

Uncovering labour trafficking

Investigation tool for law enforcement
and checklist for labour inspectors

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Introduction

Identifying and investigating labour exploitation and trafficking is a challenging task. These are often international crimes in which migrant workers from one or more countries are brought to a third country, where their vulnerable position and ignorance are exploited by the offenders in multiple ways. Labour exploitation is found particularly frequently in labour-intensive sectors such as restaurants, cleaning, agriculture and construction (e.g. Jokinen et al. 2011; Ollus et al. 2013; FRA 2015). The offenders seek to conceal their criminal activities in any way possible and intimidate their victims so that they do not dare speak out about being exploited. Ultimately, the motive underlying labour exploitation is maximising financial profits. Unfortunately, labour exploitation can be highly lucrative, particularly since the risk of being caught is usually quite low. (Jokinen & Ollus 2019.)

¹ Flows of illicit funds and victims of human trafficking: uncovering the complexities 814791 — FLOW — ISFP-2017-AG-THBX

The present investigation tool was developed in the EU-funded FLOW project¹, whose target group comprises of criminal investigation authorities and labour inspection authorities in Finland, Bulgaria, Latvia and Estonia. Its purpose is to increase awareness of labour exploitation and trafficking and to offer concrete steps in identifying and investigating these phenomena. The tool is based to a large degree on the experiences of the Finnish police and labour inspection authorities, because the number of cases identified in Finland of labour trafficking that have led to convictions for trafficking for forced labour is exceptionally high by European standards.

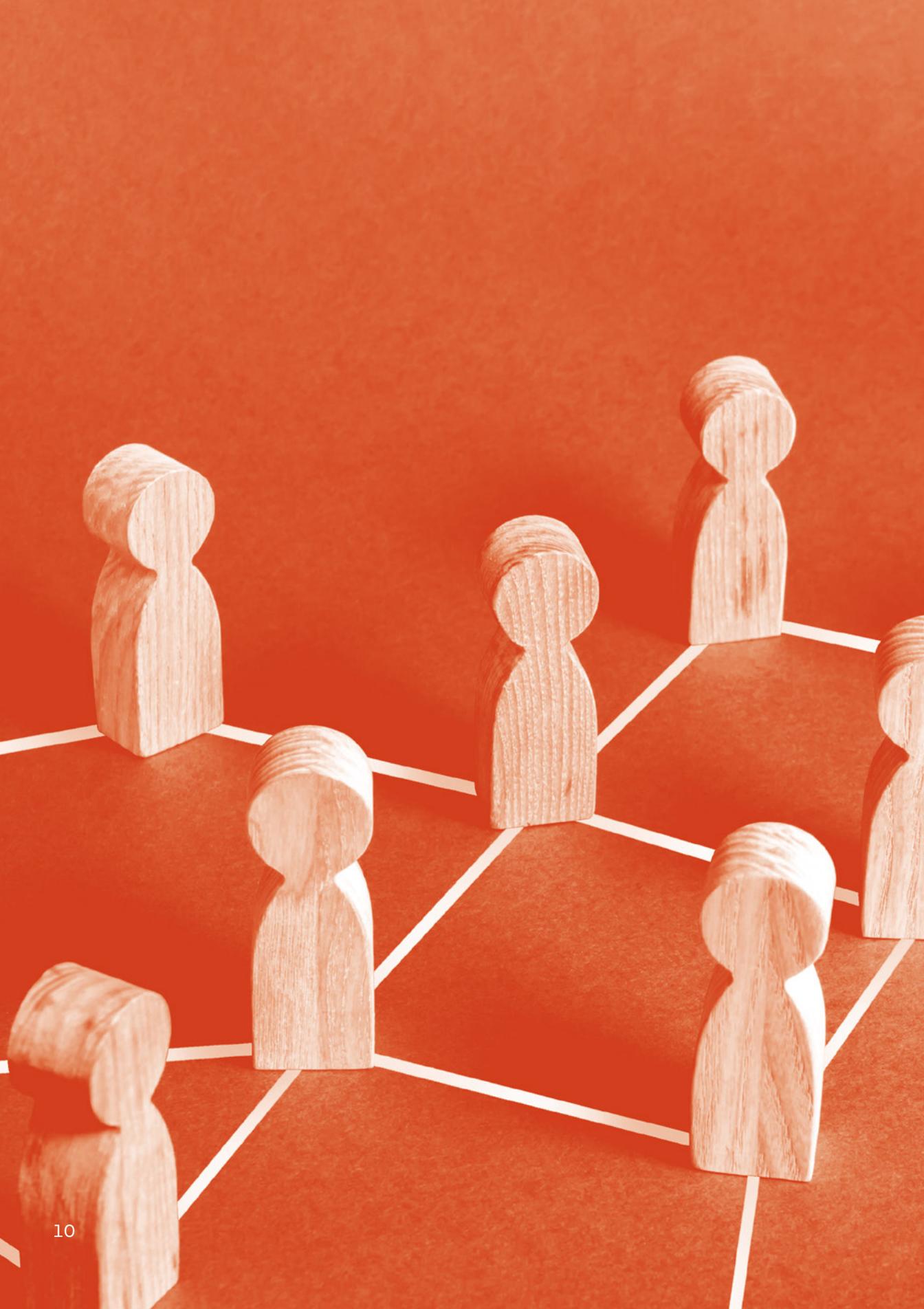
The investigation tool briefly describes the progress of police investigations from the initial impulse to practical arrangements at the trial and action taken thereafter. The tool further illustrates features of identification and investigation through practical examples. There is also a separate checklist for labour and other relevant inspectors on how to identify potential cases of labour trafficking and exploitation during inspections and how to proceed with suspicions by contacting the police and or other authorities and national service provider(s) for victims of trafficking. The final checklist outlines some questions that can be asked from the

victims in order to uncover indications of trafficking for forced labour.

The investigation tool also presents actual cases and some promising practices from Finland, Bulgaria, Latvia and Estonia. They are used for highlighting effective measures for uncovering, preventing and investigating human trafficking, with the police, labour inspectors and other authorities working together. Issues related to interrogations, interviews and the use of interpreters are also covered with focus on what has worked in the past and what has not.

In a successful investigation, all the relevant case-specific information is quickly brought together in the right place, allowing an intervention in the victim's situation and thereby ensuring that sufficient evidence can be collected. Collaboration between various authorities is also important, and in rapidly unfolding situations it is useful to review their roles in detail.

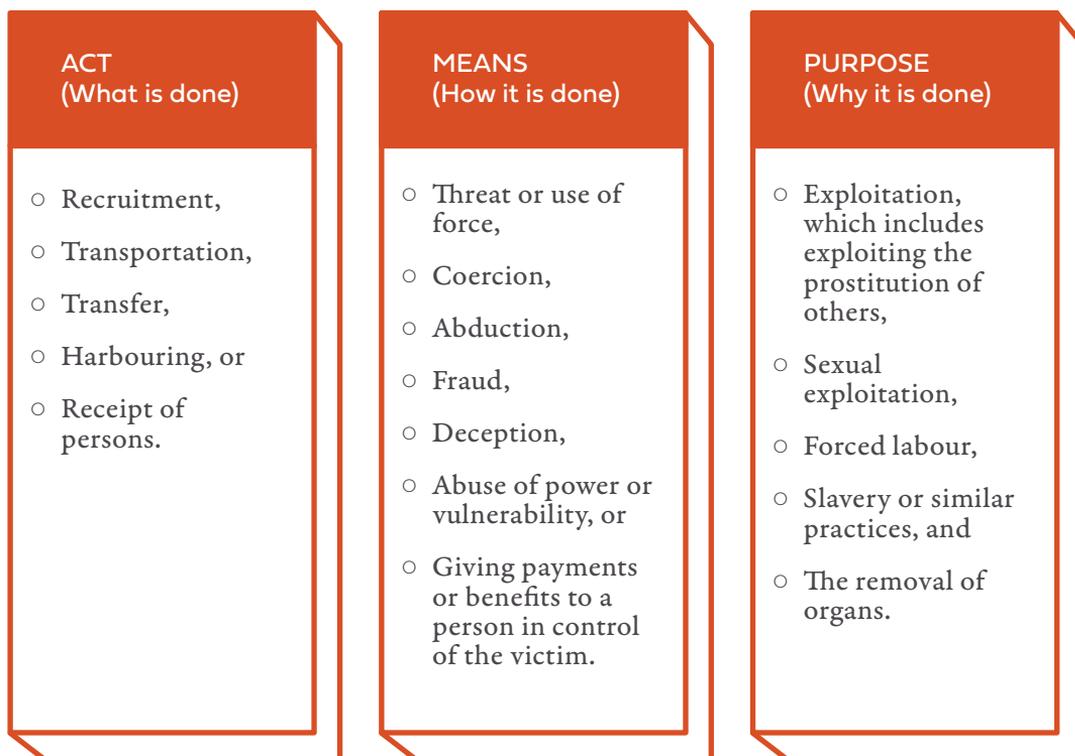




What is human trafficking?

Human trafficking is a complex crime which has three elements. These are shown in Figure 1. Every one of these three elements must be proven for a case to be defined as human trafficking according to the definition of the UN Trafficking Protocol.

Figure 1. Elements of human trafficking



To satisfy the definitional elements of labour trafficking, it has to be proven that the purpose of the human trafficking was forced labour, unless the national legislation includes a broader meaning such as labour exploitation or circumstances contrary to human dignity or similar, which could also be used in labour related cases. With regard to the definition of forced labour, the preparatory materials for national legislation often refer to the International Labour Organization ILO's Forced Labour Convention from 1930 (Treaty Series 44/1935) and the ILO Convention on the elimination of forced labour from 1957 (Treaty Series 17/1960). According to the ILO Forced Labour Convention, forced labour is understood as "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" (Article 2). In short, a worker must always have the right to choose freely which job to take but also to choose freely to end an employment relationship.

Under the ILO definition, exacting work or service under the menace of a penalty refers to punitive practices that may serve as indicators of a forced labour situation (ILO 2005, 20–21):

- Physical or sexual violence or the threat of such violence.
- Restriction of movement of the worker e.g. through confinement or through preventing contact with the host community.
- Debt bondage or bonded labour e.g. arising from the process of recruitment and transportation.
- Withholding wages or refusing to pay the worker at all.
- Retention of passports and identity documents.
- Threat of denunciation to the authorities.

Similarly, if a job offer involved misleading or deception, any consent given by the employee cannot be regarded as informed and voluntary (ILO 2009, 12–13).

When considering the ‘forced’ element in forced labour, it is thus essential to pay attention to subtle means of control, such as any circumstances preventing the employee from leaving the job: dependence on the employer because of a debt, or a vulnerable position resulting from ignorance and a lack of options.

The means used for controlling an employee, for exacerbating his/her debt and for restricting his/her freedom of movement and independence are circumstances that invalidate any consent that the employee may have originally given. In other words, forced labour does not necessarily involve intimidation, violence and physical control of an employee.

Often it is not easy to make the distinction between what is labour trafficking and what is ‘only’ labour exploitation. In many countries there are so called parallel provisions. In Finland, the crime of extortionate work discrimination is considered a crime resembling human trafficking. For extortionate work discrimination to have occurred, an employee must have been placed in a considerably inferior position by virtue of the offender taking advantage of the employee's economic or other distress, dependent status, lack of understanding, thoughtlessness or ignorance. The circumstances generally involve low pay and poor terms of employment. However, simple low pay and poor terms of employment or working conditions do not in themselves satisfy the definitional elements of trafficking for forced labour.

In practice, it is not always a simple to distinguish between extortionate work discrimination and human trafficking in the Finnish context. Extortionate work discrimination describes situations specifically involving discrimination, while human trafficking is an offence against personal liberty. There is some overlap between exploiting the dependent status and insecure state of the victim which are means of human trafficking, and taking advantage of the victim's considerably inferior position which falls under extortionate work discrimination.

The following table outlines the definitional elements of a victim’s ‘dependent status’ and ‘insecure state’ in the Finnish context. This could also be used to uncover the position of vulnerability of the victim that the perpetrator is abusing, according to the UN definition.

Table 1. Elements of a dependent status and an insecure state under the offence of human trafficking

| Dependent status | Insecure state |
|---|--|
| <ul style="list-style-type: none"> ○ family circumstances or personal relationships ○ employment relationship ○ being a tenant ○ debt ○ residence in an institution ○ a drug addict's dependency on the drug dealer/provider ○ threat of denouncing an illegally residing victim to the authorities ○ retention of travel documents ○ exploiting the dependent status of a close family member | <ul style="list-style-type: none"> ○ young age ○ serious illness ○ substance dependency ○ serious illness or substance dependency of a close family member ○ difficult economic situation ○ homelessness ○ psychological state ○ physical or mental disability ○ previous traumatic experiences, e.g. previous sexual exploitation or prostitution ○ status of being a foreigner/asylum seeker/refugee |

For a human trafficking offence, all three elements must be found: the act, the means, and the exploitative purpose. In practice, this means things like misleading the employee about the circumstances of the work, housing and pay, making the employee work excessively long hours for little or no pay, and leveraging the aforementioned dependent and insecure state of the employee to keep the employee in that state. Scenarios may also involve the threat of or actual violence, confiscating the employee's passport and online banking IDs, and intimidation. If a worker is unable to leave an employment relationship due to the total control exerted by the employer, the situation may be defined as human trafficking. Labour trafficking is also often accompanied by financial crime and other offences, which are discussed in more detail in the chapter on financial investigation.



Analysis of operating environment and stakeholder cooperation

Human trafficking and related phenomena may be discovered in the daily work of a number of different authorities. Not only the police but also the labour inspection authorities, tax authorities, and other inspection authorities as well as NGOs and trade unions may identify potential cases of labour exploitation and trafficking. At the local level, the police and the labour inspection authorities should cooperate in analysing which sectors might be prone to labour exploitation and whether there are local residents who belong to at-risk groups (whether as victims or offenders). In cities, labour exploitation typically occurs in the restaurant, construction and cleaning sectors, while in rural areas the at-risk groups include seasonal workers on farms, such as berry pickers. Table 2 below lists at-risk groups and their locations and also actors that may be in a position to encounter and discover cases of exploitation.

Table 2. At-risk groups and locations and actors potentially encountering and discovering exploitation.

| At-risk groups and locations | Actors that may be in the position to encounter and discover cases of exploitation ² |
|--|--|
| <p>Migrant workers (including EU-citizens and posted workers), irregular migrants, asylum seekers, refugees, foreign students and seasonal workers</p> <ul style="list-style-type: none"> ○ How many target group members are living in your town/city? ○ What industries, jobs are they working in? ○ Where do they live and how do they commute to work? ○ What is the background and demographic profile of this population? ○ What are their working conditions and wages? ○ Are they aware of their rights, do they receive any support and services? | <ul style="list-style-type: none"> ○ Labour inspectors ○ The police ○ Health/fire/alcohol/tax inspectors ○ Trade unions ○ Social services ○ Medical personnel ○ NGOs ○ Victim Services ○ Migrant/refugee support groups ○ Migrant communities' organisations ○ Immigration and permit authorities ○ Recruitment agencies ○ Private citizens |
| <p>At-risk locations</p> | |
| <ul style="list-style-type: none"> ○ Big construction sites where migrant workers are employed ○ Big agricultural and berry farms where migrant workers are employed ○ Cleaning sites where migrant workers are employed ○ Areas with e.g. ethnic shops, nail salons and/or money transfer services | <p>² Adapted from CBSS 2016, 19, 23.</p> |

It is a common problem that officials and other actors may encounter people who are subjected to labour exploitation, without being aware that they are dealing with a victim. The principal challenge for both identification and cooperation is that no one sees the big picture.

Labour inspectors are particularly well positioned to detect features of labour exploitation in their inspections (see Checklist 1 for details). Positive experiences have also been gained from joint inspections held by the police, the labour inspection authorities and the tax authorities, not only in Finland but also in Bulgaria, Latvia and Estonia. Other authorities, such as rescue authorities and food safety authorities, may also play a vital role, as shown in the following example.



Promising practice from Finland: enhanced cooperation in joint inspections on berry farms

In summer 2019, the police in Eastern Finland established a joint operation model with the labour and tax authorities for enhanced supervisory inspections of berry farms in the districts of North Savo and North Karelia. The rescue authorities and the food safety authorities were also involved in these inspections. The inspections were aimed at farms selected on the basis of a preliminary analysis made by the authorities.

The berry farms inspected employed more than 300 seasonal workers, mainly from Eastern Europe. The inspection measures had been agreed upon in detail at joint meetings where the roles of the various officials, the division of duties and the operating processes were reviewed and where a briefing on human trafficking was given. In the resulting model for Eastern Finland, the police coordinated and lead the inspections but the other participating authorities operated according to their respective mandates.

The officials were accompanied by a Russian-language interpreter, and interpretation by phone was also used. The police and the labour inspection authorities used pre-translated questionnaires to interview a sample of employees and inspected their identity documents, residence permits and visas. At the same time, the rescue and food safety authorities conducted their respective inspections. As reported on YLE news, the inspections showed that monitoring is certainly necessary, because shortcomings in fire safety, working hours bookkeeping and payroll were found on every farm (Husu 2019). Also, useful feedback was gained from the interviewed employees (Ibid.).

One possible approach for effective cooperation and information exchange to combat human trafficking is to establish a national network of experts consisting of representatives of various authorities, along with similar local networks. For example, in Belgium, judicial and local police units, as well as prosecution offices and social and labour inspection authorities have designated, specialised officers, who are in charge of human trafficking issues. The prevention of trafficking and labour exploitation is a political priority in Belgium, and as a result, the government has established and funded permanent specialised structures to prevent and address these crimes. In Finland, the national assistance system for victims of human trafficking, for its part, is connected with almost all immigration units of the police in Finland. Also, the NGO Victim Support Finland coordinates local networks against human trafficking at least in the cities of Oulu, Vaasa, Tampere, Turku and Kuopio, and these involve various authorities along with NGOs. A network of local operators could be built in different countries on the basis of the aforementioned existing structures. For this purpose, a designated officer should be appointed in each body. Having a centralised national network with designated officers and allocated resources would allow the establishment of nationwide situational awareness and broader case management.



Identifying human trafficking

It is not easy to identify labour exploitation and trafficking, because the victims are generally fearful of the authorities, and identifying a situation of comprehensive exploitation usually requires a good understanding of human trafficking. There are various checklists available to assist in identifying victims of human trafficking. For example, there is plenty of material in English on the website of the Finnish National system of assistance to victims of human trafficking <http://www.ihmiskauppa.fi/en> concerning how to identify human trafficking, including a set of indicators developed by the NGO Pro Counselling Centre.³ The indicator lists are very good and should absolutely be used. The challenge in using these kinds of checklists is that it is practically impossible to make them cover all possible forms of exploitation, abuse and control.

³ <https://pro-tukipiste.fi/wp-content/uploads/2018/04/indicators-of-human-trafficking.pdf>

When actors who are not criminal investigation authorities encounter what they suspect to be human trafficking in the course of their work, they should first contact the police. Checklist 1 describes in more detail what should be done if e.g. an inspector uncovers a case which might be trafficking-related. It is important that the criminal investigation authorities have the time and the opportunity to use their own (in certain cases covert) investigation measures without the employer finding out about the suspicion of crime. In at-risk locations, especially when migrant workers are involved, it is important to document and report all observations and anomalies to the police. By combining information, the police are able to evaluate the seriousness of the situation more carefully.

Badly timed actions by the wrong party may, in the worst case, cause the threat to the victim to be realised, making it impossible to break the offender's control over the victim.

In Finland, labour inspectors and officials in the social welfare and health care sector have their own guidelines on what to do if they encounter a victim of human trafficking (Ministry of Social Affairs and

Health 2015; 2019). Nevertheless, all other authorities should remember that it is the police who are responsible for carrying out criminal investigations. Victims, and indeed offenders, do not necessarily see the difference between talking to the police and talking to another official. This may jeopardise the investigation, the safety of the victim and also the safety of the officials.

Although it is the police who should make the actual intervention and approach the victim, it is critically important to establish cooperation between the various authorities not only in information exchange but also in interventions. For example, victims may be approached by the police in connection with a health inspection or a labour inspection. Once the trust of an identified victim has been established in an encounter, contact with the victim must not be lost. Victims are very unlikely to trust the police. An already established contact with the authorities may go a long way towards fostering trust in the police. In acute situations in the evening and at night, the only official channel available in most countries is the emergency number 112. In addition to strengthening the victim's trust, the officials involved should be able to establish a connection among the authorities investigating the matter.

There are many key person risks involved in combating human trafficking. A 'key person risk' exists when cases are only managed by isolated officials. Even at the national level, in many countries only a handful of individuals have professional expertise in dealing with human trafficking. In the worst cases, this means that there is no backup for managing acute and critical matters: if a key person is absent, there is no one to take up their duties.

Regardless of which party identifies a case of human trafficking, in an acute case the national service provider for victims of human trafficking is able to launch the critical initial measures. The police should be notified of the case as soon as possible, although it must be noted that victims of trafficking should receive unconditional assistance without the need to cooperate with authorities during the reflection period. More details are outlined in the next box.

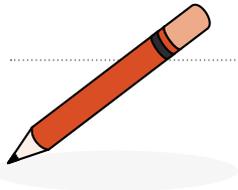


Resident permits for trafficking victims

Individuals who are victims of human trafficking may be granted a reflection period during which they can recover and decide whether to cooperate with the authorities (Council directive 2004/81/EC). According to the EU trafficking directive, as soon as there is reasonable grounds to believe that a person might have been trafficked, they should be offered unconditional assistance at least during the reflection period. The length of the reflection period is determined in the national law of each country. Moreover, temporary residence permits may be issued to non-EU nationals who have been victims of human trafficking if the three following conditions are met:

1. the presence of the victim can help the investigation,
2. the victim is willing to co-operate with the authorities, and
3. the victim has cut ties with the suspected perpetrator(s).

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Intervening in human trafficking

Because human trafficking is an offence against personal liberty, there is always some degree of coercion by the offender against the victim. In traditional police operations, someone files a report of an offence and the case is responded to in an appropriate manner. However, much of the traditional approach can be discarded in the area of combating, detecting and investigating human trafficking. For instance, if a victim is sent an invitation to be heard as an injured party in a case of human trafficking, the letter will most likely be opened by the offender. If an extensive police operation is launched to apprehend the offenders and the victim is interviewed in the wrong way and at the wrong time, the victim will not tell the police anything. The end result in such a case is that the offenders become aware of the suspicion and the victim does not dare tell his/her story to the police. The police action may even trigger the offender's threat to the victim or force the offender to hide or relocate the victim, which makes it difficult for the authorities to establish contact and find the victim.

This tool describes effective ways to reach out to a victim, to break the control of an offender over a victim and to encourage a victim to tell their story so that they can be given assistance and the offenders can be brought to justice. The following example illustrates how a victim can be identified due to an external impulse and how the case then unfolds.



Case study: impulse and identification

A local police department in Finland was given a tipoff that there was reason to suspect that a local restaurant was exploiting its employees. Previously, several inspections by the police, labour inspection and immigration authorities had been conducted at the restaurant. During inspections everything, such as work hour lists and work permits, were found exceptionally exemplary. There had been attempts to interview employees in connection with these inspections, but nothing suspicious had been found. The language barrier had been a challenge in the interviews, but individual interviews had been conducted using interpretation by phone. The employees were in possession of, for instance, their mobile phones and passports at the time of the inspections.

Despite all this, the party providing the tipoff was considered reliable. As a result, the police conducted an information system search, which revealed suspicious details, such as the fact that everyone working at the restaurant resided at the same address. It was concluded that there was cause to approach these potential victims of human trafficking in order to investigate the situation further.



Focusing the investigation and collecting evidence

Whenever a suspicion of human trafficking arises, the approach and method in which the activity should be addressed must be considered. Conventional policing involves sending an invitation to an interview and apprehending the suspects when the criteria for apprehension are fulfilled, after other available evidence has been reviewed. Searches of premises and similar actions may be taken to discover further evidence.

Investigation of human trafficking is very different from conventional criminal investigations. It is often the case in investigating human trafficking that not all the people involved are known to the police when the offenders have already been taken into custody. Or even if known, all offenders have not yet been found. Here, too, the victim is of crucial importance to the case: if the offender has a chance to put pressure on the victim, the victim may change their story or else be at serious risk.

Authorities can also use covert coercive investigation measures in certain investigations. Depending on the national legislation of each country, these may include telecommunications interception and monitoring, extended surveillance, covert collection of intelligence, technical surveillance, and other measures. Telecommunications interception, for example, may be useful in cases where trafficking in human beings is suspected. The UNODC (2017) report on evidentiary issues in trafficking cases notes that special investigative techniques such as “stings” or entrapment initiatives, wiretapping, and the surveillance of premises or persons may be useful to gather testimonial, documentary, “real” or object evidence in human trafficking cases.

Moreover, the IOM manual for investigators (2018) notes that obtaining evidence through various intelligence sources is the key to any successful human trafficking investigation.

Information obtained from intelligence can be further classified into open, closed and classified:

- Open-source information refers to information that is publicly or internally available within a law enforcement agency e.g. social media, newspaper advertisements, databases, as well as internal information such as police reports, witness statements and interviews.
- Closed-source information is collected for a specific purpose. It is not available to all and the distribution of this information is limited.
- Classified information is acquired through covert methods such as the use of undercover operatives and wiretapping. (IOM 2018, 58.)



Advantages of wiretapping

Prosecutors who have experience with wiretapping emphasized e.g. the following advantages of the technique to UNODC:

- It can reveal the chain of perpetrators and their respective roles.
- It can uncover substantive evidence to add to the mosaic of evidence, such as derogatory language used, the level of brutality applied and the transnational nature of the offence.
- It can lead to confessions.
- It can support victim testimony.
- It can contradict defendants' assertions.
- It can help to prove criminal intent. (UNODC 2017, 49-51.)

In addition to victims' testimonies, according to UNDOC (2017, 49), "real evidence" or object evidence is important in securing convictions in human trafficking cases. These may include:

- Photographs (e.g. of a victim's appearance, of a situation concerning the defendant/victim or of the living or working conditions of the victim)
- Video-recordings
- Fingerprints, biological traces and traces of objects
- Marked money
- Unexplained large amounts of cash
- Information technology equipment such as computers and mobile phones
- Behaviour during testimony (e.g. crying, confusion, lack of emotion, evasiveness) (Ibid; IOM 2018, 60.)

Also documentary or secondary evidence should be collected. IOM (2018, 59) has published a comprehensive list of what kind of documentary evidence can be collected in trafficking cases. See box on the next page for details.

In a good investigation, the victims' testimonies, as well as documentary and object evidence collected via multiple sources and methods are all used to prove the three elements of human trafficking: the act, the means and the purpose.

Examples of documentary evidence relevant to labour exploitation cases

- Sworn statements and/or affidavits of victims, complainants, arresting officers, families, friends and other persons who have personal knowledge of the situation
- Documentation relating to the recruitment process, such as copies of advertising, application letters, contracts and so forth
- Documentation of payments made by the victims to the traffickers, such as handwritten lists of payments, money transfer forms and so forth
- Documentation of financial transactions
- Documentation relating to identification and travel, such as passports or tickets
- Documentation relating to the issuance of passports and visas, including overseas employment contracts and work permits
- Documentation of daily management of the business such as daily work hour lists and shift lists
- Books of accounts, business records, and other similar documentation of the employment, recruitment, business establishment and so forth
- Documentation relating to the renting or leasing of the premises or business establishment and other links to other addresses or locations
- Text messages on mobile phones
- Medical, psychological, psychiatric and dental examination reports (IOM 2008, 59.)



However, it is also typical for cases of labour exploitation and trafficking that their success relies largely on the testimony of the victims. The aim is to back up victim statements with documents and other evidence as far as possible, but on the other hand it is a fundamental truth that without the victim's story there is no case, or at least no proof of human trafficking. If sufficient evidence is not found, intervention is not possible, and it becomes even harder to assist the victim, particularly if the criminal investigation has to be discontinued. If the police interview the victim at this point, the offender may conclude that the victim has told the police something. Even if the victim has not actually said anything, merely the knowledge of the police approaching the victim may trigger the offender's threat or coercion against the victim. A victim may be referred to the assistance services for victims of human trafficking on the basis of a mere suspicion of an offence, but in order to carry the investigation further and bring the case to court, sufficient evidence is required for the consideration of charges. The victim's story is of crucial importance in this.

In the case study described on page 25, the employees were under the impression that their employer 'owns' the Finnish police. There was also probable cause to assume that there were multiple victims in the case. Traditional intervention would have posed an excessive risk for the victims and endangered bringing the offenders to justice. A traditional intervention would have involved, for instance, stopping the offender in traffic when transporting the victims to work and interviewing all the parties immediately. This would have involved informing the victims of their rights and responsibilities as injured parties. This approach would have been a poor start to the investigation. None of the victims were well educated, and it was a safe assumption that they did not understand how the Finnish justice system works. Announcing to the victims that they were obliged to tell the truth and that giving false statements is an offence under the Finnish Criminal Code under penalty of imprisonment, would have most likely caused them to freeze up completely.

On the other hand, human trafficking is such an offence that when the police are informed of it, action must be taken as quickly as possible. In the case described above, the police decided to continue gathering information for some time and to focus on how to break the offenders' control over the victims. The gathering of information concerning the case went on alongside the rest of the investigation, and the main focus was on the police gaining the trust of the presumed victims of human trafficking. The investigation eventually resulted in a conviction on human trafficking and the perpetrators were sentenced to imprisonment for 6 years and 10 months. The estimated criminal proceeds were 2,5 million EUR.

Apprehension and interviews

The apprehension of perpetrators must always be carefully planned. In the aforementioned case study, the date of apprehension was planned on the basis of information acquired from various sources. The apprehensions were made by stopping the employers in traffic when they were transporting employees to the restaurants. They were not done in the traditional manner but in view of the imminent threat against the victims and their possible distrust of the authorities. In the apprehending, the employers and employees were separated from one another.

The employers were arrested on suspicion of a human trafficking offence. Instead of the victims being interviewed at once, they were taken to the auditorium at the police department, where they were met by the head investigator, the senior investigating officer, an official from the Assistance system for victims of human trafficking and interpreters. The employees were informed of what was going on and advised about their rights and their status as victims of a crime. Then, the victims were briefly interviewed individually and taken to a safe house provided by the Assistance system for victims of human trafficking.

Proper interviews with the victims were not begun until the next day, after the victims had had a chance to rest and understand the situation. The interviews on the following day were well organised. The interviewers were aware of the victims' finances, including the fact that they had had to pay back some of the wages to the employers, and had made observations by monitoring the restaurants. The evidence obtained through this covert information gathering showed, among other things, that the victims had been working more than 14 hours a day.

In the case described here, some victims initially did not trust the police, but with the appropriate interview tactics and thorough groundwork each victim was eventually convinced to tell their story. In retrospect, postponing the interviews to the day after the apprehension was a key factor. It was important because the delay gave the victims time to understand what was going on. It was also vital to do thorough research

for every interview with a victim. For instance, when asked about the length of their working days, some victims gave the answer specified by the employer. They were encouraged to be truthful by demonstrating that the police already knew the facts.

The importance of preparing well for the interviews cannot be overemphasised.

The victims are not necessarily well educated and may not understand what is happening, and thus they are unable to volunteer essential details. The traditional approach to interviews, where the questions are directly derived from the definitional elements of the offence, is insufficient in nearly all cases.

Example:

Question: Do you have to work for XX?

Response: Yes.

The above question is not exactly the best material for the prosecutor to take the case forward. It is too restrictive and does not account for the total control exercised over the victim.

Because human trafficking is an offence against personal liberty, interviews should focus specifically on the control over the victim and the fact that the victim had no options. When the investigation has progressed far enough to interview victims, it has usually already been proven that the victims have been working long hours and that their pay is not consistent with the amount of work done. Some suitable interview questions are listed in checklist 2.

Issues related to interpretation

By law, interviewees have the right to use their native language in interviews. This applies to all parties in an investigation. Sometimes interpretation presents challenges for an investigation. The interpreter is in practice always a third party from the perspective of the authorities, and thus the matters discussed, which are sometimes of a very delicate nature, come to the knowledge of a party external to the authorities. However, using an interpreter is unavoidable; indeed, legislation requires the criminal investigation authorities to provide one.

The major problems with using an interpreter have to do with availability, quality and reliability. Practical challenges include the requirement that the police must principally use interpreters who have been security cleared and are employed by partners selected through competitive tendering. There are languages and dialects for which there are no interpreters in the destination country, and this may pose extraordinary challenges. It is vital to have an interpreter available, but in the worst case, it may take several days to achieve this. With rare languages, an interpreter can often be found only in another country, and the interpretation has to be done over the telephone.

The reliability of the interpreter must be ensured when dealing with a case of human trafficking. The special features of the offence must be taken into account. Ethnic communities are relatively small and very close-knit, even in large cities. In a small town, people from the same ethnic background are almost guaranteed to know each other well. Practically all of the interpreters employed by the criminal investigation authorities have at least a standard security clearance. Assessing the reliability of an interpreter should also include an investigation of the interpreter's family and acquaintances and any connections between them and the suspects. Also, a separate non-disclosure agreement must always be signed with the interpreter.

Especially at the discovery stage of the investigation, an interpreter may often be needed very urgently and outside office hours. If officers are

obliged e.g. to phone the helpline of the interpreter service selected through competitive tendering, they will not know in advance the identity of the interpreter who can be arranged at short notice. Once the apprehension has been made and the acute stage has passed, interviews and other meetings can be arranged with more flexibility, and the availability of interpreters is not as challenging.

The quality of the interpreting is a mission-critical factor: if it proves possible to question the interpreter's professional capability or the quality of the translation for instance in court, it may have a major impact on the success of the case. In an ideal situation, the interpreter in a case of human trafficking investigated should be a natural-born citizen of the destination country with sufficient competence in the language spoken by the persons interviewed. The interpreter would then not be of the same ethnic origin and would not have roots in the same community as the interviewee.

In summary, the interpreter should be chosen according to the case, so that their personal characteristics and background are consistent with the matter at hand. For instance, when discussing severe abuse, a female victim may find it more comfortable talking through a female interpreter. Quality, availability and reliability must be assessed on a case-by-case basis and continually as the investigation progresses.



Protecting the victims

Initial measures

This chapter discusses practical measures for protecting victims and for information exchange and cooperation between authorities. Protecting the victims must be planned for even before intervening in the offence. Responsibility for protecting victims rests with the police, but the national service provider for victims of human trafficking is an extremely important party in this. Once identification has been made, the human trafficking investigation unit must be immediately contacted.

Every police department should know which unit and which officials are responsible for investigating human trafficking and for initiating a first response.

No matter what day and time it is, the first concern of the police when identifying a victim of human trafficking must be to ensure that the victim is safe. From the moment that the victim is identified and is in the care of the police, the police have responsibility for the victim. After the immediate identification measures and actions required to safeguard the life and health of the victim and of their family members if necessary, contact must be made (if the victim agrees) with the national service provider for victims of human trafficking.

Until a safe accommodation or shelter can be provided, the police must ensure the immediate safety of the victim. For instance, if a victim comes to a police station and asks for help, they must not be allowed to go home without a police escort. If a victim contacts the police and the case is acute, it must also be determined whether the victim has been followed.

In an acute case, it must be established at an early stage whether there are other victims involved, where they are and what their physical condition is, as well as the identity and location of the offender(s). It must also

be noted that not all victims trust the police. Because the offence in question is a serious offence against personal liberty, the police are obliged to intervene in the circumstances described above. The scheme for how to intervene varies according to the particular features of each case and must be drawn up by a police officer sufficiently familiar with the subject. It is practically impossible to draw up a universally applicable scheme for intervention.

Information on the location of the victim and their family if any is scattered among various parties, such as the police carrying out the investigation, the national service provider for victims of human trafficking, the child welfare authorities and possibly third-sector operators. Information on the location of the victim is confidential, the aim being to prevent the offenders from discovering it. The flip side of this is that it increases the risk that not all parties that work with the victims have access to all information if, say, the information is required at night on a weekend. Because the relevant operations are not necessarily sufficiently coordinated, the information needed is often held by individual officials in the various authorities, resulting in a key person risk. Contacts must not get stuck in the e-mail inbox of an individual official or remain ignored if the relevant official happens to be on holiday, for instance.

All actors must always personally ensure that information on the victim is received by the relevant authorities.

It is an entirely plausible scenario to discover a victim at night between a Saturday and Sunday; what are the actual options for taking action? When the right people are accessible, the process works reasonably well, but on weekend nights, for instance, it might not. Duty commanding officers are in a vital position in situations that unfold at night. If the impulse is received in the middle of the night, e.g. if the victim approaches a police patrol for help in a small community, the situation is often challenging. Principally, crime prevention officers in the police are not on

duty at night, although there are differences between police departments regarding the working hours of crime prevention officers and on-call arrangements. The problem is that police inspectors in monitoring and emergency duties might lack awareness on human trafficking in general or labour exploitation as a form of trafficking and what should be the first steps taken if such a case is uncovered suddenly.

Normally, major police departments do have officers on call who are capable of planning and executing initial measures, but small police departments do not necessarily have such personnel. Small police departments are, by definition, located in small towns. There have been cases where particular population groups in small towns keep surveillance on the police station and know exactly who from their community has been there. Those people have then had to explain to their community what business they had with the police. For this reason, the importance of planning in investigations cannot be overemphasised.

Further measures

Once the immediate initial measures have been taken and the victim has been (with their consent) referred to the national service provider for victims of human trafficking, cooperation between the various authorities and other operators must continue smoothly. The victims must be instructed in how to move around in the area where they live and asked to make observations about their environment. The victims cannot be allowed to be active on social media or to be in close contact with their previous social connections if there is the slightest risk of their whereabouts being revealed.

The services of the national service provider for victims of human trafficking are only provided with the consent of the victim. If the victim does not consent to this, they may nevertheless receive services from different NGOs, for instance.

During the criminal investigation, the victim is interviewed and consulted several times. It must be determined on a case-by-case basis whether it is feasible to interview the victim at the police station or whether the interview should be conducted somewhere else, e.g. in a location where

the victim feels safe. This also applies to interactions with parties other than the police. There have been good experiences of this in several criminal investigations. Recording the interviews on video should also be considered. When other operators interact with the victim, the police must be aware of these meetings in order to ensure the safety of the victim.

According to EU Trafficking Directive (2011/36/EU), victims of human trafficking are entitled to legal counselling and legal representation, including for the purpose of claiming compensation.

Attention should be paid to the choice of legal counsel. A good legal counsel is of considerable benefit not only to the victim but also to the criminal investigation authorities. The legal counsel should by default be specialised in or at least familiar with human trafficking cases, because if the legal counsel has to be briefed from the ground up throughout the process, the victim will not receive the best possible assistance.

Cooperation with prosecutors

The forms of and mandates for collaboration between the police and prosecutors vary in each country. In Finland, in accordance with a joint guideline of the police administration and the prosecution service, the police must notify the prosecutor for instance in cases where the minimum punishment for the offence investigated is four months or more of imprisonment, or if the offence investigated will probably involve detention, a travel ban or confiscation concerning a suspect, or if the case involves several offenders or several acts against various injured parties. In cases of labour exploitation, several of the conditions listed in the guideline are fulfilled.

It is important to work with the prosecutor throughout the criminal investigation so that it is consistent with the prosecutor's demands and the consideration of charges. How close the cooperation between the police and prosecutors is varies by country. In the Finnish context, once the criminal investigation begins, the police must select how they should treat the matter at hand and which offence label to use in cooperation with the prosecutor. The offence label may be changed in the course of the criminal investigation, but the police cannot have several alternative and parallel types of crime pending for any given act. The criminal investigation authorities must also consider that the case might be the prosecutor's first human trafficking case and that the prosecutor may require support from the criminal investigation authorities.

From the prosecutor's perspective, there should be a low threshold for investigating cases of labour trafficking. The prosecutor may cite alternative types of crime when bringing charges. This helps to ensure a conviction under at least one of those types of crime. In cases of human trafficking, Finnish prosecutors usually bring a secondary charge of extortionate work discrimination which means that a representative of the labour inspectorate may testify at the trial. Prosecutors have considered this to be very important. Types of crime such as extortion or aggravated extortion have also been used as secondary charges in these cases, and sometimes aggravated usury instead of extortionate work discrimination. Some countries have also used offences such as fraud to deal with relevant cases.

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Financial investigation

The shadow economy is closely linked to human trafficking. Labour exploitation is in practice always linked to bookkeeping/accounting offences and/or tax fraud. This chapter discusses the means of intervention available in an investigation of human trafficking through other types of crime and the methods available. We also discuss how human trafficking can be impacted through money flows and how the offenders accumulate assets.

Financial crime

Identifying labour trafficking is often extremely challenging. Many cases show indications of human trafficking, but there is a problem of obtaining enough information for intervention. However, discovering accounting and tax offences is substantially easier than discovering human trafficking offences. Investigation of these offences also allows for the use of a wide range of conventional and covert information acquisition methods and coercive measures.

Labour trafficking is often connected with the shadow economy and financial crime.

Investigating financial crime also differs quite substantially from traditional detective work and calls for specialisation in that particular area. If a human trafficking case is investigated in a unit other than a financial crime unit, this should be taken into account when putting together the investigating team.

Cases have been identified in several EU Member States where offenders employ legitimate business practices such as subcontracting and posted workers and use fronts and shell companies in order to conceal their activities from the authorities (Jokinen & Ollus 2019). Cases of exploitation of Ukrainian posted workers in the construction sector have been uncovered in several European countries, including in Finland,

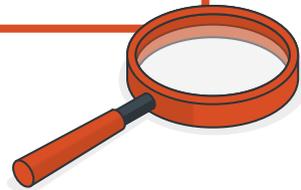
Latvia and Estonia. It is challenging to address these crimes and there is a need to reach out to the victims in order to get additional information regarding their situation. In some instances, the workers are threatened, work overly long hours, and are excessively supervised at work. The cases and the investigation are often made more complicated because the workers are in reality working through complex business structures.

The following box illustrates an exploitation model identified by the Bulgarian labour inspection authorities, found in the construction and transport sectors in particular. The cases have been revealed only because the victims registered complaints with the Bulgarian Labour Inspectorate for unpaid wages and poor working conditions after returning to their home country.

Labour exploitation scheme identified in Bulgaria

A Belgian citizen based in Belgium used a Belgian company registered under a proxy to conduct business transactions as a subcontractor for construction or transport services in Western Europe. The proxy company registered and controlled a legal entity in Bulgaria. Buffer companies were used to avoid detection, inspection and investigation. This was made possible by relying on local law and accounting firms that provided services related to the registration, administration and de facto management of the companies controlled by the Belgian proxy. The companies registered in Bulgaria were used to recruit and post workers in Belgium. When there was an impending labour inspection, the company was immediately terminated and the business, including all the employed workers, was administratively transferred to a different company (managed either by the same natural person or a different Belgian national).

Another identified method of obstructing the work of labour inspectors was the use of appointed legal representation by the controlled buffer companies in Bulgaria. This mechanism prevented the authorities from swiftly identifying the true and beneficial owners of the legal entities suspected of wrongdoing.



Money flows

When investigating labour trafficking, examining the finances of both the suspects and the victims should be one of the very first things to do. In many cases employees have been found to be obliged to return a part of their wages to their employers in kickbacks. In Finland, several cases have been uncovered where work hour records are fake and include a fictitious number of hours for each employee. These records are transferred to payroll accounting, and the monthly wages of the employees are paid into their bank accounts. However, in reality the employees are obliged to return a pre-determined portion of their wages to the employer in cash.

As an example of this, the employer may set the employees' monthly salary at e.g. EUR 500, even though the minimum wage/collective agreement for the sector specifies a much higher pay. On the basis of the working hours calculation, the employee is paid, say, EUR 1273 after taxes and other contributions. The employer, however, requires the employee to return the portion of the salary that exceeds the specified EUR 500 per month, within a few weeks of the payday. In this example, the employee returns EUR 773 to the employer in several instalments and keeps the EUR 500 specified by the employer.

In the Finnish restaurant case referred to earlier, in the bank statements and accounts of the company, everything looked legitimate and above board. In reality, the employees had to return a large percentage of their pay as kickbacks, not to mention the fact that the higher salaries entered into the company accounts meant higher costs and therefore lower taxes for the company. This kickback scenario is easy to identify in the employees' bank statements if you know what to look for. The employers, for their part, had repeated cash deposits into their personal accounts for which no natural explanation was found. There have also been cases in Finland where the victims did not even know that they had bank accounts in their name, as the offender controlled all the finances and paid part of the salary to the employees in cash and kept or spent the rest.

Money laundering

Connections between human trafficking and money laundering have been reported for instance by the Financial Action Task Force (FATF – APG 2018) and the Organisation for Security and Cooperation in Europe (OSCE 2014). The more the offenders and victims operate within

the formal financial system and the government apparatus, the better placed the authorities and other operators are to identify money laundering associated with human trafficking.

A broader context may help in finding evidence: passport details, housing arrangements, agreements with various service providers (or lack thereof) combined with financial details help paint a picture of the earning and spending of the money launderer, the offender or the victim. Because the victims are controlled by the offenders, it must be considered in the investigation that the offenders may be using the victims' bank accounts for concealing or converting their criminal gains.

Past cases have included offenders transferring or depositing considerable sums of money to victims' accounts. Once the funds were in a victim's account, they could be transferred abroad or converted into other assets. The victims were thus used as fronts but were not necessarily even aware of this themselves. It has also emerged in some investigations that offenders have given victims substantial amounts of cash to take back to their home countries. Offenders' family members have also often taken cash abroad or transferred funds from the offenders' and their family members' bank accounts to others.

It is extremely important in the initial measures taken in a human trafficking investigation to establish the financial transactions and assets of both the suspects and the victims. This may help find additional evidence for intervening in human trafficking.

Indicators of human trafficking in financial transactions

The FATF has identified several indicators that help financial institutions and criminal investigation authorities monitor and identify suspicious account activities. Indications of money laundering related to human trafficking include things like the salaries of several employees being paid into the same bank account or a salary payment being immediately followed by a cash withdrawal or transfers to other accounts. Also, if several withdrawals are made one after the other at the same ATM with the bank cards of several foreign employees of the same company, this may imply that the bank cards are being held by some other person. Offenders often accommodate victims of human trafficking in one shared apartment, leading to many of them having the same address in their bank details. The number of people accommodated in an apartment may be remarkably large in view of the size of the apartment. Also, the account holders may give out the same phone numbers or e-mail addresses. In many cases, the account holders are from the same country and may have temporary passports issued in the same city at the same time. Transactions in the accounts of victims of human trafficking usually do not include payments for housing, food or other living costs. In the case of transactions made in person at a bank branch, it may be suspicious if someone claims to be authorised to manage the affairs of another employee or behaves in an unusual manner, such as avoiding dealing with specific bank tellers. Perpetrators may transport cash back to their home countries or use a variety of money transfer systems for that purpose. (FATF – APG 2018.)



Confiscation of assets

Confiscation of a suspect's assets may be ordered to secure the payment of damages or restitution for the offence or the amount ordered to be forfeited to the state. Confiscation is traditionally used in cases of financial crime, but it is also an extremely important tool in cases of human trafficking. Confiscation of assets facilitates the paying of compensation to victims in cases of human trafficking.

The maximum value of assets to be confiscated is the amount that may be assumed to be equivalent to the compensation that a court would order the offender to pay. This amount must be based on facts, which is why it is advisable to draw up calculations on unpaid wages as soon as possible jointly with the relevant parties. For instance, in cases in the restaurant sector in Finland, the Finnish trade union Service Union Unit-

ed (PAM) has provided expert assistance in interpreting the collective agreements in the hotel and restaurant sector and in calculating unpaid wages for work under those collective agreements.

When actual field operations begin, the plan for performing the confiscation and any other safeguarding measures required should already be in place. It is entirely possible that at the time of apprehending suspects, all the people involved are not yet known. The family members of a suspect may conceal the suspect's assets once the suspect has been apprehended unless the police have confiscated them as soon as possible.

The proceeds of crime and their confiscation must be considered immediately when the case is opened and information acquisition begins.

New EU Regulation of freezing and confiscation of assets

Regulation 2018/1805 of the European Parliament and of the Council on the mutual recognition of freezing orders and confiscation orders establishes the rules under which a Member State recognizes and executes in its territory freezing orders and confiscation orders issued by another Member State within the framework of proceedings in criminal matters. It enters into force in December 2020 and aims to deprive criminals of their illegally acquired assets and prevent money laundering and reinvestment in criminal business. A freezing order is a decision issued by an issuing authority in order to prevent the destruction, transformation, removal, transfer or disposal of property with a view to the confiscation of the said property. A confiscation order is a final penalty or measure, imposed by a court following proceedings in relation to a criminal offence, resulting in the final deprivation of property of a natural or legal person.



Investigation to impose a business ban

In Finland, an investigation to impose a business ban must also be considered in cases of human trafficking. This, however, is still sometimes overlooked in investigating labour trafficking. In the Finnish case, the threshold for imposing a business ban in a case of human trafficking is not set high: such a prohibition may be imposed on a person if he/she has committed, attempted or participated in human trafficking in the course of running a business. The provision in law to this effect also mentions extortionate work discrimination. Therefore, in most cases the grounds for imposing a prohibition already exist if the case is otherwise solid.

A business ban has a concrete impact on offenders. Being sentenced, having to surrender the benefits of crime and being subject to a prohibition to pursue a business seriously hinder the offender's chances of continuing their activities.

Once a business ban has been imposed, it can also be monitored. This is the responsibility of the police while the prohibition is in force, but other authorities also have a 'duty of care' (the tax, customs, enforcement and payroll security authorities, the Bankruptcy Ombudsman, any authorities granting assistance out of public funds, authorities managing licensing and supervisory activities for businesses). If the business ban is breached, it may be extended by a maximum of five years.

The breach of a business ban is a punishable offence (a fine or up to two years of imprisonment). Suspicion of a breach of a prohibition to pursue a business allows investigative measures and certain information-gathering measures to be used against the persons thus suspected.

Employers' Sanctions Directive

It is very relevant for the police and other relevant national authorities to also take note of the Employers' Sanctions Directive (2009/52/EC). The Directive has been put into effect by every EU country and provides for minimum standards on sanctions and measures against employers of illegally staying third-country nationals. The Directive imposes obligations on employers, such as verifying the legal status of workers and establishing protections for undocumented non-EU workers' rights. The protections include the recuperation of outstanding wages, the availability of complaint mechanisms, information about rights, and access to residence permits. The Directive also provides for the imposition of sanctions against employers, such as exclusion from entitlement to public

benefits and from participation in a public contract for up to 5 years, as well as closure of the establishments used to commit the violation. The Directive provides for the joint liability of the contractor and the subcontractor in cases where the subcontractor is in breach of the Directive.

While some good practices exist on the impacts for undocumented migrants, the Directive's transposition by member states has had its flaws. For instance, the severity of punishments for offences differs significantly between states. Furthermore, in many EU states workers must first lodge a complaint with the Labour Inspectorate before launching a claim in court, which may entail automatic referral to immigration authorities resulting in deportation or detention. In contrast, being identified as victim of trafficking may also lead to their residence or work status being regularised.





International cooperation: Joint Investigation Teams (JIT)

The Police, Border Guard and Customs may collaborate with a competent authority in another country to form a Joint Investigation Team (JIT). The purpose of a JIT is to enhance and augment cooperation between the competent authorities in different countries in a criminal investigation. A JIT is not restricted to a particular type of crime; it is a neutral tool applicable to any type of crime. Once a JIT has been established, it may apply for available Eurojust (EU) or Europol funding. This will help when processing a complex case.

In cases of human trafficking, a JIT lends significant benefits, because it facilitates things such as sending a police officer from the country of origin to attend interviews in the country of destination when both countries are members of the JIT. This cuts down on bureaucracy, because once the JIT is established it is no longer necessary to send individual European investigation orders or requests for official assistance. The planning of investigative measures and operations is more efficient when operators from various countries participate (e.g. due to cultural factors in the country of origin vs. the country of destination).

Information may be exchanged between JIT members without having to submit formal requests. Investigative measures may be requested directly from other JIT members without having to submit requests for official assistance. This extends to requests for coercive measures. Members of the investigating team may attend searches of premises, interviews and other situations in all jurisdictions; this serves for instance to alleviate language difficulties in interviews. House searches are more effective when a police officer who speaks the language is available to review the material found. In the following box, a case is described where the Latvian and British police formed a JIT in an international case of labour trafficking.

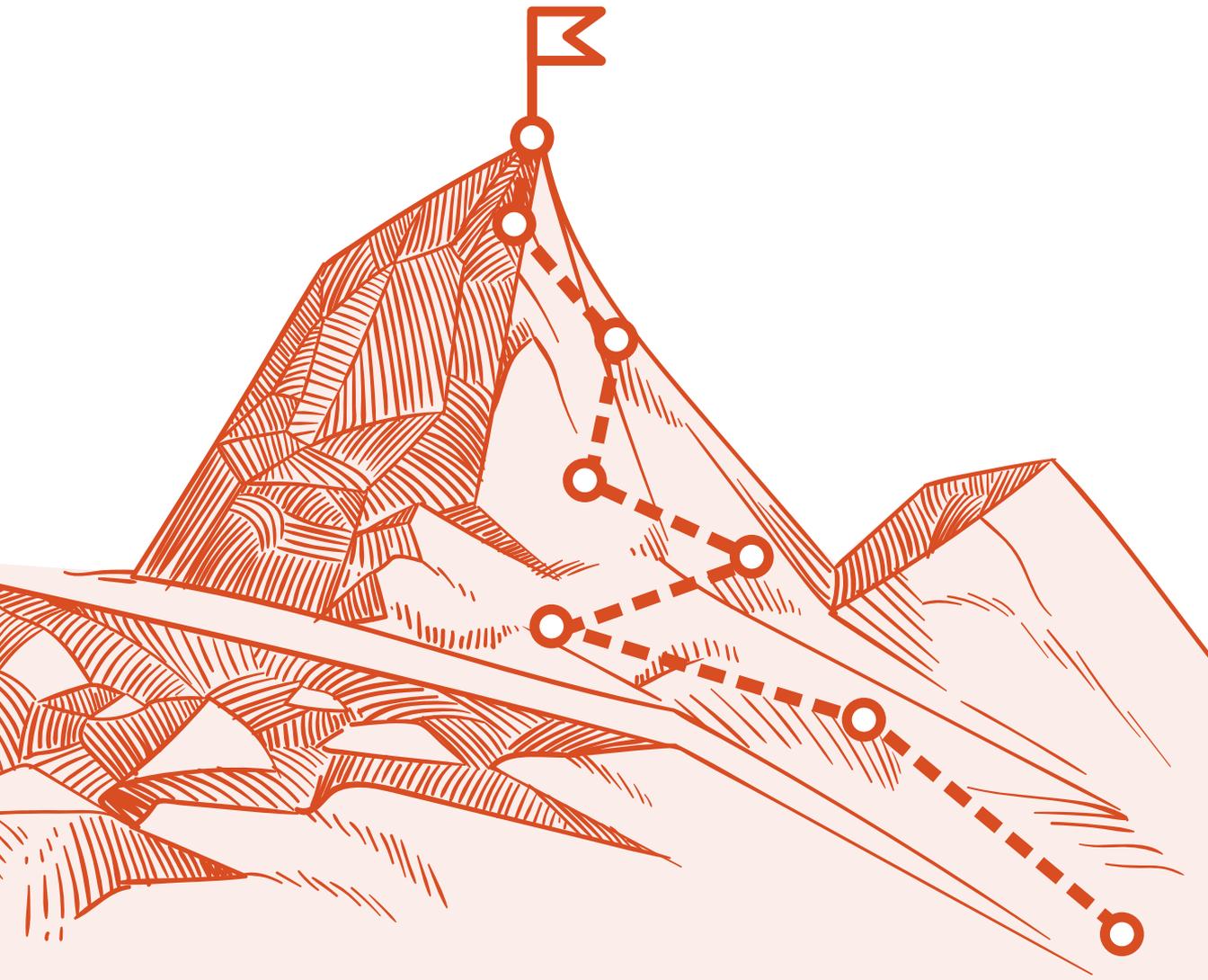


Example of a Joint Investigation Team: Latvia and the United Kingdom

The Latvian State Police and the Derbyshire Constabulary (UK) performed a joint investigation into an organised crime group of Latvian citizens who trafficked vulnerable Latvians to the United Kingdom for the purpose of financial exploitation through forced labour. The period of investigation was July 2012–September 2017. Two Latvian police officers participated in the apprehension of the suspects in the UK in 2017. Their presence played a major role in the initial interviewing of the victims who mostly spoke Latvian or Russian only. Following the successful detention of suspects, it was decided through EUROJUST that a Joint Investigation Team (JIT) would be established between Latvia and the UK. The benefits of the Joint Investigation Team included intelligence and evidence sharing, reduced bureaucracy, central funding support, and dynamic communication between investigators. It also enabled all members of the joint team to be present during operations within all jurisdictions.

In 2018, four members of an organized crime group were arrested in Latvia. They targeted vulnerable people, many of whom had a drinking problem or were homeless, by offering work in the UK. The crime group took the victims' passports and took control of their bank accounts and wages, holding victims in debt bondage from the cost of travel, accommodation and other living costs.

Latvian NGOs helped the victims with their difficult personal circumstances and supported them in giving evidence during the trial. The victims and their families received threats during the investigation. Persons who threatened the victims were arrested, which contributed to the victims' trust in the police, along with the use of special interrogation tactics and involving psychologists in the process. The proceedings resulted in several members of the crime group receiving sentences in human trafficking.



From challenges to successful investigations

This final chapter outlines some of the challenges and pitfalls in the identification and investigation of labour trafficking and explores how they could be overcome in order to have successful investigations. The major challenge in many countries with regard to human trafficking is the lack of resources, in both qualitative and quantitative terms. Also a lack of awareness on labour trafficking among investigators may be a problem in many countries which mainly identify cases related to trafficking for sexual exploitation. Although in Finland several labour trafficking cases have been closed with excellent success, the spearhead of expertise in this area at the national level is narrow, due to a lack of specialised units and systematic training. Based on lessons learned from many European countries, the most feasible way to ensure the discovery and investigation of human trafficking cases is to set up specialised trafficking units within the national and local police.

Promising practice: specialised human trafficking units of the police

Many European countries, such as Belgium, the Netherlands, Sweden, Norway and the UK, have police units specialising in human trafficking. They are considered to have significantly improved the investigating of cases of human trafficking. The Latvian police also has a human trafficking special unit with 18 officers. Their job is to gather and analyse information on organised crime groups engaged in local, national and international human trafficking, and to identify and investigate criminal activities. Since 2016, the human trafficking unit in Latvia has initiated 58 investigations of cases involving human trafficking or closely related thereto. There are also regional police officers who are trained in investigating human trafficking and in the associated risks. There is a specialised prosecutor's office in the Riga region that deals with cases of human trafficking and organised crime.



The most critical failures in the investigation of trafficking have to do with identification and with conducting investigations in such a way that sufficient evidence is gathered. In many countries, the length of investigation translates into multiple risks for any case: the victim may have left the country, or someone has exerted influence on the victim even though the acute stage of the case is over. It is also regrettably common that if a report of an offence is filed under some other type of crime, the launch of the investigation may be delayed significantly. This may translate into substantial challenges down the line, especially if the case actually involves a more serious offence such as human trafficking. The aforementioned occurrences mostly come down to a lack of resources or competence.

Sometimes criminal investigations are delayed for the simple reason that not all relevant authorities are able to join in immediately. International requests for official assistance also present a challenge. It may take a long time to receive a reply (if at all), and sometimes finding the right channel through which to go can be complicated. Sometimes the criminal investigation authorities end up at an impasse. The options at that point are to suspend the investigation or discontinue it altogether, or to wait for a suitable opportunity or a missing report for the investigation to continue. In such cases, it should be considered that it does not matter if the investigation takes a long time if the offence can eventually be cleared up and taken forward to the consideration of charges.

In Finland there have been several cases where a series of events was treated as human trafficking, but a conviction was secured only for extortionate work discrimination. In these cases, the victim interviews focused overmuch on the wages paid and the length of the working days. The interviews uncovered proof of the means used in human trafficking (deception, dependence or vulnerable state) but could not sufficiently demonstrate the act (e.g. recruitment or harbouring) nor the purpose of exploitation (forced labour). What is described above has much to do with how the victim is treated: because of lack of trust in the authorities and poorly formulated questions, the victim may be unable to volunteer essential details in the interview.

When the investigation has progressed far enough to have victims in an interview, it has usually already been proven that the victims have been working long hours and that their pay is not consistent with the amount of work done. However, at that point there is often no evidence of the deprivation of liberty, i.e. forced labour. This is one reason why a conviction may have been reached for extortionate work discrimination

or some other labour crime rather than human trafficking. It is relatively easy to find evidence of long working hours and low pay, compared with finding evidence of forced labour.

In Estonia, it is also possible for a victim of underpayment to apply for compensation for unpaid wages of up to EUR 10,000 through a labour dispute committee. This promising practice is described in the following box.

Promising practice: Estonian Labour Dispute Committee

In Estonia, the Labour Dispute Committee deals with disputes in employer-employee relationships, with the objective to act in a quick and straightforward way. The most common labour exploitation claims have to do with unpaid wages. The trafficking hotline run by Victim Support Services informs the exploited workers about the possibility to file claims to the Labour Inspectorate for consultation and to the Labour Dispute Committee. The Labour Inspectorate offers legal consultation only, whereas the Victim Support Services can help with filing the complaints. However, the victims can fill in the claim also themselves. The evidence, such as witness testimonies, documents, material proof or inspections, are handled in-depth by the Labour Dispute Committee. They can decide on claims up to EUR 10,000. If a claim exceeds this, it is settled in court. The proceedings are free-of-charge to the parties, and if either party disagrees with the decision, they can turn to the court. Conciliatory proceedings have also been possible since 2018. In these cases, the chair of the Labour Dispute Committee acts as the sole conciliator and the goal is to conclude a conciliation agreement.



In the interests of criminal liability, it is important not to ignore the possibility of a human trafficking offence when there is reason to believe that the definitional elements of human trafficking are fulfilled. In order to protect the rights of the victims, it is important to remember that victims of human trafficking have a right to specialised assistance provided by the national service provider, while victims of other offences do not. Therefore, it is important that cases that have clear indicators of human trafficking are also investigated under this offence label.

Victim-centered approach must be ensured so that victims can claim their rights and access justice.

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The route towards a successful investigation

This visualisation outlines the steps to be taken in order to ensure a successful investigation into human trafficking after a possible case has been identified. It highlights the importance of victim-sensitive and victim-centered approaches. A comprehensive picture of the situation must be built by using various investigation techniques to collect evidence of the three elements of human trafficking: the act, the means and the purpose of exploitation. The different steps outlined are not necessarily taken in a chronological order, but they should be considered in order to make sure that perpetrators are held accountable for their actions and victims can claim their rights.



Break the offender's control over the victim and gain their trust

○
Take time: give the victim some time to understand the situation and use it to gather intelligence from various sources

○
Ensure the victim's safety and refer them to services

○
Back up the victim's statement with object and documentary evidence



END RESULT:
Perpetrators are convicted for human trafficking and victims have access to justice and compensation

○
Establish a JIT in cases involving another country if needed

○
Use financial investigation techniques and follow the money

○
Choose the offence label carefully and cooperate closely with the prosecutor

○
Throughout the investigation cooperate with other authorities and victim service providers

○
Carefully plan interviews, formulate the right questions and ensure proper interpretation

○
Freeze and confiscate assets



Checklist 1.

Identification of labour exploitation for labour inspectors and other authorities

Labour inspectors are uniquely placed to identify features of human trafficking or labour exploitation in the course of their inspections. In addition, tax, fire, health, food safety and other inspection authorities are also in a position where they can uncover potential cases. An informed inspector may notice details which individually are not incriminating but when taken together may lead to a suspicion of criminal activity. Details that may be noted in a labour inspection include the following:

- The employer forbids the inspector from talking to the employees
- The employer answers all questions on behalf of the employees
- An employee is unwilling to answer any questions and tells the inspector to ask the employer
- When an employee is asked for an ID, it turns out that it is in the employer's possession and/or the employer brings it out for the inspector to see
- An employee is unable to say how much he/she is paid
- An employee reports, when asked, that he/she has paid to get the job
- The payslips indicate that the wages of all workers are paid into the same bank account
- The work contracts are in a language that the worker does not understand
- There are many persons in the workplace whose shift has already ended according to the shift roster or who should be on a day off
- An official shift roster is displayed at the workplace, but there is a roster of actual working hours in another room (e.g. a roster for chefs in the restaurant kitchen)
- Employees are required to work without adequate protective equipment, or the working conditions are substandard
- It looks like people are being accommodated at the workplace, e.g. there is a bed/mattress, a suitcase and/or many personal items in a storeroom or a similar room
- An employee lives with the employer
- Employees show signs of abuse or malnutrition and/or other symptoms
- An employee reports that he/she has no days off or no holidays
- An employee reports that he/she works overly long days or that there are problems with wage payments
- At a farm or other location where workers are provided with accommodation near the workplace, the living conditions are substandard
- Employees do not have the required work permit, rendering them vulnerable to abuse
- An employee does not know where in Finland he/she is living and working
- An employee reports that transport provided by the employer is the only way to get to/from work
- There are discrepancies between the details submitted by the employer to the income register and the payroll accounting

During inspections it is always important to talk to the workers present and ask them at least about their pay and housing conditions. Some suitable questions are given in the following box.

Relevant questions for employees

How much are you paid?

Have you been paid extra for working in the evening, at night or at weekends? Have you been paid extra for working more than normal (if the declared working hours are more than 40 h per week)?

Do you know how much you should be paid in in the destination country for the work you are now doing? Can you say what the normal working hours per week in the destination country are?

Have you had to pay to get this job? Do you owe money to your employer?

How long have your working days been?

Is there a shift roster at your workplace where employees' working hours are written down? Are the working hours written down there true?

Do you have days off?

Where do you live, and how do you get to work?

Remember to always ask for the contact details of the workers!

Any questioning of the employees should be done, when possible, in a separate room without the presence of the employer. The employer should be informed that this is standard procedure so that he/she does not think that the employee has contacted the labour inspection authority. It must be noted that when speaking with a labour inspector, a methodical, fraudulent employer may be entirely correct and friendly in his/her behaviour and present documents that appear perfect even if he/she is actually exploiting the employees in various ways.

It may be difficult for foreign employees to trust the authorities and to report anomalies. They might not be able to verbalise their experiences or understand that they are victims of crime. The employees should not be pressured into talking if they seem scared or otherwise unwilling to talk; it may well be that they are afraid that the employer or other employees will hear them. Because of this, the employer or another employee should never be used as an interpreter. If any suspicion of labour exploitation arises during an inspection but employees and the inspector do not have a language in which to communicate, the inspector may order an interpreter by phone if allowed by national guidelines. It is always advisable to give the employees the inspector's own contact details as well as information about workers' rights and the possibilities of finding help (e.g. giving information leaflets and hotline numbers), so that they can get in touch after thinking things over. Labour inspectors should for example distribute information cards of NGOs, trade unions or authorities providing information and services to migrant workers.

Sometimes cases are initiated by employees themselves. These usually involve pay disputes, in which case the labour inspector must know enough to ask for further information in order to find out whether there are any indicators of labour exploitation and/or trafficking.

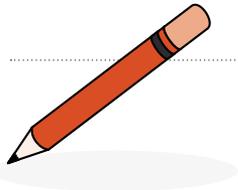
Even if the inspector finds evidence of human trafficking or other serious labour exploitation, they should complete the inspection in a normal manner. After the inspection, the labour inspector should immediately contact the local/national police unit responsible for human trafficking or ask for the designated officer's contact details from the police station. If there is an acute threat to life and limb, the inspector must call 112. Otherwise, it is better for the investigation that the operation is planned in advance. However, it must be noted that if there is a risk that e.g. the workers would leave the worksite right after the inspection, contacting the police should be considered. There have been cases e.g. in the construction sector in which the exploited workers have disappeared immediately after the inspection which would jeopardise not only the investigation but also their access to remedy.

If photographing does not attract too much attention, the inspector can take pictures of, for example, the living conditions. In any case, the inspector should document the conditions carefully in case the police want to hear him/her as a witness later.

What should be done if signs of human trafficking or labour exploitation are uncovered?

- Contact the local police and/or human trafficking contact person and discuss further action
- Contact the national service provider for victims of human trafficking (<http://www.ihmiskauppa.fi>) (Detailed action usually requires direct contact with the employee(s) and their consent for taking the matter forward, but consultation is always possible)
- Contact NGOs that assist victims of human trafficking, such as Victim Support <https://www.riku.fi/yhteystiedot/> see also http://www.ihmiskauppa.fi/hae_apua/valtion_ja_jarjestojen_tarjoama_apu_ihmiskaupan_ubrille
- Inform the rescue and/or health authorities of substandard living conditions; a joint inspection is possible if a tipoff has been received before the inspection
- File a report of an offence with the police using the existing template

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Checklist 2.

Questions for speaking with the victims

The following list of questions is based on examples from a study on labour exploitation (Jokinen et al. 2011) and can be used as a starting point when discussing with the victim. It is important to ask questions which are easy to understand and concise especially if the victim is not willing or able to tell the full story about what has happened.

Recruitment

How did you hear about the job? How did you end up working there?

Did you get the job through an employment agency or mediation company?

Did you have to pay something (e.g. a mediation fee) to get the job? How much did you pay and to whom?

How did you get a work permit? Who obtained it for you? Did you pay for it?

How did you travel to [destination country]? Did you buy the tickets yourself?

Did you have to borrow money to be able to travel to [destination country]? How much? Where did you borrow the money?

Did someone meet you at the airport/railway station/harbour etc? Who?

Work

What kind of work did you do? Where?

Did the work/employment correspond to what you were promised?

What were your working hours? What time of the day and how many hours per day? How many days per month?

Were you informed of your working hours in a timely manner? Were the working hours listed in a shift schedule that is up-to-date, accessible and comprehensible?

How many employees were there in the same work place?

What were the working conditions like?

What was your employer like? How did you communicate with him (especially if no common language)?

Were you threatened (with violence, deportation, police, losing the job, etc.)?

Did the employer use violence against you?

Were you able to quit the job at will? Were you forced to keep working? How?

Did you have your passport/identification papers with you at all times?

Did you tell anyone about the situation?

Housing

Where did you stay/live? How many of you lived there?

How was the housing arranged?

How much did you pay for the housing?

Were you satisfied with the living conditions?

Did you think you had to pay too much for living there?

How did you go to work?

Wages and employment contract

Did you have a written and signed employment contract? Or just an oral agreement?

Do you know how much money per hour/month you should be earning according to the law?

How were the wages paid (in cash, to bank account etc.)?

How often where you paid wages? How much?

Were you satisfied with the wages?

Were the wages the same as promised?

Did you have to pay any part of your wages back to the employer?

Did you get compensation for working overtime? In other words: did you get extra money if you worked for more than 8 hours per day or ~40 hours per week? What about if you worked in the evenings or during the weekends – did you get any extra money then?

Were there any expenses deducted directly from your wages?

Were you able to save anything from your wages? Did you send money back to your family in your home country?

Have you ever had to work while you were ill? Were you paid sick leave in case you fell ill? Did you know what to do or where to turn to in case of illness?

Have you been pressured into doing tasks or a job you did not want to consent to/ were not covered by your contract/for which you did not have qualifications?

Free time

How often did you have a day off? Did you ever have two or more consecutive days off?

Were you able to do anything you wanted during your free time or did you have to ask permission from the employer?

Did you get to know any local people? (Did you learn the local language?)

Were you in touch with your family and friends in your home country?

Have you had any paid holiday?

Do you have anything to add or comments related to your working conditions or work in general?



