo, Hechos Probados, párrafo 1*).

⁽⁶⁶⁵⁾ Judgment of the Provincial Court of Lugo 40/2009, 28 March, Proven Facts, para. 2 - 10' (*Sentencia de la Audiencia Provincial de Lugo 40/2009 de 28 de marzo, Hechos Probados, párrafos 2-12*).

Profile of the victim(s) (e.g. country of origin, gender, age, occupation of the victim prior to the incident of forced labour)	Country of origin	Seven of the victims were Uruguayan and one of them was Brazilian.
	Gender	All male
	Age	Unknown
	Sector	Building industry
	Migratory status	Irregular. No work or residence permit ⁽⁶⁶⁶⁾ .
How was the victim recruited and how did they come to be in the situation of forced labour?	Knowledge of local language	Taking into account that the victims were from countries in which Spanish (Uruguay) and Portuguese (Brazil) are the official languages, it must be assumed that they knew Spanish.
		The judgment does not refer to the specific recruitment method. The judgment only establishes that the condemned defendant completed verbal contracts with the victims ⁽⁶⁶⁷⁾ .
Elements of vulnerability		The victims were in an irregular situation (no work or residence permit). In addition, since they could not work, they had no source of income. The condemned defendant was aware of this and took advantage of this irregular situation to avoid the legal formalities, including registering the victims with the Social Security system ⁽⁶⁶⁸⁾ .
Identification/reporting of offences	The victim reported the offence to the authorities (e.g. the police, labour inspectorate) himself/herself	X Three of the victims brought the case to the attention of the authorities ⁽⁶⁶⁹⁾ .
	The authorities began the investigation ex officio	
	The case was brought to the attention of the authorities by an association/NGO	
	Other (please specify)	

⁽⁶⁶⁶⁾ Judgment of the Provincial Court of Lugo 40/2009, 28 March, Proven Facts, para. 0' (Sentencia de la Audiencia Provincial de Lugo 40/2009 de 28 de marzo, Hechos Probados, párrafo 0).

⁽⁶⁶⁷⁾ Ibid.

⁽⁶⁶⁸⁾ Ibid.

⁽⁶⁶⁹⁾ These victims acted as 'acusación particular' which, as established, means that the victims, by bringing the case to the attention of the competent authorities, exercised the criminal action and stood as parties during the proceedings. See footnote 7.

Criminal investigation	Which authority/unit was responsible for the criminal investigation of this case?	"Juzgado Mixto nº1" ⁽⁶⁷⁰⁾ (Investigatory Judge)
	How long after the victim started being subjected to forced labour did the criminal investigation of the matter begin?	Taking into account that the case was brought to the attention of the authorities in December 2006 ⁽⁶⁷¹⁾ , the periods of exploitation were different for each of the victims ⁽⁶⁷²⁾ : <ul style="list-style-type: none"> - Agustín: 2 years and 4 months - Virgilio: 2 years - Maximo: since February 2005 - Eusebio: unknown - Octavio: since 15 December 2006 - Carlos María: since September 2006 - Ambrosio: since the end of 2004
	What was the length of the investigation?	The exact dates of the investigation are unknown. However, taking into account that the facts were reported in December 2006 ⁽⁶⁷³⁾ and that the reference number of the proceedings before the Investigatory Judge ⁽⁶⁷⁴⁾ , it can be concluded that the investigation took place in 2007.
	What were the difficulties in bringing this case to the court?	None identified.
	Was the victim required to testify at the pre-trial stage of the proceedings? If yes, did the authorities use any mechanisms to protect the safety of the victim (e.g. via a witness protection programme) or protect him/her from secondary victimisation?	None identified.
	Were there any problems/issues pertaining to the collection of evidence?	None identified.
	Was the victim required to testify in court? If yes, what effect is the witness testimony perceived to have had on the successful prosecution of the offenders?	The victims testified in court ⁽⁶⁷⁵⁾ .
	If the victim testified in court, did he/she do so in camera, in the courtroom (in the defendant's presence) or the court used the victim's testimony during the investigation phase?	No reference can be found in the judgment referring to any specific protective measure.
	Did the victim seek compensation for the damages suffered (e.g. by constituting himself/herself as a civil claimant)? If yes, did he/she receive support from the State (e.g. legal representation/legal aid)?	The three victims who acted as private prosecution sought compensation during the case.
	What type of evidence was submitted to the court? Were there any issues with the admissibility of evidence?	According to the facts in the judgment, evidence consisted of the testimony of the defendants and of the victims ⁽⁶⁷⁶⁾ .
Court proceedings		

⁽⁶⁷⁰⁾ 'Juzgado Mixto' refers in Spanish to "Juzgado de Primera Instancia e Instrucción" which are the investigatory judicial bodies which have both civil and criminal law competences. Articles 25, 84 and 85 of the Spanish Organic Law of the Judiciary (Ley Orgánica del Poder Judicial).

⁽⁶⁷¹⁾ Judgment of the Provincial Court of Lugo 40/2009, 28 March, Proven Facts, para. 1' (Sentencia de la Audiencia Provincial de Lugo 40/2009 de 28 de marzo, Hechos Probados, párrafo 1).

⁽⁶⁷²⁾ Judgment of the Provincial Court of Lugo 40/2009, 28 March, Proven Facts, para. 2 - 10' (Sentencia de la Audiencia Provincial de Lugo 40/2009 de 28 de marzo, Hechos Probados, párrafos 2-12).

⁽⁶⁷³⁾ Judgment of the Provincial Court of Lugo 40/2009, 28 March, Proven Facts, para. 1' (Sentencia de la Audiencia Provincial de Lugo 40/2009 de 28 de marzo, Hechos Probados, párrafo 1).

⁽⁶⁷⁴⁾ Judgment of the Provincial Court of Lugo 40/2009, 28 March, pg. 0' (Sentencia de la Audiencia Provincial de Lugo 40/2009 de 28 de marzo, Hechos Probados, página). The reference number was 46/2006.

⁽⁶⁷⁵⁾ Judgment of the Provincial Court of Lugo 40/2009, 28 March, Fourth Legal Ground, para.1' (Sentencia de la Audiencia Provincial de Lugo 40/2009 de 28 de marzo, Fundamento de Derecho Cuarto, párrafo segundo).

⁽⁶⁷⁶⁾ Ibid.

Delivery of the court judgment	How long did it take for the court to issue its judgment (for first instance cases, from the prosecution; for second and third instance cases, from the day the appeal was filed)? Was the defendant found innocent/guilty? If he/she was found innocent, was it due to procedural grounds or because the evidence presented was insufficient not to substantiate his guilt? Was the victim awarded compensation for damages/moral pain and suffering? What was the court's reasoning?	Unknown. The date of the judgment is 27 March 2010 but there is no reference regarding when the oral hearings took place. One of the two defendants was found guilty of a crime against the rights of workers as typified under Article 312.2 CP and condemned to three years and six months' imprisonment and to pay EUR 2 000 to each of the three victims acting as private prosecution. The three victims acting as private prosecution were granted EUR 2 000 each for damages for the moral and material loss suffered ⁽⁶⁷⁷⁾ .
Victim support	Did the victim receive any kind of support from public authorities (e.g. social workers)/NGOs?	Unknown.
Resources (financial and human resources)	.	
Role of labour inspectors	The Labour Inspector opened several infringement records registering the fact that the defendant was abusing the irregular situation of his workers by imposing conditions which violated their rights as workers ⁽⁶⁷⁸⁾ .	
Case study source	'Judgment of the Provincial Court of Lugo 41/2010, 29 March' (Sentencia de la Audiencia Provincial de Lugo 41/2010 de 29 de marzo).	

⁽⁶⁷⁷⁾ Art. 108 CP establishes that 'O. Perpetration of an act defined as a felony or misdemeanour by Law shall entail, pursuant to the provisions contained in the laws, to repair the damages and losses caused thereby. 1. In all cases, the party damaged may opt to sue for civil liability before the Civil Jurisdiction'. Hence, if an defendants is found guilty for a crime, he or she will always have to pay the corresponding compensation.

⁽⁶⁷⁸⁾ Judgment of the Provincial Court of Lugo 40/2009, 28 March, Proven Facts, para. O' (Sentencia de la Audiencia Provincial de Lugo 40/2009 de 28 de marzo, Hechos Probados, párrafo O).

Case study 6: ES-18-02

Summary of the case	No official summary available. In this case, the Provincial Court of Valencia ⁽⁶⁷⁹⁾ found the three defendants innocent of the charges of crimes against workers typified in Articles 311.1 ⁽⁶⁸⁰⁾ and 312.2 ⁽⁶⁸¹⁾ of the Spanish Criminal Code ⁽⁶⁸²⁾ . There were 11 victims (10 male, 1 female) involved in the case. All of them were from Bulgaria and were employed in the casket manufacture company of the defendants.	
Competent Court	Provincial Court of Valencia, second instance ⁽⁶⁸³⁾ .	
Legal provision applied	Art. 311.1 and 312.2 CP	
Sentence/compensation awarded	The accused were found innocent.	
Date/period of forced labour (month/year)	2003 to May 2005 ⁽⁶⁸⁴⁾	
Profile of the victim(s) (e.g. country of origin, gender, age, occupation of the victim prior to the incident of forced labour)	Country of origin	Bulgaria ⁽⁶⁸⁵⁾
	Gender	10 male, 1 female ⁽⁶⁸⁶⁾
	Age	Unknown
	Sector	Casket manufacture ⁽⁶⁸⁷⁾
	Migratory status	Irregular migrants (no work or residence permit) ⁽⁶⁸⁸⁾
How was the victim recruited and how did they come to be in the situation of forced labour?	Knowledge of local language	Unknown
	There was no recruitment as such. The alleged victims responded to a job offer.	

⁽⁶⁷⁹⁾ Audiencia Provincial de Valencia.

⁽⁶⁸⁰⁾ Art. 310.0 CP establishes 'Punishment by imprisonment of six months to three years and a fine from six to twelve months shall be imposed on:

0. Those who, by deceit or abuse of a victim's need, impose working or Social Security conditions on a worker employed by them that damage, suppress or restrict the rights he is recognised by legal provisions, collective bargaining agreements or individual contracts.'

⁽⁶⁸¹⁾ Art. 311.1 CP establishes 'The same punishment [imprisonment from two to five years and a fine from six to twelve months] shall be incurred by whoever recruits persons or leads them to leave their place of work by offering deceitful or false employment or working conditions and whoever employs foreign citizens without work permits under conditions that negatively affect, suppress or restrict the rights they are recognised by the legal provisions, collective bargaining agreements or individual contracts.

⁽⁶⁸²⁾ Hereinafter, CP.

⁽⁶⁸³⁾ Provincial Courts are always second instance courts because first instance courts are the investigatory judges who serve as a first filter to determine whether the substance of the case is criminal in nature and whether proceedings should indeed be started.

⁽⁶⁸⁴⁾ 'Judgment of the Provincial Court of Valencia 886/2012, 26 December, Proven Facts, para. 1' (*Sentencia de la Audiencia Provincial de Valencia 886/2012 de 26 de diciembre, Hechos Probados, párrafo 1*).

⁽⁶⁸⁵⁾ Ibid.

⁽⁶⁸⁶⁾ 'Judgment of the Provincial Court of Valencia 886/2012, 26 December, Facts, Second' (*Sentencia de la Audiencia Provincial de Valencia 886/2012 de 26 de diciembre, Antecedentes de Hecho, Segundo*).

⁽⁶⁸⁷⁾ 'Judgment of the Provincial Court of Valencia 886/2012, 26 December, Proven Facts, para. 2' (*Sentencia de la Audiencia Provincial de Valencia 886/2012 de 26 de diciembre, Hechos Probados, párrafo 2*).

⁽⁶⁸⁸⁾ 'Judgment of the Provincial Court of Valencia 886/2012, 26 December, Proven Facts, para. 3' (*Sentencia de la Audiencia Provincial de Valencia 886/2012 de 26 de diciembre, Hechos Probados, párrafo 3*).

Elements of vulnerability	The facts of the case allege that some of the victims were irregular migrants ⁽⁶⁸⁹⁾ . The lack of a work and residence permit situates the alleged victims in a complex situation.		
Identification/reporting of offences	The victim reported the offence to the authorities (e.g. the police, labour inspectorate) himself/herself	X	
	The authorities began the investigation ex officio		
	The case was brought to the attention of the authorities by an association/NGO		
	Other (please specify)		
Criminal investigation	Which authority/unit was responsible for the criminal investigation of this case?		Juzgado de Instrucción de Xàtiva number 1 ⁽⁶⁹⁰⁾
	How long after the victim started being subjected to forced labour did the criminal investigation of the matter begin?		Unknown. However, according to the reference number of the "Procedimiento Abreviado" ⁽⁶⁹¹⁾ before the Investigatory Court and the oral hearings before the Provincial Court ⁽⁶⁹²⁾ , the investigation took place in 2008.
	What was the length of the investigation?		Unknown. However, according to the reference number of the "Procedimiento Abreviado" ⁽⁶⁹³⁾ before the Investigatory Court and the oral hearings before the Provincial Court ⁽⁶⁹⁴⁾ , the investigation took place in 2008.
	What were the difficulties in bringing this case to the court?		No difficulties identified.
	Was the victim required to testify at the pre-trial stage of the proceedings? If yes, did the authorities use any mechanisms to protect the safety of the victim (e.g. via a witness protection programme) or protect him/her from secondary victimisation?		The facts of the case suggest that the alleged victims testified at the investigation stage ⁽⁶⁹⁵⁾ . However, the judgment does not show that any special measure was taken in order to protect the alleged victims. Thus, it can be implied that these testimonies were gathered with the minimum guarantees established in jurisprudence of the Spanish Supreme and Constitutional Courts ⁽⁶⁹⁶⁾ .
	Were there any problems/issues pertaining to the collection of evidence?		None identified. The judgment does not refer to this circumstance.

⁽⁶⁸⁹⁾ Ibid.

⁽⁶⁹⁰⁾ 'Investigatory Court of Xàtiva number 0' (Juzgado de Instrucción de Xàtiva número 0). In Spain, the judicial proceedings are carried out under the division between the criminal investigation and the oral hearings. Both are competence of judges, but the judge in charge of the investigation cannot be in charge of the oral hearings. This way the independence and objectivity of the proceedings are ensured. Therefore, the criminal investigation is carried out by the 'Investigatory Courts/Judges' (*Juzgados o jueces de instrucción*).

⁽⁶⁹¹⁾ The "Procedimiento Abreviado" is one of the kinds of the criminal proceedings that exist in Spanish law. Under this, proceedings are classified according to the gravity of the penalty. In order to determine the criminal act and, consequently the corresponding proceedings and the competent organ, the "diligencias previas" (investigatory actions) have to take place. Information available in Spanish at <http://labogado.com/guia-legal/ante-la-justicia-penal/los-procedimientos-penales>. The reference number in this case is 29/2007, which implies that the investigation took place sometime in 2007.

⁽⁶⁹²⁾ Judgment of the Provincial Court of Valencia 886/2012, 26 December. Facts, First' (Sentencia de la Audiencia Provincial de Valencia 886/2012 de 26 de diciembre, *Antecedentes de Hecho, Primero*). The date of the oral hearings was 18 December 2012.

⁽⁶⁹³⁾ The "Procedimiento Abreviado" is one of the kinds of the criminal proceedings that exist in Spanish law. Under this, proceedings are classified according to the gravity of the penalty. In order to determine the criminal act and, consequently the corresponding proceedings and the competent organ, the "diligencias previas" (investigatory actions) have to take place. Information available in Spanish at <http://labogado.com/guia-legal/ante-la-justicia-penal/los-procedimientos-penales>. The reference number in this case is 29/2007, which implies that the investigation took place sometime in 2007.

⁽⁶⁹⁴⁾ Judgment of the Provincial Court of Valencia 886/2012, 26 December. Facts, First' (Sentencia de la Audiencia Provincial de Valencia 886/2012 de 26 de diciembre, *Antecedentes de Hecho, Primero*). The date of the oral hearings was 18 December 2012.

⁽⁶⁹⁵⁾ Judgment of the Provincial Court of Valencia 886/2012, 26 December, First Legal Ground, para. 1' (Sentencia de la Audiencia Provincial de Valencia 886/2012 de 26 de diciembre, *Fundamento Jurídico Primero, párrafo segundo*).

⁽⁶⁹⁶⁾ Judgment of the Supreme Court 348/2001, 21 February' (Sentencia del Tribunal Supremo STS 348/2001 de 21 de febrero)

Court proceedings	Was the victim required to testify in court? If yes, what effect is the witness testimony perceived to have had on the successful prosecution of the offenders?	The facts of the case prove that the alleged victims testified at the investigation stage ⁽⁶⁹⁷⁾ . However, the judgment does not show that any special measure was taken in order to protect the alleged victims. Thus, it is implied that these testimonies were gathered with the minimum guarantees established in the Spanish Criminal Procedure Law ⁽⁶⁹⁸⁾ .
	If the victim testified in court, did he/she do so in camera, in the courtroom (in the defendant's presence) or the court used the victim's testimony during the investigation phase?	Unknown. This circumstance is not referred to in the judgment; thus, it can be implied that no such measures were adopted.
	Did the victim seek compensation for the damages suffered (e.g. by constituting himself/herself as a civil claimant)? If yes, did he/she receive support from the State (e.g. legal representation/legal aid)?	The alleged victims sought compensation for the amounts due to them for their work. However, it is not discernible whether they received support from the State.
	What type of evidence was submitted to the court? Were there any issues with the admissibility of evidence?	Testimony of alleged victims and documentary proof ⁽⁶⁹⁹⁾ .
	How long did it take for the court to issue its judgment (for first instance cases, from the prosecution; for second and third instance cases, from the day the appeal was filed)?	The oral hearings took place on 19 December 2013 ⁽⁷⁰⁰⁾ and the Judgment was issued on the 27 December ⁽⁷⁰¹⁾ .
Delivery of the court judgment	Was the defendant found innocent/guilty? If he/she was found innocent, was it due to procedural grounds or because the evidence presented was insufficient not to substantiate his guilt?	The defendant was found innocent due to the lack of sufficient grounds to consider that a crime against the rights of workers as typified in Arts. 311.1 and 312.2 CP had been committed. This was argued by the court based on the fact that employing workers who have no working permit or have not been registered with the Social Security system does not automatically amount to the crime set in Arts. 311.1 and 312.2 CP as established by the jurisprudence of the Spanish Supreme Court ⁽⁷⁰²⁾ .
	Was the victim awarded compensation for damages/moral pain and suffering? What was the court's reasoning?	No.
Victim support	Did the victim receive any kind of support from public authorities (e.g. social workers)/NGOs?	Unknown.
Resources (financial and human resources)		
Role of labour inspectors		
Case study source	'Judgment of the Provincial Court of Valencia 887/2013, 27 December' (Sentencia de la Audiencia Provincial de Valencia 887/2013 de 27 de diciembre).	

⁽⁶⁹⁷⁾ 'Judgment of the Provincial Court of Valencia 886/2012, 26 December, First Legal Ground, para. 1' (Sentencia de la Audiencia Provincial de Valencia 886/2012 de 26 de diciembre, Fundamento Jurídico Primero, párrafo segundo).

⁽⁶⁹⁸⁾ Ley de Enjuiciamiento Criminal, Arts. 409 – 449.

⁽⁶⁹⁹⁾ 'Judgment of the Provincial Court of Valencia 886/2012, 26 December, First Legal Ground, para. 1' (Sentencia de la Audiencia Provincial de Valencia 886/2012 de 26 de diciembre, Fundamento Jurídico Primero, párrafo segundo).

⁽⁷⁰⁰⁾ 'Judgment of the Provincial Court of Valencia 886/2012, 26 December, Facts, First' (Sentencia de la Audiencia Provincial de Valencia 886/2012 de 26 de diciembre, Antecedentes de Hecho, Primero).

⁽⁷⁰¹⁾ 'Judgment of the Provincial Court of Valencia 886/2012, 26 December' (Sentencia de la Audiencia Provincial de Valencia 886/2012 de 26 de diciembre).

⁽⁷⁰²⁾ Judgment of the Provincial Court of Valencia 886/2012, 26 December, First Legal Ground, paras. 3 '6' (Sentencia de la Audiencia Provincial de Valencia 886/2012 de 26 de diciembre, Fundamento Jurídico Primero, párrafos cuarto a séptimo).

ITALY

Case study 1: IT-001

Summary of the cases	<p>The Court of Cassation⁽⁷⁰³⁾ confirmed the penalty imposed on nine defendants that were convicted in second instance for THB (Article 601 Criminal Code), slavery (for forced labour) (Article 600 Criminal Code) and criminal association (Article 416 Criminal Code). No information on the kind of penalty imposed is provided in the judgment.</p> <p>According to the Court of Cassation⁽⁷⁰⁴⁾, the second instance court proved that the defendants had participated (for about three years⁽⁷⁰⁵⁾) in a criminal organisation aimed at publishing misleading job advertisements in Poland and other eastern European countries promising well-paid work and accommodation in Italy in the agricultural sector. The people answering to the advertisements were taken to an isolated location in the countryside in south of Italy with no transport means to leave the location. The victims were taken to work and back to their accommodation by the defendants. The accommodation was very poor; they lived in scarce hygienic conditions. Their passports were confiscated and the cost of the food and of accommodation was reduced from their wage. They were obliged to work long hours for a very limited wage. They were threatened. Physical and psychological violence was used to suppress any form of rebellion.</p>
Competent Court	<p>Court of Bari, 1st instance.</p> <p>Court of Appeal of Bari, 2nd instance.</p> <p>Court of Cassation, 3rd instance.</p>
Legal provision applied	<p>Murmylo Pietro:</p> <ul style="list-style-type: none"> Article 416, Article 600 of the Criminal Code; <p>Niedzwiadek Janusz:</p> <ul style="list-style-type: none"> Article 600, Article 601 of the Criminal Code; <p>Korokzulec Radoslaw:</p> <ul style="list-style-type: none"> Article 600 of the Criminal Code; <p>Poleszak Jan Marius:</p> <ul style="list-style-type: none"> Article 600, Article 601 of the Criminal Code; <p>Korneluk Zbigniew:</p> <ul style="list-style-type: none"> Article 601 of the Criminal Code; <p>Nowinski Zbigniew Robert:</p> <ul style="list-style-type: none"> Article 601 of the Criminal Code; <p>Potoczny Darius:</p> <ul style="list-style-type: none"> Article 600, Article 601 of the Criminal Code; <p>Gornik Elzbieta:</p> <ul style="list-style-type: none"> Article 416, Article 600 of the Criminal Code; <p>Whuk Andrzej Zdzislaw:</p> <ul style="list-style-type: none"> Article 600 of the Criminal Code.

⁽⁷⁰³⁾ Judgment of the Court of Cassation 40044/9 of 23 September 2009.

⁽⁷⁰⁴⁾ Ibid.

⁽⁷⁰⁵⁾ Information collected through consultation with national stakeholders (representative of law enforcement authorities).

Sentence/compensation awarded	The Court of Cassation ⁽⁷⁰⁶⁾ confirmed the penalty imposed on the nine defendants that were convicted in first and second instance for THB (Article 601 Criminal Code), slavery (for forced labour) (Article 600 Criminal Code) and criminal association (Article 416 Criminal Code). The penalties imposed by the first and second instance courts varied between four and ten years of imprisonment. Defendants were also condemned to pay two victims and a Trade Union (C.G.I.L.), that participated to the proceedings as civil parties, a symbolic compensation of EUR 1 ⁽⁷⁰⁷⁾ .		
Date/period of forced labour (month/year)	Three years ⁽⁷⁰⁸⁾ .		
Profile of the victim(s) (e.g. country of origin, gender, age, occupation of the victim prior to the incident of forced labour)	Country of origin		The exact number of victims is unknown. Victims were mainly recruited in Poland. Some of the victims also came from other eastern European countries (e.g. Ukraine and Byelorussia).
	Gender		Men and women.
	Age		No information on age of the victims is available.
	Sector		No information on the occupation of the victims prior to the incident of forced labour is available. The judgment highlights however that the victims were poor and in need.
	Migratory status		The majority of the victims were irregular immigrants (e.g. eastern European workers coming from Ukraine or Byelorussia) ⁽⁷⁰⁹⁾ .
How was the victim recruited and how did they come to be in the situation of forced labour?	Knowledge of local language		The majority of the victims did not know Italian language ⁽⁷¹⁰⁾ .
Elements of vulnerability	The defendants were part of a criminal organisation aimed at publishing misleading job advertisements in Poland and other eastern European countries promising well-paid work and accommodation in Italy in the agricultural sector. The people answering to the advertisements were taken to an isolated location in the south of Italy ⁽⁷¹¹⁾ .		
	Victims had experienced poverty in their home countries. Their passports were confiscated by the defendants when they arrived to Italy. They were kept in isolation. They had very little means to survive and were therefore dependent on the defendants. Moreover many of them were irregular immigrants and did not know Italian language. Victims were threatened with physical and psychological violence ⁽⁷¹²⁾ .		
Identification/reporting of offences	The victim reported the offence to the authorities (e.g. the police, labour inspectorate) himself/herself	X	Some of the victims were able to escape and reported the offence to the competent authorities ⁽⁷¹³⁾ .
	The authorities began the investigation ex officio		
	The case was brought to the attention of the authorities by an association/NGO		
	Other (please specify)	X	Family members of Polish victims reported to the Polish Consulate as they were not able to contact or had no news about the victims after their arrival in Italy ⁽⁷¹⁴⁾ . The Polish Consulate informed the competent Italian authorities ⁽⁷¹⁵⁾ that started the investigations.

⁽⁷⁰⁶⁾ Judgment of the Court of Cassation 40044/9 of 23 September 2009.

⁽⁷⁰⁷⁾ First instance judgment of the Tribunal of Bari 19717 of 21 February 2007.

⁽⁷⁰⁸⁾ Carcedi, F., Slavery. The phenomenon of forced labour: victims, protection services, help procedures, legal framework (Maggioli Editore, Ravenna, 2009) 210.

⁽⁷⁰⁹⁾ Ibid.

⁽⁷¹⁰⁾ Ibid.

⁽⁷¹¹⁾ Ibid.

⁽⁷¹²⁾ Ibid.

⁽⁷¹³⁾ Carcedi, F., Slavery. The phenomenon of forced labour: victims, protection services, help procedures, legal framework (Maggioli Editore, Ravenna, 2009) 210.

⁽⁷¹⁴⁾ Ibid.

⁽⁷¹⁵⁾ Information collected through consultation with national stakeholders (representative of law enforcement authorities).

Criminal investigation	Which authority/unit was responsible for the criminal investigation of this case?	ROS and DDA prosecutors from the city of Bari were in charge of the criminal investigation.
	How long after the victim started being subject to forced labour did the criminal investigation of the matter begin?	The investigations began three years after the first victims started being subject to forced labour ⁽⁷¹⁶⁾ .
Court proceedings	What was the length of the investigation?	Eight months.
	What were the difficulties in the bringing this case to the court?	No issues reported.
	Was the victim required to testify at the pre-trial stage of the proceedings? If yes, did the authorities use any mechanisms to protect the safety of the victim (e.g. via a witness protection programme) or protect him/her from secondary victimisation?	Victims were interviewed during the pre-trial stage of the proceedings, however, no specific protection mechanism was used by Italian authorities. Polish victims were assisted by the Polish Consulate ⁽⁷¹⁷⁾ .
	Were there any problems/issues pertaining to the collection of evidence?	No issues reported. The evidence was collected also through wiretapping, searches of the working place and the victims' accommodations ⁽⁷¹⁸⁾ .
	Was the victim required to testify in court? If yes, what effect is the witness testimony perceived to have had on the successful prosecution of the offenders?	Victims were not required to testify in court as the defendants chose a special proceeding (<i>rito abbreviato</i>). Such judicial proceeding is shorter and does not require the testimony of witnesses or victims in court ⁽⁷¹⁹⁾ . The write ups of the testimony they provided during the investigation is used instead.
	If the victim testified in court, did he/she do so in camera, in the courtroom (in the defendant's presence) or the court used the victim's testimony during the investigation phase?	Victims were not required to testify in court ⁽⁷²⁰⁾ .
	Did the victim seek compensation for the damages suffered (e.g. by constituting himself/herself as a civil claimant)? If yes, did he/she receive support by the State (e.g. legal representation/legal aid)?	Two victims sought compensation for the damages suffered by constituting themselves as civil claimants before the first instance court. Defendants were condemned to pay two victims a symbolic compensation of EUR 1 ⁽⁷²¹⁾ . There is no information available on the court's reasoning. Victims received legal aid ⁽⁷²²⁾ .
	What type of evidence was submitted to the court? Where there any issues with the admissibility of evidence?	The types of evidence taken to court were wiretapping, searches, inspections ⁽⁷²³⁾ . No issues with the admissibility of evidence were reported.

⁽⁷¹⁶⁾ Ibid.⁽⁷¹⁷⁾ Ibid.⁽⁷¹⁸⁾ Carcedi, F., Slavery. The phenomenon of forced labour: victims, protection services, help procedures, legal framework (Maggioli Editore, Ravenna, 2009) 210.⁽⁷¹⁹⁾ Information collected through consultation with national stakeholders (representative of law enforcement authorities).⁽⁷²⁰⁾ Ibid.⁽⁷²¹⁾ First instance judgment of the Tribunal of Bari 1.9717 of 21 February 2007.⁽⁷²²⁾ Information collected through consultation with national stakeholders (representative of law enforcement authorities).⁽⁷²³⁾ Carcedi, F., Slavery. The phenomenon of forced labour: victims, protection services, help procedures, legal framework (Maggioli Editore, Ravenna, 2009) 210.

Delivery of the court judgment	How long did it take for the court to issue its judgment (for first instance cases, from the prosecution, for second and third instance cases, from the day the appeal was filed)?	According to stakeholders consulted: <ul style="list-style-type: none"> The first instance judgment was delivered about 24 months after the prosecution of the alleged offender. The judgment of the court of appeal was issued 12 months after the appeal against the judgment of the first instance court was filed. The judgment of the Court of Cassation⁽⁷²⁴⁾ was issued one 19 months after the appeal was filed.
	Was the defendant found innocent/guilty? If he/she was found innocent, was it due to procedural grounds or because the evidence presented was insufficient not substantiate his guilt?	The defendants were found guilty and the conviction imposed in second instance for THB (Article 601 Criminal Code), slavery (for forced labour) (Article 600 Criminal Code) and criminal association (Article 416 Criminal Code) was confirmed. The sentence however is not mentioned in the judgment of the Court of Cassation ⁽⁷²⁵⁾ .
	Was the victim awarded compensation for damages/moral pain and suffering? What was the court's reasoning?	Defendants were condemned to pay two victims a symbolic compensation of EUR 1 ⁽⁷²⁶⁾ . There is no information available on the court's reasoning.
Victim support	Did the victim receive any kind of support by public authorities (e.g. social workers)/NGOs?	No support by public authorities or NGOs was provided to the victims in this specific case. Support was provided to Polish victims by the Polish Consulate ⁽⁷²⁷⁾ .
Resources (financial and human resources)	Financial and human resources were adequate to prosecute the case and take it to court ⁽⁷²⁸⁾ .	
Role of labour inspectors	The labour inspectors did not play any role in achieving the prosecution of this case ⁽⁷²⁹⁾ .	
Case study source	Court judgments	
	- First instance judgment of the Tribunal of Bari 198/08 of 22 February 2008;	
	- Judgment of the Court of Cassation 40045/10 of 24 September 2010.	
	Interviews with stakeholders	
	- Police and a public prosecutor.	
Literature:		
	- Carchedì, F., <i>Slavery. The phenomenon of forced labour: victims, protection services, help procedures, legal framework</i> (Maggioli Editore, Ravenna, 2010).	

⁽⁷²⁴⁾ Judgment of the Court of Cassation 40044/9 of 23 September 2009.

⁽⁷²⁵⁾ Ibid.

⁽⁷²⁶⁾ First instance judgment of the Tribunal of Bari 197/7 of 21 February 2007.

⁽⁷²⁷⁾ Information collected through consultation with national stakeholders (representative of law enforcement authorities and public prosecutor).

⁽⁷²⁸⁾ Information collected through consultation with national stakeholders (representative of law enforcement authorities).

⁽⁷²⁹⁾ Ibid.

LATVIA

Case study 1: LV-001

Summary of the case	<p>The defendant – a Latvian national and a representative of the modelling agency in Latvia – was charged with but acquitted of THB offence committed against minors by a group of persons pursuant to prior agreement. The prosecutor claimed that there were two elements of THB present: THB for sexual exploitation and THB for forced labour.</p> <p>Facts: The defendant O.K. offered to minor girls in Latvia employment opportunities in modelling agency in Italy. Upon arrival in the Italian agency, their passports and phone SIM cards were taken away. The earnings made by casting in Italy were reduced by withholding costs for accommodation, food and clothing leaving the victims with EUR 50-70 per week. On some occasions the victims were forced to have sexual intercourse with the sole representative of the Italian modelling agency N.D. or, occasionally, with other men, or to work as "scouts" in Latvia in order to pay back their accumulated debts. Altogether 16 victims were identified. Four had a status of a victim in the criminal proceedings, while the rest had a status of a witness.</p> <p>Judgment: The court of first instance found the defendant not guilty. The court concluded that scouting done by O.K. was legal, that the victims were not kept in forced isolation, that they were not misinformed about the level of the possible income, that they could get back their passports and phone SIM cards upon request.</p> <p>The first instance judgment has not entered into force. It was appealed by the prosecutor and the appeal was granted.</p> <p>On appeal: The court of appeals found significant procedural violations and sent the case back for new adjudication in the court of first instance. This decision was appealed by the defendant and the appeal was partly granted.</p> <p>Cassation: The court of cassation established that by not reviewing the case on the substance the court of appeals had made a significant violation of the criminal procedure. The case was sent for new adjudication in the court of appeal and has been set for review in March 2015.</p>	
	<p>Riga Regional Court of the Republic of Latvia (Latvijas Republikas Rīgas apgabaltiesa)</p> <p>Article 154(2) of the Criminal Law – Human trafficking of a minor committed by a group of persons pursuant to prior agreement.</p> <p>The defendant was found innocent and acquitted. No compensation awarded.</p>	
Date/period of forced labour (month/year)	There were 16 victims. The period of forced labour varies from few days till few years.	
Profile of the victim(s) (e.g. country of origin, gender, age, occupation of the victim prior to the incident of forced labour)	Country of origin	16 victims all from Latvia.
	Gender	Female
	Age	From 13 to 18 years of age.
	Sector	Arts, entertainment and recreation (Modelling)
	Migratory status	EU citizens travelling to another EU country.
How was the victim recruited and how did they come to be in the situation of forced labour?	Knowledge of local language	No knowledge of the local language.
	The victims were recruited through a modelling agency in Latvia that was established as a branch of the Italian modelling agency. The defendant was the only employee in the Latvian agency, she offered to young girls good employment prospects in Italy. Agreements were signed with them or their parents without providing them with copies.	

Elements of vulnerability	All victims had elements of vulnerability – they were minors, some had to finish the school. The prosecutor pointed out in the court that the victims had poor economic conditions and/or came from troubled families. Upon arrival in Italy, their identity documents and phone SIM cards were taken away. They did not speak the local language and were indebted to the representative of the agency as part of the terms of employment (i.e. to pay back for accommodation, food, clothes).	
Identification/reporting of offences	The victim reported the offence to the authorities (e.g. the police, labour inspectorate) himself/herself	X One of the victims reported the offence to the police.
	The authorities began the investigation <i>ex officio</i>	X All other victims were identified through the work of the police.
	The case was brought to the attention of the authorities by an association/NGO	
	Other (please specify)	
	Which authority/unit was responsible for the criminal investigation of this case?	The investigation was carried out by the 3rd Division of the Department for Fight Against Organised Crime of the State Police. The charges were brought by the Prosecutor's Office for Organised Crime and Other Specialised Fields.
Criminal investigation	How long after the victim started being subject to forced labour did the criminal investigation of the matter begin?	Approximately 6 months (in relation to the one victim who reported the offence).
	What was the length of the investigation?	Two years. From 18 June 2007 until 29 June 2009 when the case was sent to the court by the Prosecutor's Office.
	What were the difficulties in the bringing this case to the court?	No particular difficulties except delay due to cross-border cooperation to secure evidence.
	Was the victim required to testify at the pre-trial stage of the proceedings? If yes, did the authorities use any mechanisms to protect the safety of the victim (e.g. via a witness protection programme) or protect him/her from secondary victimisation?	All victims were required to testify at the pre-trial stage. There were no mechanisms used to protect safety of the victims or to prevent secondary victimisation.
	Were there any problems/issues pertaining to the collection of evidence?	During interview the prosecutor indicated twofold difficulties: a) unwillingness of the victims to provide reliable testimonies – in particular during the initial examination (strong feeling of shame was emphasised); b) delay due to cross-border cooperation with the Italian police via Eurojust.

Court proceedings	Was the victim required to testify in court? If yes, what effect is the witness testimony perceived to have had on the successful prosecution of the offenders?	All victims were required to testify in the court. Since the charges were dismissed, the testimonies did not have successful effect on the prosecution of the offender.
	If the victim testified in court, did he/she do so in camera, in the courtroom (in the defendant's presence) or the court used the victim's testimony during the investigation phase?	The victims testified in the courtroom in the defendant's presence. On some occasions, when the victims were unavailable, their testimonies given at the pre-trial stage were read out in the courtroom.
	Did the victim seek compensation for the damages suffered (e.g. by constituting himself/herself as a civil claimant)? If yes, did he/she receive support by the State (e.g. legal representation/legal aid)?	Three victims sought compensation in the amount of approximately EUR 23 554 (LVL 16 556), EUR 32 511 (LVL 22 852) and EUR 19 166 (LVL 13 472) as civil claimants in the criminal case. These claims were not considered. There was no support from the State requested and it was not provided. Those victims who wished so had their own legal representation.
	What type of evidence was submitted to the court? Where there any issues with the admissibility of evidence?	Apart from testimonies, there were three DVDs with audio records, passports, copies of documents and five photographs submitted. The issues related to admissibility of evidence were identified by the court of appeal. The court of appeal indicated that the first instance court, contrary to Article 501 of the CPL, had first read out testimonies given by the victims during pre-trial stage and then requested the victims to provide their testimonies before the court. Since there was no such request submitted from the eligible subjects, testimonies given at the pre-trial stage had not to be read out. In addition, contrary to Article 449 of the CPL, the first instance court had not verified print-outs of emails attached to the file, as well as documents received from the Italian authorities. Besides, the first instance court had not analysed testimonies given by several witnesses, had not verified evidence produced by the prosecutor and had not provided reasons for rejecting evidence produced by the prosecutor.
Delivery of the court judgment	How long did it take for the court to issue its judgment (for first instance cases, from the prosecution; for second and third instance cases, from the day the appeal was filed)?	<ul style="list-style-type: none"> • 24 months in the first instance – from 29 June 2009 until 30 June 2011; • 10 months in the second instance – from unspecified date in the beginning of July 2011 until 8 May 2012; • 8 months in the third instance – from unspecified date in the end of May/beginning of June 2012 until 12 February 2013.
	Was the defendant found innocent/guilty? If he/she was found innocent, was it due to procedural grounds or because the evidence presented was insufficient not substantiate his guilt?	The defendant was found innocent. It was because of the substantive grounds – the court of the first instance did not find any element of THB for forced labour proved. The court concluded that the scouting done by the defendant was legal, that the victims were not kept in forced isolation, that they were not misinformed about the level of the possible income, that they could get back their passports and phone SIM cards upon request. However, the court of appeal found procedural errors in how the court of first instance evaluated the evidence.
Victim support	Was the victim awarded compensation for damages/moral pain and suffering? What was the court's reasoning?	No. The defendant was found innocent.
	Did the victim receive any kind of support by public authorities (e.g. social workers)/NGOs?	The four victims who were formally recognised as victims in the criminal proceedings were requested to undergo psychological examination by a psychologist. While this is not a mandatory requirement, the police and supervising prosecutor felt that this might secure evidence ⁽⁷³⁰⁾ . As it can be seen from the judgment of first instance court, at least one of these persons undertook a State granted rehabilitation course at the NGO Safe House.

⁽⁷³⁰⁾ Based on stakeholder interview (prosecutor).

Resources (financial and human resources)	The interviewed prosecutor indicated that in this case the human and financial resources were sufficient. It seems that the successful prosecution of the defendant by the first instance court has been influenced by insufficient knowledge about specifics of THB for forced labour.
Role of labour inspectors	The State Labour Inspectorate was not involved in the case.
Case study source	<ul style="list-style-type: none"> Judgments of all three court instances (Judgment No K04-045-11/18, Judgment No PAK-271, Judgment No SKK-2/2013 – all received from the Department of Case Law Codification of the Supreme Court of Latvia); Interviews with the police and a prosecutor.

LITHUANIA

Case study 1: LT

Summary of the case	<p>Criminal Case No 1-62-172/2012</p> <p>Court: Vilnius District Court, case dealt by single judge</p> <p>Verdict issued on 23 March 2012</p> <p>Accused:</p> <p>(1) S.J. (personal data confidential) – a citizen of the Republic of Lithuania, having secondary (specialised) education, divorced, pensioner, previously convicted: in the year 1997 sentenced to 3 (three) years in prison for theft under Article 271 (2) of the Criminal Code with applied confiscation of assets and deferred sentence for 3 (three) years pursuant to Article 471(2) of the Criminal Code, conviction currently expired;</p> <p>(2) O.A.C. (personal data confidential) – a citizen of the Republic of Lithuania, having secondary education, unemployed, previously convicted: in the year 1997 sentenced to 2 (two) years in prison for theft under Article 271(2) of the Criminal Code with applied confiscation of assets and deferred sentence for 2 (two) years pursuant to Article 471 of the Criminal Code and in the year 2001, sentenced to 1 (one) year in prison for avoiding to pay an alimony to children pursuant to Article 125 (1) of the Criminal Code with deferred sentence for 18 (eighteen) months pursuant to Article 471 of the Criminal Code.</p> <p>Legal basis: Article 293 (1) and Article 202 (1) of the Criminal Code of the Republic of Lithuania valid as of 1st May 2003; (The text verbatim in both English and Lithuanian is provided hereunder). Also the Order of issuing licences for employment agencies engaged in organising employment abroad of citizens of the Republic of Lithuania, as approved by the decree of Minister of social security and labour of the Republic of Lithuania dated 19th August 2003 No A1-127 (valid as of 27th April 2006) (The text verbatim in both English and Lithuanian is provided hereunder).</p> <p>Short summary of established facts during investigation ⁽⁷³¹⁾:</p> <p>It has been established that during the period from 11 October 2003 to 30 July 2004, the defendant S.J. acting alone, and during the period from 30 July 2004 to 05 July 2006 with an assistance of her life partner O.A.C. (except 7 established events, when S.J. acted alone), committed the following offences; published announcements at local newspapers "Musu Ignalina", "Ignalina", "Nauja Vaga", "Sugardas", "V každy dom", containing notices on open job positions in the Czech Republic as well as holding visits to villages and small towns of Utena district in the Republic of Lithuania, where he was organising meetings with interested people in person or by phone aimed at convincing them to travel to and legally work in the Czech Republic, fraudulently promising legal employment, good pay, decent work conditions, without having any real possibility to employ such people and seeking to only transfer them abroad and for certain payment to refer to a group of people offering illegal employment within the Czech Republic. Subsequently, S.J. was involved in organising trips for these people to the Czech Republic, procuring all required means of transport thereto as well as performing any other actions related to sending the respective victims to the designated location of illegal employment and leaving them in vulnerable conditions with other individuals in charge of their illegal employment therein. As was determined through statements of witnesses, these people were sent to work illegally in the construction sector and different kind of factories, where these people were exploited under extremely hard working conditions and not given any normal pay, except for small amounts, considered as advance payments, required for purchasing food and other absolutely necessary personal items for surviving. It was established by the prosecution that the respective criminal offence had been committed by accused S.J. and O.A.C. with assistance of another group of people of Ukrainian origin acting in the Czech Republic and organising illegal employment of people brought to the Czech Republic by S.J. and O.A.C. The respective accomplices have been questioned by the investigators investigating and prosecuting such cases in the Republic of Lithuania and they testified that S.J. undertook to bring the Lithuanian workers to the Czech Republic, however, with regard to the payment for her services she was supposed to get from such workers, they never made any payment to either S.J. or O.A.C. by themselves. However, during the prosecution certain data on few bank transfers from the Czech Republic to S.J. Lithuanian bank account were reported by the respective bank. Moreover, according to their knowledge, the working conditions of such people were very normal, they had to work regular working hours not exceeding 8 working hours per day and the situation that these individuals were not officially employed occurred only due to their own request aiming to avoid an obligation to pay taxes on received income. As the accomplices acted only as intermediaries, and they did not employ these people themselves, they asserted that they did not possess any knowledge on the remuneration that the illegal workers received in the Czech Republic. However, they do believe, such remuneration was sufficient and if any withholding occurred, this was caused by the employees who had drinking problems or were drug users and employers constantly complained about them and even asked not to receive any more people from the Republic of Lithuania. ⁽⁷³²⁾</p>
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⁽⁷³¹⁾ All information in this section has been collected from the case material stored in the archive of court.

⁽⁷³²⁾ Information collected through consultation with national stakeholders (police).

Summary of the case

Investigators of the Criminal Police Department have full confidence that all required data and evidence proving that S.J. with participation of O.A.C. and assistance of criminal groups within the Czech Republic had fraudulently transferred victims thereto, having full knowledge of their subsequent exploitation for illegal work, knowing their poor working conditions and aiming to use their vulnerability due to alcohol or drug addiction, long term unemployment, low education and seeking to have material benefit through their exploitation without granting any pay and keeping them by force or fraud, by using violence and other means aimed at limiting their ability to escape and/or resist. Moreover, a majority of victims were not allowed to possess their personal documents, were prevented of liberty and movement, suffered from psychological and physical violence, and therefore had been forced to escape from the Czech Republic without any money and without receiving any pay for their work in the Czech Republic even when informing S.J. about the occurred situation. All such information has been confirmed by statements of witnesses during the investigation and evidenced by the notebook belonging to S.J. and containing all data of victims, locations of the anticipated places of labour exploitation, contacts of accomplices within the Czech Republic, agenda of planned trip to the Czech Republic and similar information. This notebook was found and taken by the police during the search conducted in the apartment of S.J. The representative of Criminal Police Department. However, even though the investigation led to charges of THB for labour exploitation and respective elements pertaining to the offence had been identified by the investigators and submitted to the Prosecutor's office, the indictment issued on 2nd March 2011, convicted the offender of activities aimed at the organisation of trips for the Lithuanian citizens abroad and abandoning them without any assistance by applying legal provisions foreseen under Article 293 (1) and Article 202 (1) of the Criminal Code of the Republic of Lithuania, recommending to sentence S.J. 8 (eight) years to prison and O.A.C. – 6 (six) years. The investigation clearly revealed that the defendant conducted acts of THB for labour exploitation – letters were sent to institutions of the Czech Republic, containing this legal qualification. A reference to THB for labour exploitation is included in all communication, with prosecutors, defendants, Czech Institutions. The investigator clearly listed elements of THB for labour exploitation and qualified such criminal acts as such under respective provision of the criminal code, i.e. Article 147. The final qualification of such acts under another provision of the Criminal code appeared only in the indictment which went to court. The interview with the investigator who conducted the investigation of this crime explained that there were extensive discussions with the prosecution on the qualification of the crime. The prosecution said that there is no court practice yet with regard to THB for forced labour, therefore, it would be better to choose another provision so that it would not become requalified by the Court at a stage of judicial review⁽⁷³³⁾.

One of the reasons that could lead to such hesitation by prosecution to qualify the offence as the THB for labour exploitation may be findings of investigation conducted by the Criminal Police office of the Czech Republic under received request of legal aid from the Lithuanian investigators. The Czech investigators responded that they were not able to find any evidence that the respective defendants conducted criminal offence that could be qualified as THB for labour exploitation under the Czech law. Moreover, they have noted pursuant to the Czech law, activities of an intermediation for employment did not constitute a criminal offence and should be qualified only as an administrative misdemeanour due to the failure of defendants to register each worker within the Labour Exchange of the Czech Republic not later than on the 1st day of commencement of their employment. The Czech police emphasised that no data on registration of any employee sent by the defendants to the Czech Republic had been found in any registry of Labour Exchange⁽⁷³⁴⁾.

Hearing:

Testimonies of witnesses:

Around 100 aggrieved individuals were determined and testified as witnesses or victims in the prosecution procedure as well as subsequent court proceedings. All witnesses indicated that they suffered from financial problems, and therefore agreed to go with S.J. to the Czech Republic, where she promised legal employment and good pay. However, all witnesses testified that they received no pay, apart from a very little amount deemed as advance payment and aimed to cover their living expenses in the Czech Republic. The final settlement was promised to be paid upon their return to the Republic of Lithuania but it was never made. Moreover, their living and working conditions were extremely poor, they were exploited to work 12 hours per working day, but they could not escape as their documents were taken away, they did not have any money for travelling back to the Republic of Lithuania. They were also frightened to raise any issue for fear of being subject to physical violence. Moreover, they were afraid to report themselves to police as their job was illegal and they were afraid to go to jail, so they stayed until the moment they could somehow escape. The majority of victims escaped and no payment was made to them. When they approached S.J., she informed them that the employers did not pay for their work as they escaped from there. She also said that she had to pay penalties on their behalf because of their escape, and suffered expenses, when organising their travel and visas, therefore they even owed her money. All witnesses recognised S.J. as the organiser of trips to the Czech Republic, O.A.C. as being their driver and Ukrainian accomplices as individuals transferring them to respective employers who exploited them, without any employment documents, contracts, regardless that S.J. was promising them that the work would be legal, very well rewarded, that they would have decent working and living conditions, knowing the real situation they would never agree to travel to the Czech Republic. Moreover, they had to ask relatives to send them some money so they could escape from this slavery and exploitation.

The respective witness, representative of the transport company, recognised S.J. as a person regularly ordering a bus transport to/from the Czech Republic and Lithuania, but he did not have any knowledge for what purpose these people were travelling abroad for⁽⁷³⁵⁾.

Statements of accused:

⁽⁷³³⁾ Interview with investigator in the case, March 2014.

⁽⁷³⁴⁾ Information collected through the case material and consultation with national stakeholders – Representative of Criminal Police Department, Section for Serious crimes, Vilnius, Lithuania.

⁽⁷³⁵⁾ All information in this section has been collected from the case material stored in the archive of court as well as confirmed during the interview with the Chief investigator of this criminal offence.

Both defendants did not confess in respect of the charges and stated that all individuals travelling to the Czech Republic had full knowledge of the employment conditions and travelled to the respective country by their own free will. Moreover, the defendant S.J. stated that the established illegal employment occurred due to their own choice of people as they wanted to earn more money and did want to pay taxes. The accused O.A.C. emphasised that his role in all the process was limited to driving his partner S.J. to her indicated place and communications with any persons was related to solely explaining his experience in the Czech Republic, including good and bad experiences (e.g. when he did not earn any money, had been cheated by employment organisers, etc.) He provided all the information to interested people.

S.J. stated that her activity when bringing people abroad was more sporadic than regular, that she took people with herself when she was travelling to the Czech Republic for employment or business reasons as she was collecting charity goods there and selling it in villages of Lithuania. A majority of people found our this possibility to go to the Czech Republic, when they met her selling aforementioned goods in the market. S.J. also testified that she was asked by her employer to recommend some people from Lithuania who were interested to work and she just referred these people to him without any payment. However she was sure that all of them had good employment conditions and received normal pay. S.J. noted that advertisements were published on the respective newspapers only a few times, when she wanted in good faith to help her formal employer. She did not receive any payment, only a few times she received some money aimed to compensate her incurred expenses for the transportation of people.

Moreover, some people knew that she was working at times in the Czech Republic, so they called her themselves and she just wanted to help them to solve financial problems. She therefore referred them to her former employer. S.J. emphasised that she is also a victim of this situation as she did not earn any money from this activity and even gained debts as she paid for people's transport and did not receive any money back after the respective persons escaped from the Czech Republic and were sent back because they did not work, used alcohol or even drugs⁽⁷³⁶⁾.

Judgment:

S.J. was found guilty of the criminal offence pursuant to Article 293 (1) of the Criminal Code of the Republic of Lithuania (provided verbatim below) and sentenced to 50 (fifty) days of arrest.

O.A.C. was found guilty of performing a criminal offence pursuant to Article 293 (1) of the Criminal Code of the Republic of Lithuania (provided verbatim below) and sentenced to 45 (forty five) days of arrest.

The criminal case in respect to the commitment of offence under Article 202(1) of the Criminal Code of the Republic of Lithuania (provided verbatim below) is terminated due to the expiration of the statutory prescription period.

Until this judgment enters into force, the defendants are not allowed to leave the country without giving written guarantee.

Reasoning:

The Court established that S.J. and O.A.C. were actively engaged in organising trips of citizens of the Republic of Lithuania aimed at their employment in the Czech Republic, offering both the possibility of legal or illegal employment. This fact is proven by statements of witnesses, accused, advertisements in the newspapers where the phone number of S.J. is announced as well as by data on border crossing given by the authority of the State Border control.

Such activity was in violation of the Order of issuing licences for employment agencies engaged in organising employment abroad of citizens of the Republic of Lithuania, as approved by the decree of the Minister of social security and labour of the Republic of Lithuania dated 19 August 2003 No A1-127 (valid as of 27 April 2006) (provided verbatim in both English and Lithuanian below), pursuant to which, any employment activities are subject to licensing, which was not obtained by the accused S.J. and O.A.C., as well as commercial activities were carried out illegally without establishing a respective company or registering an individual commercial activity.

Moreover, the defendant, having knowledge of the illegal nature of this activity, performed an active search of interested individuals, convinced them to go to work to the Czech Republic, organised their travelling, organised respective groups of illegal employees and referred them to illegal employers. However, the Court took into account that the role of the defendant O.A.C. had been only a driving service and the actual organiser was the accused S.J. However, there was no evidence that by such action the accused intended to cause and/or cause any material damage to the identified victims as well as any possible moral damage – neither of the victims had submitted to the Court any evidence proving that such damage could be possibly incurred. According to the Court opinion, all witnesses/victims, being reasonable adult persons, had left to the Czech Republic of their own free will and had the full possibility to assess possible risks and outcomes of their consent to be engaged in the illegal employment⁽⁷³⁷⁾.

Summary of the case

⁽⁷³⁶⁾ All information in this section has been collected from the case material stored in the archive of court.

⁽⁷³⁷⁾ Vilnius District Court. Criminal Case No 0-63-173/2011. Judgment issued on 22nd March 2011, accessible via link <http://www.infolex.lt/tp/499330>

Summary of the case	<p>Appeal:</p> <p>Court: Lithuanian Appellate Court, panel composed of collegiums of 3 judges</p> <p>Case No 1A-402/2012 Date of judgment: 22nd June 2012</p> <p>Judgment:</p> <p>To reduce sentence of O.A.C to 30 (thirty) days of arrest.</p> <p>To leave unchanged the remaining part of judgment issued by the Vilnius District Court on 23rd March 2012.</p> <p><i>Reasoning:</i></p> <p>The defendant S.J. submitted an appeal against the judgment taken by Vilnius District Court on 23rd March 2012, stating that the Vilnius District Court had not considered her age and bad health status when sentencing her to respective time period of arrest, which contradicts the principle of justice as entire aims of punishment can be achieved without her actual imprisonment and this sentence is obviously disproportionate and will result in causing unhuman suffering to her body.</p> <p>The Court reasoned that the Vilnius District Court had properly assessed and considered all circumstances and granted her punishment which is lower than the average punishment applicable under the respective provision under which her committed criminal activity was qualified, there are no legal grounds to amend the appealed judgment of the first instance and, therefore, it shall remain unchanged.</p> <p>The defendant O.A.C. submitted an appeal requesting the court to dismiss his charges on the premise that he had not committed any criminal offence, he had only been driving and did not perform any other activities that can be qualified as a joint criminal offence committed together with S.J.</p> <p>The Court established that Vilnius District Court had not followed the individuality principle, when determining the sentence in respect to O.A.C., as his role in performing the respective criminal acts has been clearly subordinate. However, his received sentence is almost equal to S.J. who is a primary organiser, therefore the sentence given to the accused O.A.C. must be legally mitigated by shortening the prison sentence ⁽⁷³⁸⁾.</p>
Competent Court	<p>First instance: Vilnius District Court</p> <p>Second instance: Court of Appeal of Lithuania</p>

⁽⁷³⁸⁾ Lithuanian Appellate Court. Appeal No OA-403/2011. Judgment issued on 21st June 2011, accessible via link <http://www.infolex.lt/tp/394109>

	Article 293 (1) and Article 202 (1) of the Criminal Code of the Republic of Lithuania in force since 1 May 2003.		
	<p>Criminal Code of the Republic of Lithuania. Article 293. Organisation of trips for the citizens of the Republic of Lithuania aimed at illegal stay therein or abandoning thereof without any assistance (1) Any person who has gathered and organised the citizens or permanent residents of the Republic of Lithuania to apply for asylum or illegal employment or stay illegally for any other purposes in a foreign country or provided fraudulent promises thereto to obtain a legal status in such foreign country, shall be punished by an arrest or imprisonment for up to 7 (seven) years. (2) The legal entity will be also held liable for committing acts specified hereinabove. [Verbatim in Lithuanian. Lietuvos Respublikos piliečių kelionių į užsienį nelegaliai ten jiems pasilikti arba palikti be pagalbos organizavimas (1) Tas, kas organizavo Lietuvos Respublikos piliečius ar nuolatinius gyventojus keliauti į užsienį prašytis prieglobsčio ar ten nelegaliai dirbti, ar dėl kitų priežasčių nelegaliai pasilikti užsienyje arba apgaulingai žadėdamas legalų statusą užsienyje, baudžiamas areštu arba laisvės atėmimu iki septynerių metų. (2) Už šiame straipsnyje numatytas veikas atsako ir juridinis asmuo.]</p> <p>Criminal Code of the Republic of Lithuania. Article 202. Engagement in illegal economic, commercial, financial and professional activities (1) Any person, who has engaged on a commercial basis or on a large-scale in economic, commercial, financial and professional activity without having the respective licence (permission) required to perform such activity, or in any other possible illegal way, shall be punished by public works or a fine, or restriction of liberty or imprisonment for up to 2 (two) years [Verbatim in Lithuanian. 202 straipsnis. Neteisėtas vertimasis ūkine, komercine, finansine ar profesine veikla. (1) Tas, kas versliškai ar stambiu mastu ėmėsi ūkinės, komercinės, finansinės ar profesinės veiklos neturėdamas licencijos (leidimo) veiklai, kuriai ji (jis) reikalinga, ar kitokiu neteisėtu būdu, baudžiamas viešaisiais darbais arba bausda, arba laisvės atėmimu iki dvejų metų.</p> <p>Article 3 of the Order of issuing licences for employment agencies engaged in organising employment abroad of citizens of the Republic of Lithuania, as approved by the Decree of the Minister of Social Security and Labour of the Republic of Lithuania dated 19 August 2003 No A1-127 (valid as of 27 April 2006) providing that "recruitment intermediation services in respect of the employment of citizens of the Republic of Lithuania may be carried out only by the officially established legal persons, that obtained a relevant licence to perform such activity in respect of citizens or permanent residents of Lithuania/tarpininkauti dėl Lietuvos Respublikos piliečių įdarbinimo užsienyje gali tik įstatymų ir kitų teisės aktų nustatyta tvarka registruoti juridiniai asmenys, turintys licenciją tarpininkauti dėl Lietuvos Respublikos piliečių ir nuolat gyvenančių Lietuvoje asmenų įdarbinimo užsienyje. ^{(739)*}</p>		
Sentence/compensation awarded	The defendant S.J. was sentenced to 50 (fifty) days of arrest		
Date/period of forced labour (month/year)	The defendant O.A.C. was sentenced to 30 (thirty) days of arrest (sentence mitigated on appeal).		
	From 2003 to 2006		
Profile of the victim(s) (e.g. country of origin, gender, age, occupation of the victim prior to the incident of forced labour)	Country of origin	Citizens of the Republic of Lithuania	
	Gender	Both male and female	
	Age	All adults, no underage victims	
	Sector	Construction sector, manufacturing industry – factories, bakeries	
	Migratory status	EU citizen, working illegally	
	Knowledge of local language	Not having knowledge of Czech language, the majority of victims did not speak even English, just Russian	

(739) Decree of Minister of social security and labour of the Republic of Lithuania dated 18th August 2002 No A0-128 (lost effect as of 16 January 2009) accessible via link: <http://www.infolex.lt/ta/1099277nr=3>

How was the victim recruited and how did they come to be in the situation of forced labour? (e.g. through a recruitment agency)	Recruited via advertisements in newspapers, visits by the defendant to the respective villages, victims receiving information from other people, victims contacting the defendant directly by phone.		
Elements of vulnerability	Mainly suffering from long term unemployment, poor financial situations and not having a real possibility to get any job in their village due to the economic crisis. They possessed a low level of education, dependency on alcohol or drugs, and other social or personal problems.		
Identification/reporting of offences (place X and elaborate where appropriate – multiple answers possible)	The victim reported the offence to the authorities (e.g. the police, labour inspectorate) himself/herself		
	The authorities began the investigation <i>ex officio</i>	X	
	The case was brought to the attention of the authorities by an association/NGO		
	Other (please specify)		
	Which authority/unit was responsible for the criminal investigation of this case?		Vilnius District Prosecution Office
Criminal investigation	How long after the victim started being subject to forced labour did the criminal investigation of the matter begin?	The offence was committed between 2003 to 2006. The investigation commenced on 20 February 2007.	
	What was the length of the investigation?	4 years (as of 20 February 2007 to 02 03 2011 – date of indictment)	
		The main difficulty was the prosecution's hesitation to prosecute the case as an offence of THB for forced labour activities and re-qualifying it as the criminal offence in respect to organising and engaging the Lithuanian citizen in the illegal trips abroad. Moreover, as the criminal offence was committed in the Czech Republic, the delays occurred due to the length of proceedings related to the legal aid request and receipt of responses from competent institutions of the Czech Republic.	
		However, the main difficulty and issue in respect to this case, is that all investigation processes were completed qualifying the offence as a THB for forced labour, but at the final stage, when issuing indictment, the qualification was changed to another offence – abandoning persons abroad without any assistance. The investigator who conducted investigation of such criminal offence is convinced that there was sufficient evidence to bring this case to court as THB for labour exploitation – including more than 100 testimonies of witnesses, victims – which clearly shows that the defendants intentionally gathered people in villages, with low education, addicted to alcohol, drugs and for commercial purposes brought them to work in the Czech Republic. Regardless that these people agreed to go to work abroad, the majority of witnesses, victims had testified that they expected this to be a legal employment, fully remunerated. However, within the case file there are testimonies of 100 witnesses, testifying that they did not receive any money, apart from EUR 500 advance payment for living and the remaining pay promised to be paid back in Lithuania. However, they never received it. The defendants in their statements reasoned that it happened because workers did not want to work and left their work to go back to Lithuania. However, a majority of witnesses testified that they had to escape as they understood that they are being exploited, they were taken their documents, some of them beaten, kept in captivity, and threatened ⁽⁷⁴⁰⁾ .	
	What were the difficulties in the bringing this case to the court?		

⁽⁷⁴⁰⁾ Information collected through the case material and consultation with national stakeholders (police).

Criminal investigation	Was the victim required to testify at the pre-trial stage of the proceedings? If yes, did the authorities use any mechanisms to protect the safety of the victim (e.g. via a witness protection programme) or protect him/her from secondary victimisation?	Yes, witnesses and victims (approx. 100 individuals) testified at the pre-trial stage and during the court proceedings but no protection was required and/or requested ⁽⁷⁴¹⁾ .
	Were there any problems/issues pertaining to the collection of evidence?	The representative of the Criminal Police Department did not identify any particular problem in respect to the collection of evidence and expressed his main concern in respect to the clear hesitation of the prosecution and courts to prosecute and qualify the criminal offence as THB for forced labour, regardless of what he regarded as sufficient evidence collected by the investigation unit.
	Was the victim required to testify in court? If yes, what effect is the witness testimony perceived to have had on the successful prosecution of the offenders?	Yes, all the victims repeated the same testimonies as given at the investigation stage.
Court proceedings	If the victim testified in court, did he/she do so in camera, in the courtroom (in the defendant's presence) or the court used the victim's testimony during the investigation phase?	The victims testified in the courtroom, however, some testimonies were taken from the investigation phase and indictment.
	Did the victim seek compensation for the damages suffered (e.g. by constituting himself/herself as a civil claimant)? If yes, did he/she receive support by the State (e.g. legal representation/legal aid)?	The majority of victims requested compensation of material and moral damages but were not awarded compensation based on the court judgment.
	What type of evidence was submitted to the court? Where there any issues with the admissibility of evidence?	<ul style="list-style-type: none"> • Testimonies of witnesses and victims • Items found during the search of the accused living place • Report from State border control institutions • Responses of competent institutions located in the Czech Republic • Bank statements <p>Copies of newspaper advertisements</p> <p>No issues identified relating to the admissibility of evidence.</p>
Delivery of the court judgment	How long did it take for the court to issue its judgment (for first instance cases, from the prosecution; for second and third instance cases, from the day the appeal was filed)?	<p>Indictment: 2 March 2011</p> <p>Case brought to the court: 2 September 2011</p> <p>First instance judgment: 23 March 2012</p> <p>Second instance judgment: 22 June 2012</p>
	Was the defendant found innocent/guilty? If he/she was found innocent, was it due to procedural grounds or because the evidence presented was insufficient not substantiate his guilt?	Both defendants were found guilty and imposed respective penalties for committed crimes (see reasoning above)
	Was the victim awarded compensation for damages/moral pain and suffering? What was the court's reasoning?	Court dismissed requests of victim for compensation of damages/moral losses due to lack of evidence proving that such damage/loss could have been incurred.

⁽⁷⁴¹⁾ Information collected through consultation with national stakeholders (police).

Victim support	Did the victim receive any kind of support by public authorities (e.g. social workers)/NGOs?	Neither of the victims officially requested and/or received any support ⁽⁷⁴²⁾
Resources (financial and human resources)	Neither financial nor human resources have been identified as an issue that led to the failure to prosecute this case as a case of THB for forced labour.	
Role of labour inspectors	Labour inspectors of the Czech Republic were engaged only to the extent of giving statements that no official registration of respective employees had been conducted by the defendant or any other person.	
Case study source	Interview with the police.	

⁽⁷⁴²⁾ Information collected through consultation with national stakeholders (police).

LUXEMBOURG

Case study 1: LU-001 Arrêt No 249/2014 du 24 April 2014 du Tribunal d'Arrondissement de Diekirch

	<p>The two defendants of Chinese nationality were prosecuted with voluntary THB in a situation of abuse of vulnerable persons (in particular, individuals in illegal or precarious social or administrative situation) and/or a minor under Articles 382-1, 382-2(1) and (2) of the Criminal Code, as well as having fraudulently claiming and receiving social benefits. However, only the offence with the strictest possible punishment was retained in application of Luxembourg criminal law, and the defendants were therefore only convicted of voluntary human trafficking of a minor under Articles 382-1 and 382-2 (2) of the Criminal Code.</p> <p>Facts: A Chinese girl was brought to Luxembourg on 21 November 2007 on the premise of family reunion with her perpetrators, allegedly her dad and stepmother. Her papers declared she was born in 1997. The victim was brought to school upon arrival as legally required, and social security benefits were claimed to the authorities. Her state of recurring fatigue and absenteeism at school caught the teachers' attention. They alerted social services which in turn alerted the Tribunal for Children (<i>Tribunal de la jeunesse du tribunal d'arrondissement de Luxembourg</i>) on 2 December 2011. Of the different investigation and prosecution stages, the following facts are worth noting:</p> <ul style="list-style-type: none"> • Both the family ties between the victim and the perpetrators, as well as the victim's age, were falsified in her official documents. The victim is indeed believed to have been born in fact in 1994 and her alleged father may in fact be her cousin. The victim's passport was however found to be authentic. • The male perpetrator agreed to have slapped the victim a few times and threatened to send her back to China. • The male perpetrator agreed to have kept the victim's passport and refused to hand it back to her. • The victim's forced labour started after the perpetrators opened a new restaurant in March 2009. This exploitation continued until October 2010 at which point the victim fled from their shared residence to live with her Chinese 30 year old boyfriend, and begin working in other Chinese restaurants, while still attending school. <p>The prosecution therefore pursued the perpetrators, alleging that (i) the perpetrators had harboured and accommodated the victim, a minor at the time of the offence, forcing her to take daily care of the perpetrators' three children, to housekeep their shared residence and to work in the perpetrators' restaurant, (ii) to have resorted to violence to this mean, (iii) to have abused their authority as fictitious father and stepmother to the victim to this mean, (iv) to have illegally received social benefits.</p> <p>The case was heard in court on 14 March 2014 and judgment was rendered on 24 April 2014.</p> <p>Judgment: In application of the Criminal Code, all offences alleged by the prosecuting services were considered to in fact form one larger occurrence. As a result, the two defendants could only be convicted of the offence with the strictest possible punishment. The defendants were therefore convicted of voluntary human trafficking of a minor under Articles 382-1 and 382-2 (2) of the Criminal Code. The defendants were each sentenced with three years' imprisonment with full reprieve and a fine of EUR 2 500. In addition, the defendants were found liable under civil law to pay the lump sum of EUR 5 000 in damages to the victim.</p> <p>Appeal: The judgment of the district court was not appealed.</p>
Competent Court	District Court of Diekirch, Correctional Chamber
Legal provision applied	Articles 382-1 (1) (2) and 382-2 (2) (3) of the Criminal Code
Sentence/compensation awarded	Three years suspended, fine of EUR 2 500, and compensation of EUR 5 000 to the victim.
Date/period of forced labour (month/year)	From 24 March 2009 until October 2010.

Profile of the victim(s) (e.g. country of origin, gender, age, occupation of the victim prior to the incident of forced labour)	Country of origin	China
	Gender	Female
	Age	15 years old at the time (officially born in 1994, but first thought to have been born in 1997).
	Sector	Hospitality (restaurant) and domestic work.
	Migratory status	First brought to Luxembourg under the family reunion law (defendant claimed to be the victim's father but the victim appears to be only a relative). Now the victim possesses a Luxembourg passport.
How was the victim recruited and how did they come to be in the situation of forced labour?	Knowledge of local language	Attended school where learnt French.
		It appears that the victim's father may be the maternal uncle of one of the defendants. The victim is believed to have lived with her father until 10 years old in precarious conditions given the alcoholic and gaming tendencies of her father. At 10 years old, the defendant's parents (i.e. the aunt and uncle of the victim) took the victim in their care and rapidly convinced her to join her cousin in Luxembourg where she could live a better life. It is not clear how the victim arrived in Luxembourg and who paid for her journey. It is also unclear whether the victim did not hold at some point the belief that the defendant was her father. At first the mother was declared to be unknown or deceased after giving birth, yet the victim later identified her mother who on the phone refused to be confronted to the victim's problems since she had a new life. The parents were apparently not married at the moment of birth and the victim could not be officially registered as a result.
Elements of vulnerability		Young age of the victim (15 years old at the time); the victim comes from a socially disadvantaged family (her father had problems with alcohol and gambling); it was found by the court that the victim could in no way resist or refuse the work, nor escape from the grip of defendants because they held her under their control by pressuring her with the choice either to work for them or to return to China.
Identification/reporting of offences	The victim reported the offence to the authorities (e.g. the police, labour inspectorate) himself/herself	-
	The authorities began the investigation <i>ex officio</i>	-
	The case was brought to the attention of the authorities by an association/NGO	-
	Other (please specify)	X The victim was identified by school teachers who noticed her absence and sleep deprivation. Eventually, an NGO was contacted who referred the matter to the Tribunal. The Public Prosecutor then ordered a preliminary investigation by the Police.

Criminal investigation	Which authority/unit was responsible for the criminal investigation of this case?	Judiciary Police, Organised Crime Unit.
	How long after the victim started being subject to forced labour did the criminal investigation of the matter begin?	Approx. 1.5 - 2 years. The victim is indicated to have started work on 24 March 2009. However, at this point the victim had already been in Luxembourg for two years (2007) were she acknowledged to have already carried out household tasks for the defendants. The victim left the defendants in October 2010, and investigations were launched in December 2011.
	What was the length of the investigation?	Around 1.5 years (both for preliminary and judicial investigation). Preliminary investigation started when police was contacted on 2 December 2011. This phase included the first interview with the victim on 13 December 2011. Judicial investigation started on 18 January 2012, this phase included two home search warrants (February and July 2012), 6 interviews of the victim, 5 interviews of each alleged perpetrator, and 1 interview of witnesses. Judicial investigation finished at some point between formally charging the alleged perpetrators on 11 March 2013 and the Council Chamber's order of 29 October 2013.
	What were the difficulties in the bringing this case to the court?	Problems with testimonies: perpetrators and victims continuously seemed to reveal new facts and allegations contradicting themselves and each other. Problems with verifications of the different allegations and documents provided with the Chinese authorities, in particular due to the lack of an adequate interlocutor within the police/administration/justice system in China.
	Was the victim required to testify at the pre-trial stage of the proceedings? If yes, did the authorities use any mechanisms to protect the safety of the victim (e.g. via a witness protection programme) or protect him/her from secondary victimisation?	Yes, the victim was interviewed on 13 December 2011, 10 February 2012, 15 February 2012, 14 March 2012, 24 May 2012, 18 June 2012, 23 August 2012. Yes, the victim was accompanied by a police member who had protected her during the investigation. Problems with verifications of the different allegations and documents provided with the Chinese authorities, in particular due to the lack of an adequate interlocutor within the police/administration/justice system in China.
	Were there any problems/issues pertaining to the collection of evidence?	The parties gave different testimonies, contradicting themselves and each other. For instance: <ul style="list-style-type: none"> The victim only revealed her 'real' name and date of birth during the second interview on 10 February 2012. She also declared that she contacted her biological father first via phone during her third interview on 24 May 2012, then later the victim revealed she had received an email from him (see below). The male perpetrator did not recognise these different elements, nor did he ever reveal his 'real' family ties with the victim. DNA analysis denied he could be the father but suggested that the male perpetrator and the victim may instead be brother and sister. The male perpetrator is however believed to be the victim's cousin. The victim first alleged she had not known her biological mother, then later on confirmed she had just talked to her on the phone but that her mother did not want to have anything to do with her. The male perpetrator first indicated he had fathered the victim with a person he could not remember the name of, who was suffering from substance abuse and had since died or was declared missing. The investigators could not find any information on the victim's biological mother. The victim produced evidence during her interview on 18 June 2012. She declared she had received an email from her biological father which contained evidence relating to her 'real' identity. These included photocopies of her biological father and mother's identity cards and, according to the judgment, a 'kind of certificate' declaring that the parents had changed the victim's name.

Court proceedings	Was the victim required to testify in court? If yes, what effect is the witness testimony perceived to have had on the successful prosecution of the offenders?	The testimony was accepted as it was confirmed by a witness's testimony. One stakeholder qualified the testimony during the hearing as good but that it would not have been necessary to obtain a condemnation ⁽⁷⁴³⁾ . Another stakeholder thought condemnation would not have happened in the absence of testimony ⁽⁷⁴⁴⁾ .
	If the victim testified in court, did he/she do so in camera, in the courtroom (in the defendant's presence) or the court used the victim's testimony during the investigation phase?	In the courtroom (in the defendant's presence).
	Did the victim seek compensation for the damages suffered (e.g. by constituting himself/herself as a civil claimant)? If yes, did he/she receive support by the State (e.g. legal representation/legal aid)?	Yes, as a civil claimant. Yes, a lawyer was appointed during the whole procedure and paid for by the State under the legal aid procedure. This is part of the victim's support mechanisms.
	What type of evidence was submitted to the court? Where there any issues with the admissibility of evidence?	Testimonies (victim, witness, defendants, police). Other official Luxembourg documents (immigration visa, declaration of the victim at the social services), and official Chinese documents produced by the victim during the investigation phase. Other documents produced during the investigation phase.
Delivery of the court judgment	How long did it take for the court to issue its judgment (for first instance cases, from the prosecution; for second and third instance cases, from the day the appeal was filed)?	A total of 27 or 14 months (depending on whether one counts from the judicial investigation or with the formally charging of the suspect which date is not certain).
	Was the defendant found innocent/guilty? If he/she was found innocent, was it due to procedural grounds or because the evidence presented was insufficient not substantiate his guilt?	Guilt of the offence of THB for forced labour.
	Was the victim awarded compensation for damages/moral pain and suffering? What was the court's reasoning?	Yes, EUR 5 000. Simple evaluation by the tribunal with no reference to what seemed adequate ⁽⁷⁴⁵⁾ .
Victim support	Did the victim receive any kind of support by public authorities (e.g. social workers)/NGOs?	The victim was heard the first time by the police accompanied by a social worker. The victim was hosted by one NGO and was also protected for some time by the police. The police apparently managed to maintain most contact with the victim throughout the procedure and the police interviewee indicated they had strived to also provide some kind of social assistance in so doing. The NGO worker managed to see the victim after trial, but the victim did not want any help any more.
Resources (financial and human resources)	N/A.	
Role of labour inspectors	N/A. The Labour Inspectorate was not formally involved in the investigation and prosecution of THBFL cases until recently, i.e. until the creation of the Monitoring Committee in 2014.	
Case study source	• Arrêt No 249/2014 du 24 Avril 2014 (provided by a stakeholder upon request);	
	• Interviews with stakeholders (Prosecutor, Judge, a Government Official, Police, NGOs).	

⁽⁷⁴³⁾ Conclusion based on stakeholder consultation (Prosecutor).

⁽⁷⁴⁴⁾ Conclusion based on stakeholder consultation (Judge).

⁽⁷⁴⁵⁾ Conclusion based on stakeholder consultation (Judge).

NETHERLANDS

Case study 1: NL-002-1 (ECLI:NL:RBSGR:2009:BJ1282)

Summary of the case	The judgment provides a summary (<i>inhoudsindicatie</i>) ⁽⁷⁴⁶⁾ . This is provided below (translated into English):		
	The court convicted four defendants on illegally employing, accommodating and exploitation of five Chinese workers in nail- and massage salons.		
	The three main suspects have been sentenced to an imprisonment of 18 months, of which 9 conditional; a fourth suspect was sentenced to a 90 hour community service of which 30 hours conditional.		
	The court has proved that the defendants are guilty of smuggling, accommodating of vulnerable people (illegal Chinese) by, amongst others, have them make long working days in nail- and massage salons in exchange for food and shelter or a minimal monetary compensation.		
	The work consisted of the provision of massage, but also the performance of sexual acts, whether or not on behalf of the defendants. Because the Chinese were illegal in the Netherlands, and all made a debt in China to come to the Netherlands, the suspects abused of the vulnerable position in which the individuals were in.		
Competent Court	In addition, the court proved that defendants committed a criminal offence to participate in a criminal organisation. They tampered with the records of the companies. The activities and income of the foreign workers was also not reported to the Netherlands Employees Insurance Agency (UWV) and the Tax Administration. Instead, use was made of so-called fictitious contracts: data of persons lawfully residing in the Netherlands used for tax return purposes.		
	The alleged offence of THB for forced labour was not proven because of the lack of involuntariness in the performance of the work.		
	Competent Court	Court (Rechtbank) - 1 st instance	
	Legal provision applied	Article 273f lid 1(4) and (9) Criminal Code	
	Sentence/compensation awarded	Sentence: The indictable offence of exploitation has been declared not proven because of the lack of compulsion, in the course of work. For the other charges, three persons were sentenced to imprisonment for 18 months (of which 9 month conditionally); a fourth person was sentenced 90 hours service for the public (of which 30 hours conditionally). Compensation: N/A	
Date/period of forced labour (month/year)	Period on or about 1 January 2006 until 3 November 2008.		
Profile of the victim(s) (e.g. country of origin, gender, age, occupation of the victim prior to the incident of forced labour)	Country of origin	China	
	Gender	Women	
	Age	No information	
	Sector	Nail- and massage salons	
	Migratory status	No information provided in the case-law; at least one victim has lawful residence as she is married to one of the suspects (marriage of convenience).	
	Knowledge of local language	No information	

⁽⁷⁴⁶⁾ Available at: <http://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:RBSGR:2008:BJ1281>

	<p>The case discusses 5 employees of the nail and massage salon. No information is provided regarding the recruitment process.</p> <p>There is one victim [employee No 1] that declared to the SIOD (Social Intelligence and investigation service – which since 2012 together with the Inspection Work and Income became the Inspection SZW (Social Affairs and Employment) that she actually never worked at the salon. She was placed on the salary list in order to earn a sufficient salary (on paper) to have her husband (one of the suspects in this case) come to the Netherlands. This was a marriage of convenience.</p> <p>Another victim [employee No 2] declared that she entered into an employment contract for cleaning and providing massages for 40 hours a week. She however declared that she never worked these actual hours and it was concluded by the court this is concerns a 'fictional agreement'.</p> <p>Also for another victim [employee No 5] it is concluded by the court that she has never actually worked in the salon.</p> <p>The case-law does not provide information on the other victims [employees No 3 and 4] other than that for employees 1, 2, 3 and 4 contracts have been notified to the Netherlands Employees Insurance Agency since September 2005.</p> <p>These findings also need to be read in light of other accusations in this case, which include tax-fraud and being part of a criminal organisation. The SIOD has mentioned the presence of illegal Chinese women in the salon (who fled and could not be identified during the inspection). The court considers that the fictional agreements have been used to cover up the hours worked by (other) illegal employees.</p>
Elements of vulnerability	<p>In general, the court mentioned that fictional agreements were established to enable the suspects to make use of women that illegally residence in the Netherlands.</p>
Identification/reporting of offences	<p>The victim reported the offence to the authorities (e.g. the police, labour inspectorate) himself/herself</p> <p>-</p>
	<p>The authorities began the investigation <i>ex officio</i></p> <p>X No information available in the case-law. It can be derived from the case that an investigation was started as a result of tax-fraud, for which the suspects were sentenced.</p>
	<p>The case was brought to the attention of the authorities by an association/NGO</p> <p>-</p>
	<p>Other (please specify)</p> <p>X</p>
	<p>This case is based on the information provided by the report (process verbaal) by the SIOD (now Inspection SZW) ⁽⁷⁴⁷⁾.</p> <p>It followed from stakeholder consultation that the majority of the signals that may indicate THB for forced labour are provided to the Labour Inspectorate via NGOs who are in contact with potential victims and refer them to the Labour Inspectorate. It is exceptional that potential victims directly come to the Inspectorate to report a case of forced labour.</p>

⁽⁷⁴⁷⁾ This is concluded from the footnotes to the case-law that refer to the documents provided by the Social Intelligence and Investigation Service (SIOD) – now part of SZW.

Criminal investigation	Which authority/unit was responsible for the criminal investigation of this case?	In general, when there is a declaration of trafficking in human beings or receipt of specific information on this subject, the police will always conduct an investigation. Within the police organisation, special prostitution and human trafficking teams of (certified) detectives have been established. Also, the Inspectorate for Social Affairs and Employment (SZW) plays an important role in the investigations. One of the key tasks of the Inspectorate is 'to detect fraud, exploitation and organised crime within the chain of work and income (labour exploitation, trafficking and massive fraud in the field of social security). This is done under the direction of the Public Prosecutor'. ⁽⁷⁴⁸⁾ Stakeholder consultation confirms that the Inspection SZW in principle starts the investigation and is the investigator for cases of THB for forced labour – this is done in coordination with the National Public Prosecutor's office for serious fraud and environmental crime and asset confiscation.
	How long after the victim started being subject to forced labour did the criminal investigation of the matter begin?	No information.
	What was the length of the investigation?	Around 4 months. As the facts took place in the period between 1 January 2006 and 3 November 2008, this means the investigation (outside the court) has taken place in the period between November 2008 and February 2009, including bringing the case to court.
	What were the difficulties in the bringing this case to the court?	No information.
	Was the victim required to testify at the pre-trial stage of the proceedings? If yes, did the authorities use any mechanisms to protect the safety of the victim (e.g. via a witness protection programme) or protect him/her from secondary victimisation?	For this case no specific information is available (the case-law refers to the report of the SOID for any information that is provided by the victims). In general, it is noted that the Regulation auditory and audiovisual recording of interrogations of informants, witnesses and suspects applies ⁽⁷⁴⁹⁾ . The Regulation further provides that when in a criminal case the hearing the victim as a witness is discussed, a balance shall be made between the between the protection of privacy, safety and health of the victim and the right of the accused to a fair trial. Visual contact between the victim and suspect should be avoided, as well as that the victim should provide evidence during a public meeting. The prosecution may propose to hear the victim outside the public hearing and outside the presence of the accused, for example, through the use of modern communication tools. Alternatives are questionings by the magistrate (rechter-commissaris), the playing of records of questioning (of the victim) during the court hearing including the incriminating statement made the victim to the police or officers who conducted the interrogation. When needed a witness protection programme can be set up.
	Were there any problems/issues pertaining to the collection of evidence?	No information.

⁽⁷⁴⁸⁾ Website Ministry of Social Affairs and Employment (Inspectorate): <http://www.inspectieszw.nl/organisatie/>

⁽⁷⁴⁹⁾ Regulation Human Trafficking (Aanwijzing mensenhandel), Staatscourant, Jaargang 2012, No 16815.

Court proceedings	Was the victim required to testify in court? If yes, what effect is the witness testimony perceived to have had on the successful prosecution of the offenders?	No information (the case law refers to the report of the SOID (now Inspection SZW) for any information that is provided by the victims). For general information see above (pre-trial).
	If the victim testified in court, did he/she do so in camera, in the courtroom (in the defendant's presence) or the court used the victim's testimony during the investigation phase?	No information (see above).
	Did the victim seek compensation for the damages suffered (e.g. by constituting himself/herself as a civil claimant)? If yes, did he/she receive support by the State (e.g. legal representation/legal aid)?	No information. In general there are different procedures to seek compensation in the Netherlands. During the intake with the victim, he or she is, amongst others, informed on the possibility to submit a claim for compensation. In case the victim joined the case with such claim, the judge is obliged to discuss such claim in his reasoning. In case the judgment does not make reference to compensation, the victim did not submit a claim as part of this process (other options are the use of a civil procedure and the use of the Criminal Injuries Compensation Fund (Schadefonds Geweldsmisdrijven) – as mentioned above) (Stakeholder consultation).
	What type of evidence was submitted to the court? Where there any issues with the admissibility of evidence?	No information. From stakeholder consultation it follows that the main types of evidence used in the court include reports (victim and witnesses); possible audio material with statements; wire tapped telephone conversations; finance and administration (money flows); contracts (focusing at the content of the contract in relation to the applicable law but also at the language used); the housing of the victims (conditions, proximity to work) and working times.
Delivery of the court judgment	How long did it take for the court to issue its judgment (for first instance cases, from the prosecution, for second and third instance cases, from the day the appeal was filed)?	Around 6 months. From the judgment of the court of first instance it follows that the investigation at court took place on 16 January 2009, 21 April 2009, 19 May 2009 and 26 May 2009. The court decision was delivered on 9 June 2009.
	Was the defendant found innocent/guilty? If he/she was found innocent, was it due to procedural grounds or because the evidence presented was insufficient not to substantiate his guilt?	The accused were found innocent on the charges of THB for forced labour but were sentenced for fax fraud. He was acquitted because there the evidence presented before the court was insufficient to substantiate his guilt.
Victim support	Was the victim awarded compensation for damages/moral pain and suffering? What was the court's reasoning?	N/A; as the indictable offence of exploitation has been declared not proven because of the lack of compulsion, in the course of work.
	Did the victim receive any kind of support by public authorities (e.g. social workers)/NGOs?	No information.
Resources (financial and human resources)		No specific information available. In general, all signals of human trafficking are followed up by investigation in order to establish if there is sufficient basis for a procedure (as also provided in the Regulation on Human Trafficking). The Inspectorate SZW has a coordinating team ('stuurploeg'). (stakeholder consultation).
Role of labour inspectors		No specific information available. Stakeholder consultation highlighted the relevance of the 'administrative' field of supervision by the Inspectorate SZW. Inspections on the basis of legislation such as working time (for example, in the sector of inland shipping) provide relevant information and signals on THB for forced labour. These signals are actively followed up by the Inspectorate.
Case study source		Case No 09/997166-08. ECLI:NL:RBSGR:2009BJ1282 ⁽⁷⁵⁰⁾

⁽⁷⁵⁰⁾ Available at: <http://uitsprakenrechtpraak.nl/inziendocument?id=ECLI:NL:RBSGR:2008BJ1281>

Case study 2: NL-003-3 (ECLI:NL:HR:2009:BI7099)

	Facts: This case involved a number of irregular Chinese migrants who were working long hours (11–13 hours) at a restaurant, slept together in one room and had no more than 5 days per month off. Some worked for room and board; others earned between EUR 450 and 800 per month. The victims had approached the restaurant and offered their labour; their boss had not recruited them and not taken the initiative to hire them.			
Summary of the case	The judgment provides for a summary (<i>inhouds indicatie</i> ⁽⁷⁵¹⁾). For this case, an English translation is provided by the European Commission ⁽⁷⁵²⁾ : Cassation brought by the Public Prosecution Department. Human trafficking. Article 273a (old) of the Criminal Code. 1. Abuse. 2. Exploitation. Re. 1. The history of the formation and case law (in particular, HR LJN AD5235) relating to Article 250a (old) of the Criminal Code (which is incorporated in Article 273a (old) of the Criminal Code) and Article 250ter (old) of the Criminal Code have not lost their importance. For this reason, pursuant to Article 273a (old) of the Criminal Code adequate proof of abuse has been submitted when it is established that the perpetrator must have been aware of the relevant factual circumstances of the person concerned from which the position of dominance arose or may be presumed to have arisen in the sense that these circumstances gave cause to the perpetrator's conditional intent. The same is applicable to situations in which the victim is in a vulnerable position as referred to in the provision. It should be noted that in addition to this requirement for intent, exploitation is governed by another more severe requirement for intent: the accused must have been aware that as a result of his acts the other person would or could have been exploited and that, consequently, this is also what the accused wished (according to HR NJ 1998, 610). In attaching the condition to the 1st requirement of intent that „purposeful abuse“ must be made the victim's vulnerability the Court of Appeal has imposed an excessively stringent requirement and, consequently, has given evidence of an incorrect conception of law. This is equally applicable to the extent that the Court of Appeal has required initiative and active acts on the part of the accused that extend beyond the wording of the Article, which refers to the terms “recruits, transports, transfers, accommodates or harbours”. More specifically, neither the need for the accused to take the initiative nor the need for the victim into an exploitative situation – i.e. a situation which made exploitation feasible – are autonomous requirements. In addition, the fact that a number of victims had previously worked at one or more locations does not need to indicate their voluntary agreement or the absence of an exploitative situation (in accordance with HR LJN AB9475). The complaints relating to this have been put forward correctly. Re 2. The question whether – and, if yes, when – „exploitation“ is an issue within the meaning of Article 273a (old) of the Criminal Code cannot be answered in general terms as this depends largely on the circumstances of the specific case. In addition, in a case such as the present case factors such as the nature and duration of the work, the resultant limitations imposed on the persons involved and the resultant economic gain accruing to the employer are of significance. These and other relevant factors should be weighed against the prevailing Dutch social standards as the frame of reference. Moreover, the victim does not actually need to be exploited to fulfil the description of the offence. In view of the Court of Appeal's not unreasonable conclusion that the victims were in a vulnerable position because they were illegally residing in the Netherlands (in accordance with HR LJN ZD1788) and, consequently, were in an exploitative situation the Court of Appeal's apparent opinion that (the purpose of) exploitation within the meaning of Article 273a (old) of the Criminal Code was not at issue was, without further motivation, which is absent, not explicable in view of the Court of Appeal's conclusions.			
Competent Court	Supreme Court of the Netherlands – 3rd instance (cassation)			
Legal provision applied	Art. 273a (old) Criminal Code			
Sentence/compensation awarded	The Supreme Court annuls the contested decision and refers the case back to the court of second instance (Gerechtshof). After referral to the court of second instance, it sentenced the suspect to imprisonment for 10 months (of which 5 month conditionally on the basis of a 2 year probation period) ⁽⁷⁵³⁾ .			
Date/period of forced labour (month/year)	Period on or about 1 January until 22 August 2006.			
Profile of the victim(s) (e.g. country of origin, gender, age, occupation of the victim prior to the incident of forced labour)	Country of origin	China		
	Gender	No information		
	Age	No information		
	Sector	Accommodation and food service activities (Chinese restaurant)		
	Migratory status	Irregular migrants		
	Knowledge of local language	No information		

⁽⁷⁵¹⁾ Available at: <http://uitsprakenrechtspraak.nl/inziendocument?id=ECLI:NL:HR:2008:BI7098> and http://www.unodc.org/res/cid/case-law/nld/2008/diamond_city_himl/Diamond_city.pdf

⁽⁷⁵²⁾ Available at the website of the European Commission on 'Together against trafficking in human': https://ec.europa.eu/anti-trafficking/legislation-and-case-law/case-law/_en/?page=0&sort=sort_name%19asc

⁽⁷⁵³⁾ Gerechtshof 's-Hertogenbosh, zaaknummer 19-3937-10 (ECLI:NL:GHSHE:2009:BN:7214).

How was the victim recruited and how did they come to be in the situation of forced labour?	<p>The victims were not recruited but asked the suspect if they could work for him. In the judgment, reference is made that the victims 'begged' to work for the suspect. The fact that the victims 'begged' to work is later seen by the Supreme court as confirming their vulnerable position. This is explained by background information that the victims entered the Netherlands via human traffickers which means that there was no debt towards the suspects, it is generally known by the Chinese community in the Netherlands that there is a debt (by them of by their family in China) towards the smugglers that results in pressures on the victims to accept any work.</p> <p>The fact that the victims have asked if they could work for the victim has been one of the key issues in this case. The court in first and second instance have considered this as one of the main elements 'to find proved that the accused and/or one or more others purposefully abused a position of dominance arising from the factual relationships with or the weaker/vulnerable position of the Chinese in accommodating or harbouring them' ⁽⁷⁵⁴⁾:</p> <p>'The Court of Appeal – in line with the court of first instance – then proceeds on the basis of the following five facts and circumstances derived from the records of the case and the hearings:</p> <ol style="list-style-type: none"> 1. The illegal Chinese immigrants encountered in the Chinese restaurant [A] and heard as witnesses had themselves decided to come to the Netherlands; 2. They came to the Netherlands to earn money; 3. They applied to those present in the aforementioned Chinese restaurant with the request to work in the restaurant: a number of them also asked for meals and lodging and a number of them asked solely for meals and lodging. The last group then worked on a voluntary basis (victim 2), [victim 4] and [victim 5]. 4. None of them had any money debts or other obligations towards those present in the restaurant. 5. They were all free to depart at any time they wished. A number of them had already worked at one or more other locations.' ⁽⁷⁵⁵⁾ <ul style="list-style-type: none"> • No possibility of return to China • The victims entered the Netherlands via human traffickers – this means there is a debt (by them of by their family in China) towards the smugglers that results in pressures on the victims to accept any work ⁽⁷⁵⁶⁾. • The fact that the victims 'begged' to work for the suspects is considered to confirm this vulnerable position. <p>It is noteworthy that 'illegal status' as such is not considered an element of vulnerability in the Dutch case-law. The National Rapporteur on Human Trafficking in its case-law assessment (2012) provides the following, while reference is made to the Supreme Court case of 27 October 2009 (or Chinese restaurant case): ⁽⁷⁵⁷⁾</p> <p>'For an act to constitute 'abuse of a vulnerable position' and 'misuse of authority arising from the actual state of affairs', two factors have to be proved: the existence of such a situation and awareness of that situation on the part of the suspect. [...] Examples mentioned in the explanatory memorandum are persons from other countries, drug addicts and very young people. In the memorandum of reply, those examples are supplemented with persons who have debts because they had to pay for the journey to the Netherlands themselves or persons who do not have a passport, whose visa has expired or who do not have financial resources of their own. It is now established case law that a person's illegal residence in the country is in itself sufficient evidence that he or she is in a vulnerable position.'</p>
Elements of vulnerability	
Identification/reporting of offences	<p>The victim reported the offence to the authorities (e.g. the police, labour inspectorate) himself/herself</p> <p>No information available.</p> <p>The authorities began the investigation <i>ex officio</i></p> <p>No information available.</p> <p>The case was brought to the attention of the authorities by an association/NGO</p> <p>No information available.</p> <p>Other (please specify)</p>

⁽⁷⁵⁴⁾ Case Supreme Court, 7/3894, No 1.1.1.

⁽⁷⁵⁵⁾ Case Supreme Court, 7/3894, No 1.1.1.

⁽⁷⁵⁶⁾ Case in second instance (1 June 2008), No 25.

⁽⁷⁵⁷⁾ National Rapporteur on Trafficking in Human Beings (2011), *Trafficking in Human Beings Case law of Trafficking Human Beings 2008-2013. An analysis*, p. 60.

	Criminal investigation	
	Which authority/unit was responsible for the criminal investigation of this case?	No information.
Criminal investigation	How long after the victim started being subject to forced labour did the criminal investigation of the matter begin?	Around 7 months. The facts took place in the period between 1 January 2006 and 4 September 2006.
	What was the length of the investigation?	Around 2 months. As the facts took place in the period between 1 January 2006 and 4 September 2006, this means the investigation (outside the court) has taken place in the period between September - November 2006, including bringing the case to court).
	What were the difficulties in the bringing this case to the court?	No information.
	Was the victim required to testify at the pre-trial stage of the proceedings? If yes, did the authorities use any mechanisms to protect the safety of the victim (e.g. via a witness protection programme) or protect him/her from secondary victimisation?	No information.
	Were there any problems/issues pertaining to the collection of evidence?	No information.
Court proceedings	Was the victim required to testify in court? If yes, what effect is the witness testimony perceived to have had on the successful prosecution of the offenders?	Not applicable (the Supreme Court does not re-examine any facts in a case but bases itself on the facts as established by the court. The Supreme Court examines whether the court correctly interpreted and applied legislation and whether the judgment is adequate and provides understandable reasons).
	If the victim testified in court, did he/she do so in camera, in the courtroom (in the defendant's presence) or the court used the victim's testimony during the investigation phase?	As above.
	Did the victim seek compensation for the damages suffered (e.g. by constituting himself/herself as a civil claimant)? If yes, did he/she receive support by the State (e.g. legal representation/legal aid)?	This issue was not covered by the Supreme Court. The Supreme Court annuls the contested decision and refers the case back to the court of second instance (Gerechtshof). In the judgment of the court, no reference to compensation is identified. This leaves the option open that compensation is sought via a civil procedure.
	What type of evidence was submitted to the court? Where there any issues with the admissibility of evidence?	As above.

Delivery of the court judgment	How long did it take for the court to issue its judgment (for first instance cases, from the prosecution; for second and third instance cases, from the day the appeal was filed)?	Almost two years. The appeal in cassation was a judgment by the Court of Appeal of 's-Hertogenbosch of 30 January 2008 ⁽⁷⁵⁸⁾ . The judgment of the Supreme Court was done on 27 October 2009.
	Was the defendant found innocent/guilty? If he/she was found innocent, was it due to procedural grounds or because the evidence presented was insufficient not substantiate his guilt?	The courts of first and second instance judged the accused innocent as it was not proved that 'the accused and/or one or more others purposefully abused a position of dominance arising from the factual relationships with or the weaker/vulnerable position of the Chinese in accommodating or harbouring them' ⁽⁷⁵⁹⁾ . The Supreme Court judged that 'in attaching the condition to the first requirement of intent that 'purposeful abuse' must be made the victim's vulnerability, the Court of Appeal has imposed an excessively stringent requirement and, consequently, has given evidence of an incorrect conception of law' ⁽⁷⁶⁰⁾ . The Supreme court continues that 'this is equally applicable to the extent that the Court of Appeal has required the initiative and active acts on the part of the accused that extend beyond the wording of the Act, which refers to the terms 'recruits, transports, transfers, accommodates or harbours'. More specifically, neither the need for the accused to take the initiative nor the need for the suspect to bring the victim into an exploitative situation – i.e. a situation which made exploitation feasible – are autonomous requirements' ⁽⁷⁶¹⁾ .
	Was the victim awarded compensation for damages/moral pain and suffering? What was the court's reasoning?	This issue was not covered by the Supreme Court. The Supreme Court annuls the contested decision and refers the case back to the court of second instance (Gerechtshof). In the judgment of the court, no reference to compensation is identified. This leaves the option open that compensation is sought via a civil procedure.
	Did the victim receive any kind of support by public authorities (e.g. social workers)/NGOs?	No information.
Resources (financial and human resources)	No information.	
Role of labour inspectors	No information.	
Case study source		<ul style="list-style-type: none"> Court cases: Case Supreme Court, case number 08/03895;⁽⁷⁶²⁾ Case court of second instance (Gerechtshof 's-Hertogenbosch), case number 20-003936-09;⁽⁷⁶³⁾ and case court of first instance (Rechtbank 's-Hertogenbosch), case number 01/825364-06⁽⁷⁶⁴⁾. Ninth report of the National Rapporteur. National Rapporteur on Trafficking in Human Beings (2012), Trafficking in Human Beings. Case law of Trafficking Human Beings 2009-2012. An analysis. The Hague: NBRM. Responses to forced labour in the EU, Country Report of the Netherlands, Mijke Houwerzijl (Radboud University Nijmegen) and Conny Rijken (Tilburg University).

⁽⁷⁵⁸⁾ Case number 19/1123-8.

⁽⁷⁵⁹⁾ Case Supreme Court, 7/3894, No 1.1.1.

⁽⁷⁶⁰⁾ Case Supreme Court, 7/3894, No 1.4.1.

⁽⁷⁶¹⁾ Ibid.

⁽⁷⁶²⁾ Available in English at: http://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/engels_jln_hoge_raad26oct_2008_0.pdf

⁽⁷⁶³⁾ Available at: <http://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:GHSHE:2009:BN7214>

⁽⁷⁶⁴⁾ Available at: <http://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:RBSHE:2006:BA144>

Case study 3: NL-014-01 (Case ECLI:NL:RBSGR:2011:BP4006)

	<p>Facts: The suspect has occurred in relation to persons of Surinamese descent as a woman who could – against payment – arrange residence permits or Dutch passports. Subsequently, when victims came to the Netherlands, the suspect exploited some of them in construction work for her and her business. The suspect who worked at the Dutch immigration service (IND) promised the victims her support (against unreasonably high payment) in obtaining residence permits. These permit requests were unachievable. The suspect used these applications as means to exact labour from the victims (she threatened to cancel applications) and therewith placed the victims in a dependent position while exploiting them.</p> <p>The judgment provides a summary (<i>inhoudsindicatie</i>)⁽⁷⁶⁵⁾. This is provided below (translated into English):</p> <p>‘Fraud, smuggling, human trafficking, and money laundering. The suspect has occurred in relation to persons of Surinamese descent as a woman who could – against payment – arrange residence permits of Dutch passports. Subsequently the suspect applied for (for part of her victims) unmeritorious applications for residence permits and procedures under the alien law, for which she required unrealistic high amounts of money that ran into the thousands of euros. Suspect has therefore swindled these victims. She has also been helpful – for pursuit of profit – in providing housing for Surinamese people staying in the Netherlands illegally.</p> <p>Furthermore, the suspect exploited some of these illegal immigrants, who as a result of suspects actions were in a vulnerable and in any case the dependent position, by binding them to her on grounds of dependency, so the victims have performed and continued to perform construction work for her and her business, even without receiving the promised fee.</p> <p>The circumstances under which the accused set employment to work have in the eyes of the prosecutor and defence in this case not been so distressing that it classifies as exploitation and therefore can classify as human trafficking.</p> <p>However, with the prosecutor and the defence, also the Court considers that, even considered independently of the (partial) failure of wages, the working conditions considered themselves in this case have not been extremely distressing. [...] For the criminality under Article 273f paragraph 4 sub it is only important that the victim made him/herself available for labour or services by force or influence, as according to the Supreme Court in relation to Article 250a, paragraph, point 1. of the Criminal Code, one of the forerunners of the present Article 273f, paragraph, paragraph 4 of the Criminal Code (HR NJ 2006, 525, LJN AX9215). This has not been the case according to the judgment of the court.’</p> <p>A short summary of this is also provided in the 2012 case-law assessment of the National Rapporteur:</p> <p>‘In this case, the court found at first instance that the victims were in a vulnerable position due to their status as aliens and their debts to the offender. The public prosecutor demanded acquittal for human trafficking because the working conditions under which the victims had to work were not so desperate that they could be described as a situation of exploitation. The court – which declared human trafficking proven – found that this did not detract from the fact that the suspect had committed a crime: ‘After all, for a criminal offence under Article 273f (1)(4) it is not even relevant whether the labour or services were actually performed. The only decisive factor is that the victim has been forced or induced to make himself or herself available to perform work or services.’ According to the court, that was the case since the suspect had offered work to victims in a vulnerable position and put them to work for him.’⁽⁷⁶⁶⁾</p>
Summary of the case	
Competent Court	District court (The Hague) – Court of 1st instance
Legal provision applied	Article 273f Criminal Code
Sentence/compensation awarded	Imprisonment of 42 months (of which 12 months conditional on the basis of a 2 year probation period).
Date/period of forced labour (month/year)	Period on or about 1 January 2008 until 22 March 2010.

⁽⁷⁶⁵⁾ Available at: <http://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:RBSGR:2008:BJ1281>

⁽⁷⁶⁶⁾ National Rapporteur on Trafficking in Human Beings (2011), *Trafficking in Human Beings. Case law of Trafficking Human Beings 2008-2013. An analysis*, p. 79.

Profile of the victim(s) (e.g. country of origin, gender, age, occupation of the victim prior to the incident of forced labour)	Country of origin	Surinam (large group of persons; the exact number of victims is unknown)
	Gender	No information
	Age	No information
	Sector	Construction work
	Migratory status	Irregular migrants (the majority came to the Netherlands with a tourism visa – on false grounds – some with the help of the suspect).
How was the victim recruited and how did they come to be in the situation of forced labour?	Knowledge of local language	This is assumed as Dutch is the official language in Surinam.
		The suspect has occurred in relation to persons of Surinamese descent as a woman who could – against payment – arrange residence permits or Dutch passports. Subsequently, when victims came to the Netherlands, the suspect exploited some of them in construction work for her and her business.
	Elements of vulnerability	<ul style="list-style-type: none"> • Illegal residence in the Netherlands <p>The court refers – in a more general manner – to “case law of the Supreme Court, from which it follows that the fact that a victim is residing illegally in the Netherlands already follows that a dependent position may be presumed (HR February 5, 2002, LJN AD5235, NJ 2002, 546).”⁽⁷⁶⁷⁾</p> <ul style="list-style-type: none"> • The court assumes an vulnerable position in the context of Article 273f(1) of the Criminal Code: the victims were swindled by the accused as she told the victims she worked at the Dutch immigration service and promised that she could arrange (against high payment) residence permits or Dutch passports; she placed the victims in a position of debt against herself and the lawyer office (applying for the permits); and she increased their debt by increasing the money she required for the permits and the continuation of hopeless procedures⁽⁷⁶⁸⁾. <p>It is noteworthy that the court confirms misuse and situation of vulnerability by referring to suspect's actions to tell the victims that she would cancel the application for residence permits or she would call the police and inform them about their illegal status to ensure the victims would continue working.</p>
Identification/reporting of offences	The victim reported the offence to the authorities (e.g. the police, labour inspectorate) himself/herself	-
	The authorities began the investigation ex officio	“The suspect worked at the Dutch immigration service (IND) from 2005, first as a temporary and later as permanent employee, in the financial department. Between mid-2007 and mid-2008 the IND received several letters and a number of anonymous telephone reports, all relating to criminal conduct by an employee of the IND. After two further investigations the suspicion arose that this information related to possible actions of the accused. The suspect in that case, would have ‘helped’ (against high payment) third parties in obtaining residence permits. Based on this information, a number of witnesses was heard by members of the IND, after which it was decided to launch a criminal investigation into the actions of the accused” ⁽⁷⁶⁹⁾ .
	The case was brought to the attention of the authorities by an association/NGO	-
	Other (please specify)	-

⁽⁷⁶⁷⁾ No 3.2, e (p. 9).⁽⁷⁶⁸⁾ No 3.2, e (p. 10).⁽⁷⁶⁹⁾ No 3.2, a (p. 6).

Criminal investigation	Which authority/unit was responsible for the criminal investigation of this case?	Investigation has been conducted by the IND and the aliens police. As part of the investigations the victims have been questioned by the supervisory-judge (rechter-commissaris).
	How long after the victim started being subject to forced labour did the criminal investigation of the matter begin?	More than 2 years (around 27 months). The facts took place in the period between 1 January 2008 and 22 March 2010.
	What was the length of the investigation?	The exact start and end date of the investigation is unknown. The investigation took place between June 2009 and April 2010.
	What were the difficulties in the bringing this case to the court?	No information.
	Was the victim required to testify at the pre-trial stage of the proceedings? If yes, did the authorities use any mechanisms to protect the safety of the victim (e.g. via a witness protection programme) or protect him/her from secondary victimisation?	As part of the investigations the victims have been questioned by the supervisory-judge (rechter-commissaris). There is no information on whether any mechanisms were used to protect the safety of the victims.
Court proceedings	Were there any problems/issues pertaining to the collection of evidence?	No information.
	Was the victim required to testify in court? If yes, what effect is the witness testimony perceived to have had on the successful prosecution of the offenders?	No information.
	If the victim testified in court, did he/she do so in camera, in the courtroom (in the defendant's presence) or the court used the victim's testimony during the investigation phase?	No information.
	Did the victim seek compensation for the damages suffered (e.g. by constituting himself/herself as a civil claimant)? If yes, did he/she receive support by the State (e.g. legal representation/legal aid)?	In the judgment no reference to compensation is identified. This leaves the option open that compensation is sought via a civil procedure.
	What type of evidence was submitted to the court? Where there any issues with the admissibility of evidence?	Reports of the hearings (witness reports and victim reports) are used as evidence.
Delivery of the court judgment	How long did it take for the court to issue its judgment (for first instance cases, from the prosecution; for second and third instance cases, from the day the appeal was filed)?	Around 8 months. From the judgment of the court of first instance it follows that the investigation at court took place on 2 July 2010, 6 September 2010, 22 October 2010, 3 December 2010 (all pro forma) and 28 January 2011. The court decision was delivered on 11 February 2011.
	Was the defendant found innocent/guilty? If he/she was found innocent, was it due to procedural grounds or because the evidence presented was insufficient not substantiate his guilt?	The accused was found guilty on 5 grounds: fraud, profit from procuring of residence in the Netherlands, in addition, also as a processional working at the institution issuing residence permits, THB and laundering ⁽⁷⁷⁰⁾ . The accused was sentenced to imprisonment of 42 months (of which 12 months conditional on the basis of a 2 year probation period).
	Was the victim awarded compensation for damages/moral pain and suffering? What was the court's reasoning?	In the judgment it is mentioned that several articles are forfeitures by the court.

⁽⁷⁷⁰⁾ No 10 (p. 19).

Victim support	Did the victim receive any kind of support by public authorities (e.g. social workers)/NGOs?	No information.
Resources (financial and human resources)	No information.	
Role of labour inspectors	No information.	
Case study source	<ul style="list-style-type: none"> Case 09-757084-10 (ECLI:NL:RBSGR:2011:BP4006) ⁽⁷⁷¹⁾ National Rapporteur on Trafficking in Human Beings (2012), Trafficking in Human Beings. Case law of Trafficking Human Beings 2009-2012. An analysis. The Hague: NBRM ⁽⁷⁷²⁾ 	

⁽⁷⁷¹⁾ Available at: <http://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:RBSGR:2010:BP4005>

⁽⁷⁷²⁾ Available at: <http://www.dutchrapporteur.nl/reports/case-law/>

Case study 4: NL- 018(1) (ECLI:NL:RBSHE:2011:BT6501)

Summary of the case	<p>Facts: The suspect actively recruited the seasonal workers employed at her asparagus farm. She approached a middleman, living in Romania, to find workers for her and who also recruited the workers at her request. The workers were in an economically vulnerable position. The employees paid their journey to the Netherlands and a large number of the victims therefore made a great investment to be able to start the work. The victims were forced to stay on the farm and had no options to leave the farm in the evening. No salary was paid (postposed to end of seasons) and the conditions of housing (fire) safety and hygiene were very poor.</p> <p>The judgment provides a summary (<i>inhoudsindicatie</i>)⁽⁷⁷³⁾. This is provided below (translated into English):</p> <p>Human trafficking - labour exploitation - seasonal employment.</p> <p>Trafficking conviction: recruitment and housing of seasonal workers for the purpose of exploitation and pressing towards work activities, involving abuse of factual circumstances based on the vulnerability of those seasonal workers.</p> <p>The court finds no proof that the accused has committed violence or threatened with violence.</p> <p>The workers could not escape the work and harsh working conditions because they feared that they would not receive any salary if they would leave before the end of the work period.</p> <p>The Court imposes a lower sentence than was claimed by the prosecutor, because the use of violence, threats of violence and intimidation are not proved. Furthermore, the Court considers that this does not a form of exploitation where the victims are in a hopeless situation for a longer period.</p>
Competent Court	District Court ('s Hertogenbosch) - Court of 1 st instance
Legal provision applied	Art. 273f lid 1 sub 1 and 4 Criminal Code
Sentence/compensation awarded	<p>Sentence:</p> <p>Imprisonment of 30 months (of which 6 months conditional on the basis of a 2 year probation period). The accused was also convicted to a fine of approximately EUR 111 000⁽⁷⁷⁴⁾. It is noted that the Court of Appeal (Hof 's Hertogenbosch) increased the punishment and sentenced the accused to an imprisonment of 36 months⁽⁷⁷⁵⁾.</p> <p>In addition to the imprisonment for the human trafficking, the asparagus grower was also convicted to a fine for the working activities of foreigners without working permit (Fines on the basis of the Law on employment of aliens)⁽⁷⁷⁶⁾.</p> <p>Compensation:</p> <p>The Court calculates the compensation for the (15) victims on the basis of the Dutch minimum wage⁽⁷⁷⁷⁾. In addition, immaterial damages are paid to the victims (average between EUR 700 – 1 000).</p> <p>The issue of compensation in this case (in its procedure before the Court of Appeal⁽⁷⁷⁸⁾) is discussed by the National Rapporteur in its assessment of case-law (2009-2012):⁽⁷⁷⁹⁾</p> <p>'Compensation orders can also be imposed ex officio. The courts have the discretion to impose an order even if the aggrieved party has not submitted a claim. [...] A compensation order was also imposed ex officio in the appeal in the case of the asparagus farmer in Someren because the court of appeal arrived at a higher sum than the amount claimed in its estimate of the damages'.</p> <p>'In the appeal in the case against an asparagus farmer in Someren, the court of appeal awarded aggrieved party claims related to unpaid salary. To calculate the compensation, the court first calculated how many hours the aggrieved party had worked for the suspect. With respect to aggrieved party X, it followed from the evidence that he had worked 12 to 14 hours a day for 22 days. The court found that the total number of hours could reasonably be fixed at 13 (hours per day) x 22 (days) = 286 hours. That total was multiplied by the minimum hourly wage applicable during the period of the offence (EUR 7.12), so the injured party was still owed a sum of EUR 2 026.32. Advances received, money for food and lodging and meal vouchers were deducted from that sum, leaving an amount of EUR 1 625.32. With respect to two other aggrieved parties, the court found that they were entitled to more back pay than they had claimed and imposed a compensation order for that higher amount. In civil proceedings, the amount awarded cannot be higher than the amount claimed by a party because the court is deciding on the claims of the parties.'</p>

⁽⁷⁷³⁾ Available at: <http://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:RBSGR:2008:BJ1281>

⁽⁷⁷⁴⁾ Inspectie Sociale Zaken en Werkgelegenheid en Politie, Overige uitbuiting, *Criminaliteitsanalyse 2011*, p. 23. Available at: <http://www.politie.nl/binaries/content/assets/politie/documenten-algemeen/nationaal-dreigingsbeeld-2013/cba-over-ige-uitbuiting.pdf>

⁽⁷⁷⁵⁾ Den Bosch Court of Appeal, 5 July 2011 (ECLI:NL:GHSHE:2011:BX598), available at: <http://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:GHSHE:2011:BX598&keyword=asperge>

⁽⁷⁷⁶⁾ See also: Saris, C.M. (2011), De bestuurlijke boete en de evenredigheidsdoets, een lege huls? De wet arbeid vreemdelingen: van strafrechtelijke naar bestuursrechtelijke handhaving, in: Nederlands Tijdschrift voor Bestuursrecht, p. 103.

⁽⁷⁷⁷⁾ See also Heemskerk, M. en E. Willemsen, Compensatie voor *slachtoffers van mensenhandel* (2012), p. 18.

⁽⁷⁷⁸⁾ Den Bosch Court of Appeal, 5 July 2011 (ECLI:NL:GHSHE:2011:BX598), available at: <http://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:GHSHE:2011:BX598&keyword=asperge>

⁽⁷⁷⁹⁾ National Rapporteur on Trafficking in Human Beings (2011), *Trafficking in Human Beings. Case law of Trafficking Human Beings 2008-2013. An analysis*, p. 150.

Date/period of forced labour (month/year)	Period on or about 1 March 2009 until 26 June 2009.	
Profile of the victim(s) (e.g. country of origin, gender, age, occupation of the victim prior to the incident of forced labour)	Country of origin	Romania, Portugal and Poland (group of app. 15 persons)
	Gender	Both
	Age	No information
	Sector	Agriculture (seasonal work in picking and sorting asparagus)
	Migratory status	EU citizens (temporary stay in the Netherlands for purpose of seasonal work).
How was the victim recruited and how did they come to be in the situation of forced labour?	Knowledge of local language	
	No	
	The accused acted actively in recruiting the seasonal workers employed at her farm. She approached a middleman, living in Romania to find workers for her and also recruited the workers at her request. The workers have financed their bus tickets to the Netherlands; the suspect picked them up at the bus station and transported them to her farm. There she housed the workers and let them carry out labour activities ⁽⁷⁸⁰⁾ .	
Elements of vulnerability	The workers were in an economically vulnerable and weak position: the standard of living and wages in the countries of origin are significantly lower than in the Netherlands. With regard to that vulnerable position it is also important that the employees themselves paid their journey to and from the Netherlands and that the cost of the trip, for example, the Romanian workers to the Netherlands was about as high as an average monthly salary in Romania. A large number of the victims therefore made a great investment to be able to start the work (it was noted in several witness declarations that the victims were without job and needed to support their families), which means that these workers are prone to accept offered work and working conditions ⁽⁷⁸¹⁾ .	
	<p>Abuse of vulnerability:</p> <ul style="list-style-type: none"> • Passport / ID documents taken by the accused; • Forced stay on farm (no options to leave the farm in the evening; dog was released on compound); • No salary paid (postposed to end of seasons); • Very poor conditions (housing and hygiene) including not fulfilling rules of fire safety. 	

⁽⁷⁸⁰⁾ Case ECLI:NL:RBSHE:2010:BT6500, p. 19.

⁽⁷⁸¹⁾ Case ECLI:NL:RBSHE:2010:BT6500, p. 20.

Identification/reporting of offences	The victim reported the offence to the authorities (e.g. the police, labour inspectorate) himself/herself	-	The seventh annual report of the national rapporteur on human trafficking (2009) discusses the case of the exploitation on an asparagus farm in Someren. ⁽⁷⁸²⁾
	The authorities began the investigation <i>ex officio</i>	-	'The Labour Inspectorate, the local municipality and the police had been aware for years of irregularities at J's asparagus farm in Someren. Every season, several dozen foreign workers were employed at the farm. Over a period of several years, the Labour Inspectorate had fined J five times for violations of the Foreign Nationals Employment Act and the Minimum Wage Act, among other things. The total amount of the fines was EUR 566 250. In the course of several years the police had received several complaints of assault, intimidation, the non-payment of full wages and the withholding of identity papers at the asparagus farm. The municipality was also aware of a number of irregularities at the farm, including the fact that the accommodation for the farm workers did not comply with fire safety regulations. That last point (the violation of fire safety regulations) ultimately caused the municipality to intervene. Supported by a judgment of the preliminary relief judge in favour of the municipality and after consulting the 'law and order triumvirate' (the mayor, the police superintendent and the chief public prosecutor for the region), the municipality decided to evacuate the farm on 15 May on the grounds of violation of the Housing Act by means of an administrative enforcement measure.'
	The case was brought to the attention of the authorities by an association/NGO	-	After May 2009 fifteen detectives began a criminal investigation into the asparagus grower. They travelled to Romania, Poland, Portugal and heard former employees. After months of investigation, the case was heard in 2011.' ⁽⁷⁸³⁾
	Other (please specify)	-	
	Which authority/unit was responsible for the criminal investigation of this case?	Inspection SZW (Social Affairs and Employment)	
Criminal investigation	How long after the victim started being subject to forced labour did the criminal investigation of the matter begin?	Around 4 months. The facts took place in the period between 1 March 2009 and 26 June 2009.	
	What was the length of the investigation?	The exact start and end date of the investigation is unknown. The investigation took place between June 2009 and April 2010.	
	What were the difficulties in the bringing this case to the court?	Large group of victims (see challenges under 'resources' below).	
	Was the victim required to testify at the pre-trial stage of the proceedings? If yes, did the authorities use any mechanisms to protect the safety of the victim (e.g. via a witness protection programme) or protect him/her from secondary victimisation?	The victims testified during the investigation period (reference to (parts of) these reports is made in the judgment. In this case the victims were returned to their home country (they were in the Netherlands for seasonal work) and were questioned by the Inspection SZW in their own country.	
	Were there any problems/issues pertaining to the collection of evidence?	<ul style="list-style-type: none"> • Victims were in their countries of origin during investigation (travel required by inspection team). • Large group of victims. 	

⁽⁷⁸²⁾ Trafficking in Human Beings Seventh Report of the Dutch National Rapporteur (2008), p. 478. Available at: <http://www.nationaalrapporteur.nl/publicaties/Zevende/>

⁽⁷⁸³⁾ NRC Handelsblad of 5 July 2011, available at: <http://www.nrc.nl/nieuws/2011/6/5/uitbuitende-aspergeteelster-krijgt-in-hoger-beroep-drie-jaar-cel/>

Court proceedings	Was the victim required to testify in court? If yes, what effect is the witness testimony perceived to have had on the successful prosecution of the offenders?	The court used the reports (hearings of victims and suspects; description of work situation/conditions) prepared by the investigation authorities.
	If the victim testified in court, did he/she do so in camera, in the courtroom (in the defendant's presence) or the court used the victim's testimony during the investigation phase?	N/A
	Did the victim seek compensation for the damages suffered (e.g. by constituting himself/herself as a civil claimant)? If yes, did he/she receive support by the State (e.g. legal representation/legal aid)?	Yes. See information under 'Sentence/compensation awarded' above. No information on whether the victims received legal aid.
	What type of evidence was submitted to the court? Where there any issues with the admissibility of evidence?	The reports made during the investigations (declarations of all victims). In this case the defence argued that the testimonies were not trustworthy. 'The court realises that mutual likes and dislikes can influence witnesses when they testify and that they could have discussed about the content of the statements they would make. The court has therefore considered the witness statements with caution. The public prosecutor reported on the selection procedure of witnesses in the criminal investigation. The witnesses are carefully and randomly chosen, taking into consideration that Romanians, Portuguese and Poles are represented. Moreover, the defence has selected some of the witnesses to be heard. The court notes that in this case evidence given on essential items is detailed and mostly identical and that the statements were made by people who cannot always be said that they were on friendly terms with each other. The court considers these declarations reliable.' ⁽⁷⁸⁴⁾

⁽⁷⁸⁴⁾ Case ECLI:NL:RBSHE:2010:BT6500, p. 5-8.

<p>Delivery of the court judgment</p>	<p><i>How long did it take for the court to issue its judgment (for first instance cases, from the prosecution; for second and third instance cases, from the day the appeal was filed)?</i></p>	<p>Around 19 months. A summons was provided on 22 March 2010; the investigation at court took place on 28 April 2010, 21 July September 2010, 30 June 2011 and 20 September 2011. A judgment was delivered on 4 October 2011.</p> <p>There accused was found guilty and sentenced to imprisonment of 30 months (of which 6 months conditional on the basis of a 2 year probation period) by the first instance court. The accused was also convicted to a fine of approximately EUR 111 000⁽⁷⁸⁵⁾. It is noted that the Court of Appeal increased the punishment and sentenced the accused to an imprisonment of 36 months⁽⁷⁸⁶⁾.</p> <p>Two different offences were charged. Indictment A sees on the forcibly recruiting and housing of persons for the purpose of exploitation (art. 273 paragraph 1 CC). Indictment B sees on the forced movement of people in to labour activities (Art. 273f paragraph 1, and 4 CC).⁽⁷⁸⁷⁾</p> <p>Regarding the indictment under A, the court positively answered the following questions:⁽⁷⁸⁸⁾</p> <ol style="list-style-type: none"> 1. 'Has the suspect recruited, transported, transferred or housed persons named in the indictment? 2. Has there been any coercion, violence or other act or threat to use violence, extortion, fraud, deception or abuse of factual circumstances arising from prevalence, by abuse of a position of vulnerability or of the giving or earned payments? 3. Did the accused have the purpose to exploitation these persons? <p>Regarding the indictment under B, the court positively answered the following questions:</p> <ol style="list-style-type: none"> 1. Has the suspect forced the victims to make themselves available to the performance of work and / or services? 2. Has there been any coercion, violence or other act or threat to use violence, extortion, fraud, deception or abuse of factual circumstances arising from prevalence, by abuse of a position of vulnerability or of the giving or earned payments? <p>The Court calculates the compensation for the (15) victims on the basis of the Dutch minimum wage⁽⁷⁸⁹⁾. In addition, immaterial damages are paid to the victims (average between EUR 700 – 1 000).</p>
<p>Victim support</p>	<p><i>Was the victim awarded compensation for damages/moral pain and suffering? What was the court's reasoning?</i></p>	<p>The seventh annual report of the National Rapporteur on Human Trafficking (2009) discusses the case of the forced labour on an asparagus farm in Someren. It mentions that 'the workers were not advised of their rights to a reflection period under the B9 regulation during the action' where the police entered the farm⁽⁷⁹⁰⁾. The workers were not reported to Comensha⁽⁷⁹¹⁾.</p> <p>The rapporteur further provides that 'although they were still owed wages by [the suspect], because they were only to be paid at the end of the season, 36 of the Romanian workers preferred to return to Romania without their money rather than return to [the suspects farm]. The municipality then arranged a bus for them [and] made them sign an agreement that they would repay the cost of the journey to the municipality'.⁽⁷⁹²⁾ At that time, no action under criminal law had been taken against the suspect at that time. Some of the workers decided to continue working on the suspect's farm because they had not received any money and were promised to receive this at the end of the working season. In a later stage, the public prosecution service decided to carry out an investigation into THB: the workers who stayed behind were informed of their rights under the B9 regulation⁽⁷⁹³⁾.</p>
<p><i>Did the victim receive any kind of support by public authorities (e.g. social workers)/NGOs?</i></p>		

⁽⁷⁸⁵⁾ Inspectie Sociale Zaken en Werkgelegenheid en Politie, Overige uitbuiting, *Criminaliteitsanalyse 2011*, p. 23. Available at: <http://www.politie.nl/binaries/content/assets/politie/documenten-algemeen/nationaal-dreigingsbeeld-2013/cba-overige-uitbuiting.pdf>

⁽⁷⁸⁶⁾ Den Bosch Court of Appeal, 5 July 2011 (ECLI:NL:GHSHE:2011:BX598), available at: <http://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:GHSHE:2011:BX598&key=asperge>

⁽⁷⁸⁷⁾ Case ECLI:NL:RBSHE:2010:BT6500, p. 5.

⁽⁷⁸⁸⁾ Case ECLI:NL:RBSHE:2010:BT6500, p. 6.

⁽⁷⁸⁹⁾ See also Heemskerk, M. en E. Willemsen, *Compensatie voor slachtoffers van mensenhandel* (2012), p. 18.

⁽⁷⁹⁰⁾ Trafficking in Human Beings Seventh Report of the Dutch National Rapporteur (2008), p. 478. Available at: <http://www.nationaalrapporteur.nl/publicaties/Zevende/>

⁽⁷⁹¹⁾ *Ibid.*, p. 477.

⁽⁷⁹²⁾ Trafficking in Human Beings Seventh Report of the Dutch National Rapporteur (2008), p. 478. Available at: <http://www.nationaalrapporteur.nl/publicaties/Zevende/>

⁽⁷⁹³⁾ *Ibid.*

Resources (financial and human resources)	<ul style="list-style-type: none"> Cases with a large number of victims (such as in seasonal work) has a high impact on the work staff as a large part of the team involved in the investigation. In the general part of this report (key challenges) it was already noted (stakeholder consultation) that the Inspectorate for Social Affairs and Employment mentioned that in certain cases (often in mushroom or asparagus farms) the affected people could be groups of up to 40 persons. Although it is not necessary for the start of a criminal investigation to have an intake of all victims – it is however important (and required) to take proper care of the victims. On average, the intake, follow up (also arranging accommodation, stay etc.) takes about 40 hours per victim. The size of the groups puts pressure on the workload of the inspectorate.
Role of labour inspectors	A team of app. 15 inspectors (SZW) was investigating this case. They interviewed the victims in their home countries (Romania, Portugal and Poland).
Case study source	<ul style="list-style-type: none"> Case law: Case ECLI:NL:RBSHE:2011:BT6501 and Den Bosch Court of Appeal, 6 July 2012 (ECLI:NL:GHSHE:2012:BX0599) ⁽⁷⁹⁴⁾; National Rapporteur on Trafficking in Human Beings (2012), Trafficking in Human Beings. Case law of Trafficking Human Beings 2009-2012. An analysis. The Hague ⁽⁷⁹⁵⁾; Trafficking in Human Beings Seventh Report of the Dutch National Rapporteur (2009) ⁽⁷⁹⁶⁾; Saris, C.M.(2012), De bestuurlijke boete en de evenredigheidstoets, een lege huls? De wet arbeid vreemdelingen: van strafrechtelijke naar bestuursrechtelijke handhaving; in Nedrelands Tijdschrift voor Bestuursrecht; Heemskerk, M. en E. Willemssen (FairWork), Compensatie voor slachtoffers van mensenhandel (2013) ⁽⁷⁹⁷⁾; NRC Handelsblad of 6 July 2012; Inspectie Sociale Zaken en Werkgelegenheid en Politie, Overige uitbuiting, Criminaliteitsanalyse 2012 ⁽⁷⁹⁸⁾;

⁽⁷⁹⁴⁾ Available at: <http://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:GHSHE:2011:BX598&key=word=asperge>

⁽⁷⁹⁵⁾ Available at: <http://www.dutchrapporteur.nl/reports/case-law/>

⁽⁷⁹⁶⁾ Available at: <http://www.dutchrapporteur.nl/reports/seventh/>

⁽⁷⁹⁷⁾ Available at: http://www.fairwork.nl/assets/structured-files/Publicaties/Rapporten/Rapport_Compensatie_DEF.pdf

⁽⁷⁹⁸⁾ Available at: <http://www.politie.nl/binaries/content/assets/politie/documenten-algemeen/nationaal-dreigingsbeeld-2013/cba-overige-uitbuiting.pdf>

Case study 5: NL-022-01 (ECLI:NL:RBAMS:2013:8010)

Summary of the case	<p>Facts: When the victim was 14, he travelled to the Netherlands with the suspect (his uncle) while using the passport of a cousin. He was promised to be sent to school, to be taken care of and to be able to work for his uncle and get paid for his work. Instead the victim was directly forced to work in the shop of the suspect (including performing hard labour, such as carrying heavy carpets) and received no to hardly any payment. Labour was performed six days per week. The victim was not allowed to go outside after working hours and was not sent to school. The victim was threatened to be sent back to Morocco in case of disobedience (the passport of the victim was kept by the suspect).</p> <p>The judgment provides a summary (<i>inhoudsindicatie</i>)⁽⁷⁹⁹⁾. This is provided below (translated into English): 'The court convicted a man for trafficking in human beings. Together with his brother, they forced their cousin work for years on the market under poor conditions for an unreasonably low salary'.</p>	
Competent Court	District Court Amsterdam - Court of 1 st instance	
Legal provision applied	Article 273f, paragraph 1, 4 and 6 Criminal Code	
Sentence/compensation awarded	<p>Sentence:</p> <p>Imprisonment (21 months (of which 6 months conditional on the basis of a 2 year probation period)).</p> <p>The Court noted that 'the reasonable period of time has been exceeded by 13 months, while there are no special circumstance that could justify such an extension. Case law from the Supreme Court in that regard concludes that in case a reasonable period has been exceeded by six to twelve months, the penalty is reduced by 10%. The court rules that the length of the delay of over 13 months lies so close to a maximum term of 12 months that a rate of 10% in the reduction of the sentence occurs reasonable. The Court will therefore reduce by 10%, the imprisonment of 24 months that is in principle deemed appropriate imprisonment and apply a conclusion in favour of the accused, which represents a reduction of 3 months.'⁽⁸⁰⁰⁾</p> <p>Compensation:</p> <p>A compensation of EUR 50 828 is assigned to the victim (of which EUR 30 828 material loss and EUR 20 000 emotional injury).</p>	
Date/period of forced labour (month/year)	Period on or about 1 January 2005 - 1 July 2008.	
Profile of the victim(s) (e.g. country of origin, gender, age, occupation of the victim prior to the incident of forced labour)	Country of origin	Morocco
	Gender	Male
	Age	The victim was brought to the Netherlands (and was set to work and come in a position of dependence) when he was 14 (1999). This case only covers the period January 2005 - July 2008, when the victim was an adult.
	Sector	Market
	Migratory status	Irregular migrant
How was the victim recruited and how did they come to be in the situation of forced labour?	Knowledge of local language	No knowledge when the victim was brought to the Netherlands when he was 14 years old (1999). The victim was never sent to school.
	The victim is a cousin of the accused. From the reports, it follows that the victim was 14 when he travelled to the Netherlands with his uncle (using the passport of a cousin). He was promised to be sent to school, to be taken care of and to be able to work for his uncle and get paid for his work.	

⁽⁷⁹⁹⁾ Available at: <http://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:RBAMS:2012:8009>

⁽⁸⁰⁰⁾ ECLI:NL:RBAMS:2012:8009, No 9.2.1, p. 19.

Elements of vulnerability	<ul style="list-style-type: none"> • Age of the victim (he was 14 when he was brought to the Netherlands) • Family relation (trust in family) • Illegal status in the Netherlands <p>Abuse of vulnerability:</p> <ul style="list-style-type: none"> • No passport / ID documents • Accused threatened to go to police / send victim to Morocco • No money paid for the work (kept him dependent without an income) • Not send to school; not allowed to leave the house after work and limited in social contacts <p>Regarding the age of the victim, the Court considers that 'despite the period that is covered by this case regards a period where the victim is an adult; the fact that he was a minor when he came in this dependent position is considered of great influence to the extent to which he - in the alleged period - has felt limited in his freedom.'⁽⁸⁰¹⁾</p>	
	The victim reported the offence to the authorities (e.g. the police, labour inspectorate) himself/herself	The victim reported the case (the judgment refers to 'declarant'). This follows from one of the reports that are used as proof by the Court, where the victim explains the reason for his declaration. ⁽⁸⁰²⁾ The declaration was done on 19 February 2009 ⁽⁸⁰³⁾ .
Identification/reporting of offences	The authorities began the investigation <i>ex officio</i>	-
	The case was brought to the attention of the authorities by an association/NGO	-
Criminal investigation	Other (please specify)	-
	Which authority/unit was responsible for the criminal investigation of this case?	No information.
	How long after the victim started being subject to forced labour did the criminal investigation of the matter begin?	Around 3.5 years. The facts took place in the period between about 1 January 2005 and 1 July 2008.
	What was the length of the investigation?	The exact length of the investigation is unknown. The investigation took place in the period between July 2008 and November 2013, including bringing the case to court.
	What were the difficulties in the bringing this case to the court?	No information.
	Was the victim required to testify at the pre-trial stage of the proceedings? If yes, did the authorities use any mechanisms to protect the safety of the victim (e.g. via a witness protection programme) or protect him/her from secondary victimisation?	The victim testified during the investigation period (reference to (parts of) these reports is made in the judgment. There is no information on whether any mechanisms were used to protect the safety of the victim.
	Were there any problems/issues pertaining to the collection of evidence?	No information.

⁽⁸⁰¹⁾ ECLI:NL:RBAMS:2012:8009, No 4, p. 6.⁽⁸⁰²⁾ ECLI:NL:RBAMS:2012:8009, No 5, p. 9.⁽⁸⁰³⁾ ECLI:NL:RBAMS:2012:8009, No 5, p. 13.

Court proceedings	Was the victim required to testify in court? If yes, what effect is the witness testimony perceived to have had on the successful prosecution of the offenders?	The court used the reports (testimonies of victim and witnesses) prepared by the investigation authorities.
	If the victim testified in court, did he/she do so in camera, in the courtroom (in the defendant's presence) or the court used the victim's testimony during the investigation phase?	N/A.
	Did the victim seek compensation for the damages suffered (e.g. by constituting himself/herself as a civil claimant)? If yes, did he/she receive support by the State (e.g. legal representation/legal aid)?	The victim did seek compensation. The Court decided to award compensation of EUR 50 828 (of which EUR 30 828 as material loss and EUR 20 000 for emotional injury). There is no information on whether the victim received legal aid.
	What type of evidence was submitted to the court? Where there any issues with the admissibility of evidence?	The reports made during the investigations (declarations of all victims). The court also bases its judgment on witness reports (at least four witnesses reports are referred to in the judgment). The trustworthiness has been debated by the defence; however the court considered they could be used ⁽⁸⁰⁴⁾ . The Court uses witnesses reports (proces-verbaal) from other persons working at the market, the father of the victim (the authorities interviewed him in Morocco) and others. The investigators also visited the Moroccan Consulate. The authorities as part of their investigation also searched the house of the suspects and confiscated goods (including copies of the passport of the victim) ⁽⁸⁰⁵⁾ .
	How long did it take for the court to issue its judgment (for first instance cases, from the prosecution; for second and third instance cases, from the day the appeal was filed)?	From the judgment of the court of first instance it follows that the investigation at court took place on 1 November 2013 and 21 November 2013. The judgment was given on 3 December 2013.
Delivery of the court judgment	Was the defendant found innocent/guilty? If he/she was found innocent, was it due to procedural grounds or because the evidence presented was insufficient not substantiate his guilt?	The defendant was found guilty of THB and sentenced to imprisonment of 21 months (of which 6 months conditional on the basis of a 2 year probation period).
	Was the victim awarded compensation for damages/moral pain and suffering? What was the court's reasoning?	The Court decided to award compensation of EUR 50 828 (of which EUR 30 828 as material loss and EUR 20 000 for emotional injury). In this context, the Court 'recognises the request for the material damage in the period from January 2005 to August 2007; the period in which it the proven trafficking occurred. The suffered loss is a direct consequence of this trafficking also considering the importance that the criminalisation of human trafficking aims to protect. The court did not see any possibility to assign the claim for the period before January 2005; as the criminalisation of human trafficking primarily aims to protect another important aim than the interests of the victim and the victim now has the possibility to submit a claim at the civil court to get reimbursed for that period.' ⁽⁸⁰⁶⁾ Regarding the amount of the compensation for immaterial damages, the Court considers that it does 'not see any reason to moderate the claimed amount of EUR 20 000 for immaterial damage. Although the period of the proven exploitation is shorter than the period on which the claim is based, but it is still a serious form of exploitation for more than 2.5 years. Moreover, the basis for this exploitation started in a period that the victim was a minor; the period in which the victim was trafficked to the Netherlands. The loss of enjoyment of life and the consequences for the future of the victim justify this amount.' ⁽⁸⁰⁷⁾

(804) ECLI:NL:RBAMS:2012:8009, No 3, p. 3-7.

(805) ECLI:NL:RBAMS:2012:8009, No 5, p. 12.

(806) ECLI:NL:RBAMS:2012:8009, No 9.2.2, p. 19.

(807) ECLI:NL:RBAMS:2012:8009, No 9.2.2, p. 19.

Victim support	Did the victim receive any kind of support by public authorities (e.g. social workers)/NGOs?	No information.
Resources (financial and human resources)	-	
Role of labour inspectors	-	
Case study source	Case number 13/520059-09 (ECLI:NL:RBAMS:2013:8010) ⁽⁸⁰⁸⁾ .	

⁽⁸⁰⁸⁾ Available at: <http://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:RBAMS:2012:8009>

Case study 6: NL-024-1 (ECLI:NL:RBAMS:2013:BZ9113 - in conjunction with BZ9115; BZ 9117)

Summary of the case	<p>Facts: The victim came to the Netherlands on the invitation of one of the three suspects to work in their restaurant. All suspects had different roles in the restaurant (owner; team leader etc.). After arrival in the Netherlands he started working in a restaurant in Arnhem and was housed in a room above the restaurant. He was seconded by the 'Chinese Workers Agency'. The victim was housed with the suspects and worked for suspects while being dependent of them. After telling the suspects he would leave the restaurant, they threatened that his passport and residence permit would be taken (this was indeed done and the victim was transferred to a restaurant in Amsterdam). The victim made long working days, did not receive any payment for the work and extra hours done.</p> <p>The key question in this case is whether the defendant has or has not, in association with one or more persons, brought the victim into a situation of exploitation and/or has exploited him and made advantage of that exploitation⁽⁸⁰⁹⁾.</p> <p>The judgment provides for a summary (<i>inhoudsindicatie</i>)(translated into English)⁽⁸¹⁰⁾: 'The Court considered it proven that there is a continuing act of human trafficking by two or more persons and theft by two or more persons, where the accused brought the taken property within its reach by means of false keys, committed several times. The court finds the suspect guilty this offence.'</p>	
Competent Court	District Court Amsterdam - Court of 1 st instance	
Legal provision applied	Article 273f Criminal Code	
Sentence/compensation awarded	<p>Sentence:</p> <p>Imprisonment of three 3 months (conditionally with a probation period of 2 years). In addition, the accused is sentenced to community service for the duration of 120 hours. In case the community service is not sufficiently performed, an alternative sentence for the period of 60 days shall be applied.</p> <p>The sentence is lower that requested by the public prosecutor – the Court argues in this context that it did not appear that the housing was under appealing conditions and the victim was not brought the Netherlands under false pretences⁽⁸¹¹⁾.</p> <p>Compensation:</p> <p>A compensation of EUR 12 892 was assigned to the victim (of which 9 892 as material loss and EUR 3 000 for emotional injury).</p>	
Date/period of forced labour (month/year)	Period on or about 28 December 2007 and 15 September 2009	
Profile of the victim(s) (e.g. country of origin, gender, age, occupation of the victim prior to the incident of forced labour)	Country of origin	China
	Gender	Male
	Age	No information (adult)
	Sector	Chinese restaurant
	Migratory status	Regular migrant
How was the victim recruited and how did they come to be in the situation of forced labour?	Knowledge of local language	No knowledge of Dutch or English language
	The victim came to the Netherlands (end 2007) on the invitation of one of the suspects to work in their restaurant. After arrival in the Netherlands he started working in a restaurant in Arnhem and was housed in a room above the restaurant. He was seconded by the 'Chinese Workers Agency'. The victim was transferred to a restaurant in Amsterdam (also owned by one of the suspects).	

(809) ECLI:NL:RBAMS:2012:BZ9112; No 3.0.

(810) Available at: <http://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:RBAMS:2012:BZ9112&key=word=LJN+BZ+9112>

(811) ECLI:NL:RBAMS:2012:BZ9112; No 7.2.

Elements of vulnerability	<ul style="list-style-type: none"> No knowledge of local language Housed with the suspects and worked for suspects while being dependent of them No access to health insurance and bank card No sufficient funds to return to China or to allow to enable housing at another place No knowledge on how to use his bank account (run by and later emptied by the suspects) After telling the suspects he would leave the restaurant, they threatened that his passport and residence permit would be taken (this was indeed done and the victim was transferred to a restaurant in Amsterdam). Long working days, no payment of extra hours and lower payment than agreed (which he did not receive)
Identification/reporting of offences	<p>The victim reported the offence to the authorities (e.g. the police, labour inspectorate) himself/herself</p> <p>Later (no information available on date) here reported the situation to the police.</p> <p>The authorities began the investigation <i>ex officio</i></p> <p>The case was brought to the attention of the authorities by an association/NGO</p> <p>Other (please specify)</p> <p>Which authority/unit was responsible for the criminal investigation of this case?</p> <p>How long after the victim started being subject to forced labour did the criminal investigation of the matter begin?</p> <p>What was the length of the investigation?</p> <p>What were the difficulties in the bringing this case to the court?</p> <p>Was the victim required to testify at the pre-trial stage of the proceedings? If yes, did the authorities use any mechanisms to protect the safety of the victim (e.g. via a witness protection programme) or protect him/her from secondary victimisation?</p> <p>Were there any problems/issues pertaining to the collection of evidence?</p>
Criminal investigation	<p>No information.</p> <p>Almost 2 years. The facts took place in the period between about end 2007 and September 2009.</p> <p>The exact start and end date of the investigation is unknown; the investigation took place in the period between September 2009 and February 2013.</p> <p>No information available.</p> <p>It is considered in the judgment that: 'This case stands or falls with the declaration of human trafficking by the victim and its (complementary) explanations. Following his declaration the victim was heard several times complementary. Finally, in the presence of the defence he was questioned as a witness three times by the magistrate (rechter-commissaris). The various statements of the victim are not fully consistent, but the same applies to the statements of a number of others involved in the case. [...] The court will only use parts of the statements of the victim as evidence where the parts of his statements are not challenged and / or secured and / or are supported by (objective) other evidence or there is no reason to doubt his statement.'⁽⁸¹²⁾</p> <p>As mentioned above, the case highly depended on statements given by the victim and the suspects.</p>

⁽⁸¹²⁾ ECLI:NL:RBAM:2012BZ9112; No 3.30.

Court proceedings	Was the victim required to testify in court? If yes, what effect is the witness testimony perceived to have had on the successful prosecution of the offenders?	As above.
	If the victim testified in court, did he/she do so in camera, in the courtroom (in the defendant's presence) or the court used the victim's testimony during the investigation phase?	No information available.
	Did the victim seek compensation for the damages suffered (e.g. by constituting himself/herself as a civil claimant)? If yes, did he/she receive support by the State (e.g. legal representation/legal aid)?	The victim did seek compensation: he requested material damage of EUR 10 115.12 and immaterial damage of EUR 10 000. There is no information on whether the victim received legal aid.
	What type of evidence was submitted to the court? Where there any issues with the admissibility of evidence?	Statements and reports of the victim and the suspects.
Delivery of the court judgment	How long did it take for the court to issue its judgment (for first instance cases, from the prosecution; for second and third instance cases, from the day the appeal was filed)?	Around 1 month. The judgment was given on 18 March 2013 (the investigation at court took place on 20 and 21 February 2013 and the investigation was officially closed on 11 March 2013).
	Was the defendant found innocent/guilty? If he/she was found innocent, was it due to procedural grounds or because the evidence presented was insufficient not substantiate his guilt?	The defendant was found guilty. A key aspect in this case is that there were three suspects, for which the Court concludes that they have closely and deliberately worked together and all suspects profited from the exploitation ⁽⁸¹³⁾ . The indictment - in short - of the accused is that he, along with others, is guilty of: 1. Trafficking through, with the intention of exploiting and utilising prevalence, housing the victim and to induce him to make himself available to perform work from which the suspects draw benefit; 2. Theft of money through the bank card of the victim.
	Was the victim awarded compensation for damages/moral pain and suffering? What was the court's reasoning?	The victim did seek compensation: he requested material damage of EUR 10 115.12 and immaterial damage of EUR 10 000. A compensation of EUR 12 892 was awarded to the victim (of which EUR 9 892 for material loss and EUR 3 000 for emotional injury). The Court came to the amount of the material damage by calculating the salary that was not paid and also included the money that was stolen from his bank account. Regarding the immaterial damages, the Court considers that an amount of EUR 3 000 is reasonable. In this context the Court mentions, that without detracting from the misery from the victim, the case cannot be compared with long term sexual abuse (as referred to by the public prosecutor) ⁽⁸¹⁴⁾ .
	Did the victim receive any kind of support by public authorities (e.g. social workers)/NGOs?	No information available.
Resources (financial and human resources)	-	
Role of labour inspectors	-	
Case study source	Case number 13/845000-11 (Promis) (ECLI:NL:RBAMS:2013:BZ9113 ⁽⁸¹⁵⁾).	

⁽⁸¹³⁾ ECLI:NL:RBAMS:2012:BZ9112; No 3.3.6.⁽⁸¹⁴⁾ ECLI:NL:RBAMS:2012:BZ9112; No 7.2.⁽⁸¹⁵⁾ Available at: <http://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:RBAMS:2012:BZ9112&keyword=LJN+8Z+9112>

POLAND

Case study 1: PL-005-1

Summary of the case	On 3 April 2014 three defendants N.L., K.L. and I.L. were found guilty of trafficking of persons consisting of recruiting, transporting from Romania to Poland and keeping in houses in Poland the Romanian nationals in order to force them to work, taking advantage of their difficult situation, helplessness resulting from lack of livelihood, confiscation of documents and lack of knowledge of the local language. N.L. was also found guilty of infringement of workers' rights regarding working over hours, lack of concluding labour contracts and lack of reporting to social security. The exploitation took place in the trade sector. The victims were forced to work on markets. Money offered to the victims for their work was not sufficient compared to the working hours and conditions. They were packing products (shoes and clothes) and travelling to neighbouring towns to sell the products on the markets. After this work, the victims were forced to work in the defendant's property, including e.g. cleaning, cooking, repairs. The work lasted for about 14 – 18 hours a day. The victims lived in poor conditions, 6 – 12 persons in the same room, there was no hot water in the house. The defendants did not provide the victims with sufficient amount of food and water. The victims had their documents and cell phones confiscated, they were not allowed to move outside the property alone. During the work on the markets, they were always supervised by the defendants. The victims were not kept in the property by force or under lock, but in fact, were obliged to work off their debts, as the defendant gave them money in advance.		
Competent Court	Regional Court in Legnica, III Criminal Division (court of first instance)		
Legal provision applied	Signature of the case: III K 2/13.		
Sentence/compensation awarded	Article 189a of Criminal Code		
	Main person accused "N.L." (described as boss/organiser) – 3 years' imprisonment.		
	Other two persons accused "K.L." and "I.L." – 1 year's imprisonment each, conditionally suspended for 3 years' probation and fine in total amounting to PLN 9 000 (ca. EUR 2 168.00) each.		
Date/period of forced labour (month/year)	Forfeiture of property (two delivery vans).		
	Joint and several obligation to pay compensation in the amount of 4.000 PLN(ca. EUR 964) to each of the 28 victims.		
	Forced labour took place between 2006 and 2012, but the defendants were sentenced for trafficking in human beings for forced labour in the period of 08.09.2010 – 22.05.2012. The reason for such a sentence is the fact that the Criminal Code changed in 2010 and the definition of trafficking in human beings was introduced - the court adjudicated that acts committed by the defendants are covered by the definition included in art. 189a of the CC, therefore due to "lex retro non agit" rule, they could only be sentenced under that offence for actions committed since 08.09.2010. Nevertheless, N.L. was sentenced for infringement of workers' rights in the period of 2006 – 22.05.2012.		
Profile of the victim(s) (e.g. country of origin, gender, age, occupation of the victim prior to the incident of forced labour)	Country of origin	28 victims from Romania	
	Gender	Men and women	
	Age	Not identified, 5 victims under 18 years old	
	Sector	Trade sector	
	Migratory status	No legal resident status in Poland	
	Knowledge of local language	None	
How was the victim recruited and how did they come to be in the situation of forced labour?	Victims were recruited mainly by N.L. He has Romanian nationality and while visiting his parents proposed work to inhabitants of the village. Some of the victims found out about the possibility of work for N.L. through family members, who already worked for him and came to N.L. themselves. The victims were offered to work, but the salary was not commensurate to the amount and conditions of works performed.		

Elements of vulnerability	Victims were unemployed in the home country, had low level education, experienced poverty. Some of the victims wished to work together with their partners or spouses, who worked already for N.L. After they were transported to Poland, they had their documents and cell phones confiscated. Also they felt an obligation to work for the defendants, as they were given advance payments (e.g. for few months of work) and were convinced that they may not leave until they worked off their debts.	
Identification/reporting of offences	The victim reported the offence to the authorities (e.g. the police, labour inspectorate) himself/herself	X
	The authorities began the investigation <i>ex officio</i>	X
	The case was brought to the attention of the authorities by an association/NGO	Two Romanians ran away from the defendant's household and police intended to check their documents on a train station in Kraków – as they had no passports or IDs, which were confiscated by N.L., they told the police about the group of Romanians working illegally for N.L. The investigation concentrated on observation of houses, where the group resided and led to the arrest of three defendants.
	Other (please specify)	
	Which authority/unit was responsible for the criminal investigation of this case?	District Attorney in Lubin
Criminal investigation	How long after the victim started being subject to forced labour did the criminal investigation of the matter begin?	The forced labour situation lasted for about 6 years, but different victims were subject to criminal offence for different periods – therefore it cannot be specified in detail how long after the victim started being subject to forced labour the investigation began.
	What was the length of the investigation?	About 6 months (31.05.2012 – December 2012)
	What were the difficulties in the bringing this case to the court?	According to information obtained from the DA's Office, there were no difficulties in bringing the case to the court.
	Was the victim required to testify at the pre-trial stage of the proceedings? If yes, did the authorities use any mechanisms to protect the safety of the victim (e.g. via a witness protection programme) or protect him/her from secondary victimisation?	Yes, the victims had to testify at the pre-trial stage. No information available on protection mechanisms.
	Were there any problems/issues pertaining to the collection of evidence?	According to information obtained from the DA's Office, there were no problems with collection of evidence.

Court proceedings	Was the victim required to testify in court? If yes, what effect is the witness testimony perceived to have had on the successful prosecution of the offenders?	Yes, victims testified in court. Testimonies were accepted as coherent and trustworthy, the court based its judgment mainly on the testimonies.
	If the victim testified in court, did he/she do so in camera, in the courtroom (in the defendant's presence) or the court used the victim's testimony during the investigation phase?	Most of the victims testified via videoconference from Romania. Defendants were present at the court room. Two victims appeared in person in the court. These two victims presented in the court different testimonies than during the pre-trial stage. In the court, they claimed that working conditions were good. After their pre-trial testimonies were read out in court, they claimed that they lied at the pre-trial stage. The court however decided that their testimonies were not trustworthy as there were no reasonable grounds for changing their testimonies. Also, the court pointed out that they were not summoned, but appeared in the court themselves. According to the content of the judgment and the judge himself, it seemed that they were forced to appear in the court by the defendants because they were still working for N.L. during the proceedings. It is therefore possible that the defendants pressured these two victims to change their testimonies. From the judgment's reasoning it is apparent that these two victims were the only individuals from the whole group that stayed in Poland and continued their work for the defendants.
	Did the victim seek compensation for the damages suffered (e.g. by constituting himself/herself as a civil claimant)? If yes, did he/she receive support by the State (e.g. legal representation/legal aid)?	The compensation was awarded to the victims. According to art. 46 para. 1 of the Criminal Code, in case of conviction the court may impose an obligation to redress the damage caused by the criminal offence or, upon a motion from the injured party, is obliged to impose such an obligation on the defendant. According to the information obtained, only one of the victims applied for compensation, but the judgment awards compensation to all of the identified victims. No civil claims were filed during these proceedings. The victims did not apply for any legal aid and they did not obtain any.
	What type of evidence was submitted to the court? Where there any issues with the admissibility of evidence?	Testimonies, defendants' explanations, information from Social Insurance Fund, background interview, criminal records. No issues regarding admissibility of evidence arose.
	How long did it take for the court to issue its judgment (for first instance cases, from the prosecution; for second and third instance cases, from the day the appeal was filed)?	About 16 months (indictment was filed in December 2012, judgment was issued on 03.04.2014)
Delivery of the court judgment	Was the defendant found innocent/guilty? If he/she was found innocent, was it due to procedural grounds or because the evidence presented was insufficient not substantiate his guilt?	The defendants were found guilty.
	Was the victim awarded compensation for damages/moral pain and suffering? What was the court's reasoning?	Yes, as the obligation to redress the damage was imposed on the defendants, as described above. The defendants were jointly and severally obliged to pay PLN 4 000 (ca. EUR 964) to each of the 28 victims. Equitable damages for harm suffered or any other damages were not adjudicated.
Victim support	Did the victim receive any kind of support by public authorities (e.g. social workers)/NGOs?	Victims were given shelter in the House for Single Mothers in Ścinawa and in Social Assistance House in Lubin. All of the victims subsequently returned to Romania. They were also offered assistance according to Social Assistance Act, consisting of food, clothes and earmarked allowance as well as they were informed about possibility to participate in assistance and security programme for victims of trafficking in human beings, including i.e. assistance of psychologist and help in applying for legal immigration status. In June, the DA Office was informed that the victims are not interested in any help. On 18.06.2012, the DA Office was informed that almost all of the victims left the shelter houses and travelled back to Romania by themselves.

Resources (financial and human resources)	Financial and human resources seemed sufficient in this case.
Role of labour inspectors	The DA Office informed the labour inspector about the investigation in July 2012, but the labour inspector did not take part in the proceedings.
Case study source	Interviews with a judge in April 2015 and a lawyer. Reasoning of the judgment of Regional Court in Legnica. III Criminal Division dated 03.04.2014, III K 2/13. Interview with a lawyer in April 2015.

ROMANIA

Case study 1: RO-30-01

Summary of the case	<p>Three defendants of Romanian nationality were charged with, and convicted of, THB. This case concerns adults and child victims trafficked for forced labour within the borders of Romania.</p> <p>Facts: Between October 2010 and September 2012 the three defendants recruited and exploited 144 victims to harvest potatoes and work in the vines in different locations in Romania. The victims were promised a wage of EUR 40–50 per day, accommodation, meals and transportation to and from the plantation. When they arrived on farms, their IDs and mobile phones were taken away. They lived in very poor conditions (no water or toilet, sleeping in straw put on the floor in barracks built by them), were starved and subjected to physical and psychological violence. The victims worked 12–17 hours per day without any pay. Defendants refused to pay them on the pretext that victims owe them money for travel and food expenses.</p> <p>Some victims were assaulted when they complained about the accommodation and employment conditions, and some were hit with a shovel or other objects. One defendant also told them that if they do not stop complaining some of his friends will come and take them away and they will never be found again⁽⁸¹⁶⁾.</p> <p>Many of the minor victims were aged between 12 and 17⁽⁸¹⁷⁾. Adult victims brought along their small children, ages varying from 10 and below, because they had no one else to care for them. These small children were not subjected to forced labour⁽⁸¹⁸⁾.</p> <p>Judgment: The court found the three defendants guilty of THB and trafficking in minors. The court stated that the criminal activity of the defendants, in the circumstances described above, met the elements of the crime of trafficking in persons and trafficking in minors.</p> <ul style="list-style-type: none">• As a means of committing the crime, the defendants used both deception during recruitment and later, as well as threats and violence during their period of harbouring, work and transportation.• The defendants intentionally put the victims in a state of dependence. The court stated that the victims being in the situation of not having money, documents, indebted to the defendants, sometimes threatened and assaulted were forced to follow the conduct that was imposed by the defendants.• The fact that the defendants took the victims' IDs and birth certificates, proved that they knew the minors' age. Even if the defendants declared that minors did not work, the victims' testimonies and the records made by defendants themselves showed that minors from 12 years and above were used to work, while children under this age remained in the place of accommodation⁽⁸¹⁹⁾. <p>The court considered that the three defendants' conviction to 5 years or 4 years of imprisonment and 3 years or 2 years of prohibition in exercising certain rights was adequate. The victims constituted themselves as civil claimants. The court admitted the civil actions to the amounts corresponding to the period of time they worked and, in terms of damage and moral compensation, also considering the conditions of exploitation. The court rejected 18 and admitted 125 claims⁽⁸²⁰⁾ ordering the defendants to pay, jointly and separately, compensation between RON 100 and 4 000 (between EUR 20 to 850) as moral damages and RON 200 and 4500 (between EUR 40 and 950) as pecuniary damages⁽⁸²¹⁾.</p> <p>Appeal: The Prosecutor and the defendants appealed the decision. The defendants argued their innocence, incorrect assessment of evidence, that they were not heard in court, and requested their acquittal because the elements of the offence were not met. The prosecutor argued that the punishment for defendants was insufficient considering the aggravating circumstances in the case (e.g. the case involved 144 victims).</p> <p>The court of appeal reviewed the evidence presented before the first instance court and administrated new evidence, i.e. heard the defendants, the injured parties, reviewed the documents submitted, stating that the facts retained by the first instance were correct⁽⁸²²⁾. The court decided that the defendants' and the prosecutor's appeals were unfounded and dismissed them.</p> <p>Cassation: Two of the defendants criticised the decisions of the first instance and appeal courts because the punishment exceeded the penalties prescribed by law and therefore asked for cassation. The High Court of Cassation and Justice dismissed the appeal as unfounded⁽⁸²³⁾.</p>

⁽⁸¹⁶⁾ Penal Decision No 12/30.02.2013 of Iasi Court of Appeal, p. 8.

⁽⁸¹⁷⁾ Indictment No 1870/P/2011 of the Penal Decision No 169/22.7.2012, Vaslui Tribunal, p. 3.

⁽⁸¹⁸⁾ Penal Decision No 169/22.7.2012 of Vaslui Tribunal, p. 2.

⁽⁸¹⁹⁾ Penal Decision No 12/30.02.2013 of Iasi Court of Appeal, p. 20.

⁽⁸²⁰⁾ Penal Decision No 169/22.7.2012, Vaslui Tribunal, pp. 30–35.

⁽⁸²¹⁾ Ibid.

⁽⁸²²⁾ Penal Decision No 12/30.02.2013 of Iasi Court of Appeal, p. 30.

⁽⁸²³⁾ Penal Decision No 50RC/4.5.2013 of High Court of Cassation and Justice, p. 1.

Competent Court	<p>The Vaslui Tribunal – court of first instance;</p> <p>The Iasi Court of Appeal – court of second instance;</p> <p>The High Court of Cassation and Justice – court of third instance.</p>
Legal provision applied	Article 12 of the Law No 678/2001 (<i>trafficking</i>) and Article 13 of the Law No 678/2001 (<i>trafficking in minors</i>).
Sentence/compensation awarded	<p>Sentences:</p> <p>Defendant 1: 5 years of imprisonment and 3 years of prohibition in exercising certain rights (i.e. to occupy a position involving the exercise of State authority, or to perform a duty or exercise a profession or conduct business of the kind of which the defendant was convicted ⁽⁸²⁴⁾);</p> <p>Defendant 2: 5 years of imprisonment and 43 years ⁽⁸²⁵⁾ of prohibition in exercising certain rights ⁽⁸²⁶⁾;</p> <p>Defendant 3: 4 years of imprisonment and 2 years of prohibition in exercising certain rights ⁽⁸²⁷⁾.</p> <p>Compensation:</p> <p>Of the 144 victims, 143 constituted themselves as civil claimants ⁽⁸²⁸⁾. The court rejected 18 and admitted 125 claims ⁽⁸²⁹⁾ ordering the defendants to pay, jointly and separately, compensation between RON 100 and 4 000 (between EUR 20 to 850) as moral damages and RON 200 and 4500 (between EUR 40 and 950) as pecuniary damages ⁽⁸³⁰⁾.</p> <p>The indictment presented before the court, based on the evidence, showed that six groups of victims were recruited and exploited during the period of September ⁽⁸³¹⁾ 2010 and October ⁽⁸³²⁾ 2012:</p> <ul style="list-style-type: none"> - Group 1 exploited in September 2010: 29 victims – 12 minors and 17 adults ⁽⁸³³⁾; - Group 2 exploited during August - November 2011: 20 victims – 2 minors and 18 adults ⁽⁸³⁴⁾; - Group 3 exploited during June - end of July 2012: 16 adult victims; - Group 4 exploited during May - end of July 2012: 29 victims – 7 minors and 22 adults ⁽⁸³⁵⁾; - Group 5 exploited during August - September 2012: 25 victims – 8 minors and 17 adults ⁽⁸³⁶⁾; - Group 6 exploited during August - October 2012: 10 victims – 2 minors and 8 adults. - No clear information about the period of time while other 15 victims were trafficked.
Date/period of forced labour (month/year)	

⁽⁸²⁴⁾ Article 63 b) and c) of the 1985 Romanian Criminal Code.

⁽⁸²⁵⁾ The prohibition of certain civil rights for this long period of time (42 years) seems to be a mistake; clarification requested.

⁽⁸²⁶⁾ Penal Decision No 169/22.7/2012, Vaslui Tribunal, p. 30, Penal Decision No 12/50.0.2013 of Iasi Court of Appeal, p. 1.

⁽⁸²⁷⁾ Penal Decision No 169/22 August 2012 of Vaslui Tribunal, pp. 29-32.

⁽⁸²⁸⁾ Penal Decision No 169/22.7/2012, Vaslui Tribunal, pp. 20-30.

⁽⁸²⁹⁾ Penal Decision No 169/22.7/2012, Vaslui Tribunal, pp. 30-36.

⁽⁸³⁰⁾ *Ibid.*, pp. 30-36.

⁽⁸³¹⁾ Indictment No 1870/P/2011 of the Penal Decision No 169/22 August 2012, Vaslui Tribunal, p. 10.

⁽⁸³²⁾ *Ibid.*, p. 18.

⁽⁸³³⁾ Penal Decision No 169/22.7/2012, Vaslui Tribunal, p. 1.

⁽⁸³⁴⁾ Penal Decision No 169/22.7/2012, Vaslui Tribunal, p. 2.

⁽⁸³⁵⁾ Penal Decision No 169/22.7/2012, Vaslui Tribunal, p. 4.

⁽⁸³⁶⁾ Penal Decision No 169/22.7/2012, Vaslui Tribunal, p. 8.

Profile of the victim(s) (e.g. country of origin, gender, age, occupation of the victim prior to the incident of forced labour)	Country of origin	All 144 victims were Romanians.
	Gender	Most victims were male.
	Age	The age of adults is unknown. Minors were between 12 to 17 years old. Minors under the age of 10 who accompanied their parents were not exploited, but mistreated.
	Sector	Agriculture: vineyards and potatoes farms.
	Migratory status	Romanian citizens
How was the victim recruited and how did they come to be in the situation of forced labour?	Knowledge of local language	Native speakers
	The defendants contacted, either in person or by phone, a representative of the six victim communities, whom he told that they are assembling a team of workers for harvesting potatoes or working in the vineyards. The representative then liaised with several villagers interested in finding a job in agriculture. The defendants promised the victims a wage of EUR 40 or 50 based on a contract, accommodation, three meals per day and transportation to and from the plantation.	
Elements of vulnerability	The victims came from poor rural communities, had a low education level, did not have a job at the time of recruitment and worked as season workers in agriculture.	
Identification/reporting of offences	The victim reported the offence to the authorities (e.g. the police, labour inspectorate) himself/herself	X
	The authorities began the investigation <i>ex officio</i>	-
	The case was brought to the attention of the authorities by an association/NGO	-
	Other (please specify)	-
	Which authority/unit was responsible for the criminal investigation of this case?	Department for the Investigation of Organised Crime and Terrorism Offences (DIOCT) – Iasi Office.
Criminal investigation	How long after the victim started being subjected to forced labour did the criminal investigation of the matter begin?	Twenty-four months. The investigation started on 16 September 2012 following the exploitation of the first group in September 2010.
	What was the length of the investigation?	About five months (16 September 2012 – 19 February 2013).
	What were the difficulties in bringing this case to the court?	No difficulties identified.
	Was the victim required to testify at the pre-trial stage of the proceedings? If yes, did the authorities use any mechanisms to protect the safety of the victim (e.g. via a witness protection programme) or protect him/her from secondary victimisation?	Yes, the victims were required to testify at the pre-trial stage. No special witness protection mechanisms were used.
	Were there any problems/issues pertaining to the collection of evidence?	There was no problem regarding the collection of evidence. The victims cooperated well with the prosecutor in this regard.

Case study 2: RO-24-01

	<p>The defendant, a national of Romania, was charged with and convicted of THB. This case concerns THB committed within the borders of Romania. The defendant was sentenced to two years of strict imprisonment, which was suspended for probation period of four years.</p> <p>Facts: Between October 2010 and June 2012, the defendant recruited three victims to work on his farm (the defendant owned farmland and several herds of animals - sheep and goats). He took advantage of the victims' inability to defend themselves and to express their will (persons with mental and physical disabilities) ⁽⁸⁴⁵⁾. The indictment shows that the defendant "recruited workers without a contract of employment or a contract for providing services and paid them under-the-table". Victims had a gruelling work schedule, which began at 3am and ended at 11 pm, every day of the week, including Sundays and public holidays ⁽⁸⁴⁶⁾.</p> <p>The amount of money they were supposed to receive was made known to them only verbally. Upon request they received small amounts of money. Being unable to keep track of what they received from the defendant over time, the defendant misled them into believing that they had accumulated huge debts, debts they had no chance of settling; thus, they were forced to remain in order to settle their so-called debts by working, but the more they were working, the more debts they were accumulating ⁽⁸⁴⁷⁾.</p> <p>The victims lived in inhuman conditions. Old stables were converted into bedrooms where more people lived in unsanitary conditions, without electricity, toilets and no decent place to dine ⁽⁸⁴⁸⁾.</p> <p>In December 2011, one of the victims was able to leave the farm hiding at home in his village. In April 2012, the defendant identified the victim in a public place. He used violence to bring the victim back to work on his farm. In spring 2012, the father of another victim went to the farm to take his son home, but the defendant asked the father to leave him there and paid for him RON 300 (EUR 65).</p> <p>Judgment: The Calarasi Tribunal found the defendant guilty of THB and convicted him to two years of imprisonment and the prohibition of exercising certain rights for one year. The sentence was suspended for a probation period of four years ⁽⁸⁴⁹⁾. The court found that the defendant's acts constitute elements of THB offence ⁽⁸⁵⁰⁾ as the defendant from October 2010 to June 2012:</p> <ul style="list-style-type: none">• recruited, harboured, and received the victims to work on his farm;• used threats, violence, kidnapping and other forms of coercion;• took advantage of the victims' inability to defend themselves and to express their will;• gave money to acquire the consent of persons responsible for the victims;• exploited the victims through forced labour and in breach of laws on working conditions, wages, health and safety, violating their fundamental human rights. <p>In deciding the sentence, the court of first instance considered all circumstances in which the offence was committed: the manner of its commission (taking advantage of the victims' and their families' difficult situation; recruitment by threats and violence), personal circumstances (the defendant recognised the facts) and the general criteria of individualisation of the punishment. In light of these circumstances, the court held that the punishment and rehabilitation of the defendant can be achieved without detention.</p> <p>Appeal: The Prosecutor and the defendant appealed against the first instance court decision. The Prosecutor criticised the court for the unjustifiably low penalty and the ignorance of the nature and seriousness of the offence ⁽⁸⁵¹⁾. The Bucharest Court of Appeal considered the Prosecutor's appeal as founded and convicted the defendant to three years of imprisonment and the prohibition of exercising certain rights for three years. As for the reasoning of the appeal court, it held that the defendant perceived his behaviour and maintaining in slavery impoverished and helpless persons in a view of his enrichment as a state of normality.</p>
Summary of the case	

⁽⁸⁴⁵⁾ Penal Decision No 15/6 February 2012 of Calarasi Tribunal, p. 0.

⁽⁸⁴⁶⁾ Indictment No 26D/P/2011 of the Penal Decision No 15/6 February 2012 of Calarasi Tribunal, p. 1.

⁽⁸⁴⁷⁾ Ibid, p. 3.

⁽⁸⁴⁸⁾ Penal Decision No 269/0 November 2012 of Bucharest Court of Appeal, p. 1.

⁽⁸⁴⁹⁾ Penal Decision No 15/6 February 2012 of Calarasi Tribunal, p. 3.

⁽⁸⁵⁰⁾ Penal Decision No 15/6 February 2012 of Calarasi Tribunal, p. 2.

⁽⁸⁵¹⁾ Penal Decision No 269/0 November 2012 of Bucharest Court of Appeal, p. 3.

Summary of the case	<p>The victims were housed in a barn for animals, in unsanitary conditions. "The treatment was one different of the animals in the sense that the victims' task fall into further obligation to work from 3 a.m. to 11 p.m. every day, without rest on Sundays or other holidays. The victims were forced to stay in this place because they had no money or material resources to leave the location. If they wanted to leave, the victims had to pay large sums representing the liabilities which were impossible to pay. If the victims could not pay this amount of money, the defendant went to the victims' residences along with others, broke into their houses and made real raid to find the victims, beat and carry them forcibly back to the farm" ⁽⁸⁵²⁾.</p> <p>"The court decided to support the defendant in the long and difficult process of forming a correct attitude towards work, human dignity and other social values protected by the constitutional and criminal law" ⁽⁸⁵³⁾. "A very suitable way to assist the defendant in this action is re-individualisation of his punishment established by the court of first instance, both in terms of amount, but especially with regard to execution modality" ⁽⁸⁵⁴⁾. The court of appeal increased the penalty from two to three years of imprisonment and decided the effective execution of punishment in prison, considering the special gravity of the facts committed, the violence with which the victims were kept in a state of slavery, but also practical accommodation and work conditions in which the victims were.</p> <p>In any situation, according to the court, reducing the sentencing of the defendant as requested by the appellant was not possible, taking into account the arguments explained above, so his appeal was dismissed.</p> <p>Cassation: The defendant filed an appeal against this decision but the High Court of Cassation and Justice dismissed it as unfounded ⁽⁸⁵⁵⁾ upholding the decision of the Court of Appeal ⁽⁸⁵⁶⁾.</p>												
Competent Court	<p>The Calarasi Tribunal – court of first instance;</p> <p>The Bucharest Court of Appeal – court of second instance;</p> <p>The High Court of Cassation and Justice – the court of third instance.</p>												
Legal provision applied	The defendant was prosecuted for THB as stipulated by Article 12 of the Law No 678/2001 ⁽⁸⁵⁷⁾ .												
Sentence/compensation awarded	<p>Sentence:</p> <p>The court sentenced the defendant to two years of imprisonment and the prohibition of exercising certain rights for one year, but this sentence was suspended for a probation period of four years ⁽⁸⁵⁸⁾. On appeal, the Bucharest Court of Appeal convicted the defendant to three years of imprisonment and the prohibition of exercising certain rights for three years.</p> <p>Compensation:</p> <p>All victims constituted themselves as civil claimants seeking RON 50 000 (around EUR 11 000) moral compensation ⁽⁸⁵⁹⁾. "The court considers that RON 5 000 (around EUR 1 050) for each victim, representing moral compensation, is sufficient to cover the physical and mental suffering." Only to one of the victims the court awarded the amount of RON 13 340 (EUR 2 850) as damages, representing the salary for the entire period of exploitation ⁽⁸⁶⁰⁾.</p>												
Date/period of forced labour (month/year)	About eight months: "The defendant was charged for recruiting, conveying, transferring, lodging or taking over a person during the period between October 2010 and June 2012" ⁽⁸⁶¹⁾ .												
Profile of the victim(s) (e.g. country of origin, gender, age, occupation of the victim prior to the incident of forced labour)	<table> <tr> <td>Country of origin</td><td>All the victims were from Dambovită county, Romania.</td></tr> <tr> <td>Gender</td><td>Three male victims</td></tr> <tr> <td>Age</td><td>One victim was about 20 years old, another around 40. The third victim's age is unknown.</td></tr> <tr> <td>Sector</td><td>Agriculture</td></tr> <tr> <td>Migratory status</td><td>Romanian citizens</td></tr> <tr> <td>Knowledge of local language</td><td>Native speakers.</td></tr> </table>	Country of origin	All the victims were from Dambovită county, Romania.	Gender	Three male victims	Age	One victim was about 20 years old, another around 40. The third victim's age is unknown.	Sector	Agriculture	Migratory status	Romanian citizens	Knowledge of local language	Native speakers.
Country of origin	All the victims were from Dambovită county, Romania.												
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Sector	Agriculture												
Migratory status	Romanian citizens												
Knowledge of local language	Native speakers.												

⁽⁸⁵²⁾ Ibid., p. 4.⁽⁸⁵³⁾ Ibid.⁽⁸⁵⁴⁾ Penal Decision No 269/0 November 2012 of Bucharest Court of Appeal, p. 5.⁽⁸⁵⁵⁾ Penal Decision No 1813/27 May 2013 of the High Court of Cassation and Justice, p. 8.⁽⁸⁵⁶⁾ Ibid.⁽⁸⁵⁷⁾ Penal Decision No 15/6 February 2012 of Calarasi Tribunal, p. 0.⁽⁸⁵⁸⁾ Penal Decision No 17/6 February 2012 of Calarasi Tribunal, p. 3.⁽⁸⁵⁹⁾ Penal Decision No 17/6 February 2012 of Calarasi Tribunal, p. 7.⁽⁸⁶⁰⁾ Ibid, p. 4.⁽⁸⁶¹⁾ Ibid, p. 0.

How was the victim recruited and how did they come to be in the situation of forced labour?	Two victims (with disabilities) were recruited through their family members. One of them, for instance, was 'negotiated' by the defendant with the victim's father for RON 300 (around EUR 65) and 5 kg of cheese ⁽⁸⁶²⁾ . No information identified on how the third victim was recruited.		
Elements of vulnerability	The victims were uneducated, from rural areas and, at the time of recruitment, had no job. To ensure that the victims do not resist, the defendant recruited people with mental and physical disabilities, easy to handle, obedient, who knew nothing about the value of money, nor of their rights as workers ⁽⁸⁶³⁾ . Thus, the defendant took advantage of the precarious situation of victims, their state of health, and the situation of their families ⁽⁸⁶⁴⁾ .		
Identification/reporting of offences	The victim reported the offence to the authorities (e.g. the police, labour inspectorate) himself/herself	-	
	The authorities began the investigation <i>ex officio</i>	-	
	The case was brought to the attention of the authorities by an association/NGO	-	
	Other (please specify)	X	The authorities were notified by concerned relatives of the victims who informed them that they "were kept forcibly, against their will, and received no money for their work" ⁽⁸⁶⁵⁾ .
Criminal investigation	Which authority/unit was responsible for the criminal investigation of this case?		Department for the Investigation of Organised Crime and Terrorism Offences (DIOCT) – Calarasi Office.
	How long after the victim started being subjected to forced labour did the criminal investigation of the matter begin?		Around 1.5 years. In April 2012, a relative of two of the victims said that they were kept against their will and forced to work almost two years (October 2010 – June 2012). The third victim said he had worked one year (2011) without interruption, having a daily work schedule from 3am to 11pm ⁽⁸⁶⁶⁾ . The defendant's lawyer stated in front of the High Court of Cassation and Justice that one of the victims (with mental health problems) was still sheltered by the defendant on 28 May 2014, but no longer involved in any work ⁽⁸⁶⁷⁾ . The court's decision did not mention anything related to this fact.
	What was the length of the investigation?		About four months (6 June 2012 – 26 September 2012).
	What were the difficulties in bringing this case to the court?		The investigation was delayed due to the difficulty to identify all of the victims. One of them, who was still being exploited during the investigation period, was asked by the defendant to remain in hiding whenever the police came looking, without being informed of the reason he was being sought.
	Was the victim required to testify at the pre-trial stage of the proceedings? If yes, did the authorities use any mechanisms to protect the safety of the victim (e.g. via a witness protection programme) or protect him/her from secondary victimisation?		In the indictment it is mentioned that all the victims gave statements at the pre-trial stage. There is no information on whether they were placed in witness protection programmes. There are no known measures taken by the Romanian authorities to prevent their secondary victimisation.
	Were there any problems/issues pertaining to the collection of evidence?		There were no problems regarding the collection of evidence. The victims cooperated with the prosecutor in this regard. The testimonies given by victims were supported by six witnesses heard by the court ⁽⁸⁶⁸⁾ .

⁽⁸⁶²⁾ Indictment No 26D/PI/2011 of the Penal Decision No 15/6 February 2012 of Calarasi Tribunal, p. 15.

⁽⁸⁶³⁾ Ibid, p. 2.

⁽⁸⁶⁴⁾ Penal Decision No 269/O November 2012 of Bucharest Court of Appeal, p. 2.

⁽⁸⁶⁵⁾ Indictment No 26D/PI/2011 of the Penal Decision No 15/6.1/2012 of Calarasi Tribunal, p. 3.

⁽⁸⁶⁶⁾ Ibid.

⁽⁸⁶⁷⁾ Penal Decision No 1813/27 May 2013 of the High Court of Cassation and Justice, p. 1.

⁽⁸⁶⁸⁾ Penal Decision No 269/O November 2012 of Bucharest Court of Appeal, p. 4.

Court proceedings	Was the victim required to testify in court? If yes, what effect is the witness testimony perceived to have had on the successful prosecution of the offenders?	Not in front of the court of first instance, but in front of the court of appeal. All victims and witnesses (relatives of the victims) gave statements during the criminal investigation.
	If the victim testified in court, did he/she do so in camera, in the courtroom (in the defendant's presence) or the court used the victim's testimony during the investigation phase?	N/A.
	Did the victim seek compensation for the damages suffered (e.g. by constituting himself/herself as a civil claimant)? If yes, did he/she receive support from the State (e.g. legal representation/legal aid)?	Yes, the three victims constituted themselves as civil claimants in this case. Legal aid was provided during trial.
Delivery of the court judgment	What type of evidence was submitted to the court? Where there any issues with the admissibility of evidence?	No problems were encountered as to the admissibility of the evidence in this case. The evidence consisted of victims' statements, witnesses' statements, sketches, photography and video recordings made by the police during the search of the defendant's farm, where he also kept records of the 'workers' debts'.
	How long did it take for the court to issue its judgment (for first instance cases, from the prosecution; for second and third instance cases, from the day the appeal was filed)?	Altogether about 24 months: <ul style="list-style-type: none"> • in first instance - about 8 months (from 26 September 2012 to 16 February 2013); • in second instance - about 9 months (from 16 February 2013 to 1 November 2013); • in third instance - about 7 months (from 1 November 2013 to 28 May 2014).
	Was the defendant found innocent/guilty? If he/she was found innocent, was it due to procedural grounds or because the evidence presented was insufficient not to substantiate his guilt?	The defendant was found guilty of THB. The court sentenced the defendant to two years of strict imprisonment and applied prohibition in exercising certain rights. However, the court ruled as to the conditional suspension of the enforcement and the penalties for four years of probationary period. This decision was later appealed and the sentence was increased to three years' effective imprisonment.
Victim support	Was the victim awarded compensation for damages/moral pain and suffering? What was the court's reasoning?	The Calarasi Tribunal awarded to all victims compensation for moral suffering of RON 5 000 (around EUR 1 050). The court decided to award compensation for damages representing the salary for the entire period of exploitation of RON 13 340 (EUR 2 850) for one of the victims who was the only one seeking this type of compensation ⁽⁸⁶⁹⁾ .
	Did the victim receive any kind of support from public authorities (e.g. social workers)/NGOs?	There is no information available in this respect.
	Resources (financial and human resources)	There is no information regarding resources for the investigation of this specific case. However, based on the research done in Part 1 of the study, DIOCT does not have adequate human and financial resources to accomplish its tasks in the most efficient manner.
Case study source	Role of labour inspectors	In Romania, labour inspectors have no specific competences in the field of THB and therefore they have not been involved in the investigation of THB cases ⁽⁸⁷⁰⁾ .
	Case study source	- Penal Decision No 16/07 February 2013 of the Calarasi Tribunal (received from the court);
		- Penal Decision No 18/12 February 2013 of the Calarasi Tribunal (received from the court);
		- Penal Decision No 270/01 November 2013 of the Bucharest Court of Appeal (from a private legal database);
		- Penal Decision No 1814/28 May 2014 of the High Court of Cassation and Justice (received from the court);
		- Indictment No 27D/P/2012 of the Penal Decision No 16/07 February 2013 (received from DIOCT);
		- Interviews with a labour inspector, the police and a judge.

⁽⁸⁶⁹⁾ Penal Decision No 17/11 February 2012 of Calarasi Tribunal, pp. 7-10.

⁽⁸⁷⁰⁾ Information collected through consultation with national stakeholders (labour inspector).

Case study 3: RO-013-03

Two defendants of Romanian nationality were prosecuted and convicted of THB for forced labour.

Facts: Between 2005-2009, a **criminal group** consisting of 22 members, later divided into two smaller groups, recruited, transported and accommodated 20 victims for forced begging and 21 other victims to **work in construction** ⁽⁸⁷¹⁾. The victims were recruited through two **employment agencies, formally established in Finland**. The preferential recruitment area was the Balkans, mostly Romania and Kosovo ⁽⁸⁷²⁾. With regard to forced labour, 21 victims were trafficked from Romania to Finland between May-September 2007. The victims were promised well-paid jobs, accommodation and meals. Instead, they were housed in unsanitary, crowded barracks where they had to sleep on mattresses placed directly on the ground. They were given altered or expired food from containers.

Defendant 1: The defendant, during the period of May-September 2007, recruited victims from Romania for forced labour in Finland. The victims were forced to sign blank contracts in English/Finnish. The defendant took advantage of the vulnerability of the victims who spoke only the Romanian language.

They were forced to work through various forms of coercion (threatened by a gun, public beating by guards of victims who expressed dissatisfaction with the working conditions or if they informed the competent local authorities). They were forced to work up to 12-14 hours a day, including weekends ⁽⁸⁷³⁾. The treatment to which the victims were subjected led to their physical exhaustion. The victims did not receive any pay. Left without any means, they were dependent on the defendants.

The victims were supervised and checked permanently by the defendant to avoid any unwanted attention from the State authority controls on compliance with labour laws. However, some of the victims managed to notify the authorities. For the serious irregularities found, the Finnish authorities closed the defendant's company. After the disappearance of the defendant, the victims did not receive their outstanding wages.

Defendant 2: The second defendant was an employee of the two recruiting companies owned by the first defendant in Finland. This defendant was the confidant of defendant 1, dealing with the recruitment of the victims in Romania, their transportation to Finland, monitoring and controlling their work on the construction sites, and also exerting coercion to ensure the victims work under the conditions imposed by the first defendant in order to obtain the material gain.

In spring 2007, the defendant recruited people in Romania, who were transported by bus to Budapest and then to the airport in Helsinki. The exploitation of the victims was done through means of coercion, threat of injury, exercise of such violence and by constant supervision in the workplace of the 21 victims by the second defendant.

As a result of physical and mental exhaustion, seven of the victims threatened the defendant with notification to the Romanian Embassy in Finland. The two defendants then finally agreed to release the victims. The victims were driven by the second defendant to Helsinki airport, who also paid their flight tickets and the sum of EUR 500 for other expenses ⁽⁸⁷⁴⁾.

Judgment: The court found the two defendants guilty of THB for forced labour.

Based on the facts presented above, the court of first instance found each defendant guilty of THB. The court imposed different penalties, based on the number of trafficked victims and how the victims were treated during exploitation. The punishment for defendant 1 was slightly higher since he was the initiator and organiser of exploitation of the trafficked persons recruited through his own employment agencies ⁽⁸⁷⁵⁾.

Given the testimonies of injured parties and witnesses, which described in detail the conditions under which they were recruited and exploited for forced labour by the defendants, the court found that the defendants' criminal activities constituted THB. The punishment was individualised. Defendant 1 was convicted to 10 years of imprisonment and 4 years of prohibition in exercising certain rights and defendant 2 was sentenced to 8 years of imprisonment and 2 years of prohibition in exercising certain rights.

Although EUROPOL documents and the Prosecutor's indictment state that there was an **organised crime group** established for the exploitation of these victims, the court of first instance decided that the **elements of such an offence were not met**, because the defenders were relatives.

⁽⁸⁷¹⁾ Indictment file No 200/P/2008 of the Penal Decision No 326/P/14 November 2009 of Arad Tribunal, p. 1.

⁽⁸⁷²⁾ Ibid, p. 12.

⁽⁸⁷³⁾ Ibid, pp. 13-17.

⁽⁸⁷⁴⁾ Penal Decision No 3248/25 September 2010 of High Court of Cassation and Justice, p. 10.

⁽⁸⁷⁵⁾ Penal Decision No 3248/25 September 2010 of High Court of Cassation and Justice, p. 8.

Summary of the case	<p>Appeal and cassation: With regard to the two defendants found guilty of THB, the second and third instance courts did not change the sentences issued by the first instance court. However, the court of appeal accepted the Prosecutor's appeal and established that the defendants acted as an organised crime group. The High Court of Cassation and Justice disagreed and reinforced the decision of the court of first instance: "an organised crime group means a structured group, consisting of three or more persons, existing for a certain period of time and acting in a coordinated manner in order to commit one or more serious crimes, in order to obtain, directly or indirectly, a financial or other material benefits. In this case, the evidence in front of the court of first instance did not confirm the existence of an organised crime group, as it is defined by the text of the law. The result of the evidence was that among the defendants was a kinship - which does not exclude the existence of an organised crime group - but their movement in Finland was done separately, unbeknown to the activities of THB among them. The existence of a family relationship and having opened accounts at the same bank on behalf of the defendants were not sufficient evidence to decide that there was an organised crime group involved in the sense required by the law. As such, only on the ground that the defendants were helping each other to exploit victims of trafficking cannot be used against them for the offence of an organised crime group, as erroneously considered the appellate court" ⁽⁸⁷⁶⁾.</p>	
Competent Court	<p>The High Court of Cassation and Justice – court of third instance; The Timisoara Court of Appeal – court of second instance; The Arad Tribunal – court of first instance.</p>	
Legal provision applied	<p>Article 12 of the Law No 678/2001</p> <p>1. Arad Tribunal – court of first instance:</p> <p>Sentence:</p> <p>The court acquitted 8 of the 22 defendants who were charged with trafficking in persons for begging; found 2 guilty of THB for forced labour and 12 of trafficking in persons for begging.</p> <p>Defendant 1 – 10 years of imprisonment and 4 years of prohibition in exercising certain rights ⁽⁸⁷⁷⁾.</p> <p>Defendant 2 – 8 years of imprisonment and 2 years of prohibition in exercising certain rights (to occupy a position involving the exercise of State authority).</p> <p>Compensation:</p> <p>Each victim of THB for forced labour was awarded EUR 5 000 as follows:</p> <p>Defendant 1 had to pay EUR 5 000 as damages, to 3 of his victims;</p> <p>Defendant 2 had to pay EUR 5 000 as damages, to 4 of his victims;</p> <p>Both defendants were ordered to pay, jointly, EUR 5 000 to each of the other 14 victims ⁽⁸⁷⁸⁾.</p> <p>2. Timisoara Court of Appeal</p> <p>The court overturned in part the decision of the first instance court regarding the acquittal of the 8 defendants who were charged for trafficking in persons for begging and sentenced them to 5 or 6 years of imprisonment.</p> <p>3. High Court of Cassation and Justice</p> <p>The court overturned the decision of the Court of Appeal and fully maintained the decision of the court of first instance.</p> <p>May–September 2007 is the period of exploitation of victims trafficked for the purpose of forced labour.</p>	
Sentence/compensation awarded		
Date/period of forced labour (month/year)		

⁽⁸⁷⁶⁾ Penal Decision No 3248/25 September 2010 of High Court of Cassation and Justice, pp. 18-21.

⁽⁸⁷⁷⁾ Penal Decision No 326/P/4 November 2009 of Arad Tribunal, p. 24.

⁽⁸⁷⁸⁾ Ibid, p. 20.

Profile of the victim(s) (e.g. country of origin, gender, age, occupation of the victim prior to the incident of forced labour)	Country of origin	All of the victims are Romanian citizens.
	Gender	Male.
	Age	No information available.
	Sector	Construction.
	Migratory status	EU citizens
	Knowledge of local language	No knowledge of local language
How was the victim recruited and how did they come to be in the situation of forced labour?	The workers were recruited by the Romanian defendants (part of an organised criminal group) through two employment agencies owned by one of the defendants formally established in Finland.	
Elements of vulnerability	Victims had a difficult family or financial background. When recruited, they were dependent on the traffickers for their survival. They did not have any financial means, were isolated, did not know the local language and had no contact with their families in Romania.	
Identification/reporting of offences	The victim reported the offence to the authorities (e.g. the police, labour inspectorate) himself/herself	X 8 victims notified the Finnish police and employment offices.
	The authorities began the investigation <i>ex officio</i>	X ⁽⁸⁷⁹⁾ Based also on the information received by the Prosecutor from the Finnish authorities (Finland Border Police and Judicial Police of Helsinki District ⁽⁸⁸⁰⁾) and EUROPOL.
	The case was brought to the attention of the authorities by an association/NGO	-
	Other (please specify)	X In autumn 2008, the Finnish authorities opened an investigation on the defendant 1, on the suspicion that he had facilitated illegal entry into Finland of Kosovo and Albanian citizens, for the purpose of forced labour, using for this his two employment agencies. At the same time, the Finnish Construction Trade Union initiated a protest against his company for breach of labour laws and collective bargaining agreements, after which it was established that the defendant's company subcontracted its activities and ceased to exist from 14 September 2007 ⁽⁸⁸¹⁾ .

⁽⁸⁷⁹⁾ Decision to start the investigation *ex officio*, DIOCT – Arad Office, 9 February 2008.

⁽⁸⁸⁰⁾ Indictment file No 20D/P/2008 of the Penal Decision No 326/P/14 November 2009 of Arad Tribunal, p. 2.

⁽⁸⁸¹⁾ Penal Decision No 3248/25 September 2010 of High Court of Cassation and Justice, p. 10.

Criminal investigation	Which authority/unit was responsible for the criminal investigation of this case?	Department for the Investigation of Organised Crime and Terrorism Offences (DIOCT) – Arad Office.
	How long after the victim started being subjected to forced labour did the criminal investigation of the matter begin?	About 21 months (from May 2007 to February 2009 – the date when the DIOCT – Arad Office began the investigation).
Court proceedings	What was the length of the investigation?	About 13 months (10 February 2009 to 5 March 2010).
	What were the difficulties in bringing this case to the court?	No information available.
	Was the victim required to testify at the pre-trial stage of the proceedings? If yes, did the authorities use any mechanisms to protect the safety of the victim (e.g. via a witness protection programme) or protect him/her from secondary victimisation?	Yes, victims testified at the pre-trial stage. There is no information regarding the special protection of the victims. The court underlined the fact that one of the defendants convinced three victims to change their testimony, "In the case file, there is evidence showing that the defendant put pressure on 3 injured parties to testify other than the actual facts" ⁽⁸⁸²⁾ .
	Were there any problems/issues pertaining to the collection of evidence?	No information available.
	Was the victim required to testify in court? If yes, what effect is the witness testimony perceived to have had on the successful prosecution of the offenders?	Yes, the victims were required to testify in court. Based on their testimonies, corroborated with other evidence, the court was able to convict the defendants.
Court proceedings	If the victim testified in court, did he/she do so in camera, in the courtroom (in the defendant's presence) or the court used the victim's testimony during the investigation phase?	The victims testified in court in the defendants' presence.
	Did the victim seek compensation for the damages suffered (e.g. by constituting himself/herself as a civil claimant)? If yes, did he/she receive support from the State (e.g. legal representation/legal aid)?	Yes. They received legal aid and each victim was awarded EUR 5 000.
	What type of evidence was submitted to the court? Were there any issues with the admissibility of evidence?	Declarations of the victims, witnesses and defendants, documents related to DIOCT investigation, reports from EUROPOL, documents of the Finnish Border Police and the Police of Helsinki District.

⁽⁸⁸²⁾ Penal Decision No 3248/25 September 2010 of High Court of Cassation and Justice, p. 17.

Delivery of the court judgment	How long did it take for the court to issue its judgment (for first instance cases, from the prosecution; for second and third instance cases, from the day the appeal was filed)?	<p>About 18 months as follows:</p> <ul style="list-style-type: none"> - in first instance (Arad Tribunal) – about 8 months; - in second instance (Timisoara Court of Appeal) – about 2 months⁽⁶⁸³⁾; - in third instance (High Court of Cassation and Justice) – about 8 months. <p>The court of first instance found the two defendants guilty of THB for forced labour. They were sentenced to 8 and 10 years' imprisonment and 2 and 4 years prohibition of exercising certain rights respectively⁽⁶⁸⁴⁾. The court of second and third instance maintained, with regard to these defendants, the sentence of the court of the first instance⁽⁶⁸⁵⁾.</p> <p>Despite the fact that documents received by means of international judicial cooperation and the indictment in the respective case showed that an organised criminal group was constituted, the court of first instance decided that the elements of such an offence were not met; while the court of second instance decided against, that is, concluded that there was a criminal organised group and sentenced the eight initially acquitted defendants. The High Court of Cassation and Justice reinforced the decision of the court of first instance. The court of first instance argued that it was not proven that there was an organised criminal group. There were family ties between the defendants.</p>
	Was the defendant found innocent/guilty? If he/she was found innocent, was it due to procedural grounds or because the evidence presented was insufficient not substantiate his guilt?	<p>Yes. The court of first instance stated that the acts of the defendants caused moral and physical suffering to the victims⁽⁶⁸⁶⁾. The court ordered the defendants to pay all the moral compensation requested by the civil claimants as well as material damages to compensate their trauma and forced labour. The court awarded EUR 5 000 to each victim of THB for forced labour⁽⁶⁸⁷⁾.</p>
	Was the victim awarded compensation for damages/moral pain and suffering? What was the court's reasoning?	<p>There is no information available in this respect.</p>
Victim support	Did the victim receive any kind of support from public authorities (e.g. social workers)/NGOs?	There is no information available in this respect.
Resources (financial and human resources)	There is no information regarding resources for the investigation of this specific case. However, based on the research done in Part 1 of the study, DIOCT does not have adequate human and financial resources to accomplish its tasks in the most efficient manner.	
Role of labour inspectors	In Romania, labour inspectors have no specific competences in the field of THB and therefore they have not been involved in the investigation of THB cases ⁽⁶⁸⁸⁾ .	
Case study source	<ul style="list-style-type: none"> - Decision to start the investigation ex officio, DIOCT Arad, February 10, 2009 (received from DIOCT); - Penal Decision No 327/PI/05 November 2010 of Arad Tribunal (received from the court); - Penal Decision No 22/A/03 February 2011 of Timisoara Court of Appeal; - Penal Decision No 3249/26 September 2011 of High Court of Cassation and Justice (received from DIOCT); - Indictments file No 21/D/PI/2009 of the Penal Decision No 327/PI/05 November 2010 of Arad Tribunal; - Interview with a judge (18 December 2014). 	

⁽⁶⁸³⁾ Penal Decision No 21/A/2 February 2010 of Timisoara Court of Appeal.

⁽⁶⁸⁴⁾ Penal Decision No 326/PI/4 November 2009 of Arad Tribunal, p. 24.

⁽⁶⁸⁵⁾ Penal Decision No 3248/25 September 2010 of High Court of Cassation and Justice, p. 13 and 20.

⁽⁶⁸⁶⁾ Penal Decision No 326/PI/4 November 2009 of Arad Tribunal, p. 20.

⁽⁶⁸⁷⁾ Penal Decision No 326/PI/4 November 2009 of Arad Tribunal, p. 3.

⁽⁶⁸⁸⁾ Information collected through consultation with national stakeholders (labour inspector).

Case study 4: RO-026-01

Summary of the case	<p>A defendant of Romanian nationality was prosecuted and acquitted of THB for forced labour by the first instance court but convicted by the appeal court regarding 25 victims exploited for forced labour from October 2003 to May 2004 (there were also 2 victims of sexual exploitation).</p> <p>Facts: The defendant left Romania in 1993 and settled in Greece where he carried out farming activities by the summer of 2010 when he was arrested and brought back to Romania. In summer 2003, the defendant met N.P. (person with a witness status in this case). They were picking tomatoes in the same group, along with other Romanians. In autumn 2003, after the end of the season for picking tomatoes, N.P. returned to Romania. He agreed with the defendant to return to Greece for other seasonal jobs, possibly accompanied by other Romanians. By telephone, the defendant also promised to find jobs in orange picking for all the interested persons for a fee of EUR 100 per person, accommodation and free food, and a salary of between EUR 20 to 30 per day. N.P. was asked by the defendant to contact the owner of a travel company in the Romanian city Satu Mare, to ensure the transportation of 21 persons to Greece, paying him EUR 200. The group was taken on arrival in Greece by the defendant who asked each person to pay him a EUR 100 fee assuring them that he has found them employment. On receipt of the commission, the defendant transported the victims to a rural village in Crete and left them to stay in a building in precarious conditions. There were no beds, no bathrooms, the roof was damaged. They only had access to cold water in the yard.</p> <p>Greek farm owners came to the building and selected individuals who wanted to work, by forming teams of 2-3 people. People had to work from morning to night, regardless of the temperature outside. The Greek farm owners paid the defendant. The defendant kept all the money only offering the victims small amounts, hardly enough to ensure their subsistence.</p> <p>Judgment: The court of first instance acquitted the defendant. It argued that while the defendant accommodated, harboured and received persons, for these acts to count as THB it must be done by threat, violence or other forms of coercion, of abduction, of fraud or deception, abuse of authority etc. In this case the prosecutor did not prove that such means were used⁽⁸⁸⁹⁾. <i>"It is clear that the defendant did not contact and did not talk to the injured parties to convince them, by false statements and distortion of reality related to living conditions or employment, to travel to Greece and to take up the work of picking oranges"</i>⁽⁸⁹⁰⁾. Even if the victims suspected the defendant taking some of the money given by Greek employers for mediating the work, this was not enough to convince the court of THB material elements. Moreover, the court stated that the victims did not claim that they were in any way deceived by the defendant. In some cases, they complained about accommodation, employment or payment conditions⁽⁸⁹¹⁾.</p> <p>Appeal: The first instance judgment was appealed by the prosecutor⁽⁸⁹²⁾ arguing that the acquittal of the defendant was unfounded since the evidence produced showed that the defendant (inter alia, together with other persons already convicted for THB), committed this crime. The court found the prosecutor's appeal as founded. According to the court of appeal, the court of first instance mistakenly found that the constitutive elements of the THB offence were not met⁽⁸⁹³⁾. According to the appeal court, the evidence was sufficient to prove that in the period 2003-2004 the defendant received and harboured victims to exploit them for forced labour. <i>"Although the defendant was not directly involved in the recruitment of victims, which is relevant in terms of meeting elements of the offence, however he knew, he had representation that he receives and harbours people for exploitation who had been recruited by deception that can be proved by the existence of an agreement made between the defendant and the witness prior to the deed"</i>⁽⁸⁹⁴⁾. The court also mentioned that another two persons were convicted for THB after the case was severed and it decided to make a more detailed analysis of the evidence⁽⁸⁹⁵⁾.</p> <p>The court of appeal convicted the defendant to 6 years of imprisonment and 2 years of prohibition of certain rights. Note that this sentence relates to both THB for forced labour and sexual exploitation.</p> <p>This decision was not implemented because the defendant left Romania and his place of residence abroad could not be identified.</p>
Competent Court	The Cluj Court of Appeal - court of second instance;
Legal provision applied	The Cluj Tribunal – court of first instance. Article 12 of the Law No 678/2001 (<i>trafficking in persons</i>).

⁽⁸⁸⁹⁾ Penal Decision No 46/D/5.1.2011 of Cluj Tribunal, p. 4.⁽⁸⁹⁰⁾ Penal Decision No 46/D/5.1.2011 of Cluj Tribunal, p. 5.⁽⁸⁹¹⁾ Ibid.⁽⁸⁹²⁾ Penal Decision No 208/A/30.9.2012 of Cluj Court of Appeal, p. 5.⁽⁸⁹³⁾ Penal Decision No 208/A/30.9.2012 of Cluj Court of Appeal, p. 6.⁽⁸⁹⁴⁾ Penal Decision No 208/A/30.9.2012 of Cluj Court of Appeal, p. 9.⁽⁸⁹⁵⁾ Penal Decision No 208/A/30.9.2012 of Cluj Court of Appeal, p. 10.

Sentence/compensation awarded	Sentence: The court of first instance acquitted the defendant, while the court of appeal convicted him to 6 years of imprisonment and 2 years of prohibition of certain rights. Compensation: The Prosecutor's indictment states that four victims constituted themselves as civil claimants each seeking EUR 1 000 compensation ⁽⁸⁹⁶⁾ . During the trial, only three victims asked for compensation. The court of first instance rejected these claims as unfounded (since the defendant was acquitted) ⁽⁸⁹⁷⁾ . The appeal, however, concerned only the criminal aspects of the first instance decision. Therefore, there is no information on whether any compensation was awarded in a severed case on civil matters.			
Date/period of forced labour (month/year)	About 8 months (from October 2003 to May 2004) ⁽⁸⁹⁸⁾ .			
Profile of the victim(s) <i>(e.g. country of origin, gender, age, occupation of the victim prior to the incident of forced labour)</i>	Country of origin	Romania		
	Gender	Both		
	Age	No information		
	Sector	Agriculture		
	Migratory status	Irregular/regular migrants in Greece		
How was the victim recruited and how did they come to be in the situation of forced labour?	Knowledge of local language	The victims did not know the Greek language ⁽⁸⁹⁹⁾ .		
Elements of vulnerability	By telephone, the defendant promised to N.P., a witness in this case, to find orange picking jobs for all the interested persons for a fee of EUR 100 per person, accommodation and free food, and a salary of between EUR 20 to 30 per day. N.P. was asked by the defendant to contact the owner of a travel company in the Romanian city Satu Mare, to ensure the transportation of 21 persons to Greece, paying him EUR 200. The group was taken on arrival in Greece by the defendant who asked each person to pay him a EUR 100 fee assuring them that he has found them employment. On receipt of the commission, the defendant transported the victims to a rural village in Crete and left them to stay in a building in precarious conditions. There were no beds, no bathrooms, the roof was damaged. They only had access to cold water in the yard. The defendant's partners recruited persons who were docile, less demanding and who did not ask too many questions ⁽⁹⁰⁰⁾ . When in Greece, the defendant transported the victims to a rural village in Crete and left them to stay in a building in precarious conditions. These people did not know any Greek.			
Identification/reporting of offences 2	The victim reported the offence to the authorities (e.g. the police, labour inspectorate) himself/herself			
	The authorities began the investigation <i>ex officio</i>	X DIOCT - Cluj Office on May 18, 2004. There is no information on what basis the investigation was started.		
	The case was brought to the attention of the authorities by an association/NGO			
	Other (please specify)			

⁽⁸⁹⁶⁾ Indictments file No 7 D/P/2003 (July 20, 2009) of the Penal Decision no No 46/D/5.1.2011 of Cluj Tribunal, p. 5.

⁽⁸⁹⁷⁾ Penal Decision No 208/A/30.9.2012 of Cluj Court of Appeal, p. 5.

⁽⁸⁹⁸⁾ Indictments file No 7 D/P/2003 (July 20, 2009) of the Penal Decision no No 46/D/5.1.2011 of Cluj Tribunal, p. 0.

⁽⁸⁹⁹⁾ Penal Decision No 208/A/30.9.2012 of Cluj Court of Appeal, p. 8.

⁽⁹⁰⁰⁾ Ibid.

Criminal investigation	Which authority/unit was responsible for the criminal investigation of this case?	Department for the Investigation of Organised Crime and Terrorism Offences (DIOCT) – Cluj Office.
	How long after the victim started being subjected to forced labour did the criminal investigation of the matter begin?	About 8 months (from October 2003 to May 2004).
	What was the length of the investigation?	About 75 months (from May 2004 to July 2010). The defendant could not be found . On 17 August 2010 he was found and put under arrest but then released by the decision of the first instance court. Since then his place of residence has been unknown to authorities.
	What were the difficulties in bringing this case to the court?	The main difficulties identified were the impossibility to find the defendant for a long period of time and the fact that it was the victims' testimonies against the defendant's testimony.
	Was the victim required to testify at the pre-trial stage of the proceedings? If yes, did the authorities use any mechanisms to protect the safety of the victim (e.g. via a witness protection programme) or protect him/her from secondary victimisation?	Yes, some of the victims testified in the pre-trial stage, but there is no information regarding their special protection.
Court proceedings	Were there any problems/issues pertaining to the collection of evidence?	No information.
	Was the victim required to testify in court? If yes, what effect is the witness testimony perceived to have had on the successful prosecution of the offenders?	Yes, some of the victims testified in front of the court of first instance. The testimonies of the victims were not sufficient to convince the judge of the first instance court that the defendant was guilty of committing the THB offence.
	If the victim testified in court, did he/she do so in camera, in the courtroom (in the defendant's presence) or the court used the victim's testimony during the investigation phase?	The victims testified in the courtroom in the defendant's presence.
	Did the victim seek compensation for the damages suffered (e.g. by constituting himself/herself as a civil claimant)? If yes, did he/she receive support from the State (e.g. legal representation/legal aid)?	Yes. Only three victims sought compensation of EUR 1 000, but the court of first instance rejected their civil action. There is no information on this matter from the appeal proceedings. The victims received legal aid ⁽⁹⁰¹⁾ .
	What type of evidence was submitted to the court? Were there any issues with the admissibility of evidence?	Testimonies and declarations of victims and witnesses.
Delivery of the court judgment	How long did it take for the court to issue its judgment (for first instance cases, from the prosecution; for second and third instance cases, from the day the appeal was filed)?	Court of first instance – about 19 months (from July 2010 to February 2012); Court of Appeal – about 20 months (from February 2012 to October 2013).
	Was the defendant found innocent/guilty? If he/she was found innocent, was it due to procedural grounds or because the evidence presented was insufficient not to substantiate his guilt?	The defendant was found innocent by the court of first instance because it did not take into account all the evidence provided by victims and witnesses.
	Was the victim awarded compensation for damages/moral pain and suffering? What was the court's reasoning?	No information. As explained above, the court of first instance rejected the claims for compensation (the defendant was acquitted) and there is no further information on this matter from the appeal proceedings.

⁽⁹⁰¹⁾ Penal Decision No 208/A/30.9.2012 of Cluj Court of Appeal, p. 5.

Victim support	<i>Did the victim receive any kind of support from public authorities (e.g. social workers)/NGOs?</i>	There is no information available in this respect.
Resources (financial and human resources)	There is no information regarding resources for the investigation of this specific case. However, based on the research done in Part 1 of the study, DIOCT does not have adequate human and financial resources to accomplish its tasks in the most efficient manner.	
Role of labour inspectors	In Romania, labour inspectors have no specific competences in the field of THB and therefore they have not been involved in the investigation of THB cases ⁽⁹⁰²⁾ .	
Case study source	<ul style="list-style-type: none"> - Indictment file No 8 D/P/2004 (July 21, 2010) of the Penal Decision No 47/D/06.02.2012 of Cluj Tribunal (received from DIOCT); - Penal Decision No 47/D/06.02.2012 of Cluj Tribunal (received from the court); - Penal Decision No 209/A/31.10.2013 of Cluj Court of Appeal (received from the court). 	

⁽⁹⁰²⁾ Information collected through consultation with national stakeholders (labour inspector).

Case study 5: RO-008-02

Summary of the case	<p>A defendant of Romanian nationality was prosecuted and convicted of THB for forced labour regarding three adults and a child.</p> <p>Facts: In May 2008, the defendant, under the promise of a job to pick garlic in Spain, free accommodation and meals, recruited four people from Slatina in Romania, including one minor. The defendant borrowed money to cover all the travel costs for the victims and himself⁽⁹⁰³⁾. The victims were then transported to Sandemete, Spain⁽⁹⁰⁴⁾ where, by using violence and threats, the defendant exploited them for a period of four months. He forced the victims to work in construction and agriculture where he found work for them⁽⁹⁰⁵⁾.</p> <p>In Spain, the victims were accommodated in an abandoned roofless barn, windowless, and with no doors, with no electricity or running water. Having seen the conditions in which they had to live, the four victims demanded an explanation, but the defendant and his family members threatened them. He also took away their documents under the false pretence to look for legal jobs for them. In reality, these documents were taken away to prevent their escape⁽⁹⁰⁶⁾.</p> <p>For five months, the victims were forced to work in construction and agriculture, earning EUR 150 a day in construction and about EUR 70-80 per day in agriculture, but the money was appropriated by the defendant because the victims owed him for food and airline tickets.</p> <p>Once, the victims managed to leave, but the defendant went after them together with other members of his family and beat them, put their clothes on fire and threatened them with death because "there, no one knows them anyway"⁽⁹⁰⁷⁾. After repeated beatings and the burning of their clothes the victims decided not to return from work back to the location where the defendant accommodated them. Another Romanian citizen working in Spain helped them to have some work for about one month while they earned about EUR 2 200 which they used to return to Romania⁽⁹⁰⁸⁾.</p> <p>Judgment: The court found the defendant guilty of THB for forced labour and sentenced him to four years of imprisonment and three years of prohibition in exercising certain rights. According to the court, the elements of the offence are the transportation and accommodation of the victims by fraud, threat, violence and other forms of coercion in order to perform work in agriculture for the defendant's benefit. By putting the victims in a state of dependence on the defendant, both by taking away the victims' IDs and thus restricting their ability to move freely, as well as by indebteding the victims, are what led to the exploitation of the victims in forced labour conditions.</p> <p>Appeal: The court of appeal dismissed the appeal against the decision of the court of first instance introduced by the defendant. The court held that the first instance court had pronounced a legal and thorough decision⁽⁹⁰⁹⁾.</p>
Competent Court	The Craiova Court of Appeal – court of second instance;
Legal provision applied	The Olt Tribunal – court of first instance.
Sentence/compensation awarded	<p>Article 12 of the Law No 678/2001 (<i>trafficking</i>) and Article 13 of the Law No 678/2001 (<i>trafficking in minors</i>).</p> <p>Olt Tribunal – court of first instance:</p> <p>Sentence: 4 years of imprisonment and 3 years of prohibition in exercising certain rights.</p> <p>Compensation: The victims sought EUR 6 000 compensation (EUR 3 000 moral compensation and EUR 3 000 material damages) for each of them. The court partially admitted these claims. It stated that the offence committed by the defendant caused physical and mental suffering to the victims and awarded to each victim RON 2 000 (around EUR 500)⁽⁹¹⁰⁾.</p>
Date/period of forced labour (month/year)	About 4 months (from June to October 2008) ⁽⁹¹¹⁾ .

⁽⁹⁰³⁾ Penal Decision No 5/170.2009 of Craiova Court of Appeal, p. 4.⁽⁹⁰⁴⁾ Penal Decision No 12/1/19.9.2008 of Olt Tribunal, p. 4.⁽⁹⁰⁵⁾ Indictment file No 580/P/2007 of the Penal Decision No 12/1/19.9.2008 of Olt Tribunal, p. 0.⁽⁹⁰⁶⁾ *Ibid.*, p. 1.⁽⁹⁰⁷⁾ Penal Decision No 5/170.2009 of Craiova Court of Appeal, p. 1.⁽⁹⁰⁸⁾ Penal Decision No 5/170.2009 of Craiova Court of Appeal, p. 5.⁽⁹⁰⁹⁾ Penal Decision No 5/170.2009 of Craiova Court of Appeal, p. 9.⁽⁹¹⁰⁾ Penal Decision No 12/1/19.9.2008 of Olt Tribunal, p. 8.⁽⁹¹¹⁾ Penal Decision No 12/1/19.9.2008 of Olt Tribunal, p. 0.

Profile of the victim(s) (e.g. country of origin, gender, age, occupation of the victim prior to the incident of forced labour)	Country of origin	Romania
	Gender	3 male and 1 female
	Age	3 adults and 1 minor
	Sector	Agriculture
	Migratory status	EU citizens
	Knowledge of local language	There is no information available in this respect.
How was the victim recruited and how did they come to be in the situation of forced labour?	In May 2008, the defendant went to the victims' family home, offering to take them to Spain, under the false promise of a job in agriculture (picking garlic EUR 1.60 for every coffer collected). He promised them free accommodation, food and transport, asking to pay back only the transportation costs to return back to Romania. Given that the victims did not have a stable job at that moment, they accepted the defendant's offer ⁽⁹¹²⁾ .	
Elements of vulnerability	Low level of education; poverty and unemployment in their home country.	
Identification/reporting of offences	The victim reported the offence to the authorities (e.g. the police, labour inspectorate) himself/herself	-
	The authorities began the investigation <i>ex officio</i>	X DIOCT - Olt Office on October 28, 2008 ⁽⁹¹³⁾ . There is no information on what basis the investigation was initiated.
	The case was brought to the attention of the authorities by an association/NGO	-
	Other (please specify)	-

⁽⁹¹²⁾ Indictment file No 58D/P/2007 of the Penal Decision No 121/19.9.2008 of Olt Tribunal, p. 1.

⁽⁹¹³⁾ Indictment file No 58D/P/2007 of the Penal Decision No 121/19.9.2008 of Olt Tribunal, p. 0.

Criminal investigation	Which authority/unit was responsible for the criminal investigation of this case?	Department for the Investigation of Organised Crime and Terrorism Offences (DIOCT) – OLT Office.
	How long after the victim started being subjected to forced labour did the criminal investigation of the matter begin?	About 5 months (from June 2008 to October 2008).
Court proceedings	What was the length of the investigation?	About 7 months (from October 2008 to March 2009)
	What were the difficulties in bringing this case to the court?	No difficulties identified.
	Was the victim required to testify at the pre-trial stage of the proceedings? If yes, did the authorities use any mechanisms to protect the safety of the victim (e.g. via a witness protection programme) or protect him/her from secondary victimisation?	Yes, victims were required to testify at the pre-trial stage of the proceedings. No special mechanism of witness protection was used.
	Were there any problems/issues pertaining to the collection of evidence?	No. All the victims and witnesses cooperated with the prosecutor during pre-trial stage. The defendant was abroad in the investigation phase. The prosecutor ordered his arrest in his absence. On 17 March 2008, the prosecutor issued the international warrant for extradition and the European arrest warrant. On 26 June 2009, he was arrested by the Portuguese Police and on 9 July 2009 he was handed over to the Romanian authorities ⁽⁹¹⁴⁾ .
	Was the victim required to testify in court? If yes, what effect is the witness testimony perceived to have had on the successful prosecution of the offenders?	Yes. The testimonies of the victims clarified the facts and details about the forced labour to which they were subjected.
	If the victim testified in court, did he/she do so in camera, in the courtroom (in the defendant's presence) or the court used the victim's testimony during the investigation phase?	The victims testified in the courtroom in the defendant's presence and the testimonies were corroborated with their declarations made in the pre-trial stage.
Court proceedings	Did the victim seek compensation for the damages suffered (e.g. by constituting himself/herself as a civil claimant)? If yes, did he/she receive support from the State (e.g. legal representation/legal aid)?	Yes. Each of the 4 victims sought damages of EUR 6 000 (EUR 3 000 moral compensation and EUR 3 000 material damages). The court awarded RON 2 000 (about EUR 500) ⁽⁹¹⁵⁾ . The victims received legal aid ⁽⁹¹⁶⁾ .
	What type of evidence was submitted to the court? Were there any issues with the admissibility of evidence?	Testimonies of the victims and witnesses. In the courtroom, a witness who is the defendant's cousin, changed her declaration made in front of the prosecutor, but the court decided that her first declaration can be better corroborated with the other declarations of other witnesses and victims. She motivated that the first declaration was done in front of the prosecutor under pressure put on her by the victims.

⁽⁹¹⁴⁾ Penal Decision No 5/17.0.2009 of Craiova Court of Appeal, p. 2.

⁽⁹¹⁵⁾ Penal Decision No 121/19.9.2008 of Olt Tribunal, p. 3.

⁽⁹¹⁶⁾ Penal Decision No 121/19.9.2008 of Olt Tribunal, p. 2.

Delivery of the court judgment	How long did it take for the court to issue its judgment (for first instance cases, from the prosecution; for second and third instance cases, from the day the appeal was filed)?	In first instance – about 7 months (from March 2009 to October 2009); on appeal – about 3 months.
	Was the defendant found innocent/guilty? If he/she was found innocent, was it due to procedural grounds or because the evidence presented was insufficient not to substantiate his guilt?	The defendant was found guilty of THB (adults and a child) and was sentenced to 4 years of imprisonment and 3 years of prohibition in exercising certain rights ⁽⁹¹⁷⁾ .
	Was the victim awarded compensation for damages/moral pain and suffering? What was the court's reasoning?	Yes. Each victim was awarded RON 2 000 (about EUR 500) to ensure a fair and full compensation for the physical and moral pain suffered ⁽⁹¹⁸⁾ . However, victims sought EUR 6 000 compensation (EUR 3 000 moral compensation and EUR 3 000 material damages). The court thus only partially admitted these claims. The court did not provide any detailed argumentation on why this amount of compensation was deemed to be a fair compensation.
Victim support	Did the victim receive any kind of support from public authorities (e.g. social workers)/NGOs?	There is no information available in this respect.
Resources (financial and human resources)	There is no information regarding resources for the investigation of this specific case. However, based on the research done in Part 1 of the study, DIOCT does not have adequate human and financial resources to accomplish its tasks in the most efficient manner.	
Role of labour inspectors	In Romania, labour inspectors have no specific competences in the field of THB and therefore they have not been involved in the investigation of THB cases ⁽⁹¹⁹⁾ .	
Case study source	- Indictment file No 59D/P/2008 of the Penal Decision No 122/20.10.2009 of Olt Tribunal (received from DIOCT);	
	- Penal Decision No 122/20.10.2009 of Olt Tribunal (received from the court);	
	- Penal Decision No 6/18.01.2010 of Craiova Court of Appeal (received from the court).	

⁽⁹¹⁷⁾ Penal Decision No 121/19.9.2008 of Olt Tribunal, p. 9.

⁽⁹¹⁸⁾ Ibid, p. 8.

⁽⁹¹⁹⁾ Information collected through consultation with national stakeholders (labour inspector).

Case study 6: RO-014-03

Summary of the case

A defendant of Romanian nationality was prosecuted and **convicted of THB** for forced labour regarding 21 adults trafficked to Slovakia (previously, some of the victims were trafficked also to Austria⁽⁹²⁰⁾ and Italy⁽⁹²¹⁾).

Facts: On 10 July 2008 the defendant **established the SC C. Ltd.** located in the village of Plesoiu, Olt County, being the sole shareholder and manager of the company whose primary activity was the execution of construction works. In this context, the defendant from August 2008 was recruiting workers qualified in construction works in the counties of Olt, Neamt, Brasov and Bucharest promising them a contract with his firm to work in construction in Slovakia.

The defendant recruited 21 victims. He promised a job in Slovakia, a salary of EUR 1.200 per month, transport, accommodation and meals free of charge. These individuals agreed to these terms, signed a contract with the defendant's company and then were brought to Slovakia, Bratislava city. The victims were transported free of charge, with a minibus to Slovakia. They stayed at a hotel, provided with meals. However, their identity documents were kept by the defendant. Then these workers did construction work, in particular, on a site where another company built a mall. Their daily workload was excessive⁽⁹²²⁾.

As the time went on, the defendant began to disregard the initial agreement with his workers. They were not paid or provided with equipment. Moreover, the defendant had agreed to give every worker EUR 10 per day for food, but he only provided them a maximum of EUR 30 per week. In these circumstances, most workers stayed for about two to three months based on the defendant's promise that they will receive the promised pay, about EUR 1.200 per month. However, this did not happen. Some of the workers were paid EUR 300-400 while for all their work they should have earned EUR 3.500⁽⁹²³⁾. In October 2008, one of the victims informed his mother by telephone that the defendant had hit him and had not paid for the work. He asked her help to return to Romania because he had no more money for food⁽⁹²⁴⁾.

Judgment: The court of first instance stated that "the acts of the defendant who since August 2008 had recruited, transported and accommodated 21 workers promising them paid employment, decent accommodation and food and then by threat had forced them to perform construction work in violation of laws on working conditions, wages and occupational health – meet the elements of the offence of trafficking in persons"⁽⁹²⁵⁾. The court convicted the defendant to 5 years of imprisonment, applied complementary punishment of prohibition of certain rights for a period of 2 years and admitted the civil actions of 13 victims granting them compensation in the amounts between EUR 600 and 5.000.

Appeal: The defendant appealed against the sentence. The appeal court stated that "criticism regarding the illegality of the sentence based on the legal classification of the given facts is unfounded"⁽⁹²⁶⁾. According to case-law, "the term 'exploitation of the victim' must be understood as the execution of forced labour in violation of laws regarding working conditions, payment conditions, health care, and other aspects related to the terms of the employment contract"⁽⁹²⁷⁾. As the appellant had acted with the intent to recruit victims, promising them legal work abroad as well as appropriate remuneration, consequently, the victims' consent to the recruitment, transport and accommodation by deception for the purpose of forced labour does not remove the criminal liability of the defendant⁽⁹²⁸⁾.

Nevertheless, the appeal court deemed that the court of first instance in its sentence did not take into account the individual circumstances of the defendant, namely, that he was employed, 40 years old, without a criminal record and thus not a danger to society. In this regard, the appeal was found admissible. The appeal court reduced the sentence to 3 years of imprisonment.

Cassation: The appeal court's decision was appealed by the DIOCT – Territorial Office Craiova, and the defendant⁽⁹²⁹⁾. The High Court of Cassation and Justice reiterated the facts held by the court of first instance, but stated that the court of appeal properly took into account the limited social danger posed by the defendant (no criminal record, aged 40 years, employed). Furthermore, the court suspended the penalty of 3 years in prison for a **probation period of 8 years**.

⁽⁹²⁰⁾ Penal Decision No 36 from 21 March 2009 of Olt Tribunal, p. 0.

⁽⁹²¹⁾ Penal Decision No 3887 from 1 November 2010 of High Court of Cassation and Justice, p. 5.

⁽⁹²²⁾ Penal Decision No 3887 from 1 November 2010 of High Court of Cassation and Justice, p. 2.

⁽⁹²³⁾ Ibid.

⁽⁹²⁴⁾ Penal Decision No 3887 from 1 November 2010 of High Court of Cassation and Justice, p. 3.

⁽⁹²⁵⁾ Penal Decision No 36 from 21 March 2009 of Olt Tribunal, p. 3.

⁽⁹²⁶⁾ Penal Decision No 3887 from 1 November 2010 of High Court of Cassation and Justice, p. 7.

⁽⁹²⁷⁾ Penal Decision No 3887 from 1 November 2010 of High Court of Cassation and Justice, p. 8.

⁽⁹²⁸⁾ Ibid.

⁽⁹²⁹⁾ Penal Decision No 1 from 9 January 2010 of Craiova Court of Appeal, p. 7.

Competent Court	The High Court of Cassation and Justice – court of third instance; The Craiova Court of Appeal – court of second instance; The Olt Tribunal – court of first instance.	
Legal provision applied	Article 12 of the Law No 678/2001 (<i>trafficking in persons</i>).	
Sentence/compensation awarded	<p>Sentence: The Olt Tribunal – court of first instance: 5 years of imprisonment and 2 years of prohibition in exercising of certain rights. The Craiova Court of Appeal reduced the sentence from 5 to 3 years of imprisonment, and the High Court of Cassation and Justice suspended the 3 years penalty of imprisonment for a probation period of 8 years⁽⁹³⁰⁾.</p> <p>Compensation: For 13 civil claimants the court awarded damages from EUR 600 to 5 000 for the work done for which the victims did not receive their pay⁽⁹³¹⁾.</p>	
Date/period of forced labour (month/year)	About 3 months (from August to November 2008) ⁽⁹³²⁾ .	
Profile of the victim(s) (e.g. country of origin, gender, age, occupation of the victim prior to the incident of forced labour)	Country of origin	Romania
	Gender	Male and female.
	Age	No information available
	Sector	Construction
	Migratory status	EU citizens
How was the victim recruited and how did they come to be in the situation of forced labour?	Knowledge of local language The defendant owned a construction company SC C. Ltd Plesoiu for which he recruited 21 victims promising work in construction in Slovakia (for EUR 1 200 per month, with transportation, accommodation and meals free of charge). The victims signed employment contracts with the defendant's company, then they were brought to Slovakia, Bratislava city, to work in construction ⁽⁹³³⁾ . Later it was found that SC C. Ltd Plesoiu was not registered at Olt Territorial Labour Inspection as an agent for work placements abroad and that it had not submitted for registration the individual employment contracts signed by the victims as required by Law No 130/1999 ⁽⁹³⁴⁾ .	
Elements of vulnerability	Low level of education; poverty and unemployment in Romania.	
Identification/reporting of offences	The victim reported the offence to the authorities (e.g. the police, labour inspectorate) himself/herself	-
	The authorities began the investigation <i>ex officio</i>	X DIOCT – Olt Office on November 4, 2008. There is no information on what basis this investigation was started.
	The case was brought to the attention of the authorities by an association/NGO	-
	Other (please specify)	-

⁽⁹³⁰⁾ Penal Decision No 3887 from 1 November 2010 of High Court of Cassation and Justice, p. 14.

⁽⁹³¹⁾ Penal Decision No 35 from 21 March 2009 of Olt Tribunal, p. 5.

⁽⁹³²⁾ Indictment file No 60D/P/2007 of No 36 from 21 March 2009 of Olt Tribunal, p. 1.

⁽⁹³³⁾ Indictment file No 60D/P/2007 of No 36 from 21 March 2009 of Olt Tribunal, p. 5, p. 2.

⁽⁹³⁴⁾ Article O of Law No 129/1998 concerning certain protection measures of persons in employment requires the registration by the employer of any labour contract to the territorial office of the Romanian Labour Inspection.

Criminal investigation	Which authority/unit was responsible for the criminal investigation of this case?	Department for the Investigation of Organised Crime and Terrorism Offences (DIOCT) – OLT Office.
	How long after the victim started being subjected to forced labour did the criminal investigation of the matter begin?	About 4 months (from August 2008 to November 2008).
	What was the length of the investigation?	About 5 months (from November 2008 to March 2009).
	What were the difficulties in bringing this case to the court?	The defendant was in hiding during the prosecution stage ⁽⁹³⁵⁾ . Furthermore, of the 21 victims only 13 testified in front of the court. The other 8 were offered other jobs abroad and their new place of residence could not be identified.
	Was the victim required to testify at the pre-trial stage of the proceedings? If yes, did the authorities use any mechanisms to protect the safety of the victim (e.g. via a witness protection programme) or protect him/her from secondary victimisation?	Yes, victims were required to testify at the pre-trial stage of the proceedings. No special mechanism of witness protection was used.
Court proceedings	Were there any problems/issues pertaining to the collection of evidence?	No information.
	Was the victim required to testify in court? If yes, what effect is the witness testimony perceived to have had on the successful prosecution of the offenders?	No information.
	If the victim testified in court, did he/she do so in camera, in the courtroom (in the defendant's presence) or the court used the victim's testimony during the investigation phase?	A total of 13 victims testified before the court in the presence of the defendant.
	Did the victim seek compensation for the damages suffered (e.g. by constituting himself/herself as a civil claimant)? If yes, did he/she receive support from the State (e.g. legal representation/legal aid)?	Yes. The 13 victims constituted themselves as civil claimants. The court of first instance awarded them only material damages based on the employment contracts signed with the defendant's company. The victims received state legal representation for their trial.
	What type of evidence was submitted to the court? Were there any issues with the admissibility of evidence?	Testimonies of the victims and witnesses, declarations of the civil claimants, minutes regarding the identification of the defendant based on photographic plate, documents from territorial labour inspection showing that the employment contracts were never officially registered. No issues with the admissibility of evidence.
Delivery of the court judgment	How long did it take for the court to issue its judgment (for first instance cases, from the prosecution; for second and third instance cases, from the day the appeal was filed)?	In first instance – about 12 months (from March 2009 to March 2010); on appeal – about 10 months (from March 2010 to January 2011); in cassation – about 10 months (from January 2011 to November 2011).
	Was the defendant found innocent/guilty? If he/she was found innocent, was it due to procedural grounds or because the evidence presented was insufficient not to substantiate his guilt?	The defendant was found guilty of THB and was sentenced to 3 years of imprisonment, suspended for a probation period of 8 years.
	Was the victim awarded compensation for damages/moral pain and suffering? What was the court's reasoning?	Yes. 13 victims were awarded compensation for their damages. No moral compensation granted.

⁽⁹³⁵⁾ Penal Decision No 3887 from 1 November 2010 of High Court of Cassation and Justice, p. 5.

Victim support	Did the victim receive any kind of support from public authorities (e.g. social workers)/NGOs?	There is no information available in this respect.
Resources (financial and human resources)	There is no information regarding resources for the investigation of this specific case. However, based on the research done in Part 1 of the study, DIOCT does not have adequate human and financial resources to accomplish its tasks in the most efficient manner.	
Role of labour inspectors	In Romania, labour inspectors have no specific competences in the field of THB and therefore they have not been involved in the investigation of THB cases ⁽³³⁶⁾ .	
Case study source	<ul style="list-style-type: none"> - Indictment file No 61D/P/2008 of No 37 from 22 Martie 2010 of Olt Tribunal (received from DIOCT); - Penal Decision No 37 from 22 Martie 2010 of Olt Tribunal (received from the court); - Penal Decision No 2 from 10 January 2011 of Craiova Court of Appeal (received from the court); - Penal Decision No 3888 from 2 November 2011 of High Court of Cassation and Justice (received from the court); 	

⁽³³⁶⁾ Information collected through consultation with national stakeholders (labour inspector).

SLOVAKIA

Case study 1: SK-001

Summary of the case	The official summary of the judgment is not available.	
	The defendants – a lawyer of Russian origin and five citizens of Ukraine, were charged, among other offences, with THB for forced labour under the Slovakian Criminal Code (hereafter – the CC). The defendants were acquitted of the offence of THB for forced labour.	
	Facts: The defendants recruited Ukrainian citizens in Ukraine in order to bring them to Slovakia promising well-paid jobs (mainly in construction and food industry). For this purpose, they established an employment agency in Slovakia which then acted as an intermediate between the employers and employees (victims). For the victims to stay in Slovakia the defendants arranged false working and residence permits. Victims were informed that they would have to pay back all the costs related to obtaining these documents. These costs would have to be deducted from their wages. However, the wages were much lower than they expected. Moreover, the victims never knew when their debt would be paid off as they did not know the exact amount of the debt or their wage. Employers were paying wages to the agency who was supposed to pay the employees. Many victims had to live with little means covering only their basic needs.	
	The defendants distributed the victims through the agency to different work places within different regions of Slovakia. They often worked in places or positions other than those they had permits for. Employers were often complaining about unqualified workers even though they were promised only qualified workers ⁽⁹³⁷⁾ .	
	This case involved more than 200 persons as potential victims. Due to the status of irregular migrants, many of them were administratively deported back to Ukraine before the criminal investigation even begun. For this reason, the case could not be properly investigated ⁽⁹³⁸⁾ .	
Competent Court	Judgment: The Specialised Criminal Court found the defendants guilty only of smuggling, stating that the facts of the case proving other crimes (including THB) were not substantiated.	
	The court stated that despite of the broad argumentation, the evidence was not enough to prove – beyond any doubts, which specific persons should be considered as victims. The Prosecution was only able to prove that a certain number of Ukrainian nationals were allured to work in Slovakia. Therefore, it was not possible to identify all of the victims, as well as the ways by which they were supposed to be injured or harmed.	
	Pursuant to the court, the victims were aware of the work conditions, working hours, the wage and the sum which would be deducted. None of the victims stated reservations in their free movement. None of them said that their passport was taken away. Based on the testimony of some victims, they were able to leave the work if they wished so.	
	Appeal: The prosecutor appealed against the first instance judgment on 3 October 2014 claiming that the defendants should have been sentenced under the provision of THB ⁽⁹³⁹⁾ .	
	Specialised Criminal Court (level of regional courts), first instance.	
Legal provision applied	Sections 356 (smuggling), 296 (criminal group), 233 (money laundering), 179 (trafficking in human beings) of the CC.	
Sentence/compensation awarded	The defendants were found not guilty of THB . However, they were convicted of smuggling and sentenced from two years to two years and seven months of imprisonment.	
Date/period of forced labour (month/year)	No compensation was awarded to victims.	
	2006 – 2010	

⁽⁹³⁷⁾ Ibid.⁽⁹³⁸⁾ Ibid.⁽⁹³⁹⁾ Stakeholder consultation (police).

Profile of the victim(s)	Country of origin	Ukraine.
	Gender	Both male and female.
	Age	Between 18 and 50 years of age.
	Sector	Mainly construction and food industry.
	Migratory status	Irregular migrants.
	Knowledge of local language	No.
How was the victim recruited and how did they come to be in the situation of forced labour?	<p>As stated above, the victims were recruited through the employment agency established by the defendants. The persons recruiting the victims were from the same region of Ukraine as the victims. The defendants fraudulently arranged visas in Ukraine and further working permits in Slovakia. The victims were supposed to pay back for the costs of arranging these documents.</p> <p>Through the agency the defendants arranged jobs for victims with different employers. Employers were transferring the wages of victims to the defendants who were supposed to pay the victims. In reality, the victims were paid very little. Sometimes they did not receive money on time or just a little amount to survive⁽⁹⁴⁰⁾. According to the testimonies of the Slovak employers at trial, sometimes they were lending money to their Ukrainian employees because they did not have any money for food.</p> <p>The victims were told they had to pay their debts first and only then they can receive their wages. They never knew the amount of their debt and when it would be paid off. They were maintained in a situation of economic dependency⁽⁹⁴¹⁾. Some victims wanted to leave but they were scared (mainly women) because of their status as irregular migrants (e.g. fear of possible consequences, deportation, etc.)⁽⁹⁴²⁾. Some victims left and were persecuted and threatened by the defendants.</p> <p>All the victims had a low level of education; they had experienced poverty in their country of origin (Ukraine). They were irregular migrants working on false documents. One of the victims was deaf-mute.</p>	
	<p>According to investigators, the victims were clearly dependent on the defendants. The defendants were retaining the victims' wages, the victims were bound by debt to the defendants and they were also threatened with their (fake) residence permits being cancelled.</p>	
Elements of vulnerability	<i>The victim reported the offence to the authorities (e.g. the police, labour inspectorate) himself/herself</i>	-
	<i>The authorities began the investigation ex officio</i>	The case was brought to the attention of the police by a Labour Inspectorate. They discovered various women working illegally in a bakery in Žilina (city in northern Slovakia). The police then started to investigate the case and step by step revealed its complexity, discovering that a large number of people were brought from Ukraine for forced labour in Slovakia ⁽⁹⁴³⁾ .
	<i>The case was brought to the attention of the authorities by an association/NGO</i>	-
	<i>Other (please specify)</i>	-
Identification/reporting of offences		

⁽⁹⁴⁰⁾ Stakeholder consultation (police).

⁽⁹⁴¹⁾ Based on information from the prosecutor's appeal.

⁽⁹⁴²⁾ Based on information from the prosecutor's appeal.

⁽⁹⁴³⁾ Stakeholder consultation (police).

Criminal investigation	Which authority/unit was responsible for the criminal investigation of this case?	The National Irregular Migration Unit, within the Bureau of Border and Alien Police.
	How long after the victim started being subject to forced labour did the criminal investigation of the matter begin?	It is difficult to say as the case involved more than 200 victims ⁽⁹⁴⁴⁾ . The recruitment activities carried out by the defendants were identified in 2008. The investigation started in 2009.
	What was the length of the investigation?	The investigation and prosecution took three years. <ul style="list-style-type: none"> • Beginning of the criminal investigation: 02.04.2009; • Charges brought: 12.04.2010. • Petition to file an action before the court: 05.04.2012⁽⁹⁴⁵⁾.
	What were the difficulties in the bringing this case to the court?	The main problem was the complexity of the case (just the case file contained approx. 14 000 pages) ⁽⁹⁴⁶⁾ .
	Was the victim required to testify at the pre-trial stage of the proceedings? If yes, did the authorities use any mechanisms to protect the safety of the victim (e.g. via a witness protection programme) or protect him/her from secondary victimisation?	Some victims were required to testify as witnesses during the pre-trial stage as well as during the court trial. One of the victims was integrated into the IOM Support Programme but only after the investigation and the trial was over ⁽⁹⁴⁷⁾ .
	Were there any problems/issues pertaining to the collection of evidence?	The main problem was to identify victims and obtain testimonies or to convince them to testify. Around 200 persons were potential victims. However, many were deported before the investigation began. At that moment, they were not considered as potential victims ⁽⁹⁴⁸⁾ . There was a problem with identifying victims as it was done on the basis of employers' records where Ukrainian names were not properly written ⁽⁹⁴⁹⁾ .
		Some of the victims left the agency of the defendants but remained to work for other agencies in Slovakia. However, these agencies were often in some manner still connected to the defendants and thus these persons could not testify against them ⁽⁹⁵⁰⁾ .
		Others feared to testify. That was a case of two women. One went back to Ukraine and the other stayed to look for another job in Slovakia. A woman who returned to Ukraine refused to testify because she was scared. The other woman who now works in Slovakia testified that when she left she had constantly been threatened on the phone. They requested her to pay the debt. They also requested her to return and to generate more income for the defendants. One of the defendants called her father in Ukraine threatening him. These calls were recorded by the investigators. According to them, in several cases the defendants were using aggression against the victims ⁽⁹⁵¹⁾ .
		In case of deported persons, there was a request for legal assistance from the Ukrainian authorities in order to collect the evidence – i.e., to hear the witnesses in Ukraine. The collection of evidence presented difficulties, including due to the fact that Ukrainian authorities could not find the witnesses ⁽⁹⁵²⁾ .
		Nevertheless, finally evidence was established substantiating crime of THB with purpose of forced labour ⁽⁹⁵³⁾ .

⁽⁹⁴⁴⁾ Ibid.⁽⁹⁴⁵⁾ Ibid.⁽⁹⁴⁶⁾ Ibid.⁽⁹⁴⁷⁾ Based on the interview with an IOM employee.⁽⁹⁴⁸⁾ Ibid.⁽⁹⁴⁹⁾ Based on the interview with a police agent investigating the case.⁽⁹⁵⁰⁾ Ibid.⁽⁹⁵¹⁾ Ibid.⁽⁹⁵²⁾ Based on the interview with a police agent investigating the case.⁽⁹⁵³⁾ Ibid.

Court proceedings	Was the victim required to testify in court? If yes, what effect is the witness testimony perceived to have had on the successful prosecution of the offenders?	<p>As stated above, not all the victims could testify because some of them were deported to Ukraine and some of them refused to testify.</p> <p>According to the investigators, witnesses testifying in court were not a representative group because the key witnesses were not providing testimony at the court hearings (some were out of country by then, others were scared to testify).</p> <p>Moreover, there is a suspicion that at least some of the victims testifying at court did not provide correct information⁽⁹⁵⁴⁾.</p> <p>The important fact is that there were more than 200 potential victims in the case but not all of them met the criteria of victims of THB for the purpose of forced labour (i.e. the victims were not financially dependent on the defendants, they could leave the work, they did not complain about their situation).</p> <p>Finally, it is worth mentioning that victims had to travel to the hearings from their place of residence (from the capital city Bratislava) to the court for more than 200 km on their own, without any protection. Moreover, the defendants lived in the same city as the victims⁽⁹⁵⁵⁾.</p>
	If the victim testified in court, did he/she do so in camera, in the courtroom (in the defendant's presence) or the court used the victim's testimony during the investigation phase?	No such measures were used. In some cases, the victims were interviewed with the presence of the defendant.
	Did the victim seek compensation for the damages suffered (e.g. by constituting himself/herself as a civil claimant)? If yes, did he/she receive support by the State (e.g. legal representation/legal aid)?	No ⁽⁹⁵⁶⁾ .
	What type of evidence was submitted to the court? Where there any issues with the admissibility of evidence?	Documentary evidence; victim and witness testimonies; different expert reports (e.g. on evidence from wire-tapping, computer forensics of the defendants' laptops, financials of the recruitment agency established by the defendants), testimonies of some of the defendants who confessed their guilt ⁽⁹⁵⁷⁾ .

⁽⁹⁵⁴⁾ Ibid.⁽⁹⁵⁵⁾ Ibid.⁽⁹⁵⁶⁾ Ibid.⁽⁹⁵⁷⁾ Based on the interview with a police agent investigating the case.

Delivery of the court judgment	<p>How long did it take for the court to issue its judgment (for first instance cases, from the prosecution; for second and third instance cases, from the day the appeal was filed)?</p>	<p>Two years ⁽⁹⁵⁸⁾.</p> <p>Defendants were found guilty of smuggling but acquitted of the offence of THB for forced labour.</p> <p>The court concluded that this case could hardly be qualified as THB for forced labour due to the following reasons ⁽⁹⁵⁹⁾:</p> <ul style="list-style-type: none"> • Victims were not under threat and were free to go. They had their documentation and could return to Ukraine at any time. • Some victims stated during their testimonies that they were earning more than they did in Ukraine and they were even able to send some money to their families in Ukraine. • The court also observed that their housing conditions in Slovakia were in some cases better than of some regular Slovak workers. <p>During investigations, the police considered that – in relation to some victims, it was the case of THB with purpose of forced labour. However, not all of the victims could be considered THB victims, as already mentioned above.</p> <p>According to stakeholders, the Prosecution lacked the capacity and knowledge to use evidence and to build a solid and well substantiated complaint ⁽⁹⁶⁰⁾. The prosecutor in charge was often substituted by less experienced colleagues who were unprepared and presented a poor argumentation at the hearings. This strengthened the defendants' position.</p> <p>According to the Public Prosecutor's office consulted for this study however, the substitution of the prosecutor at the hearing in case of the collision with another hearing is not a rare situation. According to the Public Prosecutor's office: 'the substituted prosecutor was a former head of the general crime of the Specialised Prosecutor's Office who was an expert in trafficking in human beings and used to be a lecturer in several seminars related to trafficking' (the Public Prosecutor's office therefore disagrees that the prosecutor lacked experience).</p> <p>According to the statement of an IOM worker in this respect, there is a frequent practice at the courts of re-qualifying THB for other types of crime which are easier to prove – such as smuggling. Therefore, we would like to underline that there seems to be an issue with the definition and understanding of THB for forced labour in Slovakia.</p>
	<p>Was the victim awarded compensation for damages/moral pain and suffering? What was the court's reasoning?</p>	<p>No, the victims did not seek any compensation and therefore there is no court's reasoning in this respect.</p>
Victim support	<p>Did the victim receive any kind of support by public authorities (e.g. social workers)/NGOs?</p>	<p>One of the victims was integrated in the IOM Support Programme (mainly for psychological help and support in social integration). It is to be noted that integration into this programme requires permission from the Ministry of Interior. Hence, if this victim was accepted in the programme, it means that the Ministry recognised him/her as victim of THB ⁽⁹⁶¹⁾.</p> <p>Except for this woman, other victims did not receive any support from public authorities or NGOs. To the contrary, it seems that during the investigation and prosecution authorities were not able to procure adequate conditions and safety for victims in order to encourage them to participate in the criminal proceedings ⁽⁹⁶²⁾.</p>

⁽⁹⁵⁸⁾ Ibid.⁽⁹⁵⁹⁾ Stakeholder consultation (judge).⁽⁹⁶⁰⁾ Stakeholder consultation (police).⁽⁹⁶¹⁾ Ibid.⁽⁹⁶²⁾ Stakeholder consultation (police).

Resources (financial and human resources)	Pursuant to the police officer interviewed, technical or financial resources were not the issue in this case. The problem was, however, the lack of human resources – there was only one police officer investigating the case, which was not sufficient. Insufficient human resources is a general problem in investigations carried out by the National Irregular Migration Unit, within the Bureau of Border and Alien Police, which is in charge of THB cases ⁽⁹⁶³⁾ .
Role of labour inspectors	It was the Labour Inspectorate that discovered the case of various women working illegally in a bakery in Zilina and informed the police ⁽⁹⁶⁴⁾ .
Case study source	Based on the interviews with: <ul style="list-style-type: none">• a judge, the police, government officials, a prosecutor and an international organisation. The Prosecutor in this case provided us with the appeal against the first instance decision. The labour inspector involved in this case could not provide any information due to the obligation of confidentiality of information.

⁽⁹⁶³⁾ Ibid.

⁽⁹⁶⁴⁾ Ibid.

SLOVENIA

Case study 1: SJ-001

	<p>An official summary of the judgment is not available.</p> <p>According to the charges the exploitation took place in Slovenia and mostly in the agriculture and forestry sector.</p> <p>The District State Prosecutor's Office charged two defendants with a criminal offence of THB for forced labour.</p> <p>Facts of the case: the victim moved in with one of the defendants of his own free will. In turn for having a place to stay, have some food and alcohol, the victim would work for the defendant. The work included mowing grass, feeding the ponies, shovelling the manure, cutting the wood, gathering old ironware, and demolishing old cars. The victim had been an alcoholic for several years, and both defendants got drunk often. On such occasions they tormented the victim psychologically and physically (screamed at him, humiliated and disgraced him, beat him with bare hands and with a belt, a stick, a broom and an electric cable, kicked him, forced him to stay outside the house freezing and naked, ordered him to do push-ups, took his clothes off and poured water over him, and in one such instance pressed him against an electric fence, took his monthly social assistance benefits), and threatened him with more beatings if he would dare to escape or report them to the police. On several occasions the victim fled to his old house but the defendants tracked him down every time, fearing he would report them to the police. The victim subjugated himself to the defendants every time.</p> <p>The State Prosecutor's charges "...were based on Article 387.a of the Criminal Code, asserting trafficking in the form of accommodation with the purpose of forcing the victim into servitude and labour by physical violence, intimidation and through humiliation". The Court reasoned that the facts of the case did not constitute the "forced" accommodation nor "forced" labour element of THB, since the victim came to live with the defendant on his own initiative, willingly and knowing that he would have to repay the housing, food and alcohol costs by working for the defendants. According to the wording of the judgment, "... the criminal offence will have been proven when the perpetrator's actions are contrary to the victim's free will, which means literally forcing the victim into an activity that is not accepted by the victim's personal will. In other words, the defendants would have to execute all or some of the specific ownership interests, which means they would have to feel entitled to the victim as their property, not permitting him to act according to his own will. The panel holds there is not enough proof that the defendants forcibly accommodated the victim in their home for the purpose of forcing him into labour, nor that they forced him to work for them by beating and humiliating him. It has been proven, however, that the victim came to live with the defendants of his own free will, and that he knew exactly what kind of life lied ahead of him." Moreover, "... the victim was familiar with the way Roma people live, and prior to his decision to live with them, the victim was aware of the life that lied before him. The victim knew the defendants would not accept him living with them and provide him food without getting something in return, so the victim knew he would have to work for the defendants." In reference to the victim escaping from the defendants on several occasions, the court held "... on such occasions the defendants went searching for the victim and brought him back forcefully, and the victim subjugated himself to the defendants every time. The victim was afraid of the defendants and fearing they might get even more violent, the victim accepted he should continue to live with them. The panel also holds that such a decision was partly based on the nature of the victim's personality and on the way of life he had become accustomed to."</p> <p>The second instance court concurred with the above reasoning. It held that the victim came to live with the defendants on his own free will, his freedom of movement was not breached, and the defendants did not confine him to their property in order to force him into labour. It is true though, that the victim escaped the beatings on several occasions, and that the defendants tracked him down, but, according to the Court, they did so out of fear of the victim reporting them to the Police, not in order to force him to continue to work for them. Physical violence, intimidation and humiliation were not intended to force the victim into labour, but they did so just for the fun of it and because they were bored.</p>
Competent Court	<p>1st instance court: District Court of Novo mesto</p> <p>2nd instance court: Ljubljana Higher Court</p> <p>1st instance court (after the first judgment was quashed by Ljubljana Higher Court, the procedure was repeated): Novo mesto Local Court</p> <p>2nd instance court: Ljubljana Higher Court</p>
Legal provision applied	<p>The charges against the perpetrators were brought on the basis of Article 387.a of the Criminal Code of the Republic of Slovenia (Trafficking in Human Beings), but the 1st instance court held, that there was not enough evidence to support the charges. Nonetheless, it did find the defendants guilty of the criminal offence of violent conduct (on the basis of Article 299 of the Criminal Code) ⁽⁹⁶⁵⁾. The 1st instance court's decision was appealed and quashed; subsequently the Office of the District State Prosecutors charged the defendants with the criminal offence of Violent Conduct (on the basis of Article 299 of the Criminal Code), and in the repeated procedure, the court of first instance convicted both defendants of Violent Conduct on the basis of Article 299 of the Criminal Code.</p> <p>. The judgment was appealed, but the 2nd instance court dismissed the appeal.</p>

⁽⁹⁶⁵⁾ According to Article 353 of the Criminal Procedure Act, the judgment may relate only to the act arraigned in the charge sheet as initially preferred or as modified or extended in the main hearing. The court, however, is not bound by the proposals of the prosecutor regarding the legal qualification of the act.

Sentence/compensation awarded	<p>First defendant: 1 (one) year and 6 (six) months of imprisonment (for the criminal offence of Violent Conduct according to the Article 299 of Criminal Code)</p> <p>Second defendant: 2 (two) years of imprisonment (for the criminal offence of Violent Conduct according to the Article 299 of Criminal Code)</p> <p>No compensation was awarded, the victim was directed to make his damages claim in litigation.</p>	
Date/period of forced labour (month/year)	According to the charges, the victim was being forced into labour from April 2006 until 9 th February 2008.	
Profile of the victim(s) (e.g. country of origin, gender, age, occupation of the victim prior to the incident of forced labour)	Country of origin	Slovenia (there was only 1 victim identified)
	Gender	Male
	Age	48
	Sector	Agriculture, Forestry
	Migratory status	National of the Republic of Slovenia
How was the victim recruited and how did they come to be in the situation of forced labour?	Knowledge of local language	Yes (the victim was a local)
Elements of vulnerability	<p>The victim wished to live with the local Roma people since he had been a child, because he liked the Roma, i.e. the Gypsy "way of life". When in 1999 the victim's mother died, he – by his own free will – moved in with one of the defendants' Roma friends. In 2006 the victim moved to one of the perpetrators' house, whom he has known for years, as he (the victim) had previously worked for him and other Roma people. The victim asked one of the defendants if he could live with him, and in turn for a place to stay, food and alcohol, he would work for him (i.e. one of the perpetrators).</p> <p>The victim had a low level of education (he was a painter), had not had a job for 20 years prior to his moving in with the perpetrators. According to the court-appointed experts' opinion, the victim demonstrated intellectual abilities that were on the lower limit of the average. The victim's view of the world was a 2-dimensional one: on one side there was the dominance and subordination on the other; and the victim viewed himself as being part of the latter. In the victim's perspective, the Roma people exhibited both fierceness, strength and violence, but he nonetheless admired them for all their traits. Moreover, the victim was alcohol dependent, and the perpetrators made it possible for him to have alcohol at his disposal.</p>	
Identification/reporting of offences	The victim reported the offence to the authorities (e.g. the police, labour inspectorate) himself/herself	<p>X</p> <p>After the victim had been particularly violently assaulted by the two perpetrators one night, the next morning he took off, hid with one of the locals and into the bushes for one day, and reported the assault at the local police station the next day.</p>
	The authorities began the investigation ex officio	<p>X</p> <p>As soon as the victim reported first the assault that happened in the evening of 9 February 2008, and gave an account of what his life had been from April 2006 until the day he had escaped, the police began the inquiries into the matter by questioning the victim's relative and local Roma people who – according to the victim's indications – had relevant knowledge of the offence. The police searched the premises of the defendants and questioned them afterwards. Both defendants were put into detention for the time of the investigation.</p>
	The case was brought to the attention of the authorities by an association/NGO	
	Other (please specify)	

Criminal investigation	Which authority/unit was responsible for the criminal investigation of this case?	The police
	How long after the victim started being subject to forced labour did the criminal investigation of the matter begin?	The victim moved in with the perpetrators in April 2006 and escaped on 10 February 2008. He reported the assault to the local police officer the very next day. The police investigation began immediately. The court concluded however, that the evidence presented during the course of the main hearing did not prove the charges against the perpetrators, i.e. that they had forced the victim into labour.
	What was the length of the investigation?	The police investigation lasted for one month: it began on 11 February 2008 and was concluded on 11 March 2008; that was the date the criminal complaint was filed with the competent District State Prosecutor's Office. The court proceedings began with the investigation phase before the investigative judge ⁽⁹⁶⁶⁾ . Novo mesto District State Prosecutor's Office filed a request for investigation at the Novo mesto District Court on 14 May 2008. The investigation phase lasted for two months, that is, until the charges were brought against the defendants (11 July 2008) ⁽⁹⁶⁷⁾ .
	What were the difficulties in the bringing this case to the court?	None identified.
	Was the victim required to testify at the pre-trial stage of the proceedings? If yes, did the authorities use any mechanisms to protect the safety of the victim (e.g. via a witness protection programme) or protect him/her from secondary victimisation?	The victim was required to testify before the investigative judge in the investigation phase, whereas during the police investigation the police performed only regular questioning. Such information – gathered through police investigation – is not admissible evidence in the main trial. Upon the discovery of the offence (i.e. after the victim reported the assault), the police contacted the society "Ključ" that specialises in the treatment of the THB victims. Through Ključ, the victim was immediately accommodated in a safe house that is run by Ključ, and all of the later communications regarding the victim were handled through Ključ. When ordering a hearing of the victim, the investigative judge did not inform the defendants of the scheduled hearing, but he did inform the defence counsels. In the written record of the hearing the location of the victim's accommodation was not disclosed, therefore nor did the Court nor any of the parties to the procedure know of the victim's whereabouts. The victim was accompanied to the hearing by a Ključ worker.
	Were there any problems/issues pertaining to the collection of evidence?	No

⁽⁹⁶⁶⁾ The aim of an investigation is to gather evidence and data necessary for deciding whether to bring charges or discontinue proceedings, evidence whose reproduction at the main hearing might be impossible or very difficult, and other evidence which might be useful for the proceedings and whose taking appears warranted by the circumstances of the case (Article 166 of the Criminal Procedure Act).

⁽⁹⁶⁷⁾ The quickness of the court investigations is due to the fact that against the defendants a remand in custody was ordered, i.e. on 15th May 2007. According to the Article 199 §1 of the Criminal Procedure Act, remand in custody shall last the shortest possible time. All agencies participating in criminal proceedings and agencies which provide legal assistance to them shall be duty bound to proceed with special despatch if the defendant has been remanded in custody. The defendant who is detained under the ruling of the investigating judge may be remanded in custody one month from the day he was arrested at the longest. Remand in custody may be extended under a ruling of the panel by two months at the longest. If proceedings are in progress for a criminal offence punishable under law by more than five years' imprisonment the panel of judges of the Supreme Court may extend remand in custody by another three months at the longest (Article 204 of the Criminal Procedure Act).

Court proceedings	Was the victim required to testify in court? If yes, what effect is the witness testimony perceived to have had on the successful prosecution of the offenders?	<p>The victim was required to testify in court.</p> <p>His testimony was perceived to have had a key effect on prosecution of the offenders, despite them not being found guilty of THB offence, but instead of an offence of violent conduct.</p> <p>The court-appointed expert's psychiatric opinion held that the victim was capable of attending and taking part in the trial proceedings, under a condition that he will have felt safe and protected. The expert also pointed out that the victim was not capable of confronting the defendants.</p> <p>The victim testified in the courtroom, but the defendants were not present.</p> <p>Prior to the main hearing, Kijuč telephoned the presiding judge to consider making the main hearing non-public. Kijuč feared its activities and/or the safety of locations could otherwise be jeopardised. After the commencement of the main hearing and before the scheduled hearing of the victim the presiding judge excluded the public from a part of the trial, namely for the time of the hearing of the victim and in the interests of justice and protection of the personal life of the victim as the injured party. The exclusion of the public, however, did not extend to Kijuč, whose worker accompanied the victim to and through the hearing. Before testifying the victim further stated he did not wish to say anything in the presence of the defendants, therefore the panel ordered the defendants to be temporarily removed from the courtroom.</p> <p>After the commencement of the trial, the Kijuč worker who accompanied the victim to the hearing presented the panel with all the written documents regarding the victim that Kijuč had gathered or produced themselves, including medical documentation.</p>
	If the victim testified in court, did he/she do so in camera, in the courtroom (in the defendant's presence) or the court used the victim's testimony during the investigation phase?	<p>The victim claimed EUR 198 594.76 in compensation for the non-pecuniary and pecuniary damages. The victim was legally represented pro bono by a private law firm. The law firm was authorised to represent the victim upon the agreement with Kijuč.</p>
	Did the victim seek compensation for the damages suffered (e.g. by constituting himself/herself as a civil claimant)? If yes, did he/she receive support by the State (e.g. legal representation/legal aid)?	<p>In the main hearing before the court the following evidence was presented:</p> <ul style="list-style-type: none"> - testimony of the victim - testimonies of witnesses who either had knowledge of the victim's life prior to his moving in with the defendants or of separate incidents that took place during the relevant time - photos of the victim's body after the assault that happened on 9 February 2008 and of some separate occasions during the relevant time with the defendants - written documents regarding the victim and other relevant items that were seized during the search of the defendant's premises - written expert opinions on the victim's injuries and his psychiatric evaluation - testimonies from both the court-appointed experts (a traumatologist and a psychiatrist) - written documentation regarding the victim's finances. <p>There were no issues with the admissibility of evidence.</p>
	What type of evidence was submitted to the court? Were there any issues with the admissibility of evidence?	

Delivery of the court judgment	How long did it take for the court to issue its judgment (for first instance cases, from the prosecution; for second and third instance cases, from the day the appeal was filed)?	<p>Proceeding at the first instance:</p> <p>It took 5 and half months from the request to conduct the investigation (14 May 2008), and less than 3 months from the charges being brought (11 July 2008), in both cases until the delivery of the judgment (3 October 2008).</p> <p>Proceeding at the second instance:</p> <p>It took approximately 3 months from the day the appeals were filed until the delivery of the judgment.</p> <p>In the first procedure, the defendants were charged with the offence of trafficking in human beings according to Article 387a of the Criminal Code, but were found guilty of the criminal offence of Violent Conduct according to Article 299 of the Criminal Code – the court held that there was not enough evidence to establish their guilt.</p> <p>Namely, after the facts of the case were established, the Court held that they did not constitute the “forced” accommodation nor “forced” labour element of THB, since the victim came to live with the defendant on his own initiative, willingly and knowing that he would have to repay the housing, food and alcohol costs by working for the defendants. The “forced labour” element required proof of literally forcing the victim into an activity that he would not otherwise have engaged in on his own free will, and the defendants would have to feel entitled to the victim as their property, not permitting him to act according to his own will. The Court held that there was not enough proof to state that the defendants forcibly accommodated the victim at their place for forced labour, and that they would force him to work for them by beating and humiliating him. The victim’s freedom of movement was not breached, and the defendants did not confine him to their property in order to force him into labour. It is true though, that the victim escaped the beatings on several occasions, and that the defendants tracked him down, but, according to the Court, they did so out of fear of the victim reporting them to the Police, not for the purpose of forcing him to continue to work for them.</p> <p>The victim was not awarded compensation for non-pecuniary and pecuniary damages.</p> <p>The court held that data collected in the criminal procedure did not provide a reliable basis to award either full or partial compensation. Instead, the victim was instructed to seek compensation through civil proceedings⁽⁹⁶⁸⁾.</p>
	Was the victim awarded compensation for damages/moral pain and suffering? What was the court’s reasoning?	<p>Yes. Immediately upon the discovery of the criminal offence, the police contacted the organisation Klujuč, with whom the police has signed an agreement of mutual cooperation in cases of suspected THB victims. The police considered the victim faced a security threat from the local Roma people and needed to be accommodated in a safe house, and that he was in a need of an immediate psychological help as well as medical treatment. After some time of constant care, Klujuč evaluated the victim and concluded that he needed a continuous psychosocial and medical treatment and that he should stay at a safe location. Klujuč arranged for every kind of support the victim needed (accommodation in a safe house, psychological, psychiatric and medical treatment, including to treat his alcohol dependence, legal help, 24-hour access to support from the workers at Klujuč, security protection, accompaniment to everywhere he wanted to go and to the court, planning a reintegration process, help with the processing of documents, therapy with animals). Klujuč also helped the victim to file for compensation according to the Crime Victim Compensation Act, and made an agreement with a private law firm to represent the victim during the trial before the court.</p> <p>In February 2008 the competent Social Work Centre appointed itself to act as a guardian of the victim.</p>
Victim support	Did the victim receive any kind of support by public authorities (e.g. social workers)/NGOs?	

⁽⁹⁶⁸⁾ According to the Article 104 §1. of the Criminal Procedure Act, the court may in returning a verdict of guilty grant the indemnity claim of the injured party in full, or it may grant the claim in part and direct the injured party to sue for the balance in civil proceedings. If the data collected in criminal procedure do not provide a reliable basis to award either full or partial indemnification, the court shall instruct the injured party that he may seek satisfaction in civil proceedings.

Resources (financial and human resources)	<p>Within the police and competent State Prosecutor's Office no issues concerning human and financial resources were raised. The Labour Inspectorate, however, can perform control over the implementation of provisions concerning law of employment relationships only on the basis of individual reports on suspected cases of its violations. The Inspectorate's competence to perform its duties beside such individual reports is limited, namely on the basis of the Ministry's policy guidelines and in reference to risk factors that manifest themselves in different areas of the inspectorate's work⁽⁹⁶⁹⁾. In the area of employment relationships there are only 46 inspectors currently employed at the Labour Inspectorate and they provide for control over the whole county's territory, whereas in 2014 the inspectorate received over 6500 individual reports on suspected cases of employment relationship violations⁽⁹⁷⁰⁾. The inspectors are therefore in a position where they can barely manage just the control over individual reports as presented before.</p> <p>Yet the more the lack of knowledge was raised as a greater barrier to the prosecution of THB for forced labour cases. To be more precise, the lack of knowledge concerning the identification of potential victims through elements of THB, especially "forced labour" and "the purpose of its exploitation". Overcoming this barrier should demand new and constant knowledge of new and different modes of interpersonal and work relationships, awareness of the traps of migration as well as of the powers employers hold over migrant workers. More and more police officers and criminal inspectors, together with State Prosecutors and labour inspectors, are being integrated into additional education and training every year; their aim is to increase the share of identified forms of THB through relevant indicators which apply to potential victims and perpetrators. Special attention is also paid to procedures and handling of potential victims.</p>
Role of labour inspectors	The labour inspector played no role in the prosecution of this case.
Case study source	<ul style="list-style-type: none"> Interviews with stakeholders (NGO, prosecutors, labour inspector, police). Written court files of the case

⁽⁹⁶⁹⁾ For example: control over employment relationships; control over safety and health of workers in the workplace; control over both of the previously named areas of control ; control over social protection of employees.

⁽⁹⁷⁰⁾ According to the "Summary of the Report on the work of the Labour Inspectorate of the Republic of Slovenia in 2012" at the end of 2012 there were additional 29 inspectors employed at the inspectorate in the area of safety and health of workers in the workplace, and 3 inspectors in the area of social protection.

Case study 2: SI-002

	An official summary of the judgment is not available.	
	Upon pleading guilty to the charges, the defendant was found guilty of criminal offence according to Article 113 of the Criminal Code (Trafficking in human beings).	
	Through deception and exploitation of subordinate and dependant position, the defendant recruited two men in Slovakia on 6 August 2012 for the purpose of forced labour in Slovenia. By using their social and financial hardship, and promising both EUR 250 in exchange for an everyday work as beggars, and what would have lasted for 3 weeks, the defendant drove the victims to Maribor, and ordered them where exactly they should beg for money, whereas one of the victims had to perform pantomime as well. The victims were ordered to hand over to the defendant everything they earned during the day, and they were put under constant psychological and physical pressure by the defendant. Since the victims had no money at all, were situated in a foreign country and had no vehicle at their disposal, the defendant was able to completely subjugate both men to him, and to dispose freely of them.	
Summary of the case	The reasoning of the judgment states, that while holding in mind the gravity of the offence and the defendant's culpability, the Court also acknowledges the punitive policy of the European Union as reflected in Directive 2011/36/EU, due to direct economic exploitation of the control one holds over a person in need. In fixing the sentence, the Court considered several aggravating circumstances, such as the fact, that the defendant had prepared a plan for the offence beforehand, he had also picked up two individuals who he knew had been battling social and financial deprivation, had limited intellectual capabilities, and considered also the defendant's inclinations in pursuing his own financial proceeds by exploiting two other men and forcing them into begging. On the other hand, only one mitigating circumstance was considered, i.e. the defendant's confession. Based on Articles 50 and 51 of the Criminal Code, the sentence was reduced below the prescribed limits of Article 113 of the Criminal Code; the judgment provides no further explanation, but according to Article 285.č \$6 of Criminal Procedure Act, the Court may not impose a more severe penalty than what the State Prosecutor proposed before the defendant pleaded guilty. In this case, the State Prosecutor requested that the defendant be imprisoned for 2 (two) years and 6 (six) months.	
Competent Court	1 st instance court: District Court of Maribor	
Legal provision applied	The perpetrator was charged with the criminal offence of Trafficking in Human Beings according to Article 113 of Criminal Code of Republic of Slovenia.	
Sentence/compensation awarded	The perpetrator was sentenced to 2 (two) years and 6 (six) months of imprisonment.	
Date/period of forced labour (month/year)	The victims were not awarded any compensation.	
	From 7 August 2012 to 9 August 2012.	
Profile of the victim(s) (e.g. country of origin, gender, age, occupation of the victim prior to the incident of forced labour)	Country of origin	Two victims were identified, and both were of Slovak nationality.
	Gender	Male (both)
	Age	50 years old (born in 1962) 25 years old (born in 1987)
	Sector	No specific sector (both victims were forced into begging)
	Migratory status	EU nationals
	Knowledge of local language	One of the victims had the knowledge of Croatian language, which is generally understood in Slovenia. The other victim had no knowledge of the Slovene language.
How was the victim recruited and how did they come to be in the situation of forced labour?	The perpetrator recruited both victims himself in Slovakia, and drove them to Slovenia. The perpetrator visited both of the victims himself and convinced them to come to Slovenia with him, where they would earn some money, but would have to beg for the perpetrator. He gave the older one of the two victims approximately EUR 100 to earn his trust. This victim had previously been begging for the perpetrator in Italy and knew the perpetrator as abusive (the perpetrator took all the money that "his" beggars earned and was violent if they kept some of the earned money from him). As for the younger one of the two victims, the perpetrator tried to convince him by giving the victim EUR 50 in advance, only to resort to threats and pointing to himself as a member of the local criminal gang afterwards.	

Elements of vulnerability	Poverty	The older victim was a married man with 10 children, 3 of them were already grown up, but he still had to support 7 other children, aged from 2 to 23. This victim was unemployed and had not finished the agricultural education. The younger victim was also a married man and a father of a 1 year-old child, with another child on the way, also unemployed. According to his own words, he only completed one year of primary education, was unable to read and count, and only distinguished 10 and 20 euro notes. He could not tell apart different euro coins.	
		X	The older one of the two victims told the police that he had to beg for money in front of different shopping malls in Maribor on behalf of a man, who had drove him (the victim) from Slovakia, and whose name was not known to the victim, except for the nick-name. The victim also told to the police, that he had to beg for 12 hours a day, that at the end of the day he had to hand over all of the money earned that day, which was approximately EUR 60.
Identification/reporting of offences	<i>The victim reported the offence to the authorities (e.g. the police, labour inspectorate) himself/herself</i>	X	The police was controlling the vicinity of the shopping malls in the centre of Maribor for the purpose of regulating residential status of the beggars. One of the victims told the police how he came to start begging in Maribor. Since what was told to the police officers constituted grounds for suspicion that a criminal offence liable to public prosecution has been committed, the police was bound to take steps necessary for discovering the perpetrator.
	<i>The authorities began the investigation ex officio</i>		
	<i>The case was brought to the attention of the authorities by an association/NGO</i>		
	<i>Other (please specify)</i>		
Criminal investigation	<i>Which authority/unit was responsible for the criminal investigation of this case?</i>	The police	
	<i>How long after the victim started being subject to forced labour did the criminal investigation of the matter begin?</i>	After 2 days. The perpetrator drove both of the victims to Slovenia on 7 August 2012, and on 9 August 2012 the police first interviewed one of the victims and arrested the perpetrator on the same day.	
	<i>What was the length of the investigation?</i>	The police investigation lasted for 3 days, and the police crime report was filed with the competent District State prosecutor Office on 11 th August 2012. The latter submitted a request for investigations to the investigating judge at the District court of Maribor on 13 August 2012, and the pre-trial investigation procedure lasted for less than a month ⁽⁹⁷¹⁾ .	
	<i>What were the difficulties in the bringing this case to the court?</i>	None identified	
	<i>Was the victim required to testify at the pre-trial stage of the proceedings? If yes, did the authorities use any mechanisms to protect the safety of the victim (e.g. via a witness protection programme) or protect him/her from secondary victimisation?</i>	Yes Since both the victims stated to the police that they would like to go back home to Slovakia, they were required to testify immediately upon the discovery of the offence, i.e. the next day. The testimonies were conducted through the help of interpreter. No specific mechanisms to protect the safety of the victim were used, since none of the victims displayed fear or reluctance toward testifying.	
	<i>Were there any problems/issues pertaining to the collection of evidence?</i>	The testimonies were conducted before the investigative judge of the District Court of Maribor. The defendant was not present during the questioning of either of the victims. No	

⁽⁹⁷¹⁾ The speed of the police and court investigations is due to the fact that against the defendant a remand in custody was ordered, i.e. on 8th August 2011, and it lasted until the commencement of the imprisonment.

Court proceedings	Was the victim required to testify in court? If yes, what effect is the witness testimony perceived to have had on the successful prosecution of the offenders?	Both victims were required to testify before the investigative judge in the pre-trial (police) phase of the procedure. After the charges against the perpetrator were brought, it did not come to the trial phase, since the defendant pleaded guilty to the charges. Consequently, only evidence related to the decision on punishment were produced. Their testimony was essential for the successful prosecution, since – besides the victims' testimonies – the charges against the defendant were substantiated only by the testimonies of the two police officers who first interviewed the victims, and by the documents that proved one of the victims was carrying approximately EUR 100 in different coins with him (i.e. at the time of the arrest of the defendant), and what was seized during the search of the defendant's car (a note with written Slovenian cities, EUR 350 in different bank-notes, both the victims' luggage).
	If the victim testified in court, did he/she do so in camera, in the courtroom (in the defendant's presence) or the court used the victim's testimony during the investigation phase?	When the victims testified before the investigative judge, they did so in the courtroom, without the presence of the defendant, since the court ordered remand custody against him.
	Did the victim seek compensation for the damages suffered (e.g. by constituting himself/herself as a civil claimant)? If yes, did he/she receive support by the State (e.g. legal representation/legal aid)?	Neither of the victims sought compensations for the damages. They also did not receive support in the form of legal representation or legal aid, since immediately upon the discovery of the offence they wanted to return to Slovakia as soon as possible.
	What type of evidence was submitted to the court? Where there any issues with the admissibility of evidence?	The charges against the defendant were brought on the basis of: <ul style="list-style-type: none"> • testimonies of the victims • testimonies of the two police officers who conducted the first interviews with the victims • record on seizure of items found during the search of the defendant's car • photos of the above mentioned items • record on seizure of items found with the defendant upon his arrest There were no issues with the admissibility of evidence.
	How long did it take for the court to issue its judgment (for first instance cases, from the prosecution, for second and third instance cases, from the day the appeal was filed)?	From the start of the prosecution, it took one month and a half for the court to issue its judgment. The request for investigation was submitted on 13 August 2012, the charges were brought on 6 September 2012, and the judgment was issued on 3 October 2012. The first instance judgment was not appealed.
Delivery of the court judgment	Was the defendant found innocent/guilty? If he/she was found innocent, was it due to procedural grounds or because the evidence presented was insufficient not substantiate his guilt?	The defendant was found guilty, but there was no trial before the court. The defendant pleaded guilty at the first hearing, therefore the court did not have to interpret the term "forced labour" or "exploitation of labour" in the reasoning of the judgment, and it only gave written reasons for sentencing (i.e. why was the defendant sentenced to 2 years and 6 months imprisonment). The judgment was not appealed.
	Was the victim awarded compensation for damages/moral pain and suffering? What was the court's reasoning?	No The victims did not claim any damages.

Victim support	<p>Did the victim receive any kind of support by public authorities (e.g. social workers)/NGOs?</p>	<p>Yes</p> <p>Upon the discovery of the criminal offence, the police contacted the organisation "Karitas" on 10 August 2012, which provided for emergency accommodation for both victims. Namely, the police informed Karitas that both victims would like to return to Slovakia as soon as possible, and while they were giving their testimonies before the investigative judge, Karitas arranged for the transportation of the victims back to Slovakia. When they arrived at the Karitas headquarters that same day, they were provided with immediate psychosocial help from a professional working at Karitas. The latter (with the help of the Embassy of Slovak Republic) prepared a translation of detailed instructions on how to safely return to Slovakia by train. Together with police officers, two Karitas employees escorted the victims to the train station, explained the described assistance, and assisted them with some food, clothes and money for them and their children. Since immediately upon the discovery of the offence, the victims expressed a firm desire to return home as soon as possible, and their wish was abided by, they did not wish to call home. The Slovak Embassy was informed of the proceedings.</p>
Resources (financial and human resources)	The same comments apply as stated in the previous case.	
Role of labour inspectors	The labour inspector played no role in the prosecution of this case.	
Case study source	<ul style="list-style-type: none"> Interviews with stakeholders (NGOs, prosecutors, labour inspector, police). Written court files of the case. 	

⁽⁹⁷²⁾ Stakeholder consultation (prosecutor).

SWEDEN

Case study 1: SE-001

Summary of the case	<p>The official summary of the judgment is not available.</p> <p>The two Pakistani defendants, father and son, were charged with usury under the Swedish Penal Code.</p> <p>Facts: The victims were three men from Pakistan who had been recruited by two defendants – their countrymen, to work in a car repair shop in Sweden. The victims knew the defendants already in Pakistan, as they had been working in the defendants' Pakistani car repair service before being recruited to Sweden. The victims were required to work up to 16 hours a day. The workers had employment agreements with a salary of SEK 21 000 (EUR 2 100) but they had to give each month a large part of the salary back to the defendants. Their residence permit was tied to their employment, and when they complained, the defendants threatened them with sending them back to Pakistan.</p> <p>Judgment: The court found the defendants guilty of usury and sentenced them to 240 hours of community service and to jointly pay a total amount of SEK 15 000 (EUR 1 500) to each of the victims.</p>	
Competent Court	Skelefeå District Court, 1 st instance	
Legal provision applied	<p>"Chapter 9, section 5, paras 1 and 3 of the Penal Code:</p> <p>A person who in connection with a contract or other legal transaction takes advantage of someone's distress, innocence or thoughtlessness or dependent relationship to him in order to obtain a benefit which is clearly disproportionate to the consideration afforded or for which no consideration will be provided, shall be sentenced for usury to a fine or imprisonment for at most two years.</p> <p>[...]</p> <p>If the crime is gross, imprisonment for at least six months and at most four years shall be imposed."</p>	
Sentence/compensation awarded	240 hours of community service and damages in the amount of SEK 15 000 (EUR 1 500) to each of the victims.	
Date/period of forced labour (month/year)	During different periods between 2010 and 2012.	
Profile of the victim(s) (e.g. country of origin, gender, age, occupation of the victim prior to the incident of forced labour)	Country of origin	3 victims from Pakistan
	Gender	Male
	Age	46, 35, 23
	Sector	Wholesale and retail trade, repair of motor vehicles and motorcycles
	Migratory status	Regular migrants
How was the victim recruited and how did they come to be in the situation of forced labour?	Knowledge of local language	None
	The defendants knew the victims already in Pakistan. All of the victims had been working for the defendants in their car repair in Pakistan. The defendants offered them employment in Sweden, which the victims accepted.	
Elements of vulnerability	The victims did not speak any Swedish, they did not have any social network in Sweden and their residence permits were tied to their employment. Thus, they were dependent on the defendants to get by in Sweden.	

Identification/reporting of offences	The victim reported the offence to the authorities (e.g. the police, labour inspectorate) himself/herself	There is no information about this in the police report, and the interviewee ⁽⁹⁷²⁾ did not know how the offence was reported to the authorities.
	The authorities began the investigation <i>ex officio</i>	As above, no information available.
	The case was brought to the attention of the authorities by an association/NGO	As above, no information available.
	Other (please specify)	-
	Which authority/unit was responsible for the criminal investigation of this case?	The police.
Criminal investigation	How long after the victim started being subject to forced labour did the criminal investigation of the matter begin?	One year. The victims were recruited in 2010, the case was referred to the prosecutor in November 2011, and the court proceedings started in early spring 2012.
	What was the length of the investigation?	There is no information about this in the police report, and the interviewee did not know.
		This case initially was identified by the police and the prosecutor as human trafficking. However, the prosecutor decided that it was not possible to prove it (no detailed information available). Therefore, instead, the defendants were prosecuted for usury.
	What were the difficulties in the bringing this case to the court?	The difficulties in bringing the case to the court included: 1) the complicated nature and complexity of the Swedish legislation on THB for forced labour; 2) the lack of relevant experience on the part of the Police and Prosecution to investigate and prosecute a human trafficking case; 3) difficulties in obtaining victim testimonies as the victims did not speak Swedish and had to have an interpreter present; 4) difficulties in ascertaining the authentication of documents from Pakistan presented by the victims and defendants.
	Was the victim required to testify at the pre-trial stage of the proceedings? If yes, did the authorities use any mechanisms to protect the safety of the victim (e.g. via a witness protection programme) or protect him/her from secondary victimisation?	The victims were required to testify during the investigation and during the court proceedings. They each had a counsel for an injured party (målsägandebiträde). The victims were afraid of the defendants; they had been threatened. They feared for their safety both in Sweden and back home in Pakistan. The victims had been in contact with the Police's Personal Safety Unit about this, but the interviewee did not know if they received any protection.
Court proceedings	Were there any problems/issues pertaining to the collection of evidence?	No.
	Was the victim required to testify in court? If yes, what effect is the witness testimony perceived to have had on the successful prosecution of the offenders?	Yes, they testified in court. The victim testimonies were absolutely crucial for the case. Without their testimonies there would have been no case.
	If the victim testified in court, did he/she do so in camera, in the courtroom (in the defendant's presence) or the court used the victim's testimony during the investigation phase?	The victims testified in the courtroom in the defendants' presence.
	Did the victim seek compensation for the damages suffered (e.g. by constituting himself/herself as a civil claimant)? If yes, did he/she receive support by the State (e.g. legal representation/legal aid)?	The prosecutor sought damages for the victims in the criminal case. The victims were supported throughout the trial by counsels for injured parties (målsägandebiträde), which are paid by the State.
	What type of evidence was submitted to the court? Where there any issues with the admissibility of evidence?	Payment slips, bank transfers, victim and witness testimonies. There were some difficulties in ascertaining the authentication of documents from Pakistan presented by the victims and defendants.

Delivery of the court judgment	How long did it take for the court to issue its judgment (for first instance cases, from the prosecution; for second and third instance cases, from the day the appeal was filed)?	1 month.
	Was the defendant found innocent/guilty? If he/she was found innocent, was it due to procedural grounds or because the evidence presented was insufficient not substantiate his guilt?	Guilt of usury. The prosecutor did not provide information on why the defendants were not charged with THB for forced labour.
	Was the victim awarded compensation for damages/moral pain and suffering? What was the court's reasoning?	Yes. "In the District Court's opinion, the offence has constituted such a serious invasion of privacy, that the plaintiffs are entitled to damages". The victims were awarded damages in the amount of SEK 15 000 each (about EUR 1 500).
Victim support	Did the victim receive any kind of support by public authorities (e.g. social workers)/NGOs?	It seems that no such assistance was provided.
Resources (financial and human resources)	The case was investigated and prosecuted without delay. Thus, there is no indication that the resources were not sufficient. The prosecutor on the case, however, had no previous experience with cases relating to THB for forced labour.	
Role of labour inspectors	No labour inspectors were involved in this case. The Swedish Work Environment Authority does not have a specific role or mandate to combat THB. Labour inspectors are responsible only for checking health and safety at workplaces ^(97,2) .	
Case study source	Judgment B 179-12, received from the court archives. Interview with a prosecutor.	

Case study 2: SE-002

Summary of the case	The official summary of the judgment is not available. The two Serb defendants were charged with THB under the Swedish Penal Code.	
	<p>Facts: 12 people had been recruited by the defendants in their home country Bulgaria to come to Sweden and pick berries. It was agreed that the defendants would get half of the proceeds from the berry picking, and that costs for the trip, living expenses and food would also be deducted. The defendants drove some of the victims to Sweden, some other drove in their own cars. Upon arrival they took the victims passports. The victims were sleeping in cars and outside toilets, some in tents, and were told to find food in dumpsters. The defendants were threatening the victims every day and telling them to pick more berries or they would sell the victims to other Bulgarian berry pickers. When some of the victims wanted to leave, they were threatened to their lives. The victims were never paid any money, despite working every day and delivering boxes of berries. The victims came in touch with another countryman who spoke Swedish, and through him reported the case to the police. The police started the investigation and arrested the defendants.</p> <p>Judgment: The court found the defendants guilty of THB. The court stated that defendants jointly and in agreement, using the victims' exposed situation, recruited, transported, harboured and, in one case, received, the victims, with the purpose of exploiting the victims for forced labour and thereby taken control over the victims⁽⁹⁷⁴⁾.</p> <p>Appeal: The judgment was appealed. Since the defendants did not show up at the court of appeal, the court dismissed the appeal. The defendants then appealed to the Supreme Court, which did not give leave to appeal. Thus, the judgment from the District Court of Hudiksvall is the final judgment.</p>	
Competent Court	District Court of Hudiksvall, 1 st instance.	
Legal provision applied	<p>Chapter 4, section 1a, paras 1 and 3 of the Penal Code:</p> <p>A person who, in other cases than those mentioned in section 1, by unlawful coercion, deception, exploitation of someone's vulnerability or by any other such improper means, recruits, transports, transfers, harbours or receives a person in order that he or she is exploited for the purposes of sexual exploitation, removal of organs, military service, forced labour, or other activity in a situation that puts the victim in distress, shall be sentenced for human trafficking to imprisonment for at least two years and at most ten years.</p> <p>[...]</p> <p>If the crime is of a less serious nature, imprisonment for at most four years shall be imposed.</p> <p>10 months imprisonment.</p> <p>Both defendants were fined with SEK 500 (around EUR 50) payment to the Fund for Victims of Crimes.</p> <p>Compensation SEK 10 000 (around 1 050 EUR) to 9 victims, SEK 25 000 (around EUR 2 600) to 3 victims.</p> <p>Expulsion from Sweden until 2022.</p>	
Date/period of forced labour (month/year)	July – October 2009	
Profile of the victim(s) (e.g. country of origin, gender, age, occupation of the victim prior to the incident of forced labour)	Country of origin	12 victims from Bulgaria
	Gender	Both male and female
	Age	Unknown
	Sector	Agriculture, forestry and fishing
	Migratory status	EU citizens
	Knowledge of local language	None

⁽⁹⁷³⁾ GRETA Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Sweden, available at: http://www.coe.int/t/dghl/monitoring/trafficking/Docs/Reports/GRETA_2013_10_FGR_SWE_en.pdf p. 34.

How was the victim recruited and how did they come to be in the situation of forced labour?	The victims were recruited by the defendants in Bulgaria. The defendants were driving around in Bulgaria and asking strangers if they wanted to go to Sweden for work.		
Elements of vulnerability	The victims had a low level of education and could not read or write; the victims had experienced poverty in their home country; the defendants took control over the victims by taking away their IDs/passports upon their arrival in Sweden; the victims had no financial means while in Sweden; furthermore, the victims were put in an economic debt relationship to the defendants as they had to pay back for the trips, etc.		
Identification/reporting of offences	The victim reported the offence to the authorities (e.g. the police, labour inspectorate) himself/herself	The victims reported the offence to the police.	
	The authorities began the investigation <i>ex officio</i>	-	
	The case was brought to the attention of the authorities by an association/NGO	-	
	Other (please specify)	-	
	Which authority/unit was responsible for the criminal investigation of this case?	The police.	
Criminal investigation	How long after the victim started being subject to forced labour did the criminal investigation of the matter begin?	Four months.	The police investigated the case for about two months. The police already had some experience with THB for human trafficking from case SE-003 (see below) and started the investigation immediately and concluded it promptly.
	What was the length of the investigation?		There were several problems pertaining to the credibility of victim testimonies . As mentioned above, the victims were illiterate and therefore it was difficult to obtain credible testimonies in order to have sufficient evidence for bringing the case to the court.
	What were the difficulties in the bringing this case to the court?		Yes, the victims testified during the investigation. No mechanisms for witness protection were used.
	Was the victim required to testify at the pre-trial stage of the proceedings? If yes, did the authorities use any mechanisms to protect the safety of the victim (e.g. via a witness protection programme) or protect him/her from secondary victimisation?		According to the prosecutor, there were many problems with the case, starting with the low level of education of the victims. Illiterate persons have a completely different way of understanding things. For instance, the victims had trouble with understanding the difference between experiencing or witnessing something themselves, or only hearing an account of something from somebody else. They would tell stories as if they had witnessed them themselves, but upon further investigation it would turn out that they had only heard an account of what had happened from somebody else. They also had problems with understanding time and giving accounts in chronological order; they were not able to say whether two events occurred at the same time or months apart. Another problem was the language. The victims were Roma and there are not that many Roma interpreters in Sweden.
	Were there any problems/issues pertaining to the collection of evidence?		

⁽⁹⁷⁴⁾ UNODC case-law database: http://www.unodc.org/cld/case-law-doc/doc/traffickingpersonscrimtype/swe/2011/case_no_b_2219-12.html?tmpl=old

Court proceedings	Was the victim required to testify in court? If yes, what effect is the witness testimony perceived to have had on the successful prosecution of the offenders?	Some of the victims testified in court. No information is available on why the other victims did not testify in court.
	If the victim testified in court, did he/she do so in camera, in the courtroom (in the defendant's presence) or the court used the victim's testimony during the investigation phase?	The victims participated through a video link from Bulgaria.
	Did the victim seek compensation for the damages suffered (e.g. by constituting himself/herself as a civil claimant)? If yes, did he/she receive support by the State (e.g. legal representation/legal aid)?	The prosecutor sought damages for the victims in the criminal case. The victims were supported throughout the trial by counsels for injured parties (målsägandebiträde), which are paid by the State.
	What type of evidence was submitted to the court? Where there any issues with the admissibility of evidence?	Testimonies from the victims, witnesses, and the police. There were no issues with the admissibility of the evidence.
Delivery of the court judgment	How long did it take for the court to issue its judgment (for first instance cases, from the prosecution; for second and third instance cases, from the day the appeal was filed)?	Three months from when the court received the prosecution documents.
	Was the defendant found innocent/guilty? If he/she was found innocent, was it due to procedural grounds or because the evidence presented was insufficient not substantiate his guilt?	The defendants were found guilty and sentenced to 10 months imprisonment.
	Was the victim awarded compensation for damages/moral pain and suffering? What was the court's reasoning?	Yes. The victims were awarded compensation for moral pain and suffering. The court noted that there is no case-law with regard to damages related to THB for forced labour and used its own discretion to calculate the damages. The court did not elaborate on the calculation of damages.
Victim support	Did the victim receive any kind of support by public authorities (e.g. social workers)/NGOs?	It appears that no such support was provided.
Resources (financial and human resources)	The case was investigated and prosecuted promptly. Thus, the financial and human resources did not have a negative impact on the investigation and prosecution of the case.	
Role of labour inspectors	No labour inspectors were involved in the case. The Swedish Work Environment Authority does not have a specific role or mandate to combat THB. Labour inspectors are responsible only for checking health and safety at workplaces ⁽⁹⁷⁵⁾ .	
Case study source	<ul style="list-style-type: none"> Judgment B 2220-11, received from the court archives (information available also at http://www.unodc.org/cld/case-law-doc/traffickingpersons/crimetype/swe/2012/case_no_b_2220-11.html?tmpl=old); Interview with a prosecutor. 	

⁽⁹⁷⁵⁾ GRETA Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Sweden, available at: http://www.coe.int/t/dghl/monitoring/trafficking/Docs/Reports/GRETA_2013_10_FGR_SWE_en.pdf, p. 34.

Case study 3: SE-003

Summary of the case	<p>The official summary of the judgment is not available.</p> <p>The two Bulgarian defendants were charged with THB under the Swedish Penal Code.</p> <p>Facts: The defendants recruited the victims in Bulgaria for berry picking in Sweden. The couple had promised that transportation, accommodation and expenses would be free of charge and that they would get well paid for the berry picking. They transported the victims to Sweden and took their passports upon the arrival. Once in Sweden, they beat and threatened the victims and did not pay for the work done. The victims reported them to the police.</p> <p>Judgment: The court found the defendants guilty of assault and unlawful dispossession and sentenced the defendants to three months imprisonment, fines and to pay compensation to the victims. The court dismissed the charges on human trafficking, on the grounds that the necessary requisites for the crime were not met. The court found no causality between the "unlawful coercion" to perform the work and the other requisites defined by the law: recruitment, transportation, transfer, harbouring or receiving of a person. The court also considered that it was not proved that the defendants, already in Bulgaria, intended to deceive the victims on compensation.</p>	
Competent Court	District Court of Hudiksvall, 1 st instance	
Legal provision applied	Chapter 3, section 5 of the Penal Code (assault); Chapter 8, section 8 of the Penal Code (unlawful dispossession); Chapter 4, section 1a of the Penal Code (human trafficking); NB that there was a conviction on the two other grounds (assault and unlawful dispossession) but not on the ground of THB for forced labour.	
Sentence/compensation awarded	3 months imprisonment. Both defendants were also fined with SEK 500 (around EUR 50) payment to the Fund for Victims of Crimes and ordered to pay compensation to one of the victims each SEK 5 000 (around EUR 500) and 7 000 (around EUR 700) respectively.	
Date/period of forced labour (month/year)	July–August 2011	
Profile of the victim(s) (e.g. country of origin, gender, age, occupation of the victim prior to the incident of forced labour)	Country of origin	3 victims from Bulgaria
	Gender	Male
	Age	Unknown
	Sector	Agriculture, forestry and fishing
	Migratory status	EU citizens
How was the victim recruited and how did they come to be in the situation of forced labour?	Knowledge of local language	None
	The defendants, together with another person, recruited the victims directly in Bulgaria. The victims were living in the same area where the defendants.	
Elements of vulnerability	The victims had a low level of education and could not read or write; the victims had experienced poverty in their home country; one of the victims was mentally impaired; the victims did not speak Swedish and did not have any money.	

Identification/reporting of offences	The victim reported the offence to the authorities (e.g. the police, labour inspectorate) himself/herself	The victims reported the offence to the authorities.
	The authorities began the investigation <i>ex officio</i>	-
	The case was brought to the attention of the authorities by an association/NGO	-
	Other (please specify)	-
	Which authority/unit was responsible for the criminal investigation of this case?	The police.
Criminal investigation	How long after the victim started being subject to forced labour did the criminal investigation of the matter begin?	There is no information on how long the victims were exploited before the investigation started. The police did not have previous experience with THB for forced labour cases and it did not realise what it was about and did not start the investigation immediately. The victims had already left the country once the investigation started.
	What was the length of the investigation?	Over a year.
	What were the difficulties in the bringing this case to the court?	According to the prosecutor, there were many problems with the case. The victims were illiterate; one of them was mentally impaired. Illiterate people do not have the same understanding of things as a regular person who can read and write. Illiterate people often have trouble with distinguishing own experience from things that they have only heard about. They also have problems with chronology. Because of this their accounts do not always sound believable and thus affect the credibility of testimony . Another problem was that the court had no previous experience with THB for forced labour cases. The court also had no previous experience with the type of vulnerability that these victims experienced in their daily lives and their dire situation. The court had no previous experience with how to proceed in this kind of cases. International legal cooperation between Swedish and Bulgarian authorities was also an issue. The authorities requested assistance from Bulgaria but it took time to get any response. This made it hard to plan for the court proceedings.
	Was the victim required to testify at the pre-trial stage of the proceedings? If yes, did the authorities use any mechanisms to protect the safety of the victim (e.g. via a witness protection programme) or protect him/her from secondary victimisation?	The victims testified during the investigation. No mechanisms were used to protect the safety of the victims.
	Were there any problems/issues pertaining to the collection of evidence?	Yes. As already explained above, the victims were illiterate and did not have a basic understanding of things like chronology or witnessing something vs. hearing about something. This also made their statements less credible . A Roma interpreter had to be used and there are not that many Roma interpreters.

Court proceedings	Was the victim required to testify in court? If yes, what effect is the witness testimony perceived to have had on the successful prosecution of the offenders?	Yes, they were present and testified in court. There were some difficulties with getting a Roma interpreter as there are not so many Roma interpreters in Sweden.
	If the victim testified in court, did he/she do so in camera, in the courtroom (in the defendant's presence) or the court used the victim's testimony during the investigation phase?	The victims testified in the court in the presence of the defendants.
	Did the victim seek compensation for the damages suffered (e.g. by constituting himself/herself as a civil claimant)? If yes, did he/she receive support by the State (e.g. legal representation/legal aid)?	The prosecutor sought damages for the victims in the criminal case. The victims were supported throughout the trial by counsels for injured parties (målsägandebiträde), which are paid by the State.
Delivery of the court judgment	What type of evidence was submitted to the court? Where there any issues with the admissibility of evidence?	Documents and journals from the police investigation, photos, DVDs with a reconstruction of the events.
	How long did it take for the court to issue its judgment (for first instance cases, from the prosecution; for second and third instance cases, from the day the appeal was filed)?	One month.
	Was the defendant found innocent/guilty? If he/she was found innocent, was it due to procedural grounds or because the evidence presented was insufficient not substantiate his guilt?	The defendants were found guilty of assault and unlawful dispossession but not of THB for forced labour . The court found that the necessary prerequisites for THB for forced labour were not met. The court found no causality between the "unlawful coercion" to perform the work and the other requisites defined by the law: recruitment, transportation, transfer, harbouring or receiving of a person. The court also considered that it was not proved that the defendants, already in Bulgaria, intended to deceive the victims on compensation.
Victim support	Was the victim awarded compensation for damages/moral pain and suffering? What was the court's reasoning?	The victims received compensation for moral pain and suffering for the beatings of the victims.
	Did the victim receive any kind of support by public authorities (e.g. social workers)/NGOs?	No information.
	The case was investigated on time, it appears there were sufficient resources to investigate.	
Resources (financial and human resources)	No labour inspectors were involved in the case. The Swedish Work Environment Authority does not have a specific role or mandate to combat THB. Labour inspectors are responsible only for checking health and safety at workplaces ⁽⁹⁷⁶⁾ .	
Role of labour inspectors		
Case study source		
	<ul style="list-style-type: none"> Judgment B 1834-11, received from the court archives (information available also at http://www.unodc.org/cld/case-law-doc/traffickingpersonscrimetype/swe/2011/case_no_b_1834-11.html?tmpl=old). Interview with a prosecutor. 	

⁽⁹⁷⁶⁾ GRETA Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Sweden, available at: http://www.coe.int/t/dghl/monitoring/trafficking/Docs/Reports/GRETA_2013_10_FGR_SWE_en.pdf, p. 34.

Case study 4: SE-004

Summary of the case	<p>The official summary of the judgment is not available.</p> <p>The three British defendants were charged with THB under the Swedish Penal Code.</p> <p>Facts: The victims were recruited in the UK by the defendants to do construction work in Sweden. They were transported first to the Netherlands and then to Sweden. They lived in camping cars and knocked on doors to find construction work. When they had work, they were paid between EUR 10-15 a day. The victims felt that they had been used by the defendants and reported them to the police.</p> <p>Judgment: The court found that it had not been proven that the injured parties were victims of human trafficking and dismissed the case.</p>	
Competent Court	Malmö District Court, 1 st instance	
Legal provision applied	<p>Chapter 4, section 1a of the Penal Code:</p> <p>A person who, in other cases than those mentioned in section 1, by unlawful coercion, deception, exploitation of someone's vulnerability or by any other such improper means, recruits, transports, transfers, harbours or receives a person in order that he or she is exploited for the purposes of sexual exploitation, removal of organs, military service, forced labour, or other activity in a situation that puts the victim in distress, shall be sentenced for human trafficking to imprisonment for at least two years and at most ten years.</p> <p>[...]</p> <p>If the crime is of a less serious nature, imprisonment for at most four years shall be imposed.</p>	
Sentence/compensation awarded	The case was dismissed .	
Date/period of forced labour (month/year)	January – April 2010	
Profile of the victim(s) (e.g. country of origin, gender, age, occupation of the victim prior to the incident of forced labour)	Country of origin	3 victims from the UK
	Gender	Male
	Age	35, 31, 24
	Sector	Construction
	Migratory status	EU citizens
How was the victim recruited and how did they come to be in the situation of forced labour?	Knowledge of local language	None
	The victims were recruited in the UK by the defendants. The defendants had randomly met the victims, for example, by chatting up one of them outside a phone booth.	
Elements of vulnerability	The victims had a low level of education; had experienced poverty in their home country; the victims were homeless in the UK; some of the victims were mentally fragile.	

Identification/reporting of offences	The victim reported the offence to the authorities (e.g. the police, labour inspectorate) himself/herself	The victims reported the offence to the police.
	The authorities began the investigation <i>ex officio</i>	-
	The case was brought to the attention of the authorities by an association/NGO	-
	Other (please specify)	-
Criminal investigation	Which authority/unit was responsible for the criminal investigation of this case?	The police.
	How long after the victim started being subject to forced labour did the criminal investigation of the matter begin?	Four months.
	What was the length of the investigation?	About two months.
	What were the difficulties in the bringing this case to the court?	According to the prosecutor, it was difficult to show that victims had been exploited ⁽⁹⁷⁷⁾ . There were also different accounts of what they had been paid; it was not possible to prove who was telling the truth as word was against word. Furthermore, there are no provisions in Sweden on minimum wages . Even if the wages are very small, they are not illegal. Another difficulty with the case was that there were really no obstacles for the victims to just leave.
	Was the victim required to testify at the pre-trial stage of the proceedings? If yes, did the authorities use any mechanisms to protect the safety of the victim (e.g. via a witness protection programme) or protect him/her from secondary victimisation?	The victims testified during the preliminary investigation.
Court proceedings	Were there any problems/issues pertaining to the collection of evidence?	No, there were no problems with collecting the evidence. It was difficult to prove that the defendants had any control over the victims and that the victims could not leave (it appeared that they were free to leave if they wanted).
	Was the victim required to testify in court? If yes, what effect is the witness testimony perceived to have had on the successful prosecution of the offenders?	Yes, the victims testified. Their statements were absolutely crucial for the prosecutor to be able to prosecute.
	If the victim testified in court, did he/she do so in camera, in the courtroom (in the defendant's presence) or the court used the victim's testimony during the investigation phase?	The victims testified in the court room in the defendants' presence.
	Did the victim seek compensation for the damages suffered (e.g. by constituting himself/herself as a civil claimant)? If yes, did he/she receive support by the State (e.g. legal representation/legal aid)?	The prosecutor sought damages for the victims in the criminal case. The victims were supported throughout the trial by counsels for injured parties (målsagandebliträde), which are paid by the State.
	What type of evidence was submitted to the court? Where there any issues with the admissibility of evidence?	Police investigation documents, photos, witness and victim testimonies.

⁽⁹⁷⁷⁾ Stakeholder consultation (prosecutor).

Delivery of the court judgment	How long did it take for the court to issue its judgment (for first instance cases, from the prosecution; for second and third instance cases, from the day the appeal was filed)?	One month.	
	Was the defendant found innocent/guilty? If he/she was found innocent, was it due to procedural grounds or because the evidence presented was insufficient not to substantiate his guilt?	The defendants were found innocent . The court found that it had not been proved that the injured parties were victims of human trafficking as it had not been proven that the defendants were in control of the victims and that the victims could not leave if they wished to do so.	
Victim support	Was the victim awarded compensation for damages/moral pain and suffering? What was the court's reasoning?	No.	
	Did the victim receive any kind of support by public authorities (e.g. social workers)/NGOs?	No information.	
Resources (financial and human resources)	The case was investigated promptly and there is no indication that there were insufficient resources.		
Role of labour inspectors	Labour inspectors were not involved. The Swedish Work Environment Authority does not have a specific role or mandate to combat THB. Labour inspectors are responsible only for checking health and safety at workplaces ⁽⁹⁷⁸⁾ .		
Case study source	Judgment B 3573-10, received from the court archives. Interview with a prosecutor.		

⁽⁹⁷⁸⁾ GRETA Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Sweden, available at: http://www.coe.int/t/dghl/monitoring/trafficking/Docs/Reports/GRETA_2013_10_FGR_SWE_en.pdf, p. 34.

Case study 5: SE-005

Summary of the case	<p>The official summary of the judgment is not available.</p> <p>The defendant in the case, a female of Swedish origin, was charged with THB under the Swedish Penal Code (and with other offences such as fraud and petty theft).</p> <p>Facts: The defendant, a mother of five, recruited the five Polish victims during different periods of time between 2006 and 2007 to carry out work in the household and to take care of her five children. The victims arrived in Sweden with one way tickets and had no money. The victims worked for a few months each, but did not overlap with one another. They had to work long hours every day, sleep on a mattress on the floor or inside a closet, and accompany the defendant on frequent stealing excursions in shops to steal clothes, beauty products, toys, etc. Not all of the victims agreed to steal. The victims did not receive the full amount of payment that had been agreed; one victim received about EUR 100 after four months of work. The defendant also applied for Swedish ID cards for the victims and then used them to buy things in the victims' names online, without paying for them. The debts amounted to about EUR 10 000 for each victim. The defendant was sometimes nice, sometimes threatening. One victim had been hit on several occasions. Once the victims could not take it any more, they went back to Poland.</p> <p>Judgment: The 1st instance court ruled that the defendant is guilty of THB (and other offences such as fraud and petty theft). The defendant was sentenced to 2 years of imprisonment and to pay compensation to victims (approx. EUR 8 500 to 40 000).</p> <p>The court concluded that the defendant recruited, picked up and received four victims from Poland and housed them in her apartment in Sweden. The defendant deceived victims by promising them payment for their services that they did not receive. The purpose of the recruiting was also to exploit their exposed situation and have them carry out thefts and other crimes against property. The court deemed that the defendant had been in control over the victims. Furthermore, the work that the victims were to carry out was out of the ordinary everyday tasks in a household.</p> <p>The court ruled that the fifth victim was just deceived by the defendant to come to Sweden for compensated work, but she did not pay her for the work performed. This was deemed as fraud by the court⁽⁹⁷⁹⁾.</p> <p>On appeal: The court of appeal reversed the ruling of the 1st instance court and found the defendant not guilty of THB but of fraud in relation to the four victims. The term of imprisonment was reduced to 10 months and the claims for compensation were dismissed.</p> <p>The court agreed that the defendant recruited and deceived the four victims regarding their payment. However, it did not find that the victims had been under such unlawful (continuous) threat that had forced them to stay and continue to work for the defendant. The court also deemed that the four victims were not in such a (manifest) vulnerable situation, as referred to in the human trafficking regulation to constitute the requisite of control. According to the court, the defendant had not used any other improper means to make them stay⁽⁹⁸⁰⁾.</p>
Competent Court	<p>Solna District Court, 1st Instance</p> <p>Svea Court of Appeal, 2nd Instance</p> <p>Chapter 4, section 1a of the Penal Code:</p>
Legal provision applied	<p>A person who, in other cases than those mentioned in section 1, by unlawful coercion, deception, exploitation of someone's vulnerability or by any other such improper means, recruits, transports, transfers, harbours or receives a person in order that he or she is exploited for the purposes of sexual exploitation, removal of organs, military service, forced labour, or other activity in a situation that puts the victim in distress, shall be sentenced for human trafficking to imprisonment for at least two years and at most ten years.</p> <p>[...]</p> <p>If the crime is of a less serious nature, imprisonment for at most four years shall be imposed.</p> <p>Chapter 8 section 2 of the Penal Code: shoplifting. Chapter 9 section 1 of the Penal Code: fraud. Chapter 9 section 6 of the Penal Code: receiving. Chapter 17 section 1 of the Penal Code: violence or threat to public servant.</p>

⁽⁹⁷⁹⁾ UNODC case-law data base, available at: http://www.unodc.org/cld/case-law-doc/illegaltraffickingtype/swe/2010/case_no_b_5970-11.html?tmpl=old

⁽⁹⁸⁰⁾ UNODC case-law data base, available at: http://www.unodc.org/cld/case-law-doc/illegaltraffickingtype/swe/2010/case_no_b_5970-11.html?tmpl=old

Sentence/compensation awarded	Court of 1st instance: 2 years' imprisonment and compensation to victims (approx. EUR 8 500 to 40 000). Court of 2nd instance: Case relating to human trafficking for forced labour dismissed. Conviction obtained with regard to fraud. Claims for compensation were also dismissed except one. Namely, the defendant was sentenced to pay EUR 500 in damages to one of the victims.		
Date/period of forced labour (month/year)	Different periods of time between August 2006 and December 2007.		
Profile of the victim(s) (e.g. country of origin, gender, age, occupation of the victim prior to the incident of forced labour)	Country of origin	5 victims from Poland	
	Gender	Female	
	Age	24, 20, 21, 21, 41	
	Sector	Domestic work	
	Migratory status	EU citizens	
How was the victim recruited and how did they come to be in the situation of forced labour?	Knowledge of local language	None	
	Four victims were recruited through contacts from mutual acquaintances. The fifth victim was recruited through a recruiter whom she paid about EUR 300.		
Elements of vulnerability	The victims had a low level of education, they were young (around 20, except the one who was 41) and therefore had trouble with safeguarding their own interests; they had experienced poverty in their home country and it was easy to deceive them with the promise of money. They were offered EUR 400-500 a month, which for them was a lot of money. The defendant could keep control over the victims by never paying them the money, but promising that it was her intention to do so, which it never was. Moreover, by paying for the victims' tickets, she controlled them as they were in debt to her.		
Identification/reporting of offences	<i>The victim reported the offence to the authorities (e.g. the police, labour inspectorate) himself/herself</i>	A woman who was living with the defendant contacted the Polish Embassy claiming that she was not allowed to leave the apartment. The police and prosecution started to investigate the case but the woman was already gone. The interviewee did not remember how they got hold of the victims ⁽⁹⁸¹⁾ . It was probably because the defendant had registered the other women at her address and some of the victims had been arrested together with the defendant for theft. Once they got hold of the names of the victims, it turned out that several of them had reported the offence to the Polish authorities. The investigation and prosecution could then start with the help of the Polish embassy.	
	<i>The authorities began the investigation ex officio</i>	Partly, the case came to the attention of the authorities through another victim who was never found. Once the investigation started, it turned out the other victims had already reported the case to the Polish authorities.	
	<i>The case was brought to the attention of the authorities by an association/NGO</i>	-	
	<i>Other (please specify)</i>	-	

⁽⁹⁸¹⁾ Stakeholder consultation (prosecutor).

Criminal investigation	<i>Which authority/unit was responsible for the criminal investigation of this case?</i>	The police (and the prosecutor, who was contacted by the Polish Embassy).
	<i>How long after the victim started being subject to forced labour did the criminal investigation of the matter begin?</i>	About two years (in relation to all five victims).
	<i>What was the length of the investigation?</i>	There is no precise information available but the investigation took a long time because they were looking for victims in Poland and one turned out to be in the UK. Also, the case did not have priority as no one had been arrested.
	<i>What were the difficulties in the bringing this case to the court?</i>	Firstly, it was difficult to find the victims. Secondly, it was hard to prove all of the prerequisites of THB. According to the prosecutor, it was partly because of lack of knowledge from the court, bias of the court and a complicated legal provision.
	<i>Was the victim required to testify at the pre-trial stage of the proceedings? If yes, did the authorities use any mechanisms to protect the safety of the victim (e.g. via a witness protection programme) or protect him/her from secondary victimisation?</i>	The victims were heard in Poland during the pre-trial stage of the proceedings. No victim protection mechanisms were used.
	<i>Were there any problems/issues pertaining to the collection of evidence?</i>	Not really, according to the prosecutor. But one could also argue, she said, that there were problems pertaining to the evidence as the court dismissed the charges relating to THB for forced labour. The court found that the circumstances in which the victims were in did not constitute a distress situation and that the defendant had not fulfilled any of the requirements for the act to constitute THB for forced labour. The interviewee thought it was a clear case of THB for forced labour.
	<i>Was the victim required to testify in court? If yes, what effect is the witness testimony perceived to have had on the successful prosecution of the offenders?</i>	The victims came to Sweden to testify in court. Their testimonies were absolutely crucial to be able to prosecute; without their testimonies there would have not been any case.
Court proceedings	<i>If the victim testified in court, did he/she do so in camera, in the courtroom (in the defendant's presence) or the court used the victim's testimony during the investigation phase?</i>	The victims testified in the courtroom. The defendant was present during the testimonies. The defendant's boyfriend had to be removed as he was threatening the counsels for the injured parties.
	<i>Did the victim seek compensation for the damages suffered (e.g. by constituting himself/herself as a civil claimant)? If yes, did he/she receive support by the State (e.g. legal representation/legal aid)?</i>	The prosecutor sought damages for the victims in the criminal case. The victims were supported throughout the trial by counsels for injured parties (målsägandebiträde), which are paid by the State.
	<i>What type of evidence was submitted to the court? Where there any issues with the admissibility of evidence?</i>	Victim and witness testimonies, police reports, and stolen goods. There was plenty of economic evidence, such as evidence of the different transactions and purchases. There were also bank slips. There were no problems with the admissibility of evidence. The victims had similar stories about what had happened to them.

Delivery of the court judgment	How long did it take for the court to issue its judgment (for first instance cases, from the prosecution; for second and third instance cases, from the day the appeal was filed)?	There is no information on how long did it take for the court to issue its judgment. The judgment in the court of first instance was issued in June 2010. The judgment in the court of second instance was issued one year later, in June 2011.
	Was the defendant found innocent/guilty? If he/she was found innocent, was it due to procedural grounds or because the evidence presented was insufficient not substantiate his guilt?	The defendant was found guilty of THB for forced labour in the court of first instance, but was acquitted in the court of appeal. Instead, the appeal court sentenced the defendant to 10 months imprisonment for fraud and compensation amounting to EUR 500 to one of the victims. The court found that there was no evidence of unlawful coercion, which is a necessary prerequisite for the crime of THB. The victims were not under such unlawful 'continuous' threat that had forced them to stay and continue to work for the defendant. The court also deemed that the victims were not in such a 'manifest' vulnerable situation, as referred to in the THB regulation to constitute the requisite of control. According to the Court, the defendant had not used any other improper means to make them stay.
	Was the victim awarded compensation for damages/moral pain and suffering? What was the court's reasoning?	The victims were awarded compensation in the court of first instance, but the court of appeal reversed that decision and only sentenced the defendant to pay EUR 500 in damages to one of the victims.
Victim support	Did the victim receive any kind of support by public authorities (e.g. social workers)/NGOs?	No information.
Resources (financial and human resources)	No information.	
Role of labour inspectors	Labour inspectors were not involved. The Swedish Work Environment Authority does not have a specific role or mandate to combat THB. Labour inspectors are responsible only for checking health and safety at workplaces ⁽⁹⁸²⁾ .	
Case study source	Judgment B 421-08, received from the court archives (information also available at: http://www.unodc.org/cld/case-law-doc/illegaltraffickingtype/swe/2011/case_no_b_5971-10.html?tmpl=old);	
	Judgment B 5971-10 (information also available at: http://www.unodc.org/cld/case-law-doc/illegaltraffickingtype/swe/2011/case_no_b_5971-10.html?tmpl=old); Interview with a prosecutor.	

⁽⁹⁸²⁾ GRETA Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Sweden, available at: http://www.coe.int/t/dghl/monitoring/trafficking/Docs/Reports/GRETA_2013_10_FGR_SWE_en.pdf, p. 34.

UNITED KINGDOM

Case study 1: UK-002-1A and UK-002-1B; uk-002-2

Summary of the case	<p><i>Cases where the court found the defendant(s) guilty of the offence of THB for forced labour:</i></p> <p>Facts: The victim was brought from Pakistan to the United Kingdom in June 2000 so that she could work for the two offenders as an unpaid domestic servant. The victim was very vulnerable; she was deaf and unable to speak and could not read or write. For 9 years the victim was kept in the offenders' cellar, was forced to work and repeatedly raped by Ilyas Ashar. The victim was reportedly forced to sleep on a bare concrete cellar floor and repeatedly slapped, beaten, raped and sexually abused. The offenders claimed various benefits in the victim's name. On 29 September 2009 Ilyas Ashar and Tallat Ashar were arrested. During the interview each exercised their right of silence and refused to answer questions and both denied any wrongdoing.</p> <p>Judgment: At first instance (Crown Court at Manchester, Minshall Street), on 23 October 2013, Ilyas Ashar was sentenced to a total sentence of 13 years' imprisonment for rape, human trafficking for exploitation, furnishing false information to obtain a benefit and permitting the furnishing of false information to obtain a benefit. On the same date, Tallat Ashar was sentenced to 5 years' imprisonment for human trafficking for exploitation and furnishing false information to obtain a benefit.</p> <p>On appeal: The case was submitted to the Attorney General's Office as possibly unduly lenient. On 4 February 2014⁽⁹⁸³⁾, the Court of Appeal increased the sentences of Ilyas and Tallat Ashar from 13 and 5 years to 15 and 6 years respectively⁽⁹⁸⁴⁾.</p>
Competent Court	<p>Manchester Minshall Street Crown Court, 1st instance.</p> <p>Court of Appeal Criminal Division, 2nd instance.</p>
Legal provision applied	<p>Tallat Ashar:</p> <ul style="list-style-type: none"> • Section 4 Asylum and Immigration (Treatment of Claimants, etc.) Act 2004; • Making a representation known to be false or produces or furnishes any false document or information to obtain benefits (Section 112 Social Security Administration Act 1992). <p>Ilyas Ashar:</p> <ul style="list-style-type: none"> • Making a representation known to be false or produces or furnishes any false document or information to obtain benefits (Section 112 Social Security Administration Act 1992); • Section 4 Asylum and Immigration (Treatment of Claimants, etc.) Act 2004; • Rape (Section 1 of the Sexual Offences Act 2003).

⁽⁹⁸³⁾ Court of Appeal Criminal Division, 3 February 2013, <http://content.govdelivery.com/accounts/UKMOJ/bulletins/a1fa59>

⁽⁹⁸⁴⁾ Attorney General's Office press release, 3 February 2013, <https://www.gov.uk/government/news/court-of-appeal-finds-rape-and-human-trafficking-sentences-unduly-lenient>

Sentence/compensation awarded	<p>Sentences:</p> <p>First instance (Manchester Minshall Street Crown Court):</p> <p>Ilyas Ashar was sentenced to a total sentence of 13 years' imprisonment for rape, human trafficking for exploitation, furnishing false information to obtain a benefit and permitting the furnishing of false information to obtain a benefit.</p> <p>Tallat Ashar was sentenced to 5 years' imprisonment for human trafficking for exploitation and furnishing false information to obtain a benefit</p> <p>The Court of Appeal on 4 February 2014 increased the sentences of Ilyat and Tallat Ashar from 13 and 5 years to 15 and 6 years' imprisonment respectively⁽⁹⁸⁵⁾.</p> <p>Compensation: Compensation was sought using the Proceeds of Crime Act (POCA)⁽⁹⁸⁶⁾. The County awarded the victim GBP 101 300.72 (around EUR 138 000). In addition: At Manchester Minshall Street Crown Court on Wednesday 15 October 2014, under the Proceeds of Crime Act (POCA) legislation, the Ashars were also ordered to pay back GBP 27 762.82 (around EUR 37 800) to the Department of Work and Pensions and GBP 14 205.36 (around EUR 19 350) in benefit fraud, and pay GBP 321 000 (around EUR 437 211) towards the cost of their trials⁽⁹⁸⁷⁾.</p>
Date/period of forced labour (month/year)	Nine years (2000 to 2009)
Profile of the victim(s) (e.g. country of origin, gender, age, occupation of the victim prior to the incident of forced labour)	<p>Country of origin</p> <p>1 victim from Pakistan</p> <p>Gender</p> <p>Female</p> <p>Age</p> <p>9-10 years old (at the time of trafficking)</p> <p>Sector</p> <p>Domestic work</p> <p>Migratory status</p> <p>Irregular migrant (fake passport)</p> <p>Knowledge of local language</p> <p>The victim is deaf, and had no knowledge of formal sign language through which to communicate.</p>
How was the victim recruited and how did they come to be in the situation of forced labour?	<p>When she was 9-10 years old, the victim was trafficked from Pakistan by a man and his wife. The woman met the Ashars, who ran a market stall and sold cars near their home in Eccles, Greater Manchester, as a child in Pakistan, where she had five brothers and a sister. She was told her parents had died and recalled having her photograph taken and putting her thumbprint to a document, believed to be her passport. She was allowed into Britain on condition that she did not apply for public money. The victim arrived in the UK on 24 June 2000 with a passport stating she was 19. The court heard that medical tests suggested it was likely she had been younger than 12 at the time⁽⁹⁸⁸⁾.</p>
Elements of vulnerability	<p>The victim was a child (9-10 years old) at the time she was trafficked and illiterate. She is also deaf and at the time did not know sign language and had no means to communicate. She had never been to school and had no knowledge of the UK's culture and society⁽⁹⁸⁹⁾.</p>

⁽⁹⁸⁵⁾ Attorney General's Office press release, 3 February 2013, <https://www.gov.uk/government/news/court-of-appeal-finds-rape-and-human-trafficking-sentences-unduly-lenient>

⁽⁹⁸⁶⁾ Greater Manchester Police press release, 'Couple to pay £99 -1 compensation to domestic victim', 14 October 2013, <http://gmp.police.uk/live/nhoodv2.nsf/WebsitePages/Lite/8ED1D6D863C1B8880256D7200500C83?OpenDocument>

⁽⁹⁸⁷⁾ Greater Manchester Police press release, 'Couple to pay £99 -1 compensation to domestic victim', 14 October 2013, <http://gmp.police.uk/live/nhoodv2.nsf/WebsitePages/Lite/8ED1D6D863C1B8880256D7200500C83?OpenDocument>

⁽⁹⁸⁸⁾ <http://www.theguardian.com/uk/2011/feb/12/deaf-woman-slavery-sexual-abuse>

⁽⁹⁸⁹⁾ <http://www.theguardian.com/uk/2011/feb/12/deaf-woman-slavery-sexual-abuse>

Identification/reporting of offences	The victim reported the offence to the authorities (e.g. the police, labour inspectorate) himself/herself	X The details of the victim's ordeal only emerged after she was taught sign language following her accidental discovery in 2009 by Trading Standards Officers who had come to the couple's house to investigate possible illegal activities ⁽⁹⁹⁰⁾ . On 8 June 2009, police officers were assisting Salford Trading Standards with an investigation into money laundering. The victim's details had been used on bank accounts linked to the couple so the officers asked to speak to her when they went into the house ⁽⁹⁹¹⁾ . Ilyas Ashar indicated that she was in the cellar and officers found her sleeping on a cot bed. Trading Standards Officers tried to speak with the victim but quickly realised she was incapable of communication and, with the police officers, removed her to a place of safety ⁽⁹⁹²⁾ .
	The authorities began the investigation <i>ex officio</i>	
	The case was brought to the attention of the authorities by an association/NGO	
	Other (please specify)	
	Which authority/unit was responsible for the criminal investigation of this case?	Greater Manchester Police.
Criminal investigation	How long after the victim started being subject to forced labour did the criminal investigation of the matter begin?	9 years.
	What was the length of the investigation?	Unknown.
	What were the difficulties in the bringing this case to the court?	No issues reported.
	Was the victim required to testify at the pre-trial stage of the proceedings? If yes, did the authorities use any mechanisms to protect the safety of the victim (e.g. via a witness protection programme) or protect him/her from secondary victimisation?	The victim was not required to testify at the pre-trial stage but was interviewed in accordance with the Achieving Best Evidence procedure whereby her evidence in chief was recorded digitally. Due to fears for the safety of the victim, she was placed in the witness protection scheme ⁽⁹⁹³⁾ .
	Were there any problems/issues pertaining to the collection of evidence?	This case provided unique and immensely challenging issues. During the investigation, Greater Manchester Police faced the initial problem of how to communicate with a young woman who had been trafficked into this country from Asia, was deaf and without speech, and who appeared to be held against her will. An intermediary with very specific skills had to be located and deployed merely to begin a lengthy period of rapport building in general communication and information regarding potential criminality ⁽⁹⁹⁴⁾ .

⁽⁹⁹⁰⁾ <http://ukpaados-exposed.com/2012/9/15/ilyastallat-ashar-ecclies/>

⁽⁹⁹¹⁾ Greater Manchester Police press release, 'Couple to pay £99 -1 compensation to domestic victim', 14 October 2013, <http://gmp.police.uk/live/hhooov2.nsf/WebsitePagesLte/8ED1D6D863C1B8880256D7200500C83?OpenDocument>

⁽⁹⁹²⁾ Ibid.

⁽⁹⁹³⁾ Stakeholder consultation (prosecutor).

Court proceedings	Was the victim required to testify in court? If yes, what effect is the witness testimony perceived to have had on the successful prosecution of the offenders?	The witness's testimony and her responses to very lengthy cross examination by separate Counsel representing initially three defendants was crucial to the success in this case ⁽⁹⁹⁵⁾ .
	If the victim testified in court, did he/she do so in camera, in the courtroom (in the defendant's presence) or the court used the victim's testimony during the investigation phase?	The young woman, who testified by video link, said she was "feeling extremely anxious and nervous" about giving evidence ⁽⁹⁹⁶⁾ .
	Did the victim seek compensation for the damages suffered (e.g. by constituting himself/herself as a civil claimant)? If yes, did he/she receive support by the State (e.g. legal representation/legal aid)?	Compensation was sought using the Proceeds of Crime Act (POCA) legislation - a result that is believed to be the first of its kind in the UK ⁽⁹⁹⁷⁾ . The County awarded the victim GBP 101 300.72 (around EUR 138 000). The compensation covers the salary the victim would have been able to command if she was legitimately employed to carry out the chores she was forced to do based on minimum wage, and on the premise that she worked for 12 hours a day, seven days a week.
	What type of evidence was submitted to the court? Where there any issues with the admissibility of evidence?	Unknown.
	How long did it take for the court to issue its judgment (for first instance cases, from the prosecution; for second and third instance cases, from the day the appeal was filed)?	Unknown.
Delivery of the court judgment	Was the defendant found innocent/guilty? If he/she was found innocent, was it due to procedural grounds or because the evidence presented was insufficient not substantiate his guilt?	Tallat Ashar was found guilty under Section 4 Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (4 counts); Making a representation known to be false or produces or furnishes any false document or information to obtain benefits (Section 112 Social Security Administration Act 1992) (2 counts). Ilyas Ashar was found guilty under Section 4 Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (2 counts); Making a representation known to be false or produces or furnishes any false document or information to obtain benefits (Section 112 Social Security Administration Act 1992) (3 counts); Rape (Section 1 of the Sexual Offences Act 2003) (13 counts).
	Was the victim awarded compensation for damages/moral pain and suffering? What was the court's reasoning?	Unknown.
Victim support	Did the victim receive any kind of support by public authorities (e.g. social workers)/NGOs?	The victim was supported by Greater Manchester Police, police officers involved in the victim protection scheme and social services in the area to which she was relocated ⁽⁹⁹⁸⁾ .
	Resources (financial and human resources)	The Crown Prosecution Service in the Northwest immediately identified the profile of this case and resourced it appropriately. The selection of prosecuting counsel, his junior, reviewing lawyer and caseworker were absolutely crucial to the overall outcome. This approach was maintained throughout various stages of this case including resisting an appeal against conviction, making an application for the re-instatement of those matters in respect of which the jury at the first trial could not agree, and the review of sentence in the Court of Appeal following an Attorney General reference. It also went through to post conviction issues such as a Proceeds of Crime Act application and applications for compensation for the victim herself, and for the State agencies which had been defrauded by the defendants ⁽⁹⁹⁹⁾ .

⁽⁹⁹⁴⁾ Ibid.⁽⁹⁹⁵⁾ Ibid.⁽⁹⁹⁶⁾ <http://www.theguardian.com/uk/2011/feb/12/deaf-woman-slavery-sexual-abuse>.⁽⁹⁹⁷⁾ Greater Manchester Police press release, 'Couple to pay £99 -1 compensation to domestic victim', 14 October 2013, <http://gmp.police.uk/live/nhoodv2.nsf/WebsitePages/Lite/8ED1D6D863C1B8880256D7200500C83?OpenDocument>⁽⁹⁹⁸⁾ Stakeholder consultation (prosecutor).⁽⁹⁹⁹⁾ Ibid.

Role of labour inspectors	Labour inspectors did not play any role in this case.
Case study source	<ul style="list-style-type: none">• Thelawpages.com (reference: T20097724 Tallat Ashar; T20097724 Ilyas Ashar);• Attorney General's Office press release, 4 February 2014, https://www.gov.uk/government/news/court-of-appeal-finds-rape-and-human-trafficking-sentences-unduly-lenient;• Greater Manchester Police press release, 'Couple to pay £100 000 compensation to domestic victim', 15 October 2014, http://gmp.police.uk/live/rhooov3.nsf/WebsitePagesLite/9ED2D7D864C02B8880257D7200501C84?OpenDocument;• Interview with a prosecutor.

Case study 2: UK-007-2

	<p>R v Khan, Khan and Khan [2010] EWCA Crim 2880</p> <p>Facts: The defendants, Shahnawaz Ali Khan, Raza Ali Khan and their mother Perveen Khan, were family restaurateurs in Harrogate. Over a period of four years they recruited nine men from the Middle East and the Indian subcontinent to work in the restaurant. All the workers entered the country legally on non-EEA work permits, after the defendants made assurances of good pay and working conditions to both the workers and the Home Office. Their mother, Parveen was found to be closely involved in the running of the restaurant and assisted with obtaining work permits and documentation for their workers⁽¹⁰⁰⁰⁾.</p> <p>On arrival, their passports and personal documents were confiscated; the victims were compelled to surrender bond money, forced to work 12 hours or more a day for 6-7 days a week without due recompense for overtime and in some cases without basic salary; isolated from the community and prevented from receiving tax documentation and access to medical treatment. The victims were subjected to threats, abuse, coercion, bullying and insult – particularly, if they challenged their treatment. Their treatment effectively amounted to a modern-day form of indentured labour.</p> <p>First instance: At first instance, the Khans were convicted of an offence of statutory conspiracy to traffic persons for the purpose of exploitation contrary to Section 4 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 and the Judge HHJ Marson QC sentenced them to 3 years of imprisonment. The maximum sentence is 14 years. There were cross applications from the offenders and the Solicitor General for leave to appeal the length of sentencing.</p> <p>On appeal: The offenders submitted that the gravity of the offending was mitigated as there had been no physical injury or permanent harm; victims were not illegal immigrants or smuggled in to the country; there had been Home Office oversight of the restaurant and the victims had both returned to the restaurant after trips home and recommended their employers to friends.</p> <p>The Solicitor General argued that deterrent sentences were required because the problem of human trafficking was increasing in the United Kingdom: background information suggests that economic exploitation of non-EEA nationals is growing and the problem is largely undisclosed ... The International Labour Organisation estimates that only 10% of international trafficking relates to sexual exploitation and that most human trafficking is for economic purposes from developing to developed countries ...⁽¹⁰⁰¹⁾ The Solicitor General further argued that the offences amounted to “a persistent campaign of exploitation involving nine vulnerable men over a prolonged period of time”⁽¹⁰⁰¹⁾.</p> <p>The court, whilst noting that the voluntary return of the victims was a striking feature, dismissed this argument on the ground that the victims had not been exercising effective choice – they were driven to return by the economic circumstances in their home countries. There had also been promises of improved working conditions and behaviour. The court held that it was in fact ‘evidence of further exploitation by the offenders of personal circumstances of which they knew they could take advantage’. A second striking feature noted was the offenders’ attempted control and/or persuasion of the victims to give untruthful accounts to the police.</p> <p>The Court of Appeal outlined the following factors that require consideration when sentencing a Section 4 offence:</p> <p><i>The Type of Exploitation:</i></p> <ul style="list-style-type: none">• The nature and degree of deception or coercion – coercion will be an unusual aggravating feature in a case of economic exploitation;• Nature and degree of exploitation exercised – both in relation to the degree that the conditions/pay promised are denied on arrival and the extent to which those conditions offend UK common standards;• Level and methods of control exercise <p><i>The Victims:</i></p> <ul style="list-style-type: none">• Level of vulnerability of the worker – including economic, physical and psychological factors• Degree of harm suffered• The numbers of victims
Summary of the case	

⁽¹⁰⁰⁰⁾ http://articles.economictimes.indiatimes.com/2009-4-31/news/27594172_0_work-visas-uk-border-agency-exploitation

⁽¹⁰⁰¹⁾ <http://ukhumanrightsblog.com/2009/11/13/harsher-sentences-for-modern-day-slavers/>

Summary of the case	<p><i>The Organisation and the Offender:</i></p> <ul style="list-style-type: none"> • The level of organisation and planning; • the gain sought or achieved; • the offender's status in the organisation; • Previous convictions for similar offences. <p>The court concluded that the seriousness of the Khans' offence was primarily in the scale of its planning, organisation, manipulation and deception with workers having been kept in conditions that the Defence had conceded were close to slavery.</p> <p>It was argued on behalf of Mrs Khan that a hospital order should have been made under Section 37 of the Mental Health Act 1983 as Mrs Khan fulfilled the conditions under Section 37(2) – two medical experts had given evidence that she suffered from a mental disorder which was of a degree that made it appropriate for her to be detained in a hospital for medical treatment, and the most suitable method of sentence was a hospital order. At first instance, the judge had accepted that Mrs Khan suffered from a depressive disorder but concluded that part of her behaviour was "manipulative, histrionic and exaggerated".</p>	
	Court of Appeal (Criminal Division)	
Competent Court	Court of Appeal (Criminal Division)	
Legal provision applied	Offence of conspiracy to traffic for exploitation under section 4 Asylum and Immigration Act 2004	
Sentence/compensation awarded	The Court of Appeal increased the sentences of two human traffickers from 3 to 4 years and upheld the 3 year sentence of a third trafficker (despite her mental health problems).	
Date/period of forced labour (month/year)	2004-2008	
Profile of the victim(s) (e.g. country of origin, gender, age, occupation of the victim prior to the incident of forced labour)	Country of origin	Pakistan and India – 9 victims (of whom 3 additional were identified during the investigation).
	Gender	Male (2) and female (1)
	Age	No information.
	Sector	Accommodation and food service activities.
	Migratory status	Regular migrants (the victims entered the UK legally on work visas).
How was the victim recruited and how did they come to be in the situation of forced labour?	Knowledge of local language	
Elements of vulnerability	Many of the staff were previously working in prestigious restaurants in the Middle East, India and Pakistan, and had accepted offers to come and work legitimately at the restaurant Rajput, signing formal work contracts and obtaining work visas. However, on arrival to the UK legally, they promptly had their passports taken from them by one of the defendants and then put to work at the Rajput for up to 14 hours a day, seven days a week ⁽¹⁰⁰²⁾ .	
	Poverty in country of origin.	

⁽¹⁰⁰²⁾ <http://immigrationmatters.co.uk/indian-restaurant-owners-guilty-of-trafficking.html>

Identification/reporting of offences	The victim reported the offence to the authorities (e.g. the police, labour inspectorate) himself/herself	X Three of the workers came forward reporting that they had been exploited and asking for help ⁽¹⁰⁰³⁾ . This led to an investigation, Operation Keepnet, being launched by the joint UKBA immigration crime team.
	The authorities began the investigation ex officio	
	The case was brought to the attention of the authorities by an association/NGO	
	Other (please specify)	
	Which authority/unit was responsible for the criminal investigation of this case?	The UKBA immigration crime team worked in close liaison with the complex casework unit, Crown Prosecution Service West Yorkshire ⁽¹⁰⁰⁴⁾ .
Criminal investigation	How long after the victim started being subject to forced labour did the criminal investigation of the matter begin?	Information not available.
	What was the length of the investigation?	Information not available.
	What were the difficulties in the bringing this case to the court?	Information not available.
	Was the victim required to testify at the pre-trial stage of the proceedings? If yes, did the authorities use any mechanisms to protect the safety of the victim (e.g. via a witness protection programme) or protect him/her from secondary victimisation?	Information not available.
	Were there any problems/issues pertaining to the collection of evidence?	Information not available.
Court proceedings	Was the victim required to testify in court? If yes, what effect is the witness testimony perceived to have had on the successful prosecution of the offenders?	Information not available.
	If the victim testified in court, did he/she do so in camera, in the courtroom (in the defendant's presence) or the court used the victim's testimony during the investigation phase?	Information not available.
	Did the victim seek compensation for the damages suffered (e.g. by constituting himself/herself as a civil claimant)? If yes, did he/she receive support by the State (e.g. legal representation/legal aid)?	Information not available.
	What type of evidence was submitted to the court? Where there any issues with the admissibility of evidence?	Information not available.

⁽¹⁰⁰³⁾ <http://immigrationmatters.co.uk/indian-restaurant-owners-guilty-of-trafficking.html>

⁽¹⁰⁰⁴⁾ <http://immigrationmatters.co.uk/indian-restaurant-owners-guilty-of-trafficking.html>

Delivery of the court judgment	How long did it take for the court to issue its judgment (for first instance cases, from the prosecution; for second and third instance cases, from the day the appeal was filed)?	3 months ⁽¹⁰⁰⁵⁾ .
	Was the defendant found innocent/guilty? If he/she was found innocent, was it due to procedural grounds or because the evidence presented was insufficient not substantiate his guilt?	<p>First instance: The defendants were found guilty and sentenced to three years imposed.</p> <p>On appeal: The Court of Appeal increased the sentences of Shah Nawaz Ali Khan and Raza Ali Khan from 3 to 4 years and upheld the 3 year sentence of a third trafficker (despite her mental health problems).</p> <p>The applications for leave to appeal sentence was refused. The court considered that the fact that the victims returned after having gone home was evidence of further exploitation by the offenders of personal circumstances; the court also noted the offender's attempted control of the victims to give untruthful accounts to the police.</p> <p>The Solicitor General argued that deterrent sentences were required because the problem of human trafficking was increasing in the United Kingdom: background information suggests that economic exploitation of non-EEA nationals is growing and the problem is largely undisclosed ... The International Labour Organisation estimates that only 10% of international trafficking relates to sexual exploitation and that most human trafficking is for economic purposes from developing to developed countries ... The Solicitor General further argued that the offences amounted to: a persistent campaign of exploitation involving nine vulnerable men over a prolonged period of time"⁽¹⁰⁰⁶⁾.</p> <p>The court accepted that an element of general deterrence was appropriate in assessing sentence and held that: "despite the care with which the learned judge approached the assessment of sentence, sentences of 3 years' imprisonment for offending of this magnitude were unduly lenient. Giving limited credit for personal mitigation it is our view that sentences of 5 years' imprisonment would have been appropriate. We recognise that the male offenders are still comparatively young men for whom sentences of imprisonment will have lasting consequences. They have had to await a second sentencing process and the effect of that process should be reflected in a further reduction from the appropriate sentence to 4 years' imprisonment"⁽¹⁰⁰⁷⁾.</p>
	Was the victim awarded compensation for damages/moral pain and suffering? What was the court's reasoning?	No information available.
	Did the victim receive any kind of support by public authorities (e.g. social workers)/NGOs?	No information available.
	Resources (financial and human resources)	No problems identified.
Case study source	Role of labour inspectors	No role identified.
	Case study source	Bailii website – judgment available on: http://www.bailii.org/cgi-bin/markup.cgi?doc=/ew/cases/EWCA/Crim/2010/2880.html&query=human+and+trafficking+and+labour&method=boolean .

⁽¹⁰⁰⁵⁾ Geddes, A., Craig, G., Scott, S., Forred Labour in the UK, June 2012, Joseph Rowntree Foundation, p. 26 <http://www.jrf.org.uk/sites/files/jrf/Forced%19Labour%19in%19the%19UK%19FINAL%19prog%19paper.pdf>

⁽¹⁰⁰⁶⁾ <http://ukhumanrightsblog.com/2009/11/13/harsher-sentences-for-modern-day-slavers/#more-5815>

⁽¹⁰⁰⁷⁾ See judgment: R v Khan, Khan and Khan [2009] EWCA Crim 2879.

Case study 3: UK-09-1

Summary of the case	<p>Jurate Grigelyte would pay for the bus fare to transport workers from Lithuania to the UK, which she would deduct from wages that they were never paid⁽¹⁰⁰⁷⁾. Once they arrived in Bristol, some of the victims would deliver charity bags door-to-door and collect the bags once they were full. Others would sort through the clothing and other items collected. They were transported around the south west in vans with no seats or windows and often worked from 5am to 6pm. Grigelyte would force them to live in rented properties in poor conditions and would lock them inside, only allowing them to leave through a window. They had no money to buy food and at one stage were living solely off potatoes. Many were forced to find food at a free food kitchen in Stapleton Road. Grigelyte would fine them if they drank alcohol, were sick and unable to work, or if they had not delivered enough bags. They were also not allowed to use the same toilet at Grigelyte and would again be fined for doing so.</p>	
Competent Court	Bristol Crown Court, first instance.	
Legal provision applied	Trafficking people for exploitation (10 counts); Trafficking people for labour exploitation (10 counts) (Asylum and Immigration (Treatment of Claimants, etc.) Act 2004, Section 4); Holding another person in slavery or servitude or requiring them to perform forced or compulsory labour (section 71, Coroners and Justice Act 2009).	
Sentence/compensation awarded	3 years. The offender was also issued with a Serious Crime Prevention Order (SCPO).	
Date/period of forced labour (month/year)	August 2009–November 2013	
Profile of the victim(s) (e.g. country of origin, gender, age, occupation of the victim prior to the incident of forced labour)	Country of origin	11 victims from Lithuania
	Gender	2 female victims. 9 male victims.
	Age	Range from 18 to late sixties (two children – one 14 year old and one six year old – accompanied the victims but were not forced to work).
	Sector	Charity shop
	Migratory status	EU citizens.
How was the victim recruited and how did they come to be in the situation of forced labour?	Knowledge of local language	The victims did not speak English.
Elements of vulnerability	<p>Jurate Grigelyte would pay for the bus fare to transport workers from Lithuania to the UK, which she would deduct from wages that they were never paid⁽¹⁰⁰⁸⁾. She recruited individuals who were from the same town/geographical area as her. The police suggest that the defendant used her daughter to make the face to face contact in Lithuania. Some of the victims were recruited by word of mouth. Many of the victims were loosely connected in that they were part of the same social circles.</p> <p>Most of the victims were using alcohol to a level that increased their vulnerability. A key vulnerability common amongst all victims was the fact that they did not speak English. This impacted upon their access to services such as, the job centre, medical practitioners, housing, and law enforcement agencies. The victims did not have a high educational attainment record and this was noted by the various interpreters used who highlighted this on more than one occasion.</p>	

⁽¹⁰⁰⁷⁾ <http://www.unseenuk.org/uploads/2.014061910215E+15.pdf>

⁽¹⁰⁰⁸⁾ <http://www.unseenuk.org/uploads/2.014061910215E+15.pdf>

Identification/reporting of offences	The victim reported the offence to the authorities (e.g. the police, labour inspectorate) himself/herself	-
	The authorities began the investigation <i>ex officio</i>	-
	The case was brought to the attention of the authorities by an association/NGO	-
	Other (please specify)	X The police arrested Grigelyte in November after a school raised concerns about the welfare of a six-year-old boy, who was the son of one of the victims. Six of the victims were referred through the UK Human Trafficking Centre's National Referral Mechanism (NRM) and were taken to a place of safety ⁽¹⁰⁰⁹⁾ .
Criminal investigation	Which authority/unit was responsible for the criminal investigation of this case?	Avon and Somerset Police. Police investigating officer: Det Con Richard O'Brien.
	How long after the victim started being subject to forced labour did the criminal investigation of the matter begin?	Five years and 3 months (approximately). The police launched a formal investigation in November 2013. The victims that were rescued and provided evidence all explained when they had travelled to the United Kingdom to work for the defendant. One victim had travelled to the United Kingdom to work for the defendant as early as August 2009 and so in terms of the prosecution case the prosecution were able to prove that the defendant had been requiring persons to perform forced labour since August 2009 ⁽¹⁰¹⁰⁾ .
	What was the length of the investigation?	Around 8 months. The investigation started in November 2013 and effectively concluded in June 2014 (which is the point at which the defendant entered guilty pleas to 21 counts on a 22 count indictment).
	What were the difficulties in the bringing this case to the court?	There were no difficulties in bringing this case before the court ⁽¹⁰¹¹⁾ .
	Was the victim required to testify at the pre-trial stage of the proceedings? If yes, did the authorities use any mechanisms to protect the safety of the victim (e.g. via a witness protection programme) or protect him/her from secondary victimisation?	The victims provided witness statements and/or provided their evidence by way of a video-recorded interview ⁽¹⁰¹²⁾ .
	Were there any problems/issues pertaining to the collection of evidence?	Some victims were initially reluctant to provide evidence. The victims also lacked confidence when dealing with the police and were at times extremely anxious about police involvement. The male victims were also too embarrassed initially to state they were victims. The victims were housed in different places which made it quite difficult for the police to obtain evidence/further evidence from them ⁽¹⁰¹³⁾ .

⁽¹⁰⁰⁹⁾ <http://www.unseenuk.org/uploads/2.014061910215E+15.pdf>

⁽¹⁰¹⁰⁾ Stakeholder consultation (prosecutor).

⁽¹⁰¹¹⁾ Ibid.

⁽¹⁰¹²⁾ Ibid.

⁽¹⁰¹³⁾ Ibid.

Court proceedings	Was the victim required to testify in court? If yes, what effect is the witness testimony perceived to have had on the successful prosecution of the offenders?	The victims had indicated that they would be willing to give live evidence at court. They were never required to give evidence under oath given that the defendant entered guilty pleas ⁽¹⁰¹⁴⁾ .
	If the victim testified in court, did he/she do so in camera, in the courtroom (in the defendant's presence) or the court used the victim's testimony during the investigation phase?	The victims did not testify in court (see above).
	Did the victim seek compensation for the damages suffered (e.g. by constituting himself/herself as a civil claimant)? If yes, did he/she receive support by the State (e.g. legal representation/legal aid)?	Compensation claim forms were provided to the victims but they did not pursue applications for compensation.
	What type of evidence was submitted to the court? Where there any issues with the admissibility of evidence?	The victims provided witness statements and/or provided their evidence by way of a video-recorded interview and had indicated that they would be willing to give live evidence at court. This evidence was served upon the defendant and she subsequently pleaded guilty. There was no trial in this case.
	How long did it take for the court to issue its judgment (for first instance cases, from the prosecution; for second and third instance cases, from the day the appeal was filed)?	Not applicable (given that there was no trial).
Delivery of the court judgment	Was the defendant found innocent/guilty? If he/she was found innocent, was it due to procedural grounds or because the evidence presented was insufficient not substantiate his guilt?	The defendant pleaded guilty and was sentenced to three years' imprisonment.
	Was the victim awarded compensation for damages/moral pain and suffering? What was the court's reasoning?	The victims did not seek and thus were not awarded compensation.
Victim support	Did the victim receive any kind of support by public authorities (e.g. social workers)/NGOs?	The Salvation Army oversaw the re-location of the victims to a place of safety and they provided a sensitive and dynamic service, ensuring they were looked after and all their needs were met. The other victims were looked after within the Lithuanian community and declined the offer of being referred through the NRM ⁽¹⁰¹⁵⁾ .

⁽¹⁰¹⁴⁾ Ibid.

⁽¹⁰¹⁵⁾ <http://www.unseenuk.org/uploads/2.014061910215E+15.pdf>

Resources (financial and human resources)	<p>The police officers that conducted the exploitation investigation had to take action relatively quickly after receiving information from Social Services. The police made arrests and rescued victims due to safeguarding issues. They rescued a number of victims and the investigation became very labour intensive for the two officers that had been assigned to work on the case. The defendant was initially charged with having trafficked just one individual for the purposes of exploitation (evidence had been obtained from only one individual at the point that a charging decision needed to be made – it was intended that the defendant was to be kept in custody and the police were starting to obtain evidence from other victims).</p> <p>The small police team were faced with the task of obtaining evidence (through the use of interpreters) from a large number of complainants who were living in different places quite some distance away (after the initial arrests and rescues were made) and reviewing all of the exhibits seized. Further victims were identified as the investigation progressed and the police obtained evidence from these other individuals (the accounts of 12 of the individuals were used as part of the prosecution case). Given the vulnerabilities of the victims it was necessary for the police to have regular contact with them.</p> <p>The officer dealing with the case has said that no additional resource was allocated to the investigation for the first 4 months of its duration, despite requests being made for help. There were distinct time pressures given that the defendant was kept in custody in relation to the offences charged and custody time limits were running (The Crown Prosecution Service sets guiding principles for custody time limits/ Defendants can be kept in custody pending committal for trial or pleading guilty for only a limited period of time unless the court agrees to extend the time. Where a defendant is remanded in custody, the advocate at the first hearing and each subsequent hearing will announce to the court the date on which the relevant custody time limit expires) ⁽¹⁰¹⁶⁾.</p> <p>The officer dealing with the case felt that there was a lack of understanding amongst police colleagues regarding this type of offending; including no awareness in terms of the NRM process and a lack of awareness that trafficking for the purposes of exploitation can involve non-sexual exploitation and can involve situations where violence was not used or threatened against the victims, i.e. where people are coerced or forced to work as a result of the existence of circumstances being imposed by the perpetrators ⁽¹⁰¹⁷⁾.</p>
Role of labour inspectors	Labour inspectors were not involved in the case.
Case study source	<ul style="list-style-type: none"> • Judgment in the case from Lawpages.com; • Information on the facts of the case from the Unseen charity website available at: http://www.unseen.org/uploads/2014061910215199.pdf. • Correspondance with prosecutor.

⁽¹⁰¹⁶⁾ http://www.cps.gov.uk/legal/a_to_c/custody_time_limits

⁽¹⁰¹⁷⁾ <http://www.unseen.org/uploads/2014061910215199.pdf>

Case studies 4 and 5: UK-001-1; UK-001-2

	<p>No official summary.</p> <p>Following an investigation in February 2010, the defendant, Mrs Khan, was charged for trafficking for labour exploitation under Article 4 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 for forcing Mrs Mruke, a 47 year-old female victim, to work 18 hours a day, seven days a week, over a three year period, after trafficking her in to the UK from Tanzania and obtaining a domestic visa for her to enter the UK.</p> <p>Facts: The victim had accepted a job offer and a contract was drawn up which stated that she would receive 120 000 Tanzanian shillings each month which equates to about GBP 38 (around EUR 50). Fifty thousand of this would be given to her daughter for her school fees in Tanzania, another 50 000 would be transferred to an account in the victim's name and the remaining 20 000 would be paid as GBP 10 (around EUR 13) each month for her personal needs while she was in London. The victim was helped to open the account in Tanzania into which the 50 000 shillings would be paid each month. However, she had no way of checking that this money went into the account as she was not even told the account number.</p> <p>In October 2006, the victim travelled to London where she began work. Mrs Khan confiscated her passport and visa documents and kept her belongings locked in the shed in the back garden⁽¹⁰¹⁸⁾.</p> <p>The victim was made to work on household chores including cooking, cleaning gardening and caring for Khan's grownup children. She was made to sleep on the kitchen floor. Khan controlled everything the victim did – she was not allowed out of the house alone, not allowed to make phone calls without Khan being present and not allowed any time off⁽¹⁰¹⁹⁾. She stated in her evidence that she wanted to go home, but had no money to pay for the trip.</p> <p>From October 2006 until October 2007 the victim received the GBP 10 (around EUR 13) monthly payments expected but these stopped thereafter. A year later, in 2008, her daughter was unable to pay for her school fees as the money which she had previously been collecting from the hospital in Tanzania, was suddenly not available to her any more.</p> <p>First instance: Mrs Khan received a nine-month prison sentence, suspended for two years and was also ordered to pay Mrs Mruke GBP 25 000 (around EUR 34 050) in compensation and GBP 15 000 costs (around EUR 20 430).</p> <p><i>First instance:</i></p> <p>The judge at first instance asked the jury to consider the following in determining whether Mrs Khan was guilty:</p> <ol style="list-style-type: none">1) In October 2006 the defendant arranged or facilitated the arrival of ... MM, into the United Kingdom.2) At the time of this event the defendant then intended to exploit her.3) At some time during the period covered by the indictment the defendant did exploit MM by treating her more like property than a person and, in particular, by making her work for long and unsocial hours for very prolonged periods of time for little or no pay? <p>When referring to 'slavery' and 'domestic servitude', the judge at first instance said "... These phrases are not necessarily inappropriate, they may indeed be perfectly appropriate and they are phrases that are still in common usage today, but of course we are not used to hearing them in this country, and they are emotive. They perhaps conjure up in your minds, as they do in mine, pictures of slaves building the pyramids of Egypt, or the slaves in the galleys of ancient Rome or in the cotton plantations of the American deep south. When we talk of slavery or domestic servitude today we are, of course, a very long way away from that kind of treatment, at least hopefully we are in this country, but the test set out in my directions to you is considered by the law to be a test which is capable of being a modern day instance of serious exploitation. So serious that it may be regarded as criminal. The standards that you apply, indeed the standards that you as a jury by your decision help to set, are the standards expected of employers towards their employees in this country wherever they may come from."</p> <p>Second instance: The conviction was overturned by the Court of Appeal on 8 July 2011, and a re-trial ordered for January 2012. The Court of Appeal examined whether the correct definition of exploitation, and indeed 'slavery' had been applied, and whether the trial Judge directed the jury correctly about the sort of behaviour the Crown needed to show in order to prove the offence. The Court of Appeal held that the trial Judge's direction to the jury had fallen short of that test. The Court of Appeal found that exploitation could not boil down to simply working long hours for low pay, or issues about the minimum wage. The decision was therefore quashed and retrial was ordered⁽¹⁰²⁰⁾.</p> <p>Retrial at first instance: on 17 January 2012, the defendant was acquitted of slavery and servitude.</p>
Summary of the case	

(1018) Metropolitan Police, Press Release, 'Woman guilty of human trafficking' 16 March 2010, <http://content.met.police.uk/News/Woman-guilty-of-human-trafficking/1.260268713859E+12/1.257246745755E+12>

(1019) Metropolitan Police, Press Release, 'Woman guilty of human trafficking' 16 March 2010, <http://content.met.police.uk/News/Woman-guilty-of-human-trafficking/1.260268713859E+12/1.257246745755E+12>

(1020) <http://www.bailii.org/ew/cases/EWCA/Crim/2010/1690.html>

Competent Court	1 st instance: Southwark Crown Court 1st instance 2nd instance: England and Wales Court of Appeal (Criminal Division) Decisions	
Legal provision applied	Article 4 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004	
Sentence/compensation awarded	First instance: On 16 March 2011 Mrs Khan received a nine-month prison sentence, suspended for two years and was also ordered to pay Mrs Mruke GBP 25 000 (around EUR 34 050) in compensation and GBP 15 000 (around EUR 20 430) costs (the judge suspended her sentence due to exceptional circumstances because of her age, poor health and the fact she has two adult disabled children). The defendant was acquitted in a retrial on 17 January 2012 in the Southwark Crown Instance.	
Date/period of forced labour (month/year)	7 October 2006 (entered into the UK) until February 2010 (victim identified). (approx. three years and 4 months)	
Profile of the victim(s) (e.g. country of origin, gender, age, occupation of the victim prior to the incident of forced labour)	Country of origin	Tanzania
	Gender	Female
	Age	47
	Sector	Domestic work
	Migratory status	Regular migrant (work Visa)
How was the victim recruited and how did they come to be in the situation of forced labour?	Knowledge of local language The victim did not speak English.	
Elements of vulnerability	The victim met Khan when she worked for her at a hospital in Tanzania prior to 2005. After she was made redundant, the victim wrote to the hospital to see if any other roles were available. She was told that there was one role working for Khan in England to assist with domestic help and care for her grown-up children. The victim was impoverished and accepted to come to the UK to achieve a better life for her and her daughter. She was illiterate and did not speak English.	
Identification/reporting of offences	The victim reported the offence to the authorities (e.g. the police, labour inspectorate) himself/herself	-
	The authorities began the investigation <i>ex officio</i>	-
	The case was brought to the attention of the authorities by an association/NGO	-
	Other (please specify)	X The victim was identified by a Swahili Interpreter who raised the alarm during a visit to a doctor over her varicose veins. It was the first time in four years that the victim had had the opportunity to speak out

Criminal investigation	Which authority/unit was responsible for the criminal investigation of this case?	Metropolitan Police, Human Exploitation and Organised Crime Command
	How long after the victim started being subject to forced labour did the criminal investigation of the matter begin?	The police arrested the defendant on 11 February 2010.
	What was the length of the investigation?	The investigation therefore lasted around 7 months. On 11 February 2010, the police went to the defendant's house and the victim left with them. On 22 March, the defendant was arrested. On 1 September, the defendant was charged with human trafficking.
	What were the difficulties in the bringing this case to the court?	None identified.
	Was the victim required to testify at the pre-trial stage of the proceedings? If yes, did the authorities use any mechanisms to protect the safety of the victim (e.g. via a witness protection programme) or protect him/her from secondary victimisation?	Yes.
Court proceedings	Were there any problems/issues pertaining to the collection of evidence?	None identified.
	Was the victim required to testify in court? If yes, what effect is the witness testimony perceived to have had on the successful prosecution of the offenders?	Yes, the victim testified in court.
	If the victim testified in court, did he/she do so in camera, in the courtroom (in the defendant's presence) or the court used the victim's testimony during the investigation phase?	-
	Did the victim seek compensation for the damages suffered (e.g. by constituting himself/herself as a civil claimant)? If yes, did he/she receive support by the State (e.g. legal representation/legal aid)?	The victim was awarded GBP 25 000 (around EUR 34 050) in compensation and GBP 15 000 (around EUR 20 430) costs in the criminal court. The victim also pursued a civil claim against Khan.
	What type of evidence was submitted to the court? Where there any issues with the admissibility of evidence?	<ul style="list-style-type: none"> • Victim's testimony; • Defendant's testimony; • Witness testimony (including letter from Mrs Khan's friend read out in court, testifying that she had understood that the victim was well treated by Mrs Khan; several witnesses were called on the defendant's behalf, who said that when they visited her while the complainant was with her, they had no reason to think that the complainant was being ill-treated or was unhappy).
Delivery of the court judgment	How long did it take for the court to issue its judgment (for first instance cases, from the prosecution; for second and third instance cases, from the day the appeal was filed)?	Ten days. First instance: The trial started 7 March and judgment issued on 16 March 2011. The length of the retrial that started in January 2012 is unknown.
	Was the defendant found innocent/guilty? If he/she was found innocent, was it due to procedural grounds or because the evidence presented was insufficient not substantiate his guilt?	First instance: the defendant was found guilty under Article 4 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (see reasoning above in summary of judgment). Retrial in January 2012: the defendant was acquitted (the judgment stating the reasoning for this was not accessible).
	Was the victim awarded compensation for damages/moral pain and suffering? What was the court's reasoning?	First instance: The victim was awarded compensation of GBP 25 000.00 (around EUR 34 050). One commentator noted that if paid, this would have been the equivalent of 90 pence for every hour that Mrs Mruke had worked ⁽¹⁰²¹⁾ . Retrial in January 2012: the defendant was acquitted.

⁽¹⁰²¹⁾ Geddes, A., Craig, G., Scott, S., with Ackers, L., Robinson, O. and Scullion, D., Forced Labour in the UK, 24, <http://www.jrf.org.uk/sites/files/jrf/Forced%20Labour%20in%20the%20UK%20FINAL%20prog%20paper.pdf>.

Victim support	Did the victim receive any kind of support by public authorities (e.g. social workers)/NGOs?	The judgment refers to an African charity, and that the victim was supported by representatives of this charity (no specific mention to which charity this was).
Resources (financial and human resources)	-	
Role of labour inspectors	Labour inspectors did not play any role in this case.	
Case study source	<ul style="list-style-type: none"> • Thelawpages.com (reference: T20100929 Saeeda Khan); • [2011] EWCA Crim 1691, http://www.bailii.org/ew/cases/EWCA/Crim/2011/1691.html; • Metropolitan Police, Press Release, 'Woman guilty of human trafficking' 17 March 2011, http://content.met.police.uk/News/Woman-guilty-of-human-trafficking/1260268713860/1257246745756. • Bell Yard Press release, 'Woman vilified by the media finally acquitted', 18 January 2012, http://www.912by.com/news/326-woman-vilified-as-slavedriver-by-the-media-finally-acquitted. 	

Case study 6: UK-006-1

Summary of the case	<p>The defendant brought 21 year old victim from Tanzania and made her work as a servant 7 days without pay. The victim was made to look after the three children and perform household tasks. The victim was forced to share a bed with another person, abused both verbally and psychologically and not allowed to communicate with her family.</p> <p>The defendant took her passport away when she arrived in Feb 2010.</p> <p>The defendant was found not guilty of THB for forced labour, but found guilty of holding a person in slavery and servitude or requiring them to perform forced compulsory labour and common assault. Sentence: 6 months imprisonment.</p> <p>The judge stated the following: 'you are a woman of academic distinction and obviously you have no previous convictions I this country or indeed anywhere else. But you treated Methodia Mathias so badly that the jury thought that it amounted to a criminal offence. They were not sure that you wanted from the outset to do so, but you treated her in that way from shortly after her arrival in this country. She worked incredibly long hours, with no time off and for no money whatsoever. You would not even let her have an Oyster card to travel to church. There will be worse cases that this no doubt, but the facts of this case mean a prison sentence, all be it a short sentence is inevitable. I have treated this as a case of coerced servitude.'</p>				
Competent Court	Southwark Crown Court 1 st instance				
Legal provision applied	Section 71 Coroners and Justice Act 2009; Section 39 Criminal Justice Act 1988 (holding another person in slavery or servitude or requiring them to perform forced or compulsory labour)				
Sentence/compensation awarded	6 months imprisonment				
Date/period of forced labour (month/year)	6 months.				
Profile of the victim(s) (e.g. country of origin, gender, age, occupation of the victim prior to the incident of forced labour)	Country of origin	Tanzania			
	Gender	Female			
	Age	21 (at the time of her arrival in the UK)			
	Sector	Activities of household as employers			
	Migratory status	Regular migrant (work visa)			
How was the victim recruited and how did they come to be in the situation of forced labour?	Knowledge of local language				
Elements of vulnerability	<p>D brought 21 year old victim from Tanzania and made her work as a servant 7 days without pay. She took her passport away when she arrived in February 2010. Ms Balira had offered the victim 250 000 Tanzanian shillings a month - about GBP 96 - to work as her housekeeper. The defendant arranged for her visa and paid for her flights from Dar-Es-Salaam to London.</p>				

Identification/reporting of offences	The victim reported the offence to the authorities (e.g. the police, labour inspectorate) himself/herself	-
	The authorities began the investigation <i>ex officio</i>	-
	The case was brought to the attention of the authorities by an association/NGO	-
	Other (please specify)	The victim told a friend about her mistreatment. The friend sought help from the charity Kalayaan which represents migrant domestic workers. The police were called in to investigate ⁽¹⁰²²⁾ .
Criminal investigation	Which authority/unit was responsible for the criminal investigation of this case?	No information available.
	How long after the victim started being subject to forced labour did the criminal investigation of the matter begin?	No information available.
	What was the length of the investigation?	No information available.
	What were the difficulties in the bringing this case to the court?	No information available.
	Was the victim required to testify at the pre-trial stage of the proceedings? If yes, did the authorities use any mechanisms to protect the safety of the victim (e.g. via a witness protection programme) or protect him/her from secondary victimisation?	No information available.
	Were there any problems/issues pertaining to the collection of evidence?	No information available.
	Was the victim required to testify in court? If yes, what effect is the witness testimony perceived to have had on the successful prosecution of the offenders?	No information available.
Court proceedings	If the victim testified in court, did he/she do so in camera, in the courtroom (in the defendant's presence) or the court used the victim's testimony during the investigation phase?	No information available.
	Did the victim seek compensation for the damages suffered (e.g. by constituting himself/herself as a civil claimant)? If yes, did he/she receive support by the State (e.g. legal representation/legal aid)?	No information available.
	What type of evidence was submitted to the court? Where there any issues with the admissibility of evidence?	No information available.
	How long did it take for the court to issue its judgment (for first instance cases, from the prosecution; for second and third instance cases, from the day the appeal was filed)?	No information available.
Delivery of the court judgment	Was the defendant found innocent/guilty? If he/she was found innocent, was it due to procedural grounds or because the evidence presented was insufficient not substantiate his guilt?	No information available.
	Was the victim awarded compensation for damages/moral pain and suffering? What was the court's reasoning?	The victim was award compensation of GBP 3 000 (around EUR 4 000).

⁽¹⁰²²⁾ <http://www.telegraph.co.uk/news/uknews/crime/8675446/Scientist-smuggled-woman-from-Africa-to-work-as-slave-in-her-home.html>

Victim support	Did the victim receive any kind of support by public authorities (e.g. social workers)/NGOs?	No information available.
Resources (financial and human resources)	None identified.	
Role of labour inspectors	Labour inspectors were not involved in this case.	
Case study source	- T20101065, Rebecca Siima Balira, http://www.thelawpages.com/court-cases/Rebecca-Siima-Balira-7236-1.law	

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