Social Fieldwork Research (FRANET)

Protecting migrant workers from exploitation in the EU: workers' perspectives

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Contents

1. Executive summary 3
2. Short description of fieldwork/sample composition 4
3. Legal and institutional framework 8
4. Risk factors for severe labour exploitation 11
5. Workers' experiences of severe labour exploitation 16
6. Asking for help: victim support and access to justice 23
7. Ways forward and prevention 36
8. Conclusion and any other observations 41
ANNEX 1 – Desk Research template 43

1. Executive summary

This study was commissioned to support the drafting of a European comparative study on workers' perspectives on severe labour exploitation. It discusses the phenomenon of labour exploitation from the perspective of 28 foreign workers, including EU-nationals and third country nationals, who experienced exploitation and otherwise precarious working conditions working in agriculture, cleaning, child care and other occupations in private households, construction, food services, logistics and other services in Germany. This group participated in a series of 20 individual qualitative interviews and two focus groups, conducted between April and September 2017. The findings presented in this report are a result from qualitative content analysis of this interview series. The report discusses risk factors for labour exploitation, the experience of exploitation, access to support and the justice system, as well as potential preventive measures and future perspectives.

The chapter: "Risk factors for severe labour exploitation" is based on the interviewees' own reflections on factors which they perceived as having rendered them vulnerable, as well as the researchers' interpretation of the interviewees' background. Most commonly named risk factors for labour exploitation were financial dependency, the interviewees' residence status, a lack of knowledge on workers' rights and understanding of the justice system, a language barrier, the employer's internal management, or a lack of control and punishment. These factors were usually not mentioned in isolation, but perceived to be interlinked with several interwoven aspects of the interviewees' situation. The side effects of exploitation, as for example debt created by small or no pay, or a lack of time to learn the language due to extreme working hours, was perceived to reinforce or add to the risk factors named above, and to thereby create a vicious cycle leading to further exploitation. For many, labour exploitation was therefore not a singular event, but was experienced repeatedly.

The reflection on risk factors is followed by an introduction to the workers' experiences of severe labour exploitation. Pay and a lack thereof appeared central to most accounts, and almost all had signed a contract in language they did not understand, or were missing other documents related to their work. Only few reported physical violence, yet many spoke of the psychological impact of exploitation caused by pressure, threats and overt control through the employer and co-workers. The chapter furthermore discusses aspects as extreme working conditions, problems with housing/accommodation, and unexpected work tasks. It furthermore contains a reflection on the interviewees' impression that they were unable to achieve any change in their employment relationship, or to claim their rights through confronting the employer, while only few experienced controls through public authorities.

The largest thematic focus of this study addresses the victims' perception of the accessibility of support and justice systems. Interviewees eventually found support through a variety of actors, including organisations specialised in supporting victims of labour exploitation, migrant self-organisations, welfare organisations offering general support to migrants, NGOs supporting victims of human trafficking, NGOs supporting the homeless or trade unions. Seeking help usually took some sort of tipping point, which was very often termination of employment relationship, a new dimension added to exploitation which made it inacceptable to workers, or external influences. The chapter discusses motivations and hesitations, as well as facilitators and barriers in seeking support. It furthermore reflects on the interviewees' evaluations of the support received. A large majority of those interviewed expressed gratitude and satisfaction, a feeling which appeared detached from the outcome of the support regarding potentially challenging the employer. Assistance in addressing the side effects of the exploitation, including unemployment, homelessness, poverty and barriers in accessing state support, appeared central to the interviewees' account of the support they had received. The chapter furthermore discusses the interviewees' perception of aspects as information and advice on both, general workers' rights and the victims' individual situation provided by the

various organisations, as well as support in overcoming language barriers with employers, courts and other public authorities.

Support organisations were also seen as central facilitators of the workers' access to justice in court, an aspect which is discussed in the second part of this chapter. Of those who pursued their rights in court, almost all claimed their rights in labour court, while only one interviewee pressed criminal charges for labour exploitation. Proceedings were generally viewed as a challenge, mainly due to difficulties in comprehending and participating in the trial and the justice system as such, bearing the costs of proceedings under usually dire financial circumstances and/or gathering evidence to prove the exploitation they had experienced. None of the interviewees reported having succeeded in claiming outstanding payments or other financial aspects in court. This chapter also discusses the interviewees' wishes post exploitation, the two cornerstones to which appeared to be independence and perspective.

For the final thematic aspect of this study, interviewees were asked to reflect on future perspectives and ideas on measures to prevent exploitation and/or empower victims to claim their rights. The final chapter discusses the workers' perspectives on the subject, with a specific focus on the recurring subjects of raising awareness and spreading information amongst at-risk groups, enhancing and expanding controls and inspections of employers, and ensuring punishment and accountability of employers who violate workers' rights.

This study concludes that, for the majority of interviewed workers, exploitation is experienced as an on-going status quo beyond the timeframe during which factual exploitation takes place. This is not least due to a fear of continued vulnerability for further exploitation, a culpable emotional impact of the exploitation, as well as the justice system being perceived as 'blind' to the situation of workers, and inaccessible to most. It is discussed as essential to sensitise and connect a wide network of support beyond those specialised in supporting victims of exploitation to ensure early intervention in places which at-risk groups access in every-day life, and to allow for empowerment and independence of victims and at-risk groups through an extended offer of advice and information.

2. Short description of fieldwork/sample composition

This study is based on a series of 20 individual interviews and two focus groups, each with four participants, conducted between April and September 2017. Interviewees included migrants who had become victims of labour exploitation or otherwise precarious work conditions between 2013 and 2017.

The interviewees in this sample were recruited through widespread outreach to over 100 relevant support organisations throughout Germany. This included a group of organisations specialised in the support of migrants who have experienced labour exploitation, as well as more general migrant support, including migrant self-organisations, NGOs supporting the homeless, and welfare organisations offering generalised migrant support. Outreach initially mainly resulted in interviews with EU-nationals residing under their prerogative under the EU-Citizenship Directive, which may be linked to the fact that support specialised in victims of labour exploitation is well-established for this group.

As researchers had been made aware of a rising number of asylum seekers and others seeking international protection in similarly precarious employment relationships, sampling continued with a specific focus on persons falling under target group IP willing to share their experiences. Those eventually included under target group IP were residing under so called 'tolerance permits' or subsidiary protection at the time of the interview and were sampled through a migrant self-organisation, a welfare organisation offering general migrant advice and support, as well as an organisation specialised in the support of victims of labour exploitation which had recently expanded its offer to attend to the needs of asylum seekers in

precarious employment relationships. Undocumented migrants were referred by support organisations specialised in the support of victims of labour exploitation, human trafficking, as well as a welfare organisation offering generalised migrant support. Workers who had been employed in private households (target group D) were initially challenging to reach. Gatekeepers informed the research team that the workers were in contact with had left the country after the employment relationship had ended or were otherwise unable to arrange for a time for an interview due to time-consuming work-schedules. This target group was eventually covered through a focus group conducted with four women, two EU-nationals and two third-country nationals, who were referred by an NGO offering support to migrant women. A second focus group was held with migrants who were referred by an NGO offering support for homeless persons and who had worked as cleaners recruited on the so called 'workers stripe' in a larger German city.

Overall, the sample included 20 EU-nationals, amongst those 18 persons residing under their prerogative under the EU-Citizenship Directive and two seasonal workers. It furthermore included eight third country nationals, amongst those five undocumented migrants, two with a 'tolerance permit' (Duldung) and one person who had been granted subsidiary protection. Interviewees worked in a variety of economic sectors, including agriculture, child care and other work in private households, cleaning, construction, food services and logistics. Prior to the interviews, gatekeepers were asked to point out which of those indicators identified as typical of situations of severe labour exploitation of workers in employment relationships in SELEX I[1] had been experienced by individual interviewees. As can be drawn from the table provided on page 5 of this report, no or insufficient salary, not having signed a contract in a language that they understand, working conditions differing from prior agreements, or extremely long working hours were mentioned in more than half of the cases reflected in this sample. Other indicators named by a smaller group of workers were very few or no days of leave, a lack of social security payments, parts of remuneration flowing back to the employer, workers living at the work place or being isolated from persons outside the work place. An in-depth discussion of the work conditions experienced by the interviewees in this sample is provided in Chapter 5. While outreach was directed at support organisations throughout Germany, at the time of the interview, interviewees lived or worked in Bavaria, Berlin, Hamburg, North Rhine-Westphalia and Schleswig-Holstein.

We would like to thank those organisations which were so kind to offer their support for this research through the referral of interviewees. These included:

Arbeiterwohlfahrt Landesverband Berlin e.V.
Arbeit und Leben Hamburg e.V. (Servicestelle Arbeitnehmerfreizügigkeit)
Arbeit und Leben -DGB/VHS Berlin-Brandenburg (Fachstelle „Migration und Gute Arbeit" Brandenburg; Beratungsbüro für entsandte Beschäftigte in Berlin)
Caritas München (Beratungsstelle für Zuwanderer aus Bulgarien und Rumänien)
Caritasverband für den Kreis Mettmann e.V. (Fachdienst für Integration und Migration)
Deutsche Angestellten-Akademie GmbH (Kundenzentrum Kiel)
Dortmunder Mitternachtsmission e.V.
KOOFRA e.V.
MOZAIK gGmbH
Schiller 25 (Evangelisches Hilfswerk München, Migrationsberatung für Wohnungslose)
verikom - Verbund für interkulturelle Kommunikation und Bildung e.V.
Xochicuicatl e.V.

[1] See FRA 2015, https://fra.europa.eu/en/publication/2015/severe-labour-exploitation-workers-moving-within-or-european-union and country report for Germany: https://fra.europa.eu/sites/default/files/fra_uploads/severe-labour-exploitation-country_de.pdf.

Interviews and focus groups were held face to face within the facilities of gatekeepers or the German Institute for Human Rights. In all except for two cases, interviews were facilitated through consecutive interpretation so that interviewees could speak about their experiences in their mother tongue which included Bengali, Bulgarian, Romanian, Polish, Spanish and Urdu. Most interpreters had experience working with organisations supporting migrant workers and were therefore sensitised to the context of the interview. To ensure that interviewees felt free to speak about the support they received, all interviews were conducted by social scientists who were not engaged in organisations supporting migrant workers. With the exception of a few interviews where interviewees explicitly requested the presence of a staff member of the organisation, those involved in the support of the workers were asked not to join for the interview so that interviewers could encourage open discussions on the quality of support. The duration of interviews varied considerably, from a minimum length of 31 minutes, to a maximum of 145 minutes, depending on the extent to which interviewees were willing and able to share their experiences, as well as the relevance of the questions to their specific situation. Both focus groups lasted for approximately 90 minutes. Interviewees were generally very open in speaking about their situation. In many interviews, it was challenging to encourage an in-depth discussion on themes going beyond what interviewees had experienced themselves or witnessed through others, i.e. to discuss potential systematic causes or measures to prevent labour exploitation. Answers to these questions were quite often very short, while a few interviewees explicitly pointed out that it was not their responsibility to discuss these aspects (see Chapter 7 for further information).

With the exception of one interview during which the interviewee expressed fear to have the story documented on tape, interviews were audio-taped and transcribed. Individual interviews were summarised and analysed to enable the coding of recurring themes for each thematic section of the interviews. The MAXQDA software program was used for the coding process. A first step in the further analysis of the sample focused on the primary requirements of this report, aiming to identify themes which were common to the interviewees' replies, and to furthermore quantify the number of interviewees addressing each theme according to target groups and economic sector where applicable. The tables displayed at the beginning of each chapter of this report quantify the themes derived from this analysis. As requested by FRA, the numbers indicated therein reflect only those interviewees who specifically named the aspect therein as relevant to the subject at hand. A second step of the analysis focused on further developing the material in order to derive relevant commonalities and/or discrepancies in experiences, discussions and findings in light of the overall research objectives of this study. The discussions in the following chapters address aspects, dimensions and findings derived from qualitative content analysis.

The following table provides an overview of the sample based on which this report was drafted:

	INTERVIEWS[2]				
		Economic sector/ occupations (list all)	Nationalities (list all)	Male	Female
1	Posted workers	/	/	/	/

[2] Please note that when referring to or quoting interviewees and focus group participants in this report, the country of origin is sometimes replaced with the more general geographical region in order to guarantee the anonymity of research participants.

2	Seasonal workers[3]	agriculture	Polish	2	/
3	Domestic workers	/	/	/	/
4	Applicants for international protection	Food services Other services	Southern Asia Middle East	3	/
5	Migrants in an irregular situation	Food services Cleaning	Ecuadorian Argentinian Unknown African country	1	2
6	Other foreign workers	Cleaning Construction Logistics Other services	Bulgarian Polish Romanian Spanish	9	3

	FOCUS GROUPS				
	Target group	Economic sector	Nationality	Male	Female
1	Other foreign workers	Cleaning	Bulgarian	2	2
2	Domestic workers	Cleaning Child care	Spanish Peruvian Ecuadorian	0	4

Circumstances which emerged as typical indicators of situations of severe labour exploitation* of workers in employment relationships):		
Circumstance/indicator	**Total number**	**Breakdown by category**
no salary paid or salary considerably below legal minimum wage	19/20	3 IP, 3 IR, 12 O, 2 S
parts of remuneration flowing back to employer on various – often unreasonable – grounds	**6/20**	1 IP, 1 IR, 2 O, 2 S
lack of social security payments	**7/20**	3 IR, 4 O
extremely long working hours	**11/20**	1 IP, 2 IR, 6 O, 2 S
very few or no days of leave	**8/20**	1 IP, 1 IR, 5 O, 1 S
working conditions differ significantly from what was agreed	**12/20**	3 IP, 1 IR, 8 O
worker lives at the workplace	**5/20**	1 IR, 2 O, 2S
hardly any contact with nationals or persons from outside the workplace	**3/20**	3 O
passport retained, limited freedom of movement	**0/20**	**/**
no contract, or contract not in a language the interviewee could understand	**18/20**	3 IP, 3 IR, 12 O

[3] Please note that within this research, the term 'seasonal worker' has a wider scope than the definition of seasonal workers contained in the EU Directive on Seasonal Workers, and also includes seasonal workers under national schemes as well as under the EU Directive on Seasonal Workers. It also includes EU workers moving for seasonal work.

3. Legal and institutional framework

The following summarises the changes introduced to legislation and the institutional setting since the publication of the predecessor of this study, SELEX I.[4] For further detail on the various changes outlined below, please refer to the table in Annex I of this report or, if indicated, SELEX I.

Legislation and policy

Legislative changes to the German Criminal Code (StGB)

Criminal law relating to labour exploitation has undergone significant changes since SELEX I was published. Sections 232-233b StGB, were revised in October 2016 to meet the requirements of the EU Directive on preventing and combating trafficking in human beings (2011/36/EU).[5] The criminal offences of human trafficking (§ 232), forced prostitution (§ 232a), forced labour (§ 232b) and labour exploitation (§ 233) are now treated as independent offenses. The amended provisions introduce a definition of the trafficking of human beings with close resemblance to the understanding of the concept in international law, criminalizing the transport and/or accommodating of persons with the aim to exploit.[6] The provisions furthermore add forms of exploitation including forced begging and exploitation for criminal activities, as well as trade of human organs.[7]

Labour exploitation has been introduced as an independent criminal offence under §233 StGB, thereby adding to existing provisions outside criminal law (e.g. Act to Combat Illegal Employment (SchwarzArbG, see SELEX I)). The provision criminalises exploitation of a person for exploitative employment, begging, or criminal activities by taking advantage of a personal or economic predicament and/or helplessness due to a person's presence in a foreign country.[8] By contrast to § 232a/232b, which focus primarily on the manipulation of the will of the person for the purpose of exploitation, rather than the exploitation itself, labour exploitation does not require for the victim's will to have been influenced by the offender. The provision has been acknowledged for enabling punishment of the employer without having contributed to the predicament based on which the victim is exploited.[9] At the time of writing, no court decisions involving § 233 StGB were publicly available.

Economic consequences for a conviction for criminal forms of labour exploitation

Pursuant to § 98b (1) 1 No.2 Residence Law (AufenthG)[10], an application for subsidies in line with § 264 StGB[11] (subsidy fraud) may be rejected by the competent authority in full or in part if the applicant has been sentenced to a penalty of imprisonment of more than three months or a fine exceeding 90 daily rates for several forms of labour exploitation. There are also

[4] See footnote 1.
[5] Available in German at: www.bgbl.de/xaver/bgbl/start.xav?startbk=Bundesanzeiger_BGBl&jumpTo=bgbl116s2226.pdf (07.09.2017). Date of enactment: 11th October 2016.
[6] See: *Bundesgesetzblatt, Teil I (2016), Nr. 48 vom 14.10.2016*, p. 2226. Available in German at: www.bgbl.de/xaver/bgbl/start.xav?startbk=Bundesanzeiger_BGBl&jumpTo=bgbl116s2226.pdf (11.09.2017).
[7] Pursuant to § 232 StGB. Available in German at: www.gesetze-im-internet.de/stgb/__232.html (11.09.2017).
[8] Laue, C. (2017), '§ 233 Ausbeutung der Arbeitskraft' in: Dölling, D., Duttge, G. et al (eds.), *Gesamtes Strafrecht, StGB / StPO / Nebengesetze, Handkommentar*, Baden-Baden, Nomos Verlagsgesellschaft, p. 1293, § 233 Rn. 2.
[9] Ibid., p. 1293, § 233 Rn. 1.
[10] Available in English at: www.gesetze-im-internet.de/englisch_aufenthg/englisch_aufenthg.html#p1535 (07.09.2017) and in German at: www.gesetze-im-internet.de/aufenthg_2004/__98b.html (07.09.2017).
[11] Available in English at: www.gesetze-im-internet.de/englisch_stgb/englisch_stgb.html#p2192 (07.09.2017) and in German at: www.gesetze-im-internet.de/stgb/__264.html (07.09.2017).

several legal provisions that ensure that employers convicted of a criminal offence are excluded from participating in a public contract (see Annex I) and that allow for the contracting authority to ask the tenderer to publish information on subcontractors participating in their commission.[12]

Establishments can be closed and/or licences to conduct a business activity withdrawn due to unreliability or a lack of suitability under section 35 of the Trade, Commerce and Industry Regulation Code (GewO).[13] Amongst others, potential grounds for such a decision are legally binding decisions on criminal acts of the entity in question, including offences like the employment of a foreigner without working permit or residence permit to unfavourable working conditions[14] or employment of foreigners without working permit or residence permit on a larger scale or of underage foreigners[15], with a penalty exceeding three months imprisonment or a fine of more than 90 daily penalty units, which will be registered in the commerce register.[16]

The law for the protection of workers' rights in the meat industry[17]

In addition to changes in criminal law, German legislators have drafted a law for the protection of workers' rights in the meat industry, which has been in force since June 25 2017. The law aims to secure the rights and entitlements of employees as well as to avoid employers from circumventing their duty to pay into social security through contracting sub-contractors in the meat industry (**§ 1 GSA Fleisch)**.[18]

Legal liabilities for overall social insurance payments and for state accident insurance are extended to the meat industry under § 3 Abs. 1 GSA Fleisch[19] and § 3 Abs. 2 GSA Fleisch respectively. Companies in the meat industry which contract sub-contractors with the activity of slaughter or processing of meat are held liable to ensure that every sub-contractor lives up to their legal social insurance payment obligations. They are held to check whether sub-contractors are involved in illegal practices when choosing the same. Companies which act according to these rules have the possibility to free themselves from legal liabilities through an exculpation clause under § 3 Abs. 1 und 2 GSA Fleisch[20].

According to § 4 GSA[21] Fleisch, the employer is obliged to provide and keep intact work equipment, security clothing and personal security equipment free of charge. An agreement obliging the employee to provide these things is expressly held to be void.

[12] Pursuant to §40 of the Regulation on the Award of Contracts Defence and Security (VSVgV). Available in German at: www.gesetze-im-internet.de/vsvgv/__40.html (07.09.2017). In line with § 9 of the Regulation on the Award of Contracts Defence and Security (VSVgV). Available in German at: www.gesetze-im-internet.de/vsvgv/__9.html (07.09.2017).
[13] Available in German at: www.gesetze-im-internet.de/gewo/__35.html (07.09.2017).
[14] § 10 Act to Combat Clandestine Employment. Available in German at: www.gesetze-im-internet.de/schwarzarbg_2004/__10.html (11.09.2017).
[15] § 11 Act to Combat Clandestine Employment. Ibid.
[16] § 149 of the Trade, Commerce and Industry Regulation Code. Available in German at: www.gesetze-im-internet.de/gewo/__149.html (07.09.2017).
[17] **Deutscher Bundestag** (2017): Law on the protection of workers' rights in the meat industry (GSA Fleisch), 17.07.2017. In: Bundesanzeiger Verlag GmbH (Hg.): Bundesgesetzblatt, Teil 1, Nr. 49 S. 2541, 2572-2573. www.gesetze-im-internet.de/safleischwig/GSA_Fleisch.pdf (abgerufen am 01.08.2017).
[18] According to Article § 2 GSA Fleisch, the law applies to the 'meat industry' as defined under § 6 Abs. 10 Arbeitnehmerentsendegesetz (AentG).
[19] www.gesetze-im-internet.de/safleischwig/__3.html (02.08.2017).
[20] § 3 Abs. 1 und 2 GSA Fleisch i.V.m. § 28e Abs. 3b Satz 1, Abs. 3f Sätze 1 und 2 SGB IV.
[21] www.gesetze-im-internet.de/safleischwig/__4.html (02.08.2017).

According to § 6 GSA Fleisch[22], employer and sub-contractor are obliged to document the daily beginning and end of working hours of employees and contract workers on the same day on which the work is done. According to § 7 GSA Fleisch[23], it is an administrative offence not to provide information, not to provide correct information, or not to provide full information as required under § 3 Abs. 1 on purpose or out of negligence or not to draft full documentation as required under § 6. Such an administrative offence can be sanctioned through fines of up to 50.000€.

Labour exploitation and the institutional setting

No significant changes have been made to the institutional setting addressing labour exploitation since the predecessor of this study, SELEX I, was published. Several authorities are allocated tasks during which the situation of workers and their rights may be detected, including occupational health and safety authorities, financial control of undeclared employment, employment and recruitment agencies, and the local, regional and federal police.

In the context of these controls, authorities do not differentiate between EU-nationals and third-country nationals. Only the consequences for victims will vary. Third country nationals will be subject to proceedings for illegal residency and will be reported to authorities. They may be eligible for a residence permit under certain conditions in case criminal proceedings are initiated against their employer (§ 25 (4) a, b AufenthG).

According to state police records of 2015, a total of 19 investigations of human trafficking for labour exploitation took place and 24 suspects were determined. 54 victims of human trafficking for labour exploitation were reported in 2015 and nearly two-thirds of the victims (34 persons) came from Romania. 81 % of all victims were male. They worked primarily in the agricultural industry (18 persons) or in the building industry (14 persons). In comparison 2014 a total of 11 investigations were completed and only 16 suspects determined. The number of victims of human trafficking for labour exploitation which were reported was 26.[24]

Victim support

In response to a significant increase in demand (see e.g. statistics published by 'Fair Mobility'-project[25]) support structures for victims of labour exploitation in Germany have been extended significantly since the predecessor of this study was published (please refer to SELEX I). Outreach for the sampling of interviewees for this study provided the impression that several support services throughout Germany are currently receiving an increasing number of requests by third-country nationals and asylum seekers in particular, and are restructuring to accommodate the specific needs of this group, in particular regarding language and questions specifically related to residence status.

Risk management

While the financial Investigation Office for Undeclared Employment (FKS) adopted a more risk-oriented approach to its work in 2015, this work is primarily aimed at detecting illegal

[22] www.gesetze-im-internet.de/safleischwig/__6.html (02.08.2017).
[23] www.gesetze-im-internet.de/safleischwig/__7.html (02.08.2017).
[24] The relevant sections of the Criminal Code were amended in October 2016. Therefore, there is no up-to-date data on the extent of severe labour exploitation on the sections 232 – 233a of the Criminal Code. Bundeskriminalamt (2015), *Menschenhandel. Bundeslagebericht 2015*, Wiesbaden, Bundeskriminalamt, p. 12. Available in German at: www.bka.de/SharedDocs/Downloads/DE/Publikationen/JahresberichteUndLagebilder/Menschenhandel/menschenhandelBundeslagebild2015.pdf?__blob=publicationFile&v=8 (07.09.2017).
[25] www.faire-mobilitaet.de/ueber-uns/++co++af7d0f74-fb2b-11e5-b0c3-52540023ef1a

employment, and therefore does specifically aim at detecting labour exploitation. No risk-oriented approach primarily aimed at detecting labour exploitation are known.

Court cases
No relevant court cases have been found to be publicly available.

Promising practices
Answering to increased demands, several actors have commenced developing and implementing workshops for asylum seekers and other newly arrived migrants introducing labour law, proper documentation of work and support offers in language or integration courses, housing for migrants or other contact points where at risk groups may be residing (see Annex I for concrete examples). This practice is promising to enhance prevention and early intervention in cases of labour exploitation which was found to be rare in the cases discussed in this study.

4. Risk factors for severe labour exploitation

The following reflects on risk factors rendering migrants vulnerable to labour exploitation. The discussion is based primarily on the interviewees' own reflections on what may have allowed or facilitated the exploitation, and supplemented by the researchers' interpretation of the interviewees' background. Most commonly named factors were a lack of language skills, a lack of knowledge on workers' rights and the justice system, as well as a dire financial situation and a lack of alternatives at the time that the employment offer was made. While the table below quantifies the interviewees' replies, most of the interviewees' answers were much more complex and multi-layered. Most risk-factors were not described as an isolated cause, but rather as one of several interwoven aspects. The discussion furthermore contains an analysis of a list of questions asked about the interviewees' background, including motivations for migrating, educational background, residence status and language skills.

Background of the sample

Reasons for migrating	
Human trafficking	1/20
Pull-factors	
Economic prospects	15/20
Personal connections in Germany	1/20
Prospects of 'a better life'	6/20
Push-factors	
Poverty/ unemployment	7/20
War	1/20
Conflict with the police	2/20
Personal conflict	1/20
Education background	
University degree	4/20
Professional training	10/20
No training	6/20

With the exception of two applicants for international protection, all interviewees mentioned economic factors, including either push-factors as poverty and unemployment, or pull-factors

as concrete job-offers or the prospect of ‘a better life’ as their for their motivation to migrate. Only very few came to Germany for personal reasons.

A little over half of the interviewees had worked in other EU-member states before coming to Germany, most for several years. About half of the group had resided in Germany for a period longer than a year before they were recruited for the job in which exploitation occurred. This included all three men within the group international protection for whom the job in question was the first employment in Germany after they had been provided with a work permit.

The sample included a broad variety of education backgrounds, with the largest group stating to have received formal training to be a mechanic, nurse/care for the elderly, tailor, builder or an educator in their country of origin or the country they had lived in before coming to Germany. About a fourth of the group had no formal education. This group also included interviewees who had received informal training in countries they were residing in before coming to Germany. Another fourth of the group stated that they had a university degree, including economics or engineering. The sample showed no specific tendencies based on target groups, nationality or residence status, all three groups were spread evenly.

The majority of interviewees stated that the work they did when being exploited did not match their education or skills. A group of six interviewees, most of which worked in construction, stated that the job matched their previous skills/education, the majority of those referred to skills gained from practice rather than a formal education.

Almost all interviewees pointed out that they had arrived in Germany with very basic or no language skills. Most did not see any major improvement at the time of the interview. Some named the work situation as a barrier and furthermore pointed out that it was a priority for them to learn the language to be able to find a new job and improve their situation (see Chapter 7 for further discussion).

Risk factors

Answers to Question 7a. What do you think made it possible for these things to happen?	**Individual interviews**
Lack of knowledge on works’ rights and the justice system	7/20
Financial dependency (e.g. longer periods of unemployment, lack of alternatives, promise of future employment)	6/20
Language skills	8/20
Nationality	3/20
Residence status	4/20
Short term stay for seasonal work	1/20
Being used to working conditions from country of origin	1/20
Internal management (Unqualified staff/ subcontracting)	3/20
Lack of controls and punishment	3/20
Toleration by authorities	1/20
no answer	4/20

Financial dependency

Most interviewees referred to a feeling of being pressured into or enduring working conditions due to a diverse range of factors creating their life situation. The most commonly named factor causing this feeling were economic aspects. At the time when the job was accepted, many were in a dire financial situation, caused by longer periods of unemployment, unpaid bills in country of origin, or social welfare being cancelled.

A large group of EU-citizens had been residing in Germany under their prerogative under the EU-citizenship Directive for several years. This group typically recalled coming to Germany for a specific job offer or to find work, working in several smaller jobs or going through longer periods of unemployment upon arrival, and eventually feeling compelled to take a job when it was offered as they had lost hope in finding alternatives. The story of a man working in construction (EU-national) quoted below exemplifies such accounts:

> *„I've been in Germany for five years. The first couple of years, I was self-employed. Afterwards, I was unemployed, and I was registered with the German job centre. After six months, they sent me to a German language class. (…) But then, the job centre didn't support me any longer in terms of rent and to cover my other expenses. So, I was forced to work again, and I couldn't go to the German class anymore."* (Germany, male interviewee from Bulgaria, construction, EU national)

Many perceived their lack of alternatives to be linked to insufficient training or qualifications, or a lack in language skills. A small group (four interviewees), mostly those with a university degree or official training, mentioned being unable to find a job in their profession as a risk factor. Amongst them was a third country national whose qualification was not recognised in Germany.

A larger group of interviewees, including mostly EU-nationals, stated that they were homeless when they experienced exploitation or were only able to access housing through their employer. Although none of the interviewees who pointed to themselves being homeless specifically made mention of their living situation as a risk factor, many mentioned accepting jobs under hard working conditions or with little pay in order to be able to afford very basic necessities as food and a place to sleep, making their wish to earn money very urgent and immediate.

All participants of the focus group dedicated to domestic workers were women who raised their children by themselves. They pointed out that one of the main reasons for them to accept and endure the exploitation was having to provide for their children. A participant who had worked in child care in a private household explained her own motivations, stressing that she knew of several women who were in a similar situation:

> *"It is often the case that one just has to endure the situation somehow, also because I had a little son. If you are alone, it is different, but if you have children, with a child, it is very difficult." (FK2_undocumented migrant, female)*

Residence status

A small group of interviewees, including two undocumented migrants and an EU-national, reported feeling pressured to accept the job and dire working conditions in order to regularise their own residence status, or to have sufficient stability to apply for a residence permit for relatives. This did not only affect the interviewees' initial decision to accept the job, but also to endure the working conditions for longer than they reportedly would under different conditions. An EU-national who claimed having endured exploitative working conditions in construction for close to a year recounted a typical conversation between himself and a new colleague he had warned of the working conditions:

> *„I told this new colleague, he asked: Okay, you tell me, but why are you here, if the company doesn't pay? - Well, I am bringing in my wife and I have applied for her visa and I am in a situation where my new flat…I don't live in this community but somewhere else and that is why I work there, I am forced to continue working there."* (Germany, male interviewee from Spain, construction, EU national)

Participants of the focus group with domestic workers pointed to employers using the workers' irregular situation as a means to pressure them into enduring increasingly exploitative working conditions.

A third country national with a 'tolerance permit' indicated feeling that his status as a refugee was a decisive risk factor or cause for the exploitation. As he pointed out, he felt that his rights were generally limited in comparison to those of nationals.

Lack of knowledge on workers' rights and understanding of the justice system

A larger group of interviewees, including EU-citizens and third country nationals, identified their lack of knowledge on workers' rights and the justice system as risk factors enabling their exploitation. This remark was often accompanied by comments on a comparably short stay, or a lack of language skills. The group included all three undocumented migrants, a person residing under a 'tolerance permit', as well as two EU-nationals. This man working in construction who had experienced exploitation with several employers shared his impression that employers had created a network to warn each other of employees who knew their rights and according support:

> *So this company called a third employer and said that he should not hire me because he will get problems because I am in contact with (support organisation) and that this will bring problems. A 'heads-up' so to speak. These companies did not want to have any old staff who knew this problematic (…). Colleagues as me are 'uncomfortable' so to speak, because they know about this situation already and can help others (…)* (Germany, male interviewee from Eastern Europe, shipyard, EU national)

Language barrier

Language was specifically named as a risk factor for exploitation by a large group of interviewees including all target groups and nationalities, and was otherwise quite prevalent throughout the interviews. The following quote is part of an interview with a man who spoke about the working conditions as a social worker. His account of being unable to understand

the work contract or other documents related to the work reflects the impressions shared by many other interviewees:

> *"Back then, I was unable to speak German, I could not understand German or read German (…) So, I got the contract, and I don't know whether what it said was okay, but I simply signed it (…). It was completely in German. Okay. But I had to work, I wanted to work."*

Language was usually a factor that did not stand on its own but was a cause for or reinforced other risk factors. First, some interviewees were of the impression that a lack in language skills hindered them from seeking alternative employment. This was mentioned as problematic by interviewees with all kinds of educational background. It was furthermore reported that extreme over hours left no opportunity for interviewees to learn the language. Second, workers reported being unable to understand the work contract or other documents related to the work, a subject which will be discussed further in Chapter 5.

Third, a large group of interviewees pointed to a lack of language skills inhibiting their ability to confront the employer and furthermore shared their impression that employers choose employees who are unable to speak the language. Language was furthermore seen as a barrier to seeking support, which often prolonged the situation of exploitation. This latter aspect will be discussed in-depth in Chapter 6.

Internal management

Next to risk factors linked to their own situation and background, interviewees pointed to several factors independent of their own person which, as they perceived it, added to and facilitated their exploitation. This included two interviewees, a female EU-national and a male third-country national who felt that their employers' internal management was the primary cause for the precarious working conditions. These interviewees spoke of unqualified or racist staff in human resources who they reported to be unable or unwilling to conform with workers' rights. An EU-national working in an asylum accommodation centre pointed to a conflict between the subcontractor who had hired him and a contractor leading to unpaid work.

Lack of controls and punishment

A lack of control and punishment was specifically mentioned as a facilitator by a few EU-nationals, and was referred to by a larger group of interviewees when asked about preventive measures. Many witnessed employers continue to exploit others without any apparent consequences (see Chapter 6 for further discussion). Next to a general lack in controls, participants of the focus group named it as a facilitator that authorities, in their opinion, tolerated the exploitation or were otherwise acting in a discriminating manner towards specific ethnicities. It was the interviewees' impression that employers were well aware of a perceived gap in the enforcement of the law, and therefore felt secure in exploiting workers who lacked protection by these authorities:

> *„Even if one works with documents, a work contract: If the employer sees that the worker is Bulgarian, then he assumes he can do what he wants. That is why they dare doing that, insult us. We have no chance of getting our money."* (EU-national, focus group 1, male)

This perception was shared by an EU-national working in construction. The role and treatment of authorities will be discussed in more depth in Chapter 6.

Exacerbating factors

Many of the interviews conveyed a strong feeling of a lack of alternative and perspective which was perceived to have exacerbated above mentioned risk factors. A few explicitly mentioned having been aware of a risk of exploitation when they accepted the job. This woman working as a cleaner exemplifies such an account:

> *"Before I started they told me that these people they don't pay. If they work four months they pay them only one month. I told them that it would not be like that for me because I need money. That is why I am working. They said they pray it should be so. At the long run they never paid me. Nothing."* (Germany, female interviewee from a third country, cleaning, migrant in an irregular situation at the time of exploitation).

For many, mostly EU-nationals and one undocumented migrant, it was not the first time they had experienced exploitation, and a few stated that their current working situation seemed similarly exploitative as the job they referred to during the interview. Many referred to the side effects of exploitation, including for example debt created by small or no pay, a lack of time to learn the language due to extreme working hours, or permanent health problems due to work accidents, reinforcing or adding to the risk factors they had named, thereby creating a vicious cycle which often led to more exploitation. An extreme case was pointed out by an EU-national working in construction who felt forced to take a job with same group of employers he had been exploited by twice, because he could not find another other job as he was unable to communicate in German.

Many of the interviewees were under the impression that employers were aware and made active use of their vulnerabilities when recruiting workers. Interviewees spoke of employers prioritising the hiring of workers who were expected not to remain in the country for very long, including seasonal workers and other EU-nationals migrating for a limited time period. The following quote of a seasonal worker speaking about his employer's intentions exemplifies an opinion shared by many of the interviewees:

> *"In my opinion, the 'Dutch' knew exactly that the people would just go back to Poland and would not turn to anyone. That they would be disappointed, but not expect to receive their money. That they would not fight for their rights. The problem is that none of us speaks German."* (Germany, male interviewee from Poland, agriculture, EU national)

Other vulnerabilities named to have caused the employer's impression that they can 'do what they want' included a lack in language skills, workers being used to working conditions from their country of origin, or fear reporting due to their irregular residence status.

5. Workers' experiences of severe labour exploitation

As indicated in the table on page 4, interviewees reported on experiences they made working in agriculture, child care and other services in private households, cleaning, construction, food

services, logistics and other services. With the exception of the two seasonal workers who recalled having learned about the job opportunity while still in their country of origin, all interviewees talked about being recruited in Germany. The type of recruitment showed no apparent commonalities or discrepancies between target groups, nationality or economic sector. Most commonly named as a source for information about the job was a friend, relative or other acquaintance with no apparent connection to the employer telling the workers about the job. Those who did not specify their relationship to the person who recruited them often mentioned that the person was the same nationality as they were, or spoke their language. Other recruitment channels that were named included persons who had worked for the employer themselves, social media, and the 'workers' stripe'. A case which stood out was the account of a woman who explained that she had learned of the job in which she experienced the exploitation through a victim support organisation which had offered support in escaping her work as a prostitute after having been trafficked to Germany.

Recruitment channels included…

…friends/ acquaintances or relatives unrelated to employer	11/20
…other persons working for same employer	5/20
…the workers' stripe	2/20
…social media	1/20
…a support organisation for prostitutes/victims of human trafficking	1/20

The majority of interviewees signed their contract directly with the employer who would give orders and supervise their work , while a smaller group, mostly working as cleaning staff or in construction, were contracted by sub-contractors who sent them to the cleaning or construction side in question. Domestic workers were hired by the private households they worked in. The employment relationships in question reportedly lasted between a week and several years; for the majority it did not last longer than 6 months. Although most endured precarious working conditions from the beginning of the employment relationship, some mentioned that the problems they experienced slowly developed. Five workers, including EU-nationals and two third-country nationals with a 'tolerance permit' indicated that the employment relationship only lasted a few days or several weeks. All worked in construction and food services.

Interviewees experienced…

…problems with pay	20/20
…problems with conditions at work	20/20
…problems with the work contract	19/20
…problems with housing/accommodation	6/20
…problems with work tasks	8/20
…problems with documents	12/20
…threats or violence	9/20
…others experiencing threats or violence	6/20
…being kept in isolation	3/20

The workers' accounts on problems with pay, physical strain from extreme working hours or physical labour, as well as an atmosphere of what was often perceived as psychological threat and violence stood out from most interviews, while workers also spoke of problems regarding

housing and accommodation, unexpected work tasks, documents related to the work or the workers' residence status, or feeling isolated.

Problems with the work contract

Work contracts were a recurring theme throughout the interviews, as many interviewees maintained that these documents were essential in proving the exploitation they experienced or claiming their rights in court (see Chapter 6 and 7).

The majority of workers questioned for the purpose of this study had signed a work contract at some point during their employment relationship. For a few, the contract was signed a few weeks into the employment relationship, either because the workers were asked to absolve a trial period (in the case of one worker from Spain, construction), or, for two seasonal workers, because the workers had to actively demand a contract from their employer. All interviewees signed the work contract in Germany and most signed their contract with the employer who would give orders and supervise their work, rather than a sub-contractor (see above for more detail).

A large majority of those who signed a contract maintained that they did so without understanding its content. Contracts were offered in German, and only in individual cases translated by the employer or a co-worker. Many argued that they did not see any choice but to sign the contract as they felt dependent on the work. Amongst them were two third country nationals who, at the time when they were offered the job opportunity, were residing in Germany based on a 'tolerance permit'. These interviewees pointed out that the office for foreigners was presented with the work contract before it was signed by the workers, as they were required to obtain a work permit based on the specific job-offer. While many pointed out that contact with a support organisation in the aftermath of the exploitation was their first opportunity to understand what they had signed, most explained that, from what they understood, the contract as such was sound and in accordance with the law.

Only a small group of interviewees, including EU-nationals and an undocumented migrant working in construction, food services and cleaning did not sign a contract. The accounts of these workers portrayed several conflicts with the employers, with employers refusing to issue a contract or uphold the workers' rights. The following provides an example of an EU-national's account of a dispute between a worker and his employer, which furthermore exemplifies the risks inherent in undocumented work:

> *„I had a work accident and he (the employer) called a taxi instead of an ambulance despite the fact that I could not move at all. When I asked, why not an ambulance, he asked me whether I was crazy and said he would go to prison as I was working there illegally. He then drafted up a work contract while we were in the taxi." (Germany, male interviewee, EU national)*

Problems with pay

For a large majority of the workers interviewed for the purpose of this study, the problem which they named to be of central importance was outstanding or insufficient pay. While most reported other challenges in the work environment, it was often pointed out that interviewees

would have accepted conditions as hard physical labour, extremely long working hours, or low-quality accommodation, would they have received an according remuneration for their work. Quotes like this extract from an interview with an EU-national were typical for the workers interviewed for the purpose of this study:

> *"I do not speak the language so I have to do hard labour. I am ok with working that way, also such difficult jobs but, unfortunately, they do not pay accordingly."* (Germany, male interviewee from Bulgaria, logistics, EU national)

Almost all interviewees reported that they had not received the pay they were promised, either because the employer simply refused to deliver outstanding payments, did not remunerate over-hours, or provided payment below the minimum wage. At the time that the interview took place, interviewees reported their employers still owed them amounts between 700 and 15 000 €.

In agriculture, cleaning and food services, a group of workers, including EU-nationals and third-country nationals, reported having received complex and often incomprehensive billings, sometimes being paid per room cleaned, per kilo harvested, or per sausage sold, with no basic income, which created immense time pressure and low pay. In addition, this group reported that work related items which they were provided, including lunch which they had to eat at work, or work clothing, were subtracted from their monthly income.

In addition to an overall lack of pay, some reported being paid in cash (three interviewees) and/or on an irregular basis (one interviewee), having been registered in the wrong tax class (one interviewee and one focus group participant) or the employer failing to pay into social security systems (three interviewees).

Extreme working conditions

All interviewees reported having experienced problems regarding the conditions at work. For a large majority, this involved problems regarding their working hours, either because they worked extremely long hours, were not offered any vacation days, had to work the weekend, were not allowed to take sufficient breaks, or were under the impression that calling in sick would not be received well by the employer.

Workers in agriculture, cleaning, construction, food services and logistics remarked physical challenges in their work. A few EU-nationals residing in the country under their prerogative under the EU-Citizenship Directive or as seasonal workers, working in agriculture and construction, reported having to work under extreme weather conditions, on a building site in rain or snow and minus degrees, or on a field during summer, without any shelter or protection against the seasons. Interviewees working in construction furthermore reported that they felt unprotected against work accidents, a few getting hurt using broken machinery or falling off an unsecured building. Workers in construction variously described their work as 'hard', 'extremely bad', 'miserable', or 'inhumane'. The quote below from an interview with an EU-national working in construction highlights some of the aspects described by several interviewees:

> *"There was a problem with everything, meaning pay as well as working hours, the breaks. (…) we worked up to 11 hours a day under very bad conditions. Sometimes outside at minus 4, minus 5 degrees, in heavy*

> *rain or snow fall. We had to work. Without a break. Also during the weekend. (…). So the working conditions were inhumane."* (Germany, male interviewee from Bulgaria, construction, EU national)

Others reported themselves or others being physically impaired due to hard physical labour over a longer time period.

Threats, violence and isolation

Despite the fact that only two accounts of workers included a threat of physical violence (both EU workers, construction), about half of the sample confirmed that they had been threatened or had experienced violence at work. This group was spread across economic sectors and target groups. Interviewees linked this feeling back to the intense pressure they felt in the work environment. As a cause for this feeling, interviewees identified several conditions at work. Time pressure was a recurring topic in logistics and cleaning, while others reported having to act like 'soldiers', being bullied, or experienced discrimination by their employers or colleagues. Many used wordings as being 'forced' to work hard or fast for longer hours. Conditions described to amount to violence included 'psychological coercion', workers being paid to check on each other causing mistrust in shared housing, and a constant threat to be fired and/or employers screaming at or insulting workers. These experiences were shared by both, workers who were employed by sub-contractors or those who were contracted by their direct employer. This EU-national's response to the question whether he experienced threats or violence gives an indication of the workers' accounts of how they perceived the work-environment:

> *"Violence in the sense that, well, if you don't deliver, reach our goals, then you won't be here tomorrow, you won't work tomorrow. Yes, so threats in the sense of: "If you cannot deliver, then the next person is waiting, then someone else will do the job."* (Germany, male interviewee from Bulgaria, logistics, EU national)

A domestic worker reported on her former employer having checked on her work through camera surveillance (focus group 2, undocumented migrant, female). Asked whether they had felt isolated, only a very small group of three interviewees, including an EU-national working in construction, another working for a car wash, and an interviewee working in an asylum accommodation centre, affirmed. Rather than physical isolation, interviewees explained that the isolation was 'a feeling' due to long working hours, or the employer controlling their life, or because they were sent away during an inspection. There seemed to be no apparent correlation with housing arrangements.

Problems with housing/accommodation

About half of the interviewees, including EU-nationals and third country nationals in all target groups, lived in an accommodation provided by their direct employer. This included interviewees working in construction, the food sector, and seasonal workers working in agriculture. Not all of these workers named living conditions as problematic, yet some pointed to conditions as overcrowding and humidity (Poland, male, agriculture), or reported on employers paying individual workers to report on conversations and potential criticism voiced amongst workers in the accommodation, which was perceived to only reinforce the pressure felt at work (Peru, male, food service, migrant in an irregular situation). Others named it as problematic that living in these facilities was obligatory, and that rent was unreasonably high

(Spain, male, construction). Individual cases felt that the accommodation made them dependent on the employer, and that finding accommodation after they quit work was challenging (mentioned by three interviewees).

Unexpected work tasks

Asked about any problems with work tasks, some, including mainly EU-nationals and one third-country national interviewees confirmed, yet did not specifically point these problems out as essential. These problems were named to be either harder physical work than initially agreed upon, mainly in construction or logistics, while others mentioned having to carry out tasks that they had not initially agreed to. These were usually not perceived as problematic as such, yet the additional work caused longer working hours without additional pay. Unexpected work tasks were particularly prevalent in the focus group with domestic workers. These women talked about starting out with smaller cleaning jobs which, over time, developed into more extensive or full-time work comprising a variety of tasks in private households, often without additional remuneration.

Missing documents

More than half of the interviewees, representing all target groups, as well as a large variety of economic sectors, affirmed that they faced challenges regarding documents other than a work contract while they worked. These documents included time-sheets, statements of dismissal and residence permits. It was very common for interviewees to point out that the employer refused to issue a statement of dismissal, or falsified the time-sheets which created problems for interviewees in accessing social support or claim their rights in court (see Chapter 6 for further information).

All three undocumented migrants explained that they were hoping for, or promised support by employers in applying for a permanent work permit, which they did not keep. This sample also included the account of a woman whose trips back and forth between Germany and another EU-country (aimed at extending her permit to reside in Germany) were financed by a victim support organisation for victims of human trafficking, which had also referred her to the job in which she experienced the exploitation.

Confronting the employer

With the exception of two interviewees (including an EU-national working in construction and an undocumented migrant working in food services), all workers reported having confronted the employer about the situation at work. Most interviewees named insufficient or outstanding pay as their main reason to confront the employer, while a few maintained having spoken to their employers about working hours (one interviewee), insufficient security measures (two interviewees) or missing or faulty contracts (three interviewees).

All interviewees were under the impression that they were unable to achieve change in their employment relationship or to claim their rights through confronting the employer. Many of the workers reported that their employers responded by asking workers to accept things how they were or leave. The quote below, taken from an interview with a seasonal worker who confronted his employer about an in transparent payment scheme exemplifies the attitude of employers:

> *"(…) they changed it from lump sum payment and he (the employer) said that if they didn't like that they could simply go back to Poland. So if they didn't agree, they could leave."* (Germany, male interviewee from Bulgaria, logistics, EU national)

The accounts of a small sample of interviews included workers being fired upon challenging the employer about their own pay or other worker's working conditions (four interviewees). Another group of interviewees described being put off, consoled, paid smaller amounts, or promised future employment if they were patient (three interviewees). Some interviewees working in construction or services in refugee centres maintained that the subcontractors who had hired them blamed a delay in payments on the contractor. Most reported that they accepted being put off initially or for a longer time period.

Some, including EU-nationals and third country nationals who had worked in construction and cleaning, spoke of the role of a 'foreman' or 'checker', an individual amongst the workers overseeing the work of the others, and usually the only person in a group of workers speaking a language they could communicate in with the employer. This foreman would negotiate with the employer and some remarked that, in hindsight, they suspected the foreman to be part of the exploitation scheme (four interviewees).

A group of workers, including four EU-nationals and two third-country nationals maintained that their employer reacted with anger, screaming at employees, insulting, discriminating slurs, or threatened with violence. This EU-national working in construction recalled such a conversation with his boss, in which she reacted to him explaining that he would not sign a statement of dismissal:

> *"I called her back and said: Well, I spoke to my lawyer and he said I don't have to sign this. When I said this, my employer started having a crisis, started calling me names, names that I don't want to repeat (…)."* (Germany, male interviewee from Spain, construction, EU national)

Controls/inspections

Only a small group of five interviewees witnessed controls at the work place, including controls by authorities, as well as controls which were not linked to the interviewees' working conditions (see below). A male EU-national working in construction remarked that he suspected authorities to actively avoid checking up on his employer, another working at a car-wash remarked that the employer seemed to have expected, and was prepared for controls when they arrived. A female EU-national working as cleaner at a hotel recalled having to work with the doors shut, while the employee of a car wash mentioned above was asked to 'go for a walk' shortly before inspections took place. Both seasonal workers who had worked for the same employer mentioned a second set of time sheets which the employer told workers to show in case of inspections.

According to the accounts of interviewees, official controls were witnessed at a construction side, a car wash and while selling food in public places, the accounts were however unclear about the nature of the authority which implemented controls or the controls' purpose. In two of these cases, one involving an EU-national, the other an undocumented migrant, the interviewees reported that the police checked their papers, yet voiced surprise that this contact

did not have any consequences. An undocumented migrant working in food services spoke of his surprise when he was checked by the police without any apparent consequences:

> *"What struck me as strange was that nobody (the police who checked his papers) ever wondered that I only had an internship contract. If I check a person that does normal work and I see, they only have an internship contract, I'd assume that somebody would notify someone about it."* (Germany, male interviewee from Peru, food service, migrant in an irregular situation at the time of exploitation)

Two EU-nationals who cleaned in hotels witnessed inspections which were not related to the working conditions, one from the health department and the other from an unknown entity which was aimed at checking whether the hotel should be offered an additional star. Both interviewees reported having to work longer hours to make sure that inspections went well.

As the number of controls witnessed by interviewees included in this sample was limited, material on experiences of inspections and controls themselves was accordingly thin. However, controls/inspections and a perceived lack thereof were a central theme in the interviewees' accounts regarding prevention and support and will therefore be discussed in more detail in Chapter 7.

6. Asking for help: victim support and access to justice

Number of interviewees who…

…contacted support organisations	17/20
…reported to the police	2/20
…participated in out-of-court-negotiations	9/20
…initiated proceedings at labour court	8/20
…initiated criminal proceedings	1/20

As interviewees were largely sampled through contact with support organisations, all but three of the interviewees who participated in individual interviews had been in contact with support regarding the exploitation they had experienced. From the sample used for this study, eight interviewees eventually went to labour court to claim outstanding payments. This group included seven EU-nationals residing in Germany based on their prerogative under the EU-Citizenship Directive, as well as a third-country national residing under a tolerance permit. A female undocumented migrant reported her case to the police, which led to her former employer being charged with labour exploitation. The sample furthermore included two seasonal workers who were still waiting for the outcome of out-of-court negotiations, two EU-nationals waiting for their support to take the according steps, as well as a third-country-national who had been successful in claiming his rights through negotiations. The remainder of the sample made an active decision not to pursue charges. The following reflects on the interviewees' responses and reflections regarding questions related to their experiences in accessing support and justice.

a. Experiencing support – Needs, priorities and suggestions for improvement

Motivations and hesitation to seek support

Interviews conveyed the impression that the decision to seek help was usually a longer process involving hesitation and barriers. Many indicated that they had hoped for a change in work conditions, to receive their payment, or to find an amicable solution with their previous employers. As outlined in Chapter 5 many had attempted to confront the employer and were waiting to be paid hoping for future employment with same employer. A man working in construction spoke about his hope for future employment. Him and his co-workers had been sent home after finishing the work on the construction side, and told to wait for their payment:

> *"Well I had heard of this organisation and I also know similar organisations but initially we thought that we would wait until we actually receive our payment because we wanted to find an amicable agreement and we did not want to involve the courts in the hope that we would be employed there in the future."* (Germany, male interviewee from Bulgaria, construction, EU national)

Two undocumented migrants hesitated out of fear, worrying that pursuing their claims would not be the 'right thing to do' shortly after arriving in the country, that reporting to authorities would jeopardise their stay in Germany, or that the employer would react badly. Fear of the consequences of seeking support was also reported by participants of the focus group attended by domestic workers. The quote below highlights many of the concerns expressed by various interviewees:

> *"The problem is that sometimes one is overcome by fear, that you are in a foreign country and you don't know, I don't know my way around, what will happen to my family? And if I have to papers, do I risk being deported if I report something?" (focus group 2, undocumented migrant, female)*

Seeking help usually took some sort of tipping point. For some, this tipping point was reached only after the employment relationship had been terminated and they had not received outstanding payments for months. For others, it was a new dimension to the exploitation or a work accident. A few approached help when they were given additional external motivation, as for example the office for foreigners asking for an explanation why the interviewees had quit their job, or other authorities demanding a contract or a letter of dismissal to register for social welfare. This man working in construction spoke about the moment he decided to seek help:

> *"I was […] on a business trip […] and when I came back I asked for an advance payment, he didn't want to pay and I said to myself 'It can't go on like this'. There is no security."* (Germany, male interviewee from Eastern Europe, construction, EU national)

Only one of the interviewees approached support while still in the employment relationship. For most, the exploitation had caused far-reaching consequences at that point.

Barriers and enablers in accessing support

Types of organisations contacted	
Organisations specialised in supporting victims of labour exploitation	9/20
Migrant self-organisations	1/20
Welfare organisation offering general support to migrants	5/20

NGO supporting victims of human trafficking	1/20
NGOs supporting the homeless	2/20
Trade Unions	2/20
None	3/20

Once the decision to find support was made, many reported on initial challenges in finding support. Some affirmed that they would have contacted support earlier would they have had information on where to turn. A recurring remark amongst those interviewees who had resided in the country for only a short period of time was that they were not familiar with the overall situation in Germany, the legal system, or existing support structures. This included both, EU-nationals and third country nationals. Asked whether he had tried to find help prior to getting in touch with the support organisation which eventually guided him through a trial, this interviewee who had endured several months of hard labour in construction without payment explained:

> *"Of course I had thought about it (approaching help), but I was new to [city in Germany], I did not know anyone and I did not have the information, I didn't know who to turn to."* (Germany, male interviewee from Eastern Europe, shipyard, EU national)

A lack of knowledge on existing support was a subject with particular prevalence in the focus group with domestic workers. While some reported having been in touch with more generalised migrant support, they pointed out that they had been unaware that these organisations could provide regarding their working conditions. Given that only a small minority of interviewees was able to communicate in German, a particular challenge for many was to find support in a language they understand:

> *"My biggest concern was that there wouldn't be anyone who speaks Polish. That we would have difficulties communicating. Once I knew that, I was able to (seek support)."* (Germany, male interviewee from Poland, agriculture, EU national)

In turn, support being available and advertised in a language that workers understand was seen as an enabler to seeking support (see also section 'evaluating support' in this Chapter).

In about half of the cases, finding qualified support required a line of contacts. A large group of interviewees was referred by generalised support for the homeless or migrants, usually social workers who then referred them on to lawyers or specialised support. In some of these cases, workers approached support for reasons other than the exploitation which were usually, at least in parts, side-products of the exploitation. This included a wish to find new work, problems with accessing state support, needing money for medication, or looking for a place to sleep. This group included a third country national working in the food industry, who explained that his initial intention in approaching help was to move on from exploitative work conditions through an application for a work permit, and an according legal work:

> *"Well it all began when I was at the support organisation to find out how to get a new job, that I can to legally…so legal papers. And then I told the person at (support organisation) about the kind of working relationship I was in and what happened there. (…) they said I should quit my job because it wasn't legal, and that I should go to the police."*

(Germany, male interviewee from Peru, food service, migrant in an irregular situation at the time of exploitation)

For both EU-nationals and third-country nationals, referrals to specialised support were often made by persons who had a pre-existing relationship of trust with the interviewees. This included, for example, social workers working in the premises where interviewees lived (housing for asylum seekers) or found shelter for the night (homeless shelters). Only in very few cases did this line of contacts include one or several organisations who were unable or unwilling to offer support. In most cases, those who were initially approached by the interviewees remained part of their support system, most likely because the majority in this sample was seeking support which addressed their overall situation, rather than exploitation as an isolated incident.

The other half of the interviewees, including both EU-nationals and third-country nationals approached specialised support without mediation by other services. This group spoke about having received information about the organisation through friends and other acquaintances, often persons who had suffered exploitation themselves. A man working in logistics spoke about the important role of word to mouth information:

> *"Word of mouth, so people who had also suffered and had similar problems, they recommended it to me. (…) They passed on business cards."* (Germany, male interviewee from Poland, logistics, EU national)

The seasonal workers included in this sample found support online after they had returned to their country of origin. It was remarked as essential that the organisation's website had been available in a language they understood.

Despite the fact that sampling had created the impression that support for EU-nationals was generally more established, this sample did not confirm the impression that third-country nationals generally struggle more to find support. Both groups, those who went through several lines of contacts and the group which directly approached specialised support, included interviewees from group IR, IP and O.

Evaluating support

Respondents generally expressed gratitude for the support they had received. Whether or not interviewees felt that the support they had received was helpful was usually detached from the outcome of the support and the question whether or not they were able to claim their rights. Many of the interviewees expressed a more general and emotionally motivated appreciation, using phrases as 'they are good women', 'nice', 'they always have time', 'listen', or noting the staff members' devotion to their case. Most expressed relieve to have a person to turn to for continuous, generalised support, somebody who 'helps with everything', is 'trustworthy' and 'supportive'. A male interviewee who was supported by a welfare organisation explained:

> *"I think it is very important that the person who speaks to me is interested in me and wants to hear what I have to say, then they will understand me."* (Germany, male interviewee from Peru, accommodation and food service, migrant in an irregular situation at the time of exploitation)

For a small group of interviewees, it was particularly relevant to simply be treated like a human being, a feeling which seemed particularly pronounced by participants of the focus group held with homeless migrants working in the cleaning sector.

The following themes were derived from the interviewees' responses to being asked about the type and quality of support they had received. To encourage constructive criticism on support received despite possible bias due to the sampling method (almost all were referred through the support organisations which had assisted them), interviewees were asked to reflect on their priorities in seeking help, as well as on what they would have wished for if they imagined the 'perfect' support.

Interviewees approached support with the intent to receive the following type of assistance:	
Addressing the side effects of exploitation (New job, Paperwork, Being accompanied to authorities, Housing/accommodation, Residence-/work permit)	9/20
Information/advise	5/20
Translation/overcoming language barrier	6/20
Support in claiming outstanding pay	11/20

Types of support received included…	
Referral to lawyer (who speaks the language)	9/20
Information/advise (including prevention)	9/20
Contact/negotiations with former employers	8/20
Assistance in preparing and going through court proceedings	8/20
General support	10/20
Language (including translation	6/20
Organising media attention	1/20

Addressing the side effects and context of exploitation

The side effects of exploitation and support in overcoming these aspects were in focus for many of the victims interviewed for the purpose of this study. This was regardless of whether they had attempted to access their rights in court or otherwise challenged their employer with the support of an organisation. Support in finding a new job, filling in forms, giving directions and being accompanied to relevant authorities and doctors' appointments, translations and other support in communicating with authorities was seen as essential by all interviewees. For some, this included finding a place to stay, either because their accommodation had been provided by a former employer, or because they had become unable to pay the rent. For all three irregular migrants included in this sample, assistance and advice regarding their residence-, and work permit were of central importance in the support they received. It was furthermore underlined that support should recognise the victim's financial situation. Most of the support accessed by the interviewees in this sample was free of charge, and only a trade union demanded a monthly fee by one of the interviewees which the interviewee saw as a significant barrier in accessing his rights.

Next to the fact that the majority of interviewees had been paid less than expected or were missing several months of payment, many EU-nationals remarked that factors linked to the exploitation had limiting consequences for their access to state support. Employers refusing to issue a statement of dismissal, or time-sheets showing only parts of the hours worked are

typical examples for a domino effect caused by the exploitation. A woman working as a cleaner described a typical conversation with state authorities:

> *"We asked the tax office*[26] *why we were receiving so little money. The tax office said, that is how many working hours your boss has sent to us and that is why you get this amount. We were told that the problem was our boss. And we had proof." (female focus group participant, EU-national)*

Being accompanied to these public offices and providing translation was seen as a major support and a source of comfort.

The more generalised support aimed at addressing the context and consequences of the exploitation was named first or emphasised by many of the interviewees and was very prevalent in the interviewees' overall assessment of the support received.

Information and advice

Information and advice was seen as essential in the support received by the interviewees. Many remarked having approached support to ask for advice regarding their rights and the legal system, or marked it as essential in their evaluation that things were 'explained well'. This type of support had two dimension, including the organisations being a source of information about general worker's rights, as well as the organisations providing individualised advice regarding the interviewees' situation. This woman who had experienced exploitation as a cleaner after only months of having arrived in Germany explained the essential role of information in accessing her rights:

> *"In my current situation because I am not from Deutschland I don't know the law. They know the law. People that know the law know what to do."* (Germany, female interviewee from a third country, cleaning, migrant in an irregular situation at the time of exploitation)

Asked whether interviewees had ever been informed on workers' rights, most named their contact with support organisations as the first chance to receive such information. Most reported never having been informed at all, or in a way which did not allow for them to fully comprehend their rights:

> *"Probably or at least possibly, somebody has tried to explain my rights to me. But since I do not speak German, often I don't understand what people tell me. But as of now, I can say that I dint receive or understand any information regarding workers' rights."* (Germany, male interviewee from Bulgaria, construction, EU national)

Interviewees named it as essential to have been provided with information on laws and regulations regarding working hours, minimum wage, whether one had a right to be treated respectfully in the work context, and whether one had options to sue the employer. Only a small group of interviewees spoke of having been informed through other channels, including the internet or flyers provided by migrant support organisations. An even smaller group affirmed that they had been fully informed on workers' rights before coming to Germany.

[26] The context of this quote indicates that the interviewee may have referred to jobcentres.

Next to general information on workers' rights, interviewees valued the advice linked to their individual situation. Some interviewees referred to organisations being the first instance where they learned about the content of the work contracts they had signed, or were made aware of their options in suing their employers. Organisations typically reviewed relevant documents and advised on further steps. In a few cases, the advice offered by organisations included preventative aspects, with organisations asking workers to show them work contracts before signing them, or advising workers not to sign an official statement of dismissal.

Language

Language was perceived as a factor influencing access to support and justice on many levels and was accordingly a recurring subject throughout all interviews. A large group of interviewees stated that they were hesitant to contact help without being able to speak the language, or were initially unable to find any support in their language. A seasonal worker stressed the essential role of language in accessing workers' rights:

> *The problem is that none of us speaks German. It is only thanks to this organisation where the lady speaks Polish that we are able to fight for our rights. Otherwise this would not be possible. That is a very important point.* (Germany, male interviewee from Poland, agriculture, EU national)

Almost all interviewees who participated in individual interviews eventually found support in a language they understood. In most cases, this was the interviewees' mother-tongue, or a language they had learned and spoken in a country they had resided in before coming to Germany. The fact that persons were able to communicate with organisations in their mother tongue or via a translator was held very high by interviewees. Two third-country nationals received support in German or English, rather than their mother-tongue.

Next to facilitating their own communication with the organisations, interviewees saw it as essential to work with an organisation speaking their language so that they could overcome a strong perceived language barrier in communicating with former employers and authorities. Organisations translated work related documents and written communication from courts and authorities and/or facilitated direct contact with former employers. Another indicator of the central role of language was the fact that, in most accounts, it was a person speaking the language who would approach authorities or support.

Claiming outstanding payments/ work-related documents:

While some interviewees were satisfied with receiving support in seeking a perspective and addressing their current employment and broader situation, others specifically approached support in order to claim their rights regarding the exploitation, or were advised by support to go according steps.

A large group of interviewees, including individuals from all target groups, mentioned the organisation's support in out-of-court negotiations with the employer when evaluating the help they received. Organisations were seen as essential in surpassing a language barrier, informing the interviewees whether they had sufficient proof to negotiate or go to court, referred a lawyer or were in direct contact with employer. In two cases, support organisations facilitated meetings with employers or their representatives. In all cases where interviewees sought to make their claims against the employer, organisations were seen as an indispensible

spokesperson or facilitator. A seasonal worker for whom a support organisation facilitated negotiations with the employer explained:

> *"The lady (employee of support organisation) is even in close contact with my wife and she constantly writes to the employer and demands that he sends our time sheets. That's what the support looks like. She stands up for us by claiming what we want."* (Germany, male interviewee from Poland, agriculture, EU national)

In most cases, negotiations were a predecessor to court proceedings. For a smaller group, negotiations were used as an alternative to official proceedings, either because the victims feared the consequences of contacting authorities, or because the evidence available to the victims was insufficient to go to court. In fact, the only case within this sample in which an interviewee (male, food services) was able to successfully claim his rights was an asylum seeker's case, for whom the support organisation facilitated negotiations over several months, which resulted in the employer paying outstanding payments.

The role of organisations in facilitating the interviewees' participation in court proceedings will be discussed below.

2. Contact with the police and other authorities:

Reasons named not to contact the police	
Fear of the consequences	4/20
Still in preparation	3/20
Found another solution	1/20
Didn't know it was possible	1/20
Doubting that it will help	3/20
Language barrier	2/20
No answer	4/20

Only very few of the interviewees reported their situation to the police or were otherwise in contact with the police regarding their exploitation. In fact, the majority reacted with surprise or irritation when asked whether they had contacted the police. With only few exceptions, the police was not seen as a primary source of support in situations of exploitation:

> *„I think that judges are in a higher position than the police, if the employer cannot be found that way, I cannot imagine the police being able to do that."* (Germany, male interviewee from Bulgaria, cleaning, EU national)

A group of EU-nationals was of the impression that they would be unable to communicate with the police (two interviewees, all participants in focus group 1).

> *„Unfortunately that is not possible as I don't speak the language. The police needs translators and translators cost money, and I cannot afford that, that is why I don't go to the police."* (Germany, male interviewee from Bulgaria, cleaning, EU national)

Another reason not to contact the police was a fear of the consequences, either because migrants were undocumented, or because they were under the impression that the police

would not act on their behalf (see below). For a group of interviewees who were homeless at the time of the exploitation and had experienced every-day life on the workers stripe in a larger city in Germany, the police was overwhelmingly associated with fear due to previous negative experiences. The group experienced their employers feeling comfortable that the police would not act on their behalf. Interviewees explained that they perceived a language barrier to communicate with the police, as well as discriminative attitudes as reasons for this dynamic. A focus group participant recalled his employer threatening to call the police and falsely accuse the workers when they attempted to challenge him:

> *„If you tell him he will call the police immediately, because we don't speak German. He told the police, that he has already paid us but that we want more money. And the police officer said, well, how should I know you didn't get the money yet. (…) What he told him in German, I don't know." (Male participant of focus group 1, EU-national)*

Employers threatening to involve the police was also reported to be a common experience amongst undocumented domestic workers. A small group of EU-nationals felt that it was not yet the time to contact the police, as they were still negotiating with the employer, or were gathering documents and getting organised with their co-workers (three interviewees)

b. Accessing rights through the justice system

This section discusses the interviewees' experiences in claiming their rights in court, with a particular focus on the interviewees' motivations, aspects perceived as challenging, as well as the interviewees' own assessment of the outcome of proceedings.

As discussed above, this sample included a larger group of interviewees who claimed their rights at labour court, and only a female third-country national who claimed her rights through criminal proceedings. Punishment through the criminal justice system seemed to play a lesser role for interviewees. The one interviewee who claimed her rights in criminal court stressed that the only reason to do so was the promise that this would allow her to regularise her status, as she had been undocumented at the time when she approached the police (female interviewee, food service, irregular situation). The question whether or not proceedings had been initiated showed no apparent trends related to the severity of the exploitation experienced, the sector of work, or the interviewees' residence status at the time of the exploitation.

The decision to go to court

Labour court

The majority of proceedings at labour court was initiated with the goal to receive outstanding payments or compensation for permanent injuries endured from work accidents. These motivations were coupled with emotions as anger and humiliation, and a strong wish to see justice, see somebody held responsible, the employer punished, or hindering the employer from exploiting other workers in the future. The emotional component to the decision to go to court is exemplified in the statement of an EU-national working in logistics:

> *„I wanted justice. I was not alone, we were six persons. It was humiliating. The company thought, as we don't speak the language,*

they can do anything they like to us." (Germany, male interviewee from Poland, logistics, EU national)

An influential factor in the decision whether or not to go to court was the interviewees' situation following the exploitation, including in particular their employment perspectives and residence status. A large group felt the need to pursue proceedings, either because they were in dire need for the money they were owed, or because they were told that they needed to press charges to be able to access social welfare.

A small group stated that they were satisfied with their current situation as they had found new employment or were otherwise given a perspective. This group put a particular emphasis on feeling that they wanted 'to forget' and therefore did not pursue legal charges. Others felt forced to set priorities in earning money in a new job, rather than to put time into pursuing their rights in court. Asked whether he was planning to go to court, this seasonal worker who had returned to Germany for a new job explained:

> *"I don't know yet, because I have had a new job for four days now and it is very complicated with appointments and whether I will be able to manage regarding time."* (Germany, male interviewee from Poland, agriculture, EU national)

For undocumented migrants, the residence status was decisive in their decision whether to claim their rights in court. Two interviewees stated that they did not want to contact authorities before having regularised their status.

Another theme in the interviewees' reflections whether or not to go to court was whether they saw a chance of success in pursuing legal charges. One interviewee remarked that she did not see herself in the position to access justice as she did not know the legal system well enough, while others had been told that their particular case did not warrant any chance of success, or were discouraged by the experiences of acquaintances who had lost their case in court:

> *"I knew that the organisation could help me out in terms of legal advice, that they offer free legal advice, and that they would support me during proceedings. But then I found out that I needed those documents (a work contract indicating pay)[27] because it doesn't make any sense otherwise."* (Germany, male interviewee from Peru, accommodation and food service, migrant in an irregular situation at the time of exploitation)

Criminal proceedings

The interviewee who initiated and participated in criminal proceedings, with the employer being charged with labour exploitation, explicitly stated that the chance of getting her status regularised through proceedings was the main reason for pursuing criminal charges (female interviewee, food service, migrant in an irregular situation at the time of exploitation).

[27] The interviewee indicated that he signed a document contracting him as an unpaid intern for several weeks, which was aimed to be a ‚trial-phase' fort he job. While he continued working after this initial trial period, he claims that he was never given the promised opportunity to sign a proper work-contract.

Challenges during trial

Despite the fact that all interviewees confirmed having been treated respectful in court, and that all interviewees who went to court reported having been supported by an organisation, proceedings were perceived as a challenge for several reasons outlined below. It became apparent throughout the interviews, that these challenges in accessing rights through the justice system were communicated amongst workers and, for some, were the reason not to claim their rights. As all but one interviewee who claimed their rights in labour court were EU-nationals from target group O, the following discussion does not make extensive reference to target groups.

Comprehension and participation

The typical way to initiated proceedings was through support organisations which furthermore plaid an important role during proceedings. These organisations included those specialised in the support of victims of labour exploitation, NGOs specialised in the support of victims of human trafficking, as well as welfare organisations. Interviewees reported the organisations filled in forms, offered legal advice, referred interviewees to lawyers, translated written communication received by the court or other authorities, and accompanied interviewees to court. Many of the interviewees who went to court furthermore remarked the essential role of their lawyer, typically able to speak a language that the interviewees understood. This person was seen as extremely important not only in providing legal advice but also in providing translation and thereby access to proceedings.

Interviews furthermore conveyed a strong sense of interviewees being guided and directed throughout proceedings. Expressions as ‘they told me to’ or ‘the way I understood’ were used continuously and throughout all interviews. Next to the challenge of grasping and understanding the justice system, interviewees identified language as an essential cause for their dependence on support organisations. While most interviewees reported having been accompanied by a translator in court, written communication received by the court or other authorities was seen as a major challenge. Interviewees expressed a feeling of helplessness without the support of an organisation or a lawyer. This interviewee recalled being unable to read written communication by the court:

> *„After I hadn’t received the outstanding payments I approached (support worker) and he filled in some forms which he told me to take to labour court. I won at the first instance court but then I got a letter from court and unfortunately Mr.(…) was not here and I had no money to pay anyone else to translate it. So I had no one to translate this letter for me.“* (EU-national, male)

Costs and financial context

Many saw the trial as a costly endeavour. Having to pay for translation, lawyers, a trade unions’ support and travel were perceived as a major barrier to participating in court proceedings. Interviewees were typically in a dire financial situation which was exacerbated by the exploitation and the outstanding payments which were subject of the proceedings. This interviewee who was residing under a tolerance permit reported on his financial situation as a refugee and accordingly limited financial means as a challenge in participating in proceedings:

> *"To deal with this whole thing, this paper work back and forth, I paid almost 200€ worth travel expenses. That is a lot of money to me."*

As it was outlined above, in many cases, factors linked to the exploitation, including missing or faulty papers, had led to reduced social welfare payments or lengthy negotiations with public authorities, which only exacerbated the interviewees' situation. Some mentioned that insufficient or missing support through the welfare system made it difficult to participate in proceedings. This EU-national working in logistics described his struggle to receive state support for the duration of the trial:

> *"I had been in a lot of debt. The jobcentre demanded a statement of dismissal, the employer didn't want to provide it. Then the lawyer got a confirmation, a green piece of paper, that I am in the midst of proceedings and so I got a one-time payment of 360€."* (Germany, male interviewee from Poland, logistics, EU national)

The interviewees' financial situation influenced proceedings on many levels, including a very basic challenge of being unable to remain in the country reported by an EU-national working in construction. While his colleagues were forced to go back to Bulgaria after months without payment, he himself received financial support by family and friends in Germany:

> *"I was in a very difficult financial situation, during those seven months I got some money from the Arbeitsamt, but that wasn't even enough to pay the rent. So I couldn't…it was very difficult to go to the support organisation to provide them with evidence and so on, because financially, I was really in a very difficult financial situation."* (Germany, male interviewee from Eastern Europe, shipyard, EU national)

Others remarked not being able to afford a lawyer or having to pay for translations in court. In individual cases, having to work to sustain themselves simply did not leave the time to actively engage in court proceedings.

Lack of proof

Proof and a lack thereof was a recurring subject throughout the interviews. Some interviewees reported gathering evidence to be able to prove the exploitation, while most reported missing essential papers, including a work contract, time-sheets reflecting the time that was worked, or witnesses as barriers in accessing their rights. One worker explained why he was unable to claim his rights in court:

> *"The lawyer wanted to go to the next level, but unfortunately there were no witnesses, the colleagues were not present and there were no witnesses who could prove it. I had a sheet with all hours and so on, also the card which helped me enter and leave, but unfortunately that didn't help much. The payslips said that I got 200€ for food, expenses, unfortunately I never got it."* (Germany, male interviewee from Eastern Europe, shipyard, EU national)

He continued to conclude that papers were an essential component to accessing rights within the German justice system:

> *„It has come so far that I know, in Germany, you cannot take advantage of the help you deserve without valid papers, normal papers."* (Germany, male interviewee from Eastern Europe, shipyard, EU national)

Outcome of proceedings

With the exception of one interviewee who received outstanding payments through negotiations with his employer, none of the victims interviewed for the purpose of this study successfully claimed the money they were owed**.** Out of the eight proceedings at labour court, six had resulted in a court decision, four of which were in favour of the claimant. A group of interviewees was waiting for results at the time of the interview, usually unsure of what was going on in the meantime.

In all cases where the court decided in the claimants' favour, employers either 'disappeared', declared insolvency, or did not pay the amount claimed for reasons unknown to the interviewee. It was not uncommon for interviewees to state that the employer's whereabouts was, in fact, well-known to them. It was furthermore the interviewees' impression that former employers continued working and employing others after the fact. It was described as a common scheme amongst employers to declare insolvency and to simply reopen a new business under a relative's name. This worker who had experienced exploitation in a variety of jobs and had sued several of his employers elaborated:

> *"That is how the boss does it. He has declared insolvency six or seven times. He works with a company for six, seven months, then he declares insolvency and then the company belongs to his wife or girlfriend or someone he knows… and insolvency again. (…) After I had sued, the company was moved from the premises and after two, three months it came back."* (Germany, male interviewee from Eastern Europe, shipyard, EU national)

Waiting, a lack of information, and an apparent inability of authorities to enforce court decisions led to disbelieve, desperation and scepticism amongst interviewees. This feeling seemed exacerbated by the fact that many had expected to be able to access their rights in Germany:

> *I am desperate, I don't see any justice despite the fact that all of this happened in Germany.* (Germany, male interviewee from Poland, agriculture, EU national)

Current situation and wishes post exploitation

Only few of the interviewees were satisfied with their situation at the time of the interview. In the interviewees' accounts, exploitation was not a past event, but an on-going status quo despite the fact that the factual exploitation had ended. This feeling was related to desperation and fear of continued vulnerability for further exploitation, as well as the emotional impact of exploitation which was culpable and central to the interviewees' accounts. A large group of interviewees, including EU-nationals and third-country nationals, expressed a feeling that they were not being heard, that nobody paid attention, and that the law was 'blind' to their situation.

> *What kind of justice is that? I want the employer to be punished and we are six persons already, who went to court. There has to be justice.*

> *That is the question: Who can help those six persons that this court decision is enforced or that there is a result? How can the employer have disappeared if he is there every morning at seven?* (Germany, male interviewee from Eastern Europe, agriculture, EU national)

Many displayed a general feeling of helplessness and what they perceived as a lack of options to claim their rights. Some expressed concern that they were unable to claim their rights due to their nationality, residence status, or skin colour.

> *„For me it is a big scar, that this whole thing, that I can – I feel that overall I have no rights here. (…) I think the main reason is that I am a refugee here. (…) That is the main reason for me being unable to access my rights, because I think, I am a refugee here, yes, and I have no money."* (male interviewee, applicant for international protection at the time of exploitation)

The interviewees' answers to being asked what else they would have needed or what they still needed were generally geared towards achieving independence and being offered perspective. Of central importance for participants of the focus group, as well as other EU-nationals and an undocumented migrant was the perspective to learn German, so that they could work in jobs offering better working conditions, and would be able to approach authorities for help if they were in a similar situation. The focus group of female domestic workers put special emphasis on the need to be provided with information on their rights and the steps that would follow. All three undocumented migrants expressed the wish to be able to regularise their status and be granted a work permission. Another bigger group mentioned it as central to them to be able to earn money in a job in which they would not experience exploitation. While seasonal workers, asylum seekers and one EU-national residing under his prerogative under the EU-Citizenship Directive had found a job they were satisfied with, while a group of EU-nationals reported having accepted several smaller jobs since the exploitation had ended. Others were unemployed, or had slipped into the next exploitative employment relationship.

While the majority focused on independence and perspective, participants of the focus group with homeless EU-migrants working in the cleaning sector mentioned very basic aspects as having a place to sleep, food or simply being treated like a human being:

> *„It is important that they treat us like human beings. If they do something to us we expect that someone helps us."* (focus group 1, EU-national, female)

7. Ways forward and prevention

For the final thematic aspect of this study, interviewees were asked to reflect on future perspectives and ideas on measures to prevent exploitation and/or empower victims to claim their rights. Many of the answers reflected the mirror image of what had taken place in the interviewees' cases. Furthermore, many of the answers were very short and to the point rather than to provide an in-depth reflection on the situation. For example, asked what advice they would give to others in a similar situation, many replied that they would refer them to the organisation which had supported them and did not comment any further, while some did not

see themselves in the position to contribute in light of the scepticism, desperation, or a feeling of hopelessness which they had developed throughout the process of claiming their rights. The quote below was extracted from an interview with an asylum seeker who felt that his life as a refugee was limiting his rights in Germany. It exemplifies the answers of those who did not provide extensive input for this sub-section:

> *"I cannot help him in Germany, if someone approaches me. Maybe in my country, I could do a lot, but I don't have rights myself, didn't get any rights, how could I give advice to a friend? I can't do that."* (male interviewee, applicant for international protection at the time of exploitation)

What if the job was offered to you today?

To introduce this section of the interview, interviewees were asked whether they would accept the job if it was offered to them today. A large majority negated this question. This included a small group of interviewees who explained that they no longer saw themselves forced to accept an exploitative work situation as they had learned German or were in a better position to assess their options (mentioned by three interviewees). Asked what they would need to accept a job today, popular topics amongst interviewees were documentation and papers, a contract in language they understand, or a work permit. Others pointed to correct and respectful employers and proper management of the business to be essential to them. Two EU-nationals, working in logistics and in a hotel, stated that they generally saw the sector as being exploitative and would therefore not accept a job in the same sector again. By contrast, others remained undecided, stating that they would do the same kind of work, yet under different conditions. The quote below exemplifies some of the wishes expressed by interviewees, and furthermore highlights that, while most stated that they would not accept the job again, many seemed willing to tolerate working conditions below a threshold of what may be deemed acceptable by law:

> *"What I would like to have is a normal contract, normal pay, maybe not the same as Germans because I understand that Germans earn more than we do, although we work more than the Germans."* (Germany, male interviewee from Romania, gastronomy/carwash facility, EU national)

Three interviewees stated that they would accept the job again. This included two women, an EU-national and an undocumented migrant, who stated that they were in a similarly exploitative work situation at the time of the interview, as well as a male EU-national who explained that the information he had at the time that he took the job did not implicate exploitation.

Advice to others

Responses to Question Q16: What advice would you give to someone else in a similar work situation?	
Contact support organisations	**7/20**
Stop working	**3/20**
Confront the employer	**2/20**
Report the employer/ go to court	**2/20**

Learn German	**1/20**
Get a work permit	**1/20**
Don't sign a contract in a language you don't understand	**1/20**
Think carefully before accepting a job	**1/20**
Don't rely on oral agreements	**1/20**
Contact a lawyer	**1/20**
Be sure to have documents related to your work assembled when confronting the employer or seeking help	**1/20**
No advise	**2/20**

The table above summarises the answers provided by interviewees when asked what advice they would give to others in a similar situation. Interviewees addressed a variety of preventative measures, including for example, carefully evaluating options before signing a work contract, not to rely on oral agreements, or to only sign a contract that they understand. Interviewees furthermore advised to expand perspective for future employment through learning the language and getting a work permit.

Advice furthermore reflected the researchers' impression based on the material discussed in Chapter 6, that external support was seen as essential by many of the interviewees. Many recommended contacting a support organisation or a lawyer, while very few advised to report the employer or go to court.

Suggestions showed no apparent trends within or between target groups.

Prevention

Responses to question Q17: Overall, how do you think such work problems could be prevented?	
Monitoring/ inspection	**9/20**
More accountability/punishment	**6/20**
Raising awareness/spreading information	**4/20**
Contracts in a language people understand	**2/20**
Offering support in a language that workers understand	**1/20**
Better connectedness between victims	**1/20**
Qualified staff in human resources	**1/20**
Erase capitalism	**1/20**
There is nothing to be done	**2/20**
No answer	**2/20**

Asked for their ideas regarding prevention of exploitation, interviewees suggested measures empowering victims on the one hand side, and pro-active state intervention on the other. The following reflects on the interviewees' ideas on preventing exploitation, as well as suggestions regarding measures to provide information to at-risk groups and victims discussed under Question 16.

Raising awareness/ spreading information:

Interviewees shared several ideas and views on raising awareness amongst at risk groups to prevent exploitation and to empower victims to come forward.

As it was pointed out in Chapter 6, the larger part of the workers interviewed for this study claimed not having been informed about workers' rights prior to contacting support. Asked what could be done to prevent exploitation, a group of workers shared their impression that workers who know their rights would be less likely to be used by employers, a suggestion which was exemplified in the following quote:

> *"Most migrants who are being exploited don't know they are being exploited while they are in the situation. I myself thought that that is just how it is in Germany."* (male interviewee, applicant for international protection at the time of exploitation)

It was therefore seen to be of great importance to raise awareness amongst at risk groups and pointed out as essential that such information is provided in a language that workers understand. Suggestions where to reach workers with relevant information varied amongst target groups, depending on the interviewees' contact to relevant authorities in daily life. The interviewee quoted above, an asylum seeker who reported having experienced exploitation while providing services in an asylum accommodation centre reported about an on-going project where newly arrived asylum seekers are being informed about workers' rights through leaflets which are being distributed at all kinds of typical contact points for this group, including the office for foreigners, language schools and jobcentres. Similar suggestions were made by domestic workers, who proposed internet cafes, international cash transfer points, Facebook and churches as locations where information could be distributed.

Next to general information about workers' rights, it was suggested to make sure that migrants are informed about companies which had previously exploited workers. One EU-national (male, construction) suggested that such information should be made available online and through social media.

Both seasonal workers were of the opinion that they themselves would have contacted help earlier would they have known where to turn to. They suggested spreading information along typical routes that seasonal workers take to come to Germany, for example at gas stations or bus stops, and to furthermore extend the online representation of support organisations.

It was furthermore the researchers' impression that word of mouth was an important tool in spreading information, as many of the interviewees had heard of the organisation they approached from other workers, or reported having forwarded their support workers' business cards to others in similar situations.

Interviewees remarked it as essential to make sure that workers are provided with contracts in a language they understand, and are furthermore provided with language classes in order to be able to approach authorities and communication. This latter aspect was primarily addressed by the participants of focus group 1, all of which had made negative experiences with addressing the police without being able to speak German.

Controls and inspections

Interviews reflected a strong whish for controls with interviewees holding onto the idea that controls would recognise and end their situation, despite the fact that few had experienced controls. This wish was mainly expressed by EU-nationals or others holding valid residence permits.

The most frequent suggestion in preventing exploitation was controls and inspections at the work place. This suggestion was made by interviewees who had experienced exploitation in a variety of economic sectors, including agriculture, cleaning, construction, logistics and other services. Interviewees were divided in their opinion regarding a potential pro-active involvement of workers in initiating controls. Some interviewees remarked that it would be advisable to arrange for a possibility for workers to signal to authorities that working conditions warranted a control. Many interviewees mentioned having wished for an inspection to take place while they were working, amongst them this EU-national who had worked in logistics for several years before he approached a support organisation:

> *„Only through controls (…) I wish there was a number of an agency for people, so they could give a signal to that agency and then a control would take place the next day. (…) Such organisations do not exist, if they did I would have called.“* (Germany, male interviewee from Poland, agriculture, EU national)

Others stressed that more pro-active, randomised controls through authorities were necessary as workers would either fear the consequences of coming forward or simply not know of any possibilities to do so. One seasonal worker, for example, pointed to the fact that many are housed by their employers where it is not unusual to be without internet access. A man who had been granted subsidiary protection stressed that it was important to build trust with workers so that they are willing and able to speak about their working conditions should they be approached by authorities. It was furthermore suggested that more frequent and randomised controls could have a preventative effect, as it would signal employers that their behaviour would not remain unnoticed.

Punishment and accountability

Many of the interviewees called for increased accountability on the side of employers. As was discussed in Chapter 6, many of the interviewees were desperate and astonished about what they perceived as the employer remaining unpunished even where on-going exploitation had been detected by authorities.

> *“Well the people, these companies, should be held accountable in court so that it won’t happen again in the future.”* (Germany, male interviewee from Bulgaria, construction, EU national)

It was therefore suggested to hold employers accountable for their wrongdoing and to thereby prevent them from continuing their behaviour or making exploitation a scheme. Suggestions in this direction included making sure to pay more attention to apparent insolvencies, which, as was discussed in Chapter 6, was perceived as a common scheme to avoid paying workers or being sentenced at labour court (according to two EU nationals in particular). It was furthermore recommended that inter-connectedness and potential class-actions through groups of workers affected by the same employer should receive more extensive support, a theme which was mentioned throughout several interviews with EU-migrants (mentioned by three EU nationals).

8. Conclusion and any other observations

This study discussed the phenomenon of labour exploitation from the perspective of a sample of foreign workers, both EU-citizens and third-country nationals, working in agriculture, cleaning, child care and other occupations in private households, construction, food services, logistics and other services.

A memorable impression from the interviews as a sample was that, in the interviewees' accounts, exploitation was not a past event, but an on-going status quo despite the fact that the factual exploitation had ended. This feeling was related to desperation and fear of continued vulnerability for further exploitation, as well as the emotional impact of exploitation which was culpable and central to the interviewees' accounts.

First, many referred to the side effects of exploitation, including for example debt caused by insufficient or missing pay, a lack of time to learn the language due to extreme working hours, difficulties in entering the welfare system due to a lack of work related documents, or permanent health problems due to dire physical labour or work accidents, reinforcing or adding to the risk factors identified in this study, thereby creating a vicious cycle which often led to more exploitation. Next to immediate relieve addressing the financial situation, housing or communication with authorities, perspective was therefore critical to most. Interviewees named residence permits, language classes and support in finding proper work, as important in order to gain perspective, all of which can be summarised under the heading of independence.

Second, the impact of exploitation was usually felt beyond financial loss. With a sample with a broad variation in nationality, residence status and economic sector, the psychological impact of exploitation was felt on very similar levels. Many had experienced what they perceived and described as psychological violence caused by pressure, threats, and overt control through the employer and co-workers. This was added by strong feelings of anger, humiliation and injustice. Most interviews conveyed a feeling of desperation and helplessness, being unable to resolve the situation. Employers were perceived to be confident in 'doing what they want.'

Third, for the cases discussed in this study, access to justice remained largely ineffective. Interviewees felt that neither employers nor authorities listened or acknowledged their situation. In the eyes of interviewees, the few controls mentioned came and left without any consequences, and employers sentenced in labour court continued working in open sight while the courts deemed them to have 'disappeared'. The justice system was perceived as inaccessible, not only due to a language barrier. Many felt they were treated as second class persons with limited rights due to nationality, residency, or skin colour. Participation in proceedings was described in mostly passive terms, with interviewees being guided by support organisations and lawyers. Many spoke about feeling lost, expressed disbelieve, resignation or, most telling, spoke about the law being 'blind'. As a consequence, many desired being seen, recognised and acknowledged.

It was apparent that, for the majority of this sample, early intervention had not been realised. As this sample highlights, workers are currently awaiting a tipping point to access support, enduring far reaching extents of exploitation. Yet, many expressed the wish to have accessed or be reached by support earlier on in the employment relationship. Several cases furthermore highlighted that early intervention and information can impact the chances of success in

claiming workers' rights through the justice system, as it will allow workers to prepare accordingly, as for example through the gathering of relevant documents. This reconfirmed the central role and major responsibility inherited by support organisation which, for most of the interviewees, were seen as decisive in enhancing their situation and claiming their rights. This impression was formed not least because interviewees themselves often seemed to have no choice but to blindly trust in their support, which was often rated simply according to the time they spent listening or treating interviewees as 'human beings'. In particular in light of a rising number of potential victims with complex aspects as their residence status, quality assurance should therefore be a priority in support.

In stark contrast to the rather passive participation of victims in the process of claiming their rights, the hopes and suggestions for improvement expressed by interviewees aimed at empowerment, independence and engagement. The wish to understand through language and information was central to the interviewees' accounts. This included the information that the employers' actions are illegal and are violating workers' rights on the one hand side, and the knowledge that support is available on the other. Support and information was most likely to be sought with persons or institutions present in the interviewees' every-day life. It was stressed that at risk groups are to be found and informed where they sleep, access general migration support, or arrive in the country. This includes refugee centres and shelters for the homeless, the office for foreigners, jobcentres, language schools, gas stations and busses where seasonal workers arrive. Next to raising general awareness amongst at risk groups, the accounts of this sample therefore indicated a need to ensure that a wide network of support beyond those specialised in supporting victims of exploitation, should be sensitised and connected to make sure victims are identified and supported as early as possible.

ANNEX 1 – Desk Research template

1	**LEGISLATION and POLICY**			
		Yes	**No**	**Supporting information**
1.1	Based on a review of the information provided in Annex III published by FRA in 2015 - '*Criminal law provisions relating to labour exploitation'* – have there been any changes to or new legislation in the area of criminal law relating to labour exploitation? **If yes**, please provide information under 'Supporting information' (i.e. which law; explanation of relevant provision and reference). **If no**, is there any draft legislation underway?	X		**Revised and new sections in the German Criminal Code (StGB)** Criminal law relating to labour exploitation has undergone significant changes since SELEX I was published. §§ 232-233b of the German Criminal Code (StGB) formerly addressing several offenses related to human trafficking for the purpose of labour exploitation and sexual exploitation, were revised in October 2016 to meet the requirements of the EU Directive on preventing and combating trafficking in human beings (2011/36/EU).[28] With the amendment, human trafficking (§ 232), forced prostitution (§ 232a), forced labour (§ 232b) and labour exploitation (§ 233) are now four different and independent offenses. The new provisions introduce: • a new definition of the offense of the trafficking of human beings closely related to the understanding of the trafficking of human beings in international law, criminalizing the recruitment, transportation and/or harbouring or reception of persons with the aim to exploit (§ 232 StGB)[29], • new headings as forced prostitution and forced labour are introduced to include the influencing of a person's will as a means to enable the exploitation (§ 232a and § 232b StGB), • exploitation of labour is introduced as an independent offence (§ 233 StGB), • additional forms of exploitation including forced begging (§ 232 (1) 1 No. 1c StGB) and exploitation of criminal activities (§ 232 (1) 1 No.1d StGB), as well as trade of human organs (§ 232 (1) 1 No. 3 StGB). The following clarifications and definitions were provided in the comments of the legislative draft: • **Means of exploitation** – refers to §§ 232 - 233 StGB, must be understood as using personal and economic predicament and/or using predicament of any kind or helplessness arising from being in a foreign country (this does not only relate to the person's residence status but may also be caused by general circumstances as language, a lack of knowledge of the system etc.).[30]

[28] Available in German at: www.bgbl.de/xaver/bgbl/start.xav?startbk=Bundesanzeiger_BGBl&jumpTo=bgbl116s2226.pdf (07.09.2017). Date of enactment: 11th October 2016. In force since 15th October 2016.
[29] Official justification of the law by the German Bundestag, BT-Drs. 18/9095, *Beschlussempfehlung und Bericht des Ausschusses für Recht und Verbraucherschutz (6. Ausschuss) zu dem Gesetzentwurf der Bundesregierung – Drucksache 18/4613* – vom 06.07.2016, p. 23. Available in German at: http://dipbt.bundestag.de/dip21/btd/18/090/1809095.pdf (11.09.2017).
[30] Official justification of the law by the German Bundestag, BT-Drs. 18/9095, *Beschlussempfehlung und Bericht des Ausschusses für Recht und Verbraucherschutz (6. Ausschuss) zu dem Gesetzentwurf der Bundesregierung – Drucksache 18/4613* – vom 06.07.2016, p. 24-26.(Ibid).

				• **Exploitation** – refers to §§ 232 - 233 StGB, must be understood as economic exploitation and is characterized by an unconscionable and unreasonable use of the performance and work of the victim.[31] Unconscionable means without regard to the personal and economic circumstances and needs of the victim, or rather regardless of the consequences for the victim.[32] Exploitation includes, in accordance with the case, an unjustifiable imbalance between performance and consideration.[33] • **Exploitative employment** – refers to § 7 SGB IV, and therefore also includes employment without legal effect, i.e. for example employers illegally 'forwarded' from one employer to the other work or false self-employment.[34] Employment in the sense of § 232 StGB shall only include 'Employment for the purpose of earning a living wage' and not for example voluntary work.[35] Labour exploitation has been introduced as an independent criminal offence under § 233 StGB, thereby adding to existing provisions outside and inside of the area of criminal law (see SELEX I).[36] The provision criminalises exploitation of a person for exploitative employment, begging, or criminal activities by taking advantage of a personal or economic predicament and/or helplessness due to a person's presence in a foreign country.[37] By contrast to § 232a/232b, which focus primarily on the manipulation of the will of the person for the purpose of exploitation, rather than the exploitation itself, labour exploitation does not require for the victim's will to have been influenced by the offender. The provision has been acknowledged for enabling punishment of the employer without having contributed to the predicament based on which the victim is exploited.[38] At the time of writing, no court decisions involving § 233 StGB were publicly available.

[31] Official justification of the law by the German Bundestag, BT-Drs. 18/9095, *Beschlussempfehlung und Bericht des Ausschusses für Recht und Verbraucherschutz (6. Ausschuss) zu dem Gesetzentwurf der Bundesregierung – Drucksache 18/4613* – vom 06.07.2016, p. 26. (Ibid).
[32] Official justification of the law by the German Bundestag, BT-Drs. 18/9095, *Beschlussempfehlung und Bericht des Ausschusses für Recht und Verbraucherschutz (6. Ausschuss) zu dem Gesetzentwurf der Bundesregierung – Drucksache 18/4613* – vom 06.07.2016, p. 26. (Ibid).
[33] Laue, C. (2017), '§ 233 Ausbeutung der Arbeitskraft' in: Dölling, D., Duttge, G. et al (eds.), *Gesamtes Strafrecht, StGB / StPO / Nebengesetze, Handkommentar*, Baden-Baden, Nomos Verlagsgesellschaft, p. 1293, § 233 Rn. 2. Also see: Official justification of the law by the German Bundestag, BT-Drs. 18/9095, *Beschlussempfehlung und Bericht des Ausschusses für Recht und Verbraucherschutz (6. Ausschuss) zu dem Gesetzentwurf der Bundesregierung – Drucksache 18/4613* – vom 06.07.2016, p. 26. (Ibid).
[34] Official justification of the law by the German Bundestag, BT-Drs. 18/9095, *Beschlussempfehlung und Bericht des Ausschusses für Recht und Verbraucherschutz (6. Ausschuss) zu dem Gesetzentwurf der Bundesregierung – Drucksache 18/4613* – vom 06.07.2016, p. 27. (Ibid).
[35] Official justification of the law by the German Bundestag, BT-Drs. 18/9095, *Beschlussempfehlung und Bericht des Ausschusses für Recht und Verbraucherschutz (6. Ausschuss) zu dem Gesetzentwurf der Bundesregierung – Drucksache 18/4613* – vom 06.07.2016, p. 27. (Ibid).
[36] Official justification of the law by the German Bundestag, BT-Drs. 18/9095, *Beschlussempfehlung und Bericht des Ausschusses für Recht und Verbraucherschutz (6. Ausschuss) zu dem Gesetzentwurf der Bundesregierung – Drucksache 18/4613* – vom 06.07.2016, p. 21. (Ibid).
[37] Official justification of the law by the German Bundestag, BT-Drs. 18/9095, *Beschlussempfehlung und Bericht des Ausschusses für Recht und Verbraucherschutz (6. Ausschuss) zu dem Gesetzentwurf der Bundesregierung – Drucksache 18/4613* – vom 06.07.2016, p. 20, p. 39. (Ibid)
[38] Official justification of the law by the German Bundestag, BT-Drs. 18/9095, *Beschlussempfehlung und Bericht des Ausschusses für Recht und Verbraucherschutz (6. Ausschuss) zu dem Gesetzentwurf der Bundesregierung – Drucksache 18/4613* – vom 06.07.2016, p. 20, p. 39. (Ibid)

1.2	Are legal provisions or measures in place to ensure that employers convicted of criminal forms of labour exploitation will be excluded from entitlements to public benefits, aids or subsidies, including EU funding managed by Member States?	X		Pursuant to § 98b (1) 1 No. 2 of the Act on the Residence, Economic Activity and Integration of Foreigners in the Residence Law (AufenthG)[39], an application for subsidies, in line with § 264 StGB[40], (subsidy fraud) may be rejected by the competent authority in full or in part if the applicant (or a representative of the applicant authorized by law) has been sentenced to a penalty of imprisonment of more than three months or a fine exceeding 90 daily rates for employing: • a foreigner without working permit or residence permit to unfavourable working conditions under § 10 of the Act to Combat Clandestine Employment (SchwarzArbG)[41] or • a foreigner without residence permit who are victims of human trafficking under § 10a SchwarzArbG[42] or • foreigners without working permit or residence permit on a larger scale or of underage foreigners under § 11 SchwarzArbG . According to § 98b (1) 2 rejections may be issued within a period of up to five years after the imposition of the fine or prison sentence becomes legally binding [43].
1.3	Do public procurement procedures ensure that employers convicted of a criminal offence are later-on excluded from participation in a public contract (work, supply or service contract)? **If yes** – for which crimes? Are criminal forms of labour exploitation among the relevant offences? **If yes**, on which legal basis, and briefly explain to what extent (e.g.	X		1) One of the reforms of the above mentioned SchwarzArbG is § 21 (1)[44], the exclusion of employers from public procurement procedures found guilty of • Non-payment and misuse of wages and salaries (under § 266a StGB) or • Employment of a foreigner without working permit or residence permit to unfavourable working conditions (§ 10 SchwarzArbG) or • Employment of foreigners without residence permit who are victims of human trafficking (§ 10a SchwarzArbG) or • Employment of foreigners without working permit or residence permit on a larger scale or of underage foreigners (§ 11 SchwarzArbG) is now expanded to delivery and service contracts, pursuant to the regulations set forth in the Act Regulating a General Minimum Wage and the Posted Workers Act. Previously, those employers could only be disqualified from public construction contracts. 2) § 98c (1) 1 No. 2 AufenthG[45] ensures that public contracting entities[46] may exclude a candidate or tenderer from competing for a supply, construction or service contract if the candidate or tenderer (or its representative by statutes or law) has been sentenced to a penalty of imprisonment of more than three months or a fine exceeding 90 daily rates under §§ 10, 10a or 11 SchwarzArbG. Until there is proof of restoration of reliability,

[39] Available in English at: www.gesetze-im-internet.de/englisch_aufenthg/englisch_aufenthg.html#p1535 (07.09.2017) and in German at: www.gesetze-im-internet.de/aufenthg_2004/__98b.html (07.09.2017).
[40] Available in English at: www.gesetze-im-internet.de/englisch_stgb/englisch_stgb.html#p2192 (07.09.2017) and in German at: www.gesetze-im-internet.de/stgb/__264.html (07.09.2017).
[41] § 10 of the Act to Combat Clandestine Employment - Employment of a foreigner without working permit or residence permit to unfavourable working conditions - is available in German at: www.gesetze-im-internet.de/schwarzarbg_2004/__10.html (07.09.2017).
[42] § 10a of the Act to Combat Clandestine Employment - Employment of foreigners without residence permit who are victims of human trafficking - is available in German at: www.gesetze-im-internet.de/schwarzarbg_2004/__10a.html (07.09.2017).
[43] § 11 of the Act to Combat Clandestine Employment - Employment of foreigners without working permit or residence permit on a larger scale or of underage foreigners - is available in German at: www.gesetze-im-internet.de/schwarzarbg_2004/__11.html (07.09.2017).
[44] Available in German at: www.gesetze-im-internet.de/schwarzarbg_2004/__21.html (07.09.2017). Numbers to what extent this provision was applied are not available.
[45] Available in English at: www.gesetze-im-internet.de/englisch_aufenthg/englisch_aufenthg.html#p1530 and in German at: www.gesetze-im-internet.de/aufenthg_2004/__98c.html (07.09.2017).
[46] This refers to public contracting entities pursuant to § 99 of the Act against Restraints of Competition (GWB). Available in English at: www.gesetze-im-internet.de/englisch_gwb/englisch_gwb.html#p0896 (07.09.2017) and in German at: www.gesetze-im-internet.de/gwb/__99.html (07.09.2017).

	how often was this done since 2014?). And can such employers also be excluded from acting as a subcontractor in the implementation of a public contract?			the candidate or tenderer may be excluded within a period of up to five years after the penalty becomes legally binding.[47] 3) § 123 (1) No. 10 GWB.[48] According to this section, it is mandatory to exclude an applying company from a public procurement procedure if the company or its representative has been sentenced under §§ 232-233 StGB (see above).[49] Pursuant to § 40 of the Regulation on the Award of Contracts Defence and Security (VSVgV)[50] the contracting authority can ask the tenderer to publish in his offer, to what extent subcontractors will participate in his commission, who these subcontractors are and what the subject of their subcontract is. In this way, the contracting authority can gain more information about any subcontractors and if necessary ask for subcontractors to be dismissed.[51]
1.4	Are legal provisions or measures in place obliging or enabling Member States' authorities to 1) close an establishment that has been used to commit a criminal offence, and/or 2) to withdraw a licence to conduct a business activity? **If yes** – for which crimes? Are criminal forms of labour exploitation among the relevant offences? **If yes**, how often was this provision used since 2014?	X		The closure of an establishment and withdrawal of licence is regulated in § 35 of the Trade, Commerce and Industry Regulation Code (GewO).[52] An administrative authority can deny an application for a license to conduct business or withdraw a licence and prohibit conducting business due to unreliability (Unzuverlässligkeit) or lack of suitability (Ungeeignetheit) if this is necessary for the protection of the general public or the employees. The central commerce register provides information about the liability and suitability of a tradesperson or a company. Pursuant to § 149 GewO, legally binding decisions on criminal acts pursuant to § 10 and § 11 SchwarzArbG will lead to an entry in the central commerce register if the penalty exceeded three months imprisonment or a fine of more than 90 daily penalty units.[53] **Data is only available on general new entries in the commerce central register for natural persons. Reasons for such entries can comprise a multitude of offenses, amongst them offenses related to labour exploitation. Unfortunately, source does not specify individual offenses. According caution is to be practiced when interpreting the data:** **Overview of the entries in the commerce central register for corporate entities:** • **2014** (Date: 31.12.2014)[54] 638 Decertification and Revocation 4.462 Prohibition • **2015** (Date: 31.12.2015)[55]

[47] Pursuant to § 98c (1) 2 Act on the Residence, Economic Activity and Integration of Foreigners in the Federal Territory Residence Act. Available in English at: www.gesetze-im-internet.de/englisch_aufenthg/englisch_aufenthg.html#p1530 and in German at: www.gesetze-im-internet.de/aufenthg_2004/__98c.html (07.09.2017).
[48] Available in German at: www.gesetze-im-internet.de/gwb/__123.html (07.09.2017). § 124 of the of the Act against Restraints of Competition includes optional grounds for exclusion. Available in German at: www.gesetze-im-internet.de/gwb/__124.html (07.09.2017).
[49] The mentioned provisions are specified by the Regulation on the Award of Contracts (VgV). Available in German at: www.gesetze-im-internet.de/vgv_2016/ (07.09.2017).
[50] Available in German at: www.gesetze-im-internet.de/vsvgv/__40.html (07.09.2017). In line with § 9 of the Regulation on the Award of Contracts Defence and Security (VSVgV). Available in German at: www.gesetze-im-internet.de/vsvgv/__9.html (07.09.2017).
[51] No numbers are available at the moment. The Federal Ministry for Economic Affairs and Energy is currently working on establishing a federal award statistic. See www.bmwi.de/Redaktion/DE/Artikel/Wirtschaft/vergabestatistik.html (07.09.2017).
[52] Available in German at: www.gesetze-im-internet.de/gewo/__35.html (07.09.2017).
[53] Available in German at: www.gesetze-im-internet.de/gewo/__149.html (07.09.2017).
[54] Federal Office of Justice, Overview of the entries in the commerce central register for natural persons from the 31th December 2014, Table 1, p. 11. Available in German at: www.bundesjustizamt.de/DE/SharedDocs/Publikationen/GZR/statistik_natPersonen2014.pdf?__blob=publicationFile&v=3 (07.09.2017).
[55] Federal Office of Justice, Overview of the entries in the commerce central register for natural persons from the 31th December 2015, Table 1, p. 11. Available in German at: www.bundesjustizamt.de/DE/SharedDocs/Publikationen/GZR/statistik_natPersonen2015.pdf?__blob=publicationFile&v=2 (07.09.2017).

				702 Decertification and Revocation 5225 Prohibition **Overview of the entries in the commerce central register for corporate entities:** • **2014** (Date: 31.12.2014)[56] 70 Decertification and Revocation 249 Prohibitions • **2015** (Date: 31.12.2015)[57] 114 Decertification and Revocation 339 Prohibitions A statistic for 2016 has yet to be published.
2	**LABOUR EXPLOITATION AND THE INSTITUTIONAL SETTING**			
		Supporting information		
2.1	a) Which authority (or authorities) is tasked by law with monitoring the rights of workers – for example through carrying out inspections? b) For each authority mentioned, is a distinction made between monitoring of the rights of: 1) nationals and EU nationals, and 2) third country nationals?	No significant changes have been made to the institutional setting addressing labour exploitation since the predecessor of this study, SELEX I, was published. Several authorities are allocated tasks during which the situation of workers and their rights may be detected, including occupational health and safety authorities, the financial Investigation Office for Undeclared Employment (FKS), employment and recruitment agencies, and the local, regional and federal police. In the context of these controls, authorities do not differentiate between EU-nationals and third-country nationals. Only the consequences for victims will vary. Third country nationals will be subject to proceedings for illegal residency and will be reported to authorities. They may be eligible for a residence permit under certain conditions in case criminal proceedings are initiated against their employer (§ 25 (4) a, b AufenthG). Furthermore, International Placement Services (ZAV)[58] at the Federal Employment Agency (Bundesagentur für Arbeit) is responsible for giving its formal approval for resident titles of third-country nationals who want to work in Germany. Pursuant to § 39 (2) AufenthG[59] and § 284 (3) of the Third Book of the Social Code (SGB III)[60] the ZAV must examine the conditions of work and wages which must be no less favourable than the conditions of employment of comparable local workers. This examination is done on the basis of the draft employment contracts the workers submit. There are no on-the-spot visits at the actual working place.	

[56] Federal Office of Justice, Overview of the entries in the commerce central register for corporate entities from the 31th December 2015, Table 1, p. 12. Available in German at: www.bundesjustizamt.de/DE/SharedDocs/Publikationen/GZR/statistik_jurPersonen2014.pdf?__blob=publicationFile&v=3 (07.09.2017).
[57] Federal Office of Justice, Overview of the entries in the commerce central register for corporate entities from the 31th December 2015, Table 1, p. 12. Available in German at: www.bundesjustizamt.de/DE/SharedDocs/Publikationen/GZR/statistik_jurPersonen2015.pdf?__blob=publicationFile&v=2 (07.09.2017).
[58] Available in English at: www3.arbeitsagentur.de/web/content/EN/WorkingandJobSeeking/WorkinginGermany/Detail/index.htm?dfContentId=L6019022DSTBAI776745 and in German at: www3.arbeitsagentur.de/web/content/DE/service/Ueberuns/WeitereDienststellen/ZentraleAuslandsundFachvermittlung/Detail/index.htm?dfContentId=L6019022DSTBAI526093 (07.09.2017).
[59] Available in English at: www.gesetze-im-internet.de/englisch_aufenthg/index.html and in German at: www.gesetze-im-internet.de/aufenthg_2004/__39.html (07.09.2017).
[60] Available in German at: www.gesetze-im-internet.de/sgb_3/__284.html (07.09.2017).

2.2	How and to what extent is such a legal obligation (to monitor the rights of workers) implemented in practice? (E.g. statistics available on number of inspections?).	It is important to contextualise the following data, as the numbers provided below indicate inspections which are primarily aimed at detecting undeclared work. Workers' rights are not a focus of these inspections, although cases of labour exploitation may be detected in the process. **Annual statistic of the Financial Investigation Office for Clandestine Employment[61]:** **Inspections of employers** 2014: 63.014 2015: 43.637 2016: 40.374 **Initiated criminal investigations due to suspicion of offences** 2014: 102.974 2015: 106.366 2016**:** 104.494
2.3	Name any other authorities in a position to learn (or that typically learn) about the situation of workers and their rights?	**(see above)**
2.4	Are authorities that carry out inspections or learn about the situation of workers (referring here to organisations mentioned under both 2.1 and 2.3) legally obliged to report to the police in cases where there is a substantive suspicion of severe labour exploitation?	Yes, if the case in questions involves criminal activity. If the FKS finds indicators for criminal activities which are directly related to § 2(1) SchwarzArbG, they are entitled police authorities (§ 14 SchwarzArbG). In such a case, staff of the FKS are therefore acting as investigators for the public prosecutors office.
3	**VICTIM SUPPORT**	
	Name the main organisation(s) tasked with providing assistance and support to potential victims of labour exploitation? Provide very brief information about the type of support they provide (e.g. legal advice; psychosocial support etc.)	In response to a significant increase in demand (see e.g. statistics published by 'Fair Mobility'-project[62]) support structures for victims of labour exploitation in Germany have been extended significantly since the predecessor of this study was published (please refer to SELEX I). Specialised counselling centres for women who have been trafficked, local individual initiatives launched by German trade unions addressing labour exploitation of both regular and irregular migrants, support services assisting undocumented migrants in exercising their rights at work funded by several trade unions and, in individual cases, general counselling centres for migrants and refugees, remain the main actors in offering support to migrants who have become a victim of labour exploitation (please refer to SELEX I). Outreach for the sampling of interviewees for this study provided the impression that several support services are currently receiving an increasing number of requests by third-country nationals and asylum seekers in particular, and are restructuring to accommodate the specific needs of this group, in particular regarding language and questions specifically related to residence status.

[61] Central Customs Authority – Annual statistic, p. 18. (31.07.2017).
[62] www.faire-mobilitaet.de/ueber-uns/++co++af7d0f74-fb2b-11e5-b0c3-52540023ef1a

4	**RISK MANAGEMENT**			
		Yes	**No**	**Supporting information**
	Are there any official risk management systems in place to guide monitoring operations/inspections - with a view to detecting severe labour exploitation? (Art 14. of the Employers' Sanctions Directive (2009/52/EC)[63].		X	While the FKS adopted a more risk-oriented approach to its work in 2015, this work is primarily aimed at detecting illegal employment, and therefore does specifically aim at detecting labour exploitation. No risk-oriented approach primarily aimed at detecting labour exploitation are known.
	If yes, please describe any such systems in place, and include the followin			

5	**COURT CASES**			
		Yes	**No**	**Supporting information**
	Since 2014, is there any case law clarifying the criminal law provisions on severe labour exploitation?		x	(No cases available to the public.)

6	**PROMISING PRACTICES**			
		Yes	**No**	**Supporting information**
	Are there any promising practices in relation to any practical measures to tackle severe labour exploitation or support foreign victims?			Answering to increased demands, several actors have commenced developing and implementing workshops for asylum seekers and other newly arrived migrants introducing labour law, proper documentation of work and support offers in language or integration courses, housing for migrants or other contact points where at risk groups may be residing. An example of an organisation offering such workshops is the project 'Migration & Gute Arbeit' ('Migration & Good Work') financed by the Federation of German Trade Unions (DGB), adult education centres (VHS) and by the regional ministry for employment, social affairs, health, women and family.

[63] Directive 2009/52/EC of the European Parliament and the Council of 18 June 2009 providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals, OJ L 168/24, 30 June 2009. Article 14 on risk assessment does not mention detection of labour exploitation directly, but "identify[ing] the sectors of activity in which the employment of illegally staying third-country nationals is concentrated" (Article 14(2)).