

Social Fieldwork Research (FRANET)

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

Country report Netherlands, September 2017

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## Executive summary

To fill the existing lacuna in evidence on severe labour exploitation, we collected data on the perspectives of foreign workers in the Netherlands who have experienced severe labour exploitation. Alongside research in other EU Member States, this report furnishes evidence towards understanding what works – and what does not – in policies and practices to prevent and respond to instances of severe labour exploitation in the EU.

Since the SELEX I research, the Netherlands has witnessed progress in cooperation within the legal and institutional framework to combat labour exploitation. The Dutch Ministry of Security and Justice as well as the Labour Inspectorate (*Inspectie SZW*) have undertaken actions to coordinate the efforts of relevant actors and to establish private-public partnerships to combat human trafficking. The labour inspectorate has adopted a comprehensive approach to (both proactively and reactively) combat labour exploitation, including multi-stakeholder involvement. Considerable efforts have been made within the institutional structure to provide assistance to victims. CoMensha, the Dutch Coordination Centre against Human Trafficking, has taken initiatives to improve cooperation between support organisations and the labour inspectorate. Together with FairWork and the Public Prosecution Service, CoMensha organised an expert discussion on the possibilities of protecting victims of labour exploitation at the slightest indication of human trafficking. While the emergent multi-stakeholder cooperation is promising, the process is slow and engaging the private sector remains a particular challenge. Awarding presumed victims of labour exploitation the required protection continues to be an issue of concern, exacerbated by the difficulty of pursuing successful criminal cases (although one should in theory not affect the other).

The foreign workers we interviewed pointed to several factors that placed them at greater risk of labour exploitation. Most interviewees and focus group participants felt that being a migrant contributed to their vulnerability. Their lack of familiarity with the Dutch language, the country, their rights, and where to turn to in case problems arise all added to their vulnerability. Not knowing their rights as workers and what constitutes labour exploitation in the Netherlands placed them at greater risk, especially migrants from countries where general labour conditions are similar to exploitation. The legal status of migrant workers influences the level of vulnerability: irregular migrants are more vulnerable to extreme forms of exploitation than others. Also discrimination at the work place towards migrant workers adds to their vulnerability.

Our research revealed that migrant workers in the Netherlands are generally unaware of their rights and do not know when their work situation, mostly in low-waged jobs, amounts to labour exploitation in the Netherlands. The fact that their situation amounts to labour exploitation in the Netherlands. This renders self-identification as a victim of labour exploitation virtually impossible. Interviewees generally had no idea how to reach out for help. Particularly migrants in an irregular situation were unsure whether law enforcement could be trusted. Although they valued receiving more information about their rights and about whom to contact, they thought it unlikely that they would reach out for help. Getting out of the exploitative situation thus largely depends on third parties reaching out to migrant workers first. While the assistance provided was generally well received, challenges remain in informing migrant workers of their rights and supporting their timely transition to alternative work. And while most participants knew that criminal proceedings were ongoing, and wished justice to be done, they had no idea about the current state of their criminal proceedings.

We elicited migrants' suggestions to improve prevention and to encourage exploited migrants to come forward. The most frequently identified measures concerned providing information and raising awareness: about their rights, about exploitation, and where to turn in case problems arise. One frequent suggestion was to pay greater attention to establishing trust in the authorities. This also means making inspections more effective. Many controls (labour

inspection, municipality) continue to miss signals of labour exploitation. This has to do with the fact that information is not connected but also because inspections are pre-announced and follow a known procedure. When inspections take place and signals are not detected, or there is no safe environment created, then the lack of trust prevents victims from coming forward. Finally, interviewees emphasised that removal from the exploitative situation on its own does not help other victims; employers need to be punished through criminal prosecution, imprisonment, and/or the payment of outstanding salaries/compensation. Others referred to the importance of public attention to labour exploitation as well as punitive action to deter employers from exploiting migrant workers.

## Short description of fieldwork/sample composition

This report presents the findings of limited desk research to update the findings of the SELEX I research and fieldwork – 20 individual interviews and 2 focus group discussions – carried out in the Netherlands between 15 April 2017 and 19 September 2017.

We approached nine gatekeepers to recruit interviewees and focus group participants. Six out of nine approached gatekeepers were able to provide us with access to research participants. The support organisations Jade Zorggroep, HVO Querido, SHOP, and Perspektief/Wende arranged 18 interviews; a further two interviews were arranged through a migrant worker. The support organisation FairWork arranged the first focus group and conducted it together with FRANET researchers. The labour union FNV provided access to the participants of the second focus group.

To ensure the required sample of research participants, the selection of interviewees and the interviewing took place in several phases. Approaching potential participants, arranging dates for the interviews and, when necessary, interpreters, proved to be a time-consuming exercise. Some potential interviewees refused to participate in the research; two interviewees who initially agreed withdrew at a later stage due to personal circumstances. For the second focus group, it was difficult to find committed participants among still-working migrants who had yet to be fully supported in light of their exploitation. This resulted in delays in fieldwork, which was extended until 20 September 2017. Despite these challenges, the final sample closely matches the initial design.

The field research for SELEX I identified various combinations of circumstances as typical indicators of severe labour exploitation among people moving within or into the EU. The interviewees and focus group participants were selected on the basis of having experienced at least two of these conditions. The following table reports the presence of these indicators as well as a breakdown by category of workers.

Experiences of severe labour exploitation	Number of interviewees	Number of focus group participants
Withhold payment	20/20	9/9
Give money to someone else	1/20	0/9
Arbitrary fines	3/20	4/9
Long working hours	20/20	7/9

No or hardly any free time	19/20	6/9
No safety clothes	9/20	4/9
No sick leave	7/20	0/9
Did not sign a work contract	11/20	3/9
Did sign a contract but not in an understandable language	7/20	0/9
Live at or next to the workplace	16/20	5/9
Accommodation arranged by employer	16/20	5/9
No accommodation arranged despite being promised by employer	2/20	0/9
Poor conditions of housing	18/20	4/9
Problems with work tasks	3/20	7/9
Use of verbal violence (against themselves or others)	17/20	9/9
Threat or use of physical violence (against themselves or others)	4/20	0/9
Actual isolation	1/20	1/9
Indirect isolation	8/20	4/9
Possibility to challenge employer	18/20	9/9
Witnessed monitoring or inspections while in the situation of exploitation	6/20	6/9
Recruitment via acquaintances	7/20	3/9
- with knowledge of the exploitation	3/20	0/9
Recruitment via (informal) recruiter or recruitment agency	6/20	5/9
Responded to advertisement of company directly	3/20	1/9
Asked to be employed	4/20	0/9

All research participants were foreign workers in the Netherlands, over 18 years of age at the time of the interview, whose situation of severe labour exploitation had come to the attention of a third party within the last four years. The sample includes all previously identified groups

for interviewing: posted workers (2 interviewees, both third country nationals); seasonal workers (4 interviewees, all EU nationals); domestic workers (1 interviewee, third country national); applicants for international protection (2 interviewees, both third country nationals); migrants in an irregular situation (6 interviewees, all third country nationals); and EU migrants who have made use of their right to freedom of movement and did not fall under the other categories (5 interviewees, EU nationals).

In following the criteria, our sample includes both EU nationals (9 interviewees) and non-EU nationals (11 interviewees). Among the posted workers, seasonal workers and domestic workers, at least half were envisaged to be EU nationals; in the final sample, 4 out of 7 are EU citizens. The initial design specified that no more than half of the interviews could be with individuals of the same nationality. Our interviewees represent 10 different nationalities, being citizens of: Bulgaria (3), Egypt (1), Hungary (2), India (2), Indonesia (1), Ivory Coast (1), Morocco (1), Philippines (2), Poland (4), and Ukraine (1).

The selection criteria further specified that at least three interviews should be with workers from the three main economic sectors where labour exploitation occurs in the respective Member State. In the SELEX I research, construction, agriculture and food and accommodation services were identified as the three main sectors at risk of labour exploitation in the Netherlands. Most of our interviewees had experienced labour exploitation in one of these sectors: agriculture (6 interviewees, seasonal workers and other EU migrants), food and accommodation services (8 interviewees, in restaurants (2) and laundry facilities (6), irregular migrants, applicants for international protection and EU migrants), and construction (1 interviewee, irregular migrant). The other sectors were general services (2 interviewees, other EU migrants), transport (2 interviewees, posted worker), and domestic work (1 interviewee, third country national domestic worker). The labour exploitation occurred in several geographic regions of the Netherlands. For more information on the exact legal status when arriving in the Netherlands, the moment of exploitation and the moment of the interview, a list of all research participants is included in Annex II.

Another criterion required at least four interviewees to be (or have been) involved in criminal or civil proceedings. The labour exploitation cases of four interviewees are still under investigation; the 16 others were, or currently are, in proceedings. While a gender balance was preferred and was also foreseen in the initial pre-selection of participants, more women than men declined to participate in the research. As a result, only five of the 20 interviewees were women; 15 were men.

All interviews were conducted face-to-face by a single interviewer, in three of the geographic regions of the Netherlands (north, east and west). This allowed consistency across interviews and allowed them to take place in a setting of the interviewees' preference. At the request of the interviewees, 12 interviews took place at the support organisation that arranged the interview, 1 interview took place at a current work place (not the site of exploitation), and 7 interviews were held at the interviewee's home. Where required and preferred by the interviewees, interviews took place in their own language. As a result, 17 interviews were conducted with the help of an interpreter. For 16 interviews, the interpreter was present on site; in one instance, the interpretation was done by phone. All interviews took place in settings where interviewees felt secure, safe and free to talk. This was also reflected in the duration of the interviews. While they were planned to take 45 minutes, the average duration was 81 minutes, the shortest taking 40 minutes and the longest 133 minutes.<sup>1</sup> Due to the sensitivity of the topic and the level of trust and openness (and thus the richness of the information received), the interviewer made the deliberate decision not to break off the interviews early.

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<sup>1</sup> One interview took 180 minutes and involved two interviewees. This was upon their request. As they both responded to all the questions asked upon request by the interviewer, the length of their interviews is calculated as 90 minutes each.

In the Netherlands, labour exploitation is only recognised under the trafficking provision. When a victim of severe labour exploitation comes forward, the person will not be considered a victim of severe labour exploitation in and of itself, but as a (presumed) victim of trafficking for purposes of labour exploitation. Within this research, all the interviewees have been considered a victim of trafficking for purposes of labour exploitation. This means that they have better access to justice and support than those who are not considered as such (presuming of course they are discovered). To balance this, within the focus groups more attention was placed on workers who have experienced labour exploitation but have not been considered victims of trafficking (six out of nine focus group participants). For them, as will be shown in the report, access to justice and to support is far more limited.

The first focus group was held at the office of FairWork, the support organisation that organised the event and led the focus group. Five of the nine potential participants who had been invited took part. Of these five participants, three were formally recognised as victims of trafficking, two were not. In conducting the focus group and drawing up the report, the FairWork officer was supported by the social expert and project leader from FRANET. The focus group was gender-balanced (three women and two men), represented various sectors, and involved only non-EU workers. Two female participants worked in the domestic work sector, one at a diplomatic household. One male participant worked in the general service sector (distributing flyers); the other two worked in the accommodation and food service sector (laundry). They came from the Philippines (2 interviewees), Morocco (2 interviewees) and Uganda (1 interviewee). As FairWork had previously supported all 5 participants, they felt at ease in its office, allowing for a free and safe expression of thoughts and ideas. The focus group discussion lasted for 98 minutes. Translation was done simultaneously from English to Dutch due to the participants' different levels of language proficiency.

The second focus group was made possible by the labour union FNV and was held with a group of EU workers of Polish nationality, who have worked in the agricultural sector both directly and via a recruitment agency. Four of the six potential participants who had been invited took part, including one woman and three men. All of these workers had experienced extremely bad working conditions throughout their 10 years of working in the Netherlands that cumulatively amount to labour exploitation, but they are not officially considered victims of trafficking for purposes of labour exploitation. As a result their experiences with asking for help, receiving support and access to justice stand in stark contrast to those within the research who have been officially considered victims of trafficking, making their inclusion vital for the output of the research. The focus group took place at the home of two of the focus group participants. The atmosphere was open and free for expression of thoughts and ideas. Yet, due to the fact that they continue to lack access to support and assistance, participants mainly voiced frustrations over their own situation and much less recommendations on how to improve the situation in the Netherlands more generally. The focus group lasted for 105 minutes. The focus group discussion was done in Polish/Dutch with a translator present, since none of the workers could speak Dutch or English.

INTERVIEWS <sup>2</sup>					
		Economic sector/ occupations (list all)	Nationalities (list all)	Male	Female

<sup>2</sup> 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.



1	Posted workers	Transport	Philippines	2	0
2	Seasonal workers <sup>3</sup>	Agriculture	Poland Bulgaria	2	2
3	Domestic workers	Domestic work	Asia	0	1
4	Applicants for international protection	Food and accommodation services (laundry)	Middle East	2	0
5	Migrants in an irregular situation	*Agriculture *Construction *Food and accommodation services (laundry, restaurant)	India Ivory Coast Egypt Morocco Ukraine	6	0
6	Other foreign workers (EU nationals who have availed of their right to freedom of movement)	Agriculture Food and accommodation services (laundry) General service sector (car wash)	Poland Bulgaria Hungary	3	2

FOCUS GROUPS					
	Target group	Economic sector	Nationality	Male	Female
1	1. Non-EU migrant workers	*Domestic work (private & diplomatic household) *Food and accommodation (laundry) *General service (car wash)	Asia Morocco Uganda	3	2
2	2. EU migrant workers	Agricultural sector	Poland	3	1

The report is set up as follows: in the following section (3) an update of the legal and institutional framework since the publication of the FRA 2015 SELEX I report will be given, after which, in section 4, the risk factors for severe exploitation from the perspective of the migrant workers will be discussed. In section 5, the worker's experience of severe labour exploitation are central. Section 6 then focusses on migrant perspectives on asking for help, including both victim support and access to justice. Section 7 presents ways forward and preventive measures. Section 8 consists of conclusions and any other observations.

<sup>3</sup> 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.

## Legal and institutional framework

The legal and institutional framework for combatting labour exploitation in the Netherlands was comprehensively discussed in the FRA 2015 SELEX I report.<sup>4</sup> This section is therefore limited to discussing legal, institutional and other developments in the Netherlands since its publication (while only briefly repeating the Court's interpretation of exploitation of 2009 to better contextualise the current research). While legislation on labour exploitation specifically has not changed since 2015, policies have.

### Legislation/policy

Since the publication of the FRA 2015 report, legislation on labour exploitation specifically has remained unchanged. Labour exploitation is still not a separate offence and is only criminalised under the human trafficking provision (article 273f Dutch Criminal Code). This means that perpetrators of labour exploitation can only be criminally prosecuted for human trafficking for purposes of labour exploitation.<sup>5</sup>

In 2016, a legislative proposal was initiated in the Lower House that, when enacted, will establish a duty of care in relation to child labour for companies operating in the Netherlands.<sup>6</sup> The bill is now being examined by the Senate, after being approved by the Lower House on 7 February 2017.<sup>7</sup> If the bill is approved it would enter into force in 2020 and would oblige companies to submit a declaration outlining its due diligence to prevent that their products are produced with the use of child labour as well as an action plan addressing any risks that have been uncovered. The declaration needs to be submitted to a monitoring body. The bill includes punitive measures. If a company does not honour its obligations following a complaint, an administrative fine can be imposed, and the company can be even criminally prosecuted when fined on multiple occasions.

On 8 August 2017, the Netherlands ratified the Protocol of 2014 to the Forced Labour Convention. A bill to approve the Protocol was adopted by both the Lower House of Parliament and the Senate in April 2017.<sup>8</sup> The national bill came into force on 1 August 2017. As a result, the Protocol to the 2014 Forced Labour Convention will enter into force 8 August 2018.<sup>9</sup>

The labour inspectorate recently launched its program on labour exploitation (2017-2019) to give greater direction to its work. The program foresees a more comprehensive (both proactive and reactive) approach to labour exploitation, more engagement with relevant stakeholders and a focus on particular risk sectors, as well as groups deemed at particular risk of exploitation and about whom little is known (asylum seekers, people with mental disabilities and minors).<sup>10</sup> One of the objectives is to ensure that employers who previously went

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<sup>4</sup> Marije Braakman, Saskia van Bon, Gregor Walz and Igor Boog, Social Fieldwork Research (FRANET) Severe forms of Labour Exploitation Supporting victims of severe forms of labour exploitation in having access to justice in EU Member States The Netherlands (2014), available via: <http://fra.europa.eu/en/country-data/2015/country-reports-comparative-report-severe-labour-exploitation-workers-moving>.

<sup>5</sup> This is apart from administrative fines that can be imposed for breaching labour laws or employment of irregular migrants. Also the employer might, at the same time, be prosecuted for other related criminal offenses (fraudulent documents et. Cetera). Specifically for criminal prosecution in relation to labour exploitation, only article 273f Criminal Code is relevant.

<sup>6</sup> [www.eerstekamer.nl/behandeling/20170207/gewijzigd\\_voorstel\\_van\\_wet](http://www.eerstekamer.nl/behandeling/20170207/gewijzigd_voorstel_van_wet)

<sup>7</sup> [www.eerstekamer.nl/wetsvoorstel/34506\\_initiatiefvoorstel\\_kuiken](http://www.eerstekamer.nl/wetsvoorstel/34506_initiatiefvoorstel_kuiken);

[/www.eerstekamer.nl/behandeling/20170207/stemmingsoverzicht\\_tweede\\_kamer](http://www.eerstekamer.nl/behandeling/20170207/stemmingsoverzicht_tweede_kamer)

<sup>8</sup> Rijkswet van 19 april 2017 tot goedkeuring van het op 11 juni 2014 te Genève tot stand gekomen Protocol van 2014 bij het Verdrag betreffende de gedwongen of verplichte arbeid (Trb. 2015, 32 en Trb. 2015, 194), available via: <https://zoek.officielebekendmakingen.nl/dossier/34640/stb-2017-195?resultIndex=0&sorttype=1&sortorder=4>

<sup>9</sup> <https://verdragenbank.overheid.nl/nl/Treaty/Details/013145.html>

<sup>10</sup> In the Multiannual plan of the Labour Inspectorate, labour exploitation has been given priority. Those responsible for the programm labour exploitation were given the task to enlarge the effectiveness of the protection of vulnerable

unpunished (because the situation did not meet the threshold of human trafficking for labour exploitation) will be punished under different provisions.

## Labour exploitation and the institutional setting

Since 2015, significant investments have been made in improving cooperation between institutions involved in combatting labour exploitation. The Netherlands explicitly prioritised labour exploitation during its EU presidency in the first half of 2016, stressing the importance of strengthening multidisciplinary cooperation. This resulted in a TeamWork Manual for experts on multidisciplinary cooperation against trafficking in human beings for the purpose of labour exploitation and an accompanying website.<sup>11</sup> At the national level, priority is likewise given to investing in multi-stakeholder involvement to combat labour exploitation.

The Ministry of Security and Justice holds regular TeamWork meetings to further multi-stakeholder involvement, and to determine how public institutions, as well as NGOs, can engage with companies in particular sectors through private-public partnerships. The Ministry of Security and Justice, the Ministry of Social Affairs and Employment, the National Police, the Labour Inspectorate, the Municipalities of The Hague, Rotterdam and Amsterdam, the Expertise Centre on Human Smuggling and Human Trafficking, CoMensha, FairWork and the trade union FNV are involved in these meetings.

Within its new programme, the labour inspectorate is taking similar initiatives to engage private partners in sectors identified as at risk of exploitation. These two initiatives are not currently linked to one another.

## Risk management

One of the challenges facing the labour inspectorate is insufficient cooperation between those who monitor workplaces and those who investigate labour exploitation (i.e. between monitoring and enforcement) - even though they are both units within the labour inspectorate. Clearer risk analysis frameworks have been drafted for inspectors to see which combination of signals should immediately be reported to the enforcement section of the inspectorate.<sup>12</sup> In 2017, three former monitoring inspectors were assigned to form the link between monitoring and enforcement.<sup>13</sup> The aim is to improve the signalling ability of inspectors, while ensuring that their findings reach enforcement.

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groups by prevention, detection and willingness to report and the (inter)national combatting of labour exploitation and serious disadvantage of workers. Labour Inspectorate, *Inspectie SZW Meerjarenplan 2015-2018* (15 September 2014), p. 7. Available via: [www.inspectieszw.nl/publicaties/jaarplannen/2014/09/15/meerjarenplan-2015-2018](http://www.inspectieszw.nl/publicaties/jaarplannen/2014/09/15/meerjarenplan-2015-2018). 18 Inspectie SZW Meerjarenplan 2015-2018 Inspectie SZW Meerjarenplan. This has resulted in the Program Labour Exploitation (2017-2019) that has been launched 13 April 2017 with many relevant stakeholders in combatting labour exploitation present (including the author of this report). The program is an internal document and therefore is not available online. More information about the program and who to contact within the Labour Inspectorate for more details on the program can be obtained from the author of this report.

<sup>11</sup> The TeamWork Website can be found here: [www.teamwork-against-trafficking-for-labour-exploitation.nl/](http://www.teamwork-against-trafficking-for-labour-exploitation.nl/). The TeamWork Manual for experts on multidisciplinary cooperation against trafficking in human beings for labour exploitation can be found on the same website, more specifically: [www.teamwork-against-trafficking-for-labour-exploitation.nl/documents/teamwork-manual](http://www.teamwork-against-trafficking-for-labour-exploitation.nl/documents/teamwork-manual)

<sup>12</sup> Presented during the launch of the program labour exploitation and further explained during a short telephone call with the program leader of the labour exploitation program 2017-2019 on 19 September 2017, who has consented to share this information in this research. An evaluation framework is drafted including how breaches of labour law when seen together can be an indication for labour exploitation and should be reported to enforcement. Tables are provided with indicators both related to the work performed and others (fear, sleeping on the floor) and that take into account the severity and duration of breaches of labour laws to assist inspectors into objectively weighing whether the connectness between the indicators leads to reporting.

<sup>13</sup> Presented during the launch of the program on labour exploitation on 13 April 2017, see footnote 6 above.

## Victim support

Since 2015, research has raised awareness about the vulnerability of particular groups of workers.<sup>14</sup> CoMensha has conducted a thorough analysis of the needs of victims, which will inform recommendations on how support can be better tailored to the needs of victims of trafficking for the purpose of labour exploitation.<sup>15</sup> New patterns have emerged over the past years: while men still form the majority of victims of labour exploitation, we witness a growing number of couples falling victim as well.<sup>16</sup> This challenges current support structures that generally focus on sheltering either men or women; not families or couples.

Several initiatives have been launched to improve the traditionally tense relationship between support organisations and the labour inspectorate. CoMensha organised several meetings in 2016 and 2017 to improve cooperation, resulting in a bi-annual meeting of labour inspectorate investigators, human trafficking care coordinators, and FairWork.<sup>17</sup> Together with FairWork and the Public Prosecution Service, CoMensha in May 2017 organised an expert meeting on the possibilities of protecting victims of labour exploitation at the slightest indication of human trafficking.<sup>18</sup> While the emergent multi-stakeholder cooperation is promising, the process is slow, and engaging the private sector remains a particular challenge. Protecting the presumed victims of labour exploitation also remains a concern, exacerbated by the difficulty of pursuing successful criminal cases (although one should not legally affect the other).

## Court cases

As was discussed in the SELEX I report, labour exploitation has not been defined in Article 273f Dutch Criminal Code, but rather its interpretation is left to the judiciary. Until 2009, Courts were reserved on deciding on exploitation. In the 2009 Chinese case, the Supreme Court gave further guidance on how to define labour exploitation.<sup>19</sup> The Supreme Court considered that it is impossible to determine in general terms which situations amount to exploitation, but that it very much depends on the circumstances of the case.<sup>20</sup> Nonetheless, the Supreme Court did formulate some criteria that are of relevance: the nature and duration of the employment, the restrictions to the employee resulting from the employment, and the financial gain of the employer. The Supreme Court further stressed that Dutch (labour) standards need to be taken as a frame of reference, and that it is not required that the victim is actually exploited. Since

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<sup>14</sup> Several researches has been conducted. Some are mentioned here. FairWork, for example, has released a report about sexual intimidation of Polish workers, see Ewa Urykwow-Tchang, *Kwetsbaarheid van vrouwelijke Poolse arbeidsmigranten voor seksuele intimidatie* (Fairwork, October 2016). Also, together with SOMO, FairWork has produced a report about the work conditions of Polish Workers in the Netherlands, *Profiting from dependency. Working conditions of Polish migrant workers in the Netherlands and the role of recruitment agencies* (June 2016). Eefje de Volder has conducted a research into the vulnerability of domestic workers for THB in 2015, see E. De Volder, *Demand in the Context of Trafficking in Human Beings in the Domestic Work Sector in the Netherlands* (DemandAT country study no 6, July 2015), available via: [www.demandat.eu/sites/default/files/DemandAT\\_CountryStudies\\_6\\_Netherlands\\_deVolder\\_0.pdf](http://www.demandat.eu/sites/default/files/DemandAT_CountryStudies_6_Netherlands_deVolder_0.pdf). Equally important, but released in 2013, is the study of Rijken, Van Mierlo and Van Dijk into the needs of victims of human trafficking, including labour exploitation, *Mensenhandel: Het slachtofferperspectief* (Wolf Legal Publishers 2013).

<sup>15</sup> E. de Volder, *Analysis of the Needs of Victims of Labour Exploitation on the basis of CoMensha Database 2013-2016* (CoMensha, not yet publicly available, on file with author).

<sup>16</sup> Based on own experience of the present author as responsible for victims of labour exploitation at CoMensha and also drawn from the CoMensha database.

<sup>17</sup> These are all meetings that are internally arranged by the present author as part of her responsibility for victims of labour exploitation at CoMensha and are meant to enhance cooperation between care organisations and law enforcement in relation to labour exploitation victims. The first meeting was held at 4 May 2017. The second meeting will take place 30 November 2017.

<sup>18</sup> Expert Meeting took place on 25 May 2017, more information can be found via: <http://mensenhandel.nl/artikel/detail/expertmeeting-geringste-aanwijzing-bij-arbeidsuitbuiting>.

<sup>19</sup> Supreme Court of the Netherlands, 27 October 2009, LJN: BI7097.

<sup>20</sup> Idem, para. 2.61.

the Supreme Court decision, the number of convictions in THB for labour exploitation cases has risen.<sup>21</sup> However, courts are still struggling with the definition of Article 273f.

Since 2015, the burden of proof to convict accused of human trafficking for purposes of labour exploitation under article 273f sub 1 (4) Dutch Criminal Code has increased, based on decisions by the Court of Appeal of Arnhem-Leeuwarden of 4 December 2014<sup>22</sup> and the Court of Zeeland-West Brabant of 23 July 2015.<sup>23</sup> In the appeal on cassation of the Court of Appeal Decision of 4 December 2016, the Supreme Court has confirmed the reasoning.<sup>24</sup> Previously, accused persons could be convicted for trafficking for purposes of labour exploitation under paragraph 1(4) of Article 273f Dutch Criminal Code when forced labour could be proven. In these two judgements, the judges decided that it also needs to be proven whether the nature of the forced labour brings about exploitation and, if not, whether other circumstances justify such an interpretation of the facts. In short, while exploitation previously did not have to be proven under this paragraph, it is now explicitly read into the provision.<sup>25</sup>

The Supreme Court further stressed in 2016 that for a successful human trafficking conviction, contrary to what was previously assumed, the physical or mental integrity of victims (in accordance with Article 4 of the European Convention on Human Rights) does not have to be violated.<sup>26</sup> This decision carries particular importance for labour exploitation victims as in relation to their cases, the violation of the physical and mental integrity is not always easily established (contrary to sexual exploitation cases).

In 2016, the Court of Appeal upheld an earlier conviction for labour exploitation involving two Brazilian domestic workers, leading to imprisonments of 42 months and 18 months (of which 12 months were conditional).<sup>27</sup> In July 2017, an owner of a laundry facility was sentenced to 12 months imprisonment for the exploitation of irregular migrants.<sup>28</sup>

Furthermore, in March 2017 the Court decided in an appeal against a strawberry farmer that the fact that employees are voluntarily working and are subjectively well off is not relevant for the question as to whether the victims are exploited under article 273fSr.<sup>29</sup>

Several important cases – an appeal against a previously convicted strawberry farmer and cases concerning the exploitation of workers in laundry facilities and of a Chinese chef – are

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<sup>21</sup> Rijken & Heemskerk, 'Combating THB for Labour Exploitation in the Netherlands' in: C.Rijken (ed), *Combating Trafficking for Human Beings for Labour Exploitation* (Wolf Legal Publishers, 2011), p. 81.

<sup>22</sup> Court of Appeal Arnhem-Leeuwarden (*Gerechtshof Arnhem-Leeuwarden*), ECLI:NL:GHARL:2014:9415, 4 December 2014, available at: <https://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:GHARL:2014:9415&showbutton=true&keyword=ECLI%3aNL%3aGHARL%3a2014%3a9415>

<sup>23</sup> Court of Zeeland-West-Brabant (*Rechtbank Zeeland-West-Brabant*), ECLI:NL:RBZWB:2015:4870, 23 July 2015, available at: <https://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:RBZWB:2015:4870&showbutton=true&keyword=ECLI%3aNL%3aRBZWB%3a2015%3a4870>

<sup>24</sup> Supreme Court, 5 april 2016, ECLI:HR:2016:556, available at <https://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:HR:2016:556>. Earlier this was also confirmed by the Supreme Court in 2015, Supreme Court of 24 November 2015, ECLI:NL:HR:2015:3309.

<sup>25</sup> L.B. Esser & C.E. Dettmeijer-Vermeulen, *Mensenhandel op een tweesprong. De omgang van rechters met de ruim geformuleerde mensenhandelgedraging in de delictomschrijving van artikel 273f lid 1 sub 4 Sr, Delikt & Delinkwent DD 2014/48.*

<sup>26</sup> Supreme Court, 29 maart 2016, ECLI:HR:2016:529, available at <https://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:HR:2016:529>

<sup>27</sup> Court of Appeal of Amsterdam (*Gerechtshof Amsterdam*), 16 November 2016, ECLI:NL:GHAMS:2016:5035 available at: <http://deeplink.rechtspraak.nl/uitspraak?id=ECLI:NL:GHAMS:2016:5035>

<sup>28</sup> Court of Amsterdam (*Rechtbank Amsterdam*), 2 June 2017, ECLI:NL:RBAMS:2017:3807, <http://deeplink.rechtspraak.nl/uitspraak?id=ECLI:NL:RBAMS:2017:3807>

<sup>29</sup> Court of Appeal Arnhem-Leeuwarden (*Gerechtshof Arnhem Leeuwarden*) of 16 March 2017 ECLI:NL:GHARL:2017:2189

on-going. Labour exploitation cases often take several years to conclude. In court, the long duration of the court proceedings have been taken into account in the sentencing. Other cases have been dismissed or have not been brought before court.<sup>30</sup> This seriously impacts the effectiveness of combatting labour exploitation.

## Promising practices and challenges

Stakeholders increasingly are able to find each other, leading to an improvement of the multi-stakeholder approach to effectively combat labour exploitation. The increased cooperation between support/care organisations and law enforcement is a particularly promising development. Nevertheless, low level private sector involvement remains a challenge, since it is precisely the involvement of companies in high-risk sectors that could significantly alter realities on the ground. There is also insufficient communication and collaboration between the multiple initiatives to improve multi-stakeholder cooperation, resulting in duplicated efforts and potential adverse effects on the still delicate cooperation with private partners.

The difficulty in pursuing successful criminal convictions in cases of trafficking for purposes of labour exploitation poses further challenges. While victim protection (awarded by the labour inspectorate) is based on suspicion of trafficking, it opens potential cases for labour exploitation since the labour inspectorate, based on granting victims protection, must now examine the case on grounds of labour exploitation (b8.3 Alien Regulation).<sup>31</sup> When considerable capacity is invested in building criminal cases that will not be brought to court, this eventually also affects the offer of protection. Labour inspectors, when speaking to potential victims, might already doubt whether an investigation will yield enough evidence for the case to hold in court; granting protection to victims would then drain already limited capacities for investigation. As a result, victim protection might be denied on investigative grounds. While this is not permitted on the basis of the B8.3 regulation, it does happen in practice. More cases are considered as seriously disadvantaging employees ('bad employmentship') rather than as labour exploitation by the labour inspectorate, while the indicators still point towards enough evidence for the slightest indication of trafficking.<sup>32</sup> When situations are not labelled as potential THB for labour exploitation cases, victim protection is not awarded. The 2017 expert meeting on granting protection to victims of trafficking for purposes of labour exploitation and the divide between bad employmentship and labour exploitation sought to open up debate about these practices.

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<sup>30</sup> E.g. Court of Rotterdam (*Rechtbank Rotterdam*), ECLI:NL:RBROT:2015:3784, 1 June 2015, available at: <https://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:RBROT:2015:3784&showbutton=true&keyword=arbeidsuitbuiting>

<sup>31</sup> Paragraph B8.3 of 2000 Vreemdelingen-circulaire (Alien Regulation) is concerned with (presumed) victims of trafficking and the rights that should be granted to them, including a temporary residence permit. See, <http://wetten.overheid.nl/BWBR0012289/2017-10-01>.

<sup>32</sup> Based on the experience of the author of this report in her responsibility for coordinating assistance to labour exploitation victims in the Netherlands.

## Risk factors for severe labour exploitation

Both in the interviews and focus groups, migrant workers identified the risk factors for severe labour exploitation based on their own experiences. Overall, the most commonly cited risk factors had to do with their reasons for going abroad to work, as well as their migrant status in the Netherlands. All research participants – apart from those who left to flee from conflict – cited dire economic situations in their country of origin. This baseline situation heightened feelings of vulnerability and dependency, as their frame of reference is shaped by the lack of alternatives back home. As for their migrant status in the Netherlands, participants indicated that their lack of knowledge about the country, their lack of Dutch language facility, and their lack of knowledge about rules, regulations and especially worker’s rights – combined with a general feeling of not knowing one’s way around – added to their vulnerability.

Interestingly, although the assumption is widespread that lack of education raises the risks of labour exploitation, few participants explicitly mentioned this as adding to their vulnerability. Many of our interviewees were educated or had work experience or qualifications, but could not find a suitable job in the Netherlands due to the language barrier. Only a few interviewees had hardly any or no education at all. Participants instead focussed on their general status as migrants, their immigration status (for non-EU migrants), and poor prospects in their country of origin as risk factors that made them more vulnerable to labour exploitation.

Most interviewees chose the Netherlands as their destination. Nine interviewees had been recruited for a job; three had responded to an on-line advertisement. Five persons knew someone living/working in the country; six simply wanted to live and work there. The two interviewees who sought international protection did not choose to come to the Netherlands, but ended up in the Netherlands on their journey to a northern European country (as part of the migration crisis).

The table below lists the distribution of risk factors mentioned by our research participants. They will be discussed in turn below.

Mentioned risk factor	Number of interviewees	Number of focus group participants
Economic reasons/poverty (push factor)	17/20	9/9
Lack of work/well-paid work (push factor)	15/20	9/9
Conflict (push factor)	3/20	0/9
Similar/worse work conditions back home	4/20	0/9
Lack of knowledge about general rights and regulations	2/20	0/9
Lack of knowledge about workers’ rights	7/20	5/9
Lack of knowledge about existence of labour exploitation in the Netherlands	2/20	2/9
Lack of self-identification as a victim of exploitation	4/20	2/9
Lack of language ability	3/20	4/9
Lack of knowledge about the country	3/20	4/9
Not knowing to whom to reach out	9/20	3/9

Irregular migration status	7/20	3/9
Dependency on employer	3/20	5/9
Trust (in promises, recruiter, exploiter)	7/20	5/9
Being replaceable	3/20	5/9
Being a migrant	15/20	7/9
Working in a sector at risk of exploitation	18/20	8/9

### Economic reasons/poverty

In both the focus groups and interviews, the main reasons to leave the country of origin were economic. Apart from the three interviewees who left their country of origin to flee conflict, the remaining 17 cited economic reasons. Poverty drove them to work abroad, and their desperate need for money left them vulnerable to exploitation.

*The goal was to financially improve my situation to support my family at home in Hungary. Despite all of my efforts I did not succeed in supporting my family. I am now empty handed.* (Netherlands, female interviewee from Hungary, car wash, EU national).

This was particularly the case for six interviewees with debts in their country of origin, incurred to either pay for the voyage or for other reasons. Some mentioned selling their belongings to pay for their travel to the Netherlands, and the lack of finances to fall back on added to their vulnerability when the work turned out to be different than promised.

*It just seemed too good to be true. We betted all [financial reserves] on one horse and that was not good, but we did not have a choice at that moment. That is what happened to us.* (Netherlands, male interviewee from Poland, agriculture, EU national).

For those who migrated for economic reasons, two-thirds were supporting their families back home, adding to the pressure to make money abroad. Three interviewees explicitly mentioned that they were the sole providers for their families back home.

### Poor working conditions in country of origin

Four interviewees stated that poor (working) conditions in their country of origin pushed them to emigrate and increased their vulnerability to exploitation in the Netherlands. Working conditions at home were similar to, or even worse than, those experienced in the situation of exploitation.

*In Poland there is a grey area wherein people do not get a labour contract with the employer. It is promised that ultimately a labour contract is given, but it never happens. Or you are not being paid. Because of this reason I came to the Netherlands (...). In the Netherlands I ended up in similar situations, but in Poland it is even worse* (Netherlands, male interviewee from Poland, hospitality (laundromat), EU national).

While some traced their poverty to the general lack of (sufficient) work, others explicitly mentioned that despite constantly working, it was still impossible to make ends meet in their country of origin.

*I worked as a welder but earned too little. Then me and my partner started working in a supermarket, but also then we could not make a living. Then we both obtained our certificate as fork lift driver hoping we would be able to find a better job, but still we earned too little to get by* (Netherlands, male interviewee from Poland, agriculture, EU national).



## Conflict

Three of the interviewees fled their country due to conflict. One of the interviewees fled his country of origin in Western Africa during a crisis and was granted a refugee status. When the situation in the country of origin stabilised, the interviewee's refugee status was withdrawn. As a result, the interviewee had to quit his job and became an irregular migrant, more susceptible to abuse. The two other interviewees arrived from the Middle East in 2016. They both were forced to serve their conscription in the army. After deserting both had no choice but to leave the country together with their family.

*I was arrested at a [country in the Middle East] control post, taken away and forced to fulfil my conscription to the army. I served for half a year in the army. I had to leave [country of origin] because I deserted the army. I could no longer stay because I would be persecuted by the authorities.* (Netherlands, male interviewee from Middle East, hospitality (laundromat), beneficiary of international protection)

Leaving their family behind, both interviewees travelled via Turkey and then overseas to Europe. In Europe the interviewees mostly walked, but also travelled by train and bus, and finally ended up in the Netherlands. While both interviewees only started working when they received their refugee status, they were particularly at risk of exploitation due to their lack of knowledge of the language and of worker's rights in the Netherlands. Since more money needed to be paid for the security of the family abroad, one of the interviewees approached an Arabic speaking employer himself to work there, while still being stationed at a reception center.

*My family still lived in [country] in a refugee camp and I needed money to send to them for their safety and to arrange family reunification. This is why I started working there.* (Netherlands, male interviewee from Middle East, hospitality (laundromat), beneficiary of international protection)

## Migrant status

The majority of interviewees and focus group participants felt that being a migrant, both in regular and in irregular situations, added to their vulnerability to labour exploitation. Many traced their vulnerability to not being familiar with Dutch rules and regulations, and with workers' rights in particular.

*The employer took advantage of the great need of people that are looking for a job. They also took advantage of newcomers, not even aware about the rules and their rights* (Netherlands, male interviewee from Middle East, hospitality (laundromat), beneficiary of international protection).

Three interviewees and some focus group participants (Focus group 2) believed that migrants would generally earn less and work under worse circumstances, showing a certain degree of acceptance of lower labour standards.

*A Polish person is easily satisfied, even though he works 10 hours a day for 6 euro per hour, he still earns more than what he would earn in Poland. If he takes the money to Poland he feels rich there. This is why nobody complains here. But in fact, the labour conditions for us as Polish are generally worse than what you should normally receive at the Dutch labour market* (Netherlands, male interviewee from Poland, agriculture, EU national).

Also during the second focus group discussion with Polish migrant workers, this discrimination against Polish workers at the Dutch labour market (different standards for Polish workers and Dutch workers in the same company) was stressed.

Several research participants (three interviewees and focus group 1 participants) indicated that they had no idea that exploitation even existed in the Netherlands. Taken together, these factors prevent self-identification as victims within situations of exploitation.

Alongside the lack of Dutch language skills, three interviewees (two EU and one third country national) mentioned unfamiliarity with the country as increasing their vulnerability to exploitation. Lack of language skills made it difficult to find their way in the country and impossible to find a job matching their qualifications. One interviewee stated that despite having good qualifications, migrants have difficulties entering the job market, increasing the risk of exploitation (*Netherlands, male interviewee from Bulgaria, agriculture, EU national*).

### Legal status and dependency on the employer

Six interviewees (all third country nationals) stated that their residence status rendered them dependent on their employer, which made them more vulnerable to exploitation.

*I wanted to go home, I wanted to go back to [country in Asia]. I thought I would go back easily. But it was not easy. They kept my passport so that I could not run. And they did not give me money. If I had money I could look for my embassy and ask help but I did not even have money, so I did not know where to go (Netherlands, female interviewee from Asia, domestic work, regular migrant).*

This was particularly true for those who depended on their employer for legal residence, and for migrants in an irregular situation (mentioned by seven interviewees). This factor was not mentioned by EU citizens.

### Sectors at risk of exploitation

Almost all of our research participants were exploited working in sectors considered to have a high risk of exploitation. Three-quarters of the interviewees were exploited in sectors identified in the SELEX 1 research as among the three main sectors at risk of exploitation in the Netherlands: agriculture (six), construction (one), and food and accommodation services (nine). Two focus group participants also worked in food and accommodation services. Interestingly, the vast majority of persons (8) who worked in the food and accommodation services sector were exploited in a laundry facility, while the other two were exploited in a restaurant. Because of the high prevalence of cases of exploitation in laundry facilities, the labour inspectorate has also indicated it specifically as a risk (sub) sector that requires specific attention. The domestic work sector, where one interviewee and two focus group participants were exploited, is also considered high risk. The other three participants experienced the worst labour conditions in the general service sector (car wash; flyer/advertisement distribution on the streets).

Focus group participants agreed that working in sectors with low thresholds for entry (no necessary qualifications) increased the risk of exploitation.

*The reason is that it does not require qualification. Secondly, it is there. It is too much. There is a lot of work for this type of work. I myself cannot work in an office because I do not have a qualification to do the job in the office. So it is easy to find this type of work (Netherlands, male focus group participant from Uganda, flyer distribution, migrant in an irregular situation at the time of exploitation).*

## Skills/experience/qualifications and the work performed

All of our research participants experienced labour exploitation in low-skill jobs. For the majority, the work matched their previous qualifications, skills and experience. A quarter of the interviewees were overqualified for the work they eventually performed. Three interviewees were (fairly) highly qualified (with university degrees and various diplomas) but ended up in low-skilled work. This can easily be explained: they did not possess the Dutch or English language skills needed to find suitable jobs at their level.

*I finished intermediate vocational education in care-taking, but it was not possible to find work in that sector [in Poland]. I did not have the illusion that I would find work matching my education in the Netherlands since to work in the health sector, your knowledge of the language is crucial and my understanding is minimal (Netherlands, male interviewee from Poland, hospitality (laundromat), EU national).*

One interviewee accepted low-skilled work so that he could be close to his partner who was having health issues. Another stated that despite having the right qualifications and speaking English, he was unable to find a job that matched his qualifications. Migrant workers' lack of access to suitable jobs in the Dutch labour market, he said, drives people into situations of exploitation and even criminality. One of the interviewees mentioned that discrimination on the Dutch labour market prevented him from entering the regular labour market and pushes people into exploitative jobs:

*Some of them could go as victims of exploitations. Any kind of exploitation. Some of them could go in doing crimes. Just to survive. That's a big problem here (Netherlands, male interviewee from Bulgaria, agriculture, EU national).*

## Language

All interviewees and focus group participants had no or very basic knowledge of the Dutch language when they arrived in the Netherlands. This lack of language ability was first and foremost considered a barrier to finding a suitable job (according to four interviewees). Lack of Dutch language facility deters migrant workers from speaking out when problems arise in the workplace, to challenge the employer or to reach out for help.

*If I knew the language I would have done so [challenge the employer about the work conditions], but because I do not know the language, I could not speak out to anyone (Netherlands, male interviewee from Poland, hospitality (laundromat), EU national).*

It was also considered an obstacle to knowing about workers' rights in general, and of being able to understand the work contract in particular. Lack of language ability is thus considered an important risk factor for labour exploitation.

While many expressed that they were currently learning the language, only four out of 20 interviewees and two out of nine focus group participants were able to speak (basic) Dutch at the time of interview/discussion. Interestingly, most of those who could express themselves in Dutch were irregular migrants and all of them are male. Two interviewees who had been offered international protection even explicitly mentioned that they would only look for work after learning the language.

*I will now focus on first learning the Dutch language as I think that when I know the language I will not get into a similar situation (Netherlands, male interviewee from Middle East, hospitality (laundromat), beneficiary of international protection).*

## Conclusion

Most research participants agreed that being a migrant contributes to vulnerability. Lack of knowledge of the Dutch language, of the country, of their rights, and of where to turn in case of problems all added to their vulnerability. Being unaware of worker's rights and what constitutes labour exploitation in the Netherlands also places them at greater risk of labour exploitation as it is difficult to self-identify as a victim of exploitation, particularly for migrants who come from countries where labour conditions are similar or worse to the exploitative conditions they experienced in the Netherlands.

## Workers' experiences of severe labour exploitation

This part of the report gives insight into migrant workers' actual experiences of exploitation. Our research participants were in situations of labour exploitation ranging from 22 days up to 8 months, and they experienced diverse aspects of exploitation.

The table below lists the experiences of severe labour exploitation mentioned by our research participants. They will be discussed in turn below.

Experiences of severe labour exploitation	Number of interviewees	Number of focus group participants
<b>Payment</b> <ul style="list-style-type: none"> <li>- Withholding payment</li> <li>- Costs deducted</li> <li>- Arbitrary fines</li> <li>- Only receiving pocket money</li> <li>- Not insured while paid for it</li> <li>- Withholding money to pay for illegal employment when fined</li> <li>- Never paid</li> </ul>	<ul style="list-style-type: none"> <li>20/20</li> <li>8/20</li> <li>2/20</li> <li>8/20</li> <li>2/20</li> <li>1/20</li> <li>2/20</li> </ul>	<ul style="list-style-type: none"> <li>9/9</li> <li>4/9</li> <li>4/9</li> <li>0/9</li> <li>0/9</li> <li>2/9</li> <li>0/9</li> </ul>
<b>Work conditions</b> <ul style="list-style-type: none"> <li>- long working hours</li> <li>- barely/no breaks</li> <li>- barely/no free time/days off</li> <li>- barely time in-between to sleep</li> <li>- harsh conditions (warm, cold, heavy)</li> <li>- no protective cloths</li> <li>- work while being sick</li> <li>- no doctor visit allowed while being injured</li> <li>- not allowed to talk while working</li> <li>- not allowed visitors (while sleeping at the workplace)</li> </ul>	<ul style="list-style-type: none"> <li>20/20</li> <li>17/20</li> <li>15/20</li> <li>6/20</li> <li>16/20</li> <li>3/20</li> <li>4/20</li> <li>4/20</li> <li>4/20</li> </ul>	<ul style="list-style-type: none"> <li>9/9</li> <li>7/9</li> <li>5/9</li> <li>1/9</li> <li>7/9</li> <li>6/9</li> <li>5/9</li> <li>0/9</li> <li>0/9</li> </ul>
<b>Work contract</b> <ul style="list-style-type: none"> <li>- no work contract signed</li> <li>- work contract signed</li> <li>- work contract signed in language they did not understand</li> </ul>	<ul style="list-style-type: none"> <li>12/20</li> <li>8/20</li> <li>7/20</li> </ul>	<ul style="list-style-type: none"> <li>4/9</li> <li>5/9</li> <li>1/9</li> </ul>

- not allowed to read before signing	2/20	0/9
Housing		
- arranged by employer	17/20	6/9
- not arranged, but supposed to be arranged by employer	2/20	0/9
- problems with housing	18/20	5/9
Poor conditions	3/20	4/9
- cramped with too many people	8/20	4/9
- poor sanitary/kitchen facilities	5/20	5/9
- no privacy	3/20	1/9
- only mattresses	8/20	0/9
- unsuitable for living		
Problems with documents		
- promise passport would be arranged	2/20	0/9
- working on the papers of others	1/20	0/9
- maltreatment because of no documents	7/20	3/9
- passport withheld	2/20	0/9
- work permit withdrawn after challenging employer	2/20	0/9
Experience of violence		
- verbal violence	17/20	9/9
- physical violence	2/20	0/9
Indirect isolation	16/20	7/9
Actual isolation	2/20	1/9

### Length of stay in the Netherlands and duration of exploitation

Apart from four interviewees, all other research participants have come into the Netherlands without leaving the country for longer periods in-between. The interviewees have been in the Netherlands ranging from 7 months until 25 years. Focus group participants have been in the Netherlands for a longer period of time, ranging from 2 to 11 years. In the first focus group, consisting mostly of irregular migrants, the average stay has been 3,5 years, whereas in the second focus group discussion - consisting of EU workers - the average stay has been 10 years.

For three quarters of the interviewees, their first work experience in the Netherlands has been a situation of exploitation. Several have experienced multiple exploitative situations. Two fifths of the interviewees have been in a situation of exploitation for 1 to 1.5 months. Another one third of the interviewees have been in a situation of exploitation for 6-9 months. Several mentioned being in an exploitative situation for more than one year, ranging from 16 months up to 5 years. The situation of exploitation ended because they either reached out to a third party themselves (8 interviewees), reached out after a third party reached out first (4 interviewees) or were taken out of the situation by a third party in a raid (8 interviewees) (see section 6). Within both focus groups, only the length of stay in the Netherlands was documented, not the duration of exploitation.

## Problems with payment

The most discussed and most acutely experienced aspect of exploitation concerned serious problems with payment. For most research participants, financial motives were the main reason to leave their country of origin and to work abroad. This explains their emphasis on payment problems.

All research participants had experience of employers withholding payment. They received much less than was promised. Many had their costs for travel, accommodation and insurance deducted without actually being insured or without these deductions being agreed beforehand. Many only received pocket money, just enough to survive. Even this amount was sometimes insufficient to buy food (in the case of four interviewees). This was particularly hard for the interviewees who had dependent children.

*My situation was much worse because I had my children with me. The rest did not have their children. My children would sometimes not eat. My children were sometimes sick, but they still had to work (Netherlands, female interviewee from Bulgaria, agriculture, EU national).*

Cash advances that were promised upon arrival often never materialised, immediately placing some interviewees (two) in a precarious situation. Three migrant workers in an irregular situations mentioned that employers saved the money withheld from them in case the labour inspectorate fined them for illegal employment.

*What is told to me by others is that he withheld the money from us and that he would save that money in case the labour inspectorate would show up and he would be fined. Then he would use that money to pay the fines. In this way he had nothing to lose (Netherlands, male interviewee from Northern Africa, agriculture, migrant in an irregular situation at the time of exploitation).*

Interviewees who were removed from the situation of exploitation by the police/labour inspectorate received no payment for the final period. Due to the raid, two interviewees who were in a situation of exploitation for less than a month were never paid.

## Work conditions and tasks

All research participants across all the sectors under discussion in this report experienced poor working conditions and long working hours. Almost all of the interviewees expressed they had no or hardly any breaks while working, and little or no free time or days off. Three interviewees also said that they were not allowed to talk while working). Five others were not allowed to welcome visitors, despite sleeping at the workplace.

A quarter of the interviewees and more than half of the research participants mentioned that they worked in harsh conditions, dealing with heavy objects (agriculture, transport, laundry facilities, car wash, construction), working in cold conditions (agriculture) or conditions which were too warm (laundry facilities).

While some five research participants thought the work tasks were what they expected them to be, others expressed that they were harder than expected. Many of the interviewees and research participants had to do tasks other than those agreed; tasks that at times were even illegal. One female European worker (general service sector, carwash) described how some nights, a truck would arrive with stolen shoes, and these shoes needed to be put in order and categorised so that the employers could sell them.

Some of the research participants described working in dangerous conditions: for example, involving heights (two interviewees and four focus group participants) and chemical

products/waste (six interviewees). Despite these circumstances no protective clothes were provided, which led to injuries in three cases.

*At the police station they wanted to take my fingerprints. But it did not work at first because my hands were so damaged because of the work (Netherlands, male interviewee from Western Africa, hospitality (laundromat), migrant in an irregular situation at the time of exploitation).*

For one interviewee this was almost fatal. This male irregular migrant, working in agriculture, had to burn waste, but had no protective clothes and fell over. He had 65% burn wounds over his body and was in a coma for weeks.

Three interviewees stated that they had to continue work while being sick. Four interviewees told how their employers refused to let them visit a doctor after becoming injured or sick.

*There were absolutely no security measures taken. A cart with content fell on my foot. My big toe was swollen and thick and I could barely walk. The day after I went to the director who was sitting in the canteen to ask whether I could see a doctor. In front of everybody he just laughed at me and said: 'you can chop that toe off, you still have nine left' (Netherlands, male interviewee from Poland, agriculture, EU national).*

Also one interviewee (irregular migrant, male in construction) mentioned not even asking for treatment when injured. He expressed that after falling off some scaffolding, he continued working despite having a head injury, simply because others also continued working.

### **Problems with the work contract**

All interviewees had some kind of problem with the work contract. These differed from person to person:

- More than half (12) did not sign a work contract. Migrants with an irregular status would in any case be unable to work legally.
- Of those with contracts, most (7) signed a contract in a language they did not understand.
- Two interviewees found out only later that they had signed both a Polish and Dutch contract. They were ordered to sign the contracts without knowing their content.
- Two interviewees signed a contract they could understand in their country of origin, and were forced to sign another contract for a much lower salary at their destination. They signed an English contract with a Filipino recruitment agency, and upon arrival, signed a Slovakian contract with a Slovakian company. Yet, in reality, the Slovakian company did not exist, but was a mailbox company, to ensure that these two migrant workers could work for a transport company in the Netherlands for a Slovakian wage.

### **Housing accommodation**

For all research participants, except for one of the interviewees and four of the focus group participants, housing was supposed to be arranged by the employer. All but one (IR5) experienced problems with the conditions of the housing provided.

Poor housing conditions ranged from being cramped with too many people (up to 20 persons) in one house (three interviewees), having no or hardly any sanitary and kitchen facilities available (8 interviewees), no privacy (five interviewees), no beds, only mattresses (three interviewees). Female research participants (three) in particular expressed that it was particularly hard that they did not have privacy while sleeping or when making use of the sanitary facilities.

A quarter of the interviewees lived at the workplace (four at a laundry facility and two at a car wash) despite the workplace being unsuitable for living.

*The living space was so beastly, that you should not be living there as a human being. It was not a living space meant for people. We lived there, but it was not allowed to live there under any circumstance, under any regulation, in not a single country. (Netherlands, female interviewee from Hungary, car wash, EU national).*

Those interviewees with international protection were not provided with sleeping facilities, and slept on the shelves where the laundry was stored.

*There were shelves for the laundry. If we wanted to sleep, we made place in the shelves to sleep and covered it with a sheet to be protected against the light in the work place. We had to climb a ladder to get there (Netherlands, male interviewee from Middle East, hospitality (laundromat), beneficiary of international protection)*

In two instances, in the transport sector, an employer promised that he would arrange accommodation for two interviewees, but nothing was arranged. Therefore both employees had to sleep in the cabin of the truck.

One interviewee in construction mentioned that although housing was arranged, he could only make use of it when they were not working on an assignment, which was only on Sundays or not even when the assignment was further away. He therefore had to sleep at the workplace, without any sleeping materials provided.

*Although I was provided with decent accommodation, we could never make use of it as when we would be working on a particular project we had to sleep at the construction site we were stationed at that moment. There were no facilities. There was water, but only cold water. We used the same bucket as we made the cement in, but we stopped doing that because we got all kinds of skin rashes because of it. We slept on wooden planks or sometimes there were iron sheets or something like that. Everyone lived this way. This is also how we celebrated Christmas. (Netherlands, male interviewee from Ukraine, construction, migrant in an irregular situation at the time of exploitation).*

## Personal documents

More than half of the interviewees and focus group participants had problems with their personal documents, including all irregular migrants. Because they were illegally residing in the country, papers of a friend were used to work at the workplace in the case of one interviewee; promises were made that a passport would be arranged in the case of two interviewees and all irregular migrants among interviewees and focus group participants experienced maltreatment as a result of being without documents. Two interviewees also had their passports withheld by the employer.

*After one week when I was there she asked me my passport. She said: many people come in the house so maybe they will take your passport. I was stupid. But I was not thinking that they had bad intentions. She was my employer. I should not think negatively. She was [from same country as interviewee in Asia], I should not think negatively, that was in my mind. But now I could not go back to [country of origin in Asia]. (Netherlands, female interviewee from Asia, domestic work, regular migrant).*

Those in the Netherlands on a work permit were asked to sign a termination paper, which two refused after which they were expelled from the company.

Most of the European migrants and those with a regular status did not experience any problems with their personal documents. Only two European migrants expressed problems



with their ID card. Their ID cards were taken away for a few days to allegedly register them to receive a social security number. As this never happened, the migrants were afraid that their ID might be used for illegal purposes.

## Threats of violence/violence

Across all types of work carried out by the interviewees and focus group participants (domestic work, restaurant, agriculture, laundry facility, construction, car wash, flyer distribution) threats of violence or actual violence were used. Only three research participants did not experience any violence. Most instances concerned verbal abuse (with the exception of the car wash case described below). Employers would call workers names, insult them, and shout.

*If I asked something they would respond with verbal abuse. You would not even treat animals the way we were treated (Netherlands, female interviewee from Poland, agriculture, EU national).*

Many research participants (five interviewees, both focus groups) stated that yelling and threats were an everyday occurrence for everyone. Verbal violence from employers ensued particularly when migrant workers took the initiative to ask for something.

One quarter of the interviewees were fired after entering into an argument with the employer. One interviewee was dragged to Amsterdam airport and given a ticket for the next plane home. Many also witnessed others being sent back to their country of origin after challenging the employer. These were all European workers working in the agricultural sector. Two interviewees were kicked onto the street with their two children, without money, their belongings or a place to go.

While most of the reported experiences concerned verbal aggression, in one situation in the general service sector the employer used actual physical violence leading to one interviewee being hospitalised due to pneumothorax. In that same situation the interviewees witnessed another woman being abused resulting in a broken shoulder (she subsequently managed to escape).

Three interviewees reported still receiving threats while being out of the situation of exploitation.

## Isolation

When asked whether they had experienced isolation or had been locked up at the work place, most interviewees related experiences of indirect or strategic isolation. They were not physically isolated, but limited in their movements: for example, not allowed to go to the shop for groceries, not allowed to receive visitors, and not allowed to have conversations with customers (eight interviewees). For some, the general circumstances of their work resulted in isolation: sleeping at the work place and working every day for many hours which led to exhaustion. This effectively resulted in being closed off from the outside world (according to two interviewees).

Two interviewees who had to report weekly to the asylum seekers reception centre were only allowed to leave their workplace for this purpose or to quickly shop for groceries. They were otherwise threatened with job loss.

Interviewees who (almost) lived at their work place experienced more isolation than others (nine interviewees). Migrants in an irregular situation also felt more isolated than others. One interviewee and one focus group participant, both domestic workers, said they were completely isolated for most of the time.

## Factors enabling exploitation

The factors that increased the chances of labour exploitation were explained in the previous section on risk factors. According to the interviewees, they include the following:

- Employers taking advantage of migrant workers' desperation for work and money, and keeping them dependent by withholding payments.
- Workers being used to similar or even worse labour conditions in their country of origin, leading to the acceptance/normalisation of lower working conditions (according to three interviewees).
- Workers' sense that they can easily be replaced by others (according to three interviewees).
- Employers abusing their trust with false promises (according to two interviewees).
- Workers kept in exhaustion, being so worn down that they cannot think about their situation, much less take action. Combined with the lack of money to leave, they are trapped (according to three interviewees).
- Employers abusing new arrivals' lack of knowledge (four interviewees), emphasised especially by migrants with an irregular status (four interviewees).

## Challenging the employer

Several interviewees did not challenge their employer. Alongside the fear of reprisal, they mentioned the lack of language skills to do so.

*If I knew the language, I would have done so [speak out against the employer about their conditions], but because I do not know the language, I could not speak out to anyone (Netherlands, male interviewee from Poland, hospitality (laundromat), EU national).*

In most of the situations where interviewees were able to challenge their employers about working conditions, they were given excuses and promises were made for improvement in the future (in four cases).

One male European worker explained why challenging the employer was fruitless:

*There was no possibility of challenging the employers. They did not want to hear about it. We are talking about people from the Middle East, Turkey, Pakistan. If you watch the news than you see for yourself that you cannot convince them. How could I convince him to pay me correctly if he knows that at my expense and by not paying me correctly he himself would be better off? If all the other ten people do the work for the same money, why would he then offer someone better or different circumstances.*

As mentioned in the above, some interviewees (five) were actually expelled from the work place after challenging the employer. Two also had their work permits withdrawn.

## Monitoring or inspections

The majority of research participants did not experience any monitoring or inspections, or only when they were taken out of the situation of exploitation by the police or labour inspectorate. One interviewee mentioned letting the tax inspector into the workplace. Others reported that there had been a hygiene inspection or controls for the flowers. Two interviewees experienced several controls (police controls on suspicion of drug trafficking, municipal controls for illegal housing, labour controls) but no one signalled their situation of exploitation. One interviewee (domestic worker in a diplomatic household) had to visit the Ministry of Foreign Affairs on an annual basis.

*The employer tells me to lie to the Ministry. That is very difficult. I had too much stress (...). The Ministry is asking me how is the situation before they would give me my ID. I just had to lie. (Netherlands, female focus group participant from Asia, domestic work, regular migrant at the time of discussion).*

Interviewees and focus group participants were critical about how the inspections were carried out: they were announced beforehand; answers to questions were prepared and no additional questions were asked; employees were questioned among others and in the presence of the employer (five interviewees and one focus group). This did not create feelings of trust.

*I think the inspectors are a bit dumb to think that under those circumstances, under directing eyes, you can honestly tell how it is, you cannot. You are under physical supervision of these people. It would have been more wise if they had taken us apart or waited for us at the corner so that they could speak to us in all quietness, in a neutral area, not in the middle of the heat of the kettle. (Netherlands, female interviewee from Hungary, carwash, EU national). As a result of the work method of the inspectors, two interviewees even suspected the inspector to be cooperating with the employer).*

## Recruitment

Research participants had different experiences of recruitment. Many learnt about the job in which they were ultimately exploited through acquaintances (9 interviewees; 3 focus group participants). In three cases, the acquaintance was involved in the exploitation, adding to the feeling of betrayal.

*I do not even want to talk about this man, because I suffered so much because of him, you cannot imagine. He brought so much damage to us, you have no idea how it was (...). There were days we did not have food. If I come across that man one day, I don't know what I will do to him. I am very angry. (Netherlands, female interviewee from Bulgaria, agriculture, EU national).*

While most job arrangements were made in the Netherlands, some three participants had been in contact with the acquaintance in the country of origin. In most of these cases, the person who arranged the job was a fellow national. Some interviewees, mainly from the group of posted workers, were recruited via a recruitment agency in their country of origin. In one instance, the worker suspected the recruiter to be aware of the exploitation. Three other interviewees, especially seasonal workers, responded directly to the company's on-line advertisements.

## Asking for help: victim support and access to justice

During the interviews, much attention was paid to the experiences of migrant workers asking for and receiving support and securing access to justice. Our research participants generally felt that migrant workers in a situation of exploitation will not easily reach out for help, and that third parties are required to initiate action. The main factors preventing victims from seeking help include the build-up of unpaid salary, their hope that the situation will improve, not knowing about their rights, who to contact and whether they will be protected. Apart from law enforcement, migrant communities are important third parties in accessing help, as victims can more easily reach out to them. Migrant organisations therefore form a crucial bridge to formal support structures.

The assistance provided to victims of labour exploitation after they escaped the situation of exploitation was generally well received. They felt well treated, although they also pointed to challenges. While many research participants perceived criminal proceedings against the accused to be an important part of their recovery, most had no idea about the current status of the proceedings. In assessing their current situation, sources of satisfaction included regaining their independence (having their own house, a decent job) and no longer depending on support.

An important observation is that the experience of officially recognised victims of labour exploitation stands in sharp contrast with those who have not been granted such recognition (in particular, focus group 2 participants). Their experience is that they lack access to support and assistance and have not had access to legal proceedings at all.

The following table shows the distribution of answers provided by our research participants. We discuss the different factors below.

	Number of interviewees	Number of focus group participants
Reached out to a third party for help	8/20	6/9
Reached out to a third party after third party reached out first	4/20	5/9
Did not reach out at all	8/20	2/9
Third party was an acquaintance/fellow migrant	6/20	3/9
Third party was a neighbour	2/20	0/9
Third party was a support organisation	1/20	4/9
Third party was law enforcement	8/20	2/9
Third party was a medical professional	3/20	0/9
Trust enabled asking for help	6/20	3/9
Enabled asking for help:		
- Being approached by third party first	6/20	0/9
- Trust	6/20	3/9
Prevented asking for help:		
- Unpaid salary	9/20	4/9
- Lack of knowledge about rights	7/20	9/9

- Did not self-identify as a victim of exploitation	4/20	2/9
- Irregular migration status		5/9
- Situation of exploitation	6/20	2/9
- Fear of repercussions	6/20	1/9
- Lack of trust they will be assisted	3/20	2/9
- Lack of knowledge of the language	8/20	6/9
	4/20	9/9
Provided assistance		
- taken out of situation by law enforcement	8/20	2/9
- medical care	2/20	0/9
- granted victim status	20/20	3/9
- shelter	18/20	2/9
- social assistance	20/20	5/9
- legal aid	20/20	5/9
Not received needed assistance	0/20	4/9
Reported to the police	20/20	4/9
Reasons for reporting		
- punishment for injustice done	7/20	5/9
- prevention for others	5/20	5/9
- Trust in protection from law enforcement	6/20	0/9
Court proceedings	18/20	0/9
Access to information about rights	16/20	5/9

## Asking for help

There was great variety in the extent to which research participants reached out to others (organisations or persons) to seek help:

- One-third of the total of interviewees, including some migrants in an irregular situation, approached third parties for help.
- One fifth of the total of interviewees (seasonal workers and posted workers) only reached out to a third party after the third party had reached out to them first.
- The remainder of the interviewees across various categories did not reach out at all, but were taken out of the exploitative situation by the labour inspectorate and the police during a raid (five interviewees), were discovered by the military police (one interviewee) or were reported to the police after being admitted to the hospital due to a work related accident (three interviewees).
- More than half of the first focus group participants reached out to third parties, while the others were taken out of the situation by law enforcement.
- Of the second focus group participants, all have reached out to the labour union FNV and one to the SNCU, but felt that no needed assistance was provided.

Of the interviewees who reached out to a third party for help, four asked friends and acquaintances to either mediate in the conflict or to find alternative work or housing. One European male expressed that he reached out to an acquaintance for alternative work rather than to support organisations due to fear of repressailles at work:

*I was afraid of reporting somewhere as I was afraid of the repressailles I would receive. I first wanted to find another job and then make work of the former job.* (Netherlands, male interviewee from Poland, hospitality (laundromat), EU national).

In all cases where the interviewees asked friends and acquaintances, including in the first focus group, these acquaintances were part of their own migrant community. But only one acquaintance got the migrant worker in contact with support organisations, showing the importance of involving migrant communities in the network of formal support organisations.

All but one of those who reached out to a person in their migrant community were migrants in an irregular situation (three persons), suggesting that this group of victims is likely to seek solutions outside formal support structures. The interviewees already knew these people, through work, the church or by approaching them on the street.

The only interviewee who reached out to a support organisation (Salvation Army) did so to find alternative work and housing. Two interviewees approached a neighbouring employer when they were kicked onto the street after an argument with their employer. The neighbouring employer then assisted them in contacting the police.

Interviewees who were first approached by a third party stated that this contact generated trust that they could come forward and that they would be protected. Half were approached by other victims who had recently come out of exploitative situations and were in contact with support organisations; the other half were approached by law enforcement, which informed them that they could reach out in case they needed protection.

Of the 8 interviewees who did not reach out at all, 4 were discovered during a law enforcement (police/labour inspectorate) raid. Three were discovered after being hospitalised, which involved notifying the police; one was discovered by the military police (*Koninklijke Marechaussee*) at Schiphol Airport. Two of these interviewees had previously been approached by third parties (by another victim who was out of the situation and by the labour inspectorate), but had not acted upon it.

These findings reveal the importance of support organisations and law enforcement actively reaching out to migrant workers and their communities, as well as the importance of health institutions to report to the police. Migrant workers are better able to trust law enforcement officials when they reach out, since they are the ones who will be providing protection. Especially if they wish to reach out to migrants in an irregular situation, support organisations must invest in becoming more involved in migrant communities.<sup>33</sup>

## Factors enabling asking for help

Of the interviewees who reached out for help, most felt bad about their situation and just wanted support in finding alternative housing/accommodation.

*Hope to find another job is the only thing you have, because that is the only bit of security that people can control themselves.* (Netherlands, female interviewee from Poland, agriculture, EU national).

Others actually wanted to be assisted with changing the situation of exploitation. Confiding in someone they trusted, generally a friend or acquaintance in their own migrant community,

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<sup>33</sup> FairWork is very well connected with migrant communities through their cultural mediators. In recent projects (among others AMIF project SAFE!), support organisations (FairWork, CoMensha, HVO Querido PMW) together with law enforcement and the International Organization for Migration are seeking greater contact within migrant communities.

enabled them to ask for help. For those first approached by a third party (another victim under protection or law enforcement), trust was essential for them to come forward.

This shows that the combination of self-identification as a victim of severe labour exploitation (as push factor) and the presence of a trusted alternative (as a pull factor) is essential to provide opportunities to ask for help.

Two interviewees were forced by the situation to ask for help, since they were kicked onto the street with two children, without money or a place to go to.

*The situation escalated. He then put us with the children on the streets. It was bad weather: it was snowing. We had nowhere to turn to (...). We did not know that someone could help us. (...) We never knew. We did not think about asking for help. We had nowhere to go. We just went on the street* (Netherlands, male interviewee from Poland, agriculture, EU national).

### Factors preventing exploited workers from asking for help

Interviewees pointed to several reasons that prevented them from asking for help (sooner). Half of the interviewees, across the different target groups, indicated that unpaid salary kept them from reaching out. They feared that leaving the situation would mean never receiving the money owed to them. Business models were structured in such a way that the employer always owed the migrant worker money. Since money is what they came for in the first place, and because they lacked financial reserves, this kept them in the situation in the false hope that things would improve. Interestingly, several interviewees indicated that they would have accepted the bad working conditions so long as they were paid.

Another important reason not to ask for help was interviewees' lack of knowledge about their rights and the fact that their situation amounts to exploitation in the Netherlands. This was expressed by seasonal workers, EU workers, and those seeking international protection, as well as in the first focus group. Self-identification as a victim of labour exploitation was impossible because many migrant workers were used to similar or worse practices at home, thus preventing them from reaching out (according to four interviewees).

*I did not reach out because I did not know anything. I did not know what labour exploitation is and that it even exists. I felt suppressed, enslaved, but I did not know it could be different, that there were other opportunities. (...) I might have taken action sooner if only I knew about labour exploitation and that there are laws that protect you against it, also when you are an irregular migrant* (Netherlands, male interviewee from Northern Africa, agriculture, migrant in an irregular situation at the time of exploitation).

Almost half of the interviewees, from diverse target groups, explicitly stated that even if they had wanted to ask for help, they would have been unable to do so because they did not know whom to contact. One interviewee mentioned language as an additional barrier to reaching out for help.

Almost all interviewees who are or were in an irregular situation mentioned that their irregular residence status discouraged them from reaching out for help, out of fear of being deported rather than protected (six interviewees). They said employers exploited this fear by constantly emphasising that no one will care about their situation and that they will immediately be arrested once discovered. For one domestic worker, her employer withholding her passport contributed to her not reaching out sooner. But also EU workers were discouraged to seek help as they feared that they would not be believed or protected.

*At a certain moment you are paralyzed by fear: what if I tell it to the police and they do not believe me?* (Netherlands, female interviewee from Poland, agriculture, EU national).

The situation of exploitation itself also prevented migrant workers from reaching out (according to six interviewees). They had to work long hours, without sufficient rest, day in and day out; some also slept at the workplace. As a consequence, they felt shut off from the outside world and isolated. Several interviewees indicated that they were both mentally and physically too exhausted to think about their situation, let alone make strategic decisions about reaching out and to whom.

Three interviewees explained that fear of repercussions if their employer learnt of their attempts to seek help prevented them from taking action. Two interviewees mentioned that their co-workers were friends with the employer's wife; they thus felt there was no safe space to speak out.

*Even if I would have phone numbers and contact details of organisations, I would not dare to contact them, I was afraid that other employees would tell the employer and that I would be sent to Poland within 30 minutes* (Netherlands, male interviewee from Poland, agriculture, EU national).

Lack of trust in support organisations and the overall support structure also prevented migrant workers from reaching out for help. This included lack of trust that support organisations would not report irregular migrants to the police; lack of trust that the police would help them, again mainly among irregular migrants (mentioned by five); and lack of trust in the inspectors monitoring the workplace. This lack of trust in inspectors, expressed by two interviewees, was the result of witnessing the same inspector come in every six months to ask the same questions, receive the same answers, and accepting the situation. During the second focus group participants expressed that they lack trust that they will be supported because of the fact that they are Polish migrant workers.

Finally, one migrant worker with an irregular status did not reach out for help because he felt his employer had done him a favour by hiring him. He did not want to incriminate the employer who had given him this desperately needed chance.

## Organisations that provided assistance

Several interviewees indicated that they were initially supported by other individuals, particularly from their own migrant community, to get out of the situation (four interviewees). This was also reflected in the first focus group discussion, where all participants at some point received formal assistance from a support organisation or authority.

The following organisations provided assistance to the victims:

- Law enforcement: military police (*Koninklijke Marechaussee*) at Schiphol Airport, police, labour inspectorate
- FNV (labour union)
- Embassy
- Migrant support organisations (e.g. Pinoy group, Uganda House, European Network of Filipino Diaspora)
- Victim support organisations (FairWork, SHOP, CoMensha, Salvation Army, Red Cross, Dutch Council for Refugees)
- Shelter organisations (Geeuwenbrug, Wende)
- Lawyers
- Asylum seekers reception centres
- Municipalities



- Hospitals

Within the second focus group participants said they reached out to the Foundation for Compliance with the Collective Labour Agreement (*Stichting Naleving CAO voor Uitzendkrachten*, SNCU) but they did not receive the assistance needed.

### **Kinds of assistance received**

Research participants received different kinds of assistance, ranging from direct help to get out of the exploitative situation to formal assistance concerning legal matters and practical support. The received assistance included the following:

- Almost half of the interviewees, in the O, S, IP and IR target groups, were taken out of the situation by the police or labour inspectorate. The remaining interviewees were first assisted by a third party.
- Two interviewees received medical care as a result of workplace injury.
- All interviewees eventually came into contact with law enforcement (police/labour inspectorate/Royal Marechaussee) in order for them to be granted victim protection and subsequent support, as well as to finally report the situation.
- Some interviewees received support from a neighbouring employer as well as from other victims.
- All but two of the interviewees stayed in a shelter (Wende/Perspektief; Geeuwenbrug; HVO Querido).
- Two interviewees were moved to the asylum centre pending family reunification.
- All interviewees received assistance in meeting social and other needs (provided by support organisations) and legal needs (by a lawyer), also after they left the shelter.

### **Positive experiences and challenges while receiving assistance**

Overall, interviewees were very positive about the support they received after getting out of the situation of exploitation. All interviewees who came into contact with the police (trafficking unit) or labour inspectorate (trafficking enforcement) indicated that they were well treated, assisted and approached. Some expressed being pleasantly surprised by the good treatment, in light of their experiences with law enforcement in their country of origin.

*I was so amazingly surprised by the human approach and touch of the police. I knew I was the underdog, that I was illegal and that I violated the law, so it was a difference of heaven and earth with my birth country (Netherlands, male interviewee from Ukraine, construction, migrant in an irregular situation at the time of exploitation).*

Others were very positive about the proactive action taken by law enforcement when they were in the situation of exploitation. Knowing that they would be supported enabled them to reach out. All but two interviewees had positive experiences with the assistance provided by support organisations, both inside and outside the shelters. All interviewees received support in a language that they understood, with the support of on site and mobile translators when necessary.

Interviewees also indicated challenges in receiving support, including the following:

- Two interviewees had bad experiences with one of the shelters, where they felt that their (financial) situation was mismanaged and their complaints were not taken seriously. They felt victimised again, particularly because it concerned their finances, a central aspect to the entire experience of exploitation.
- Five interviewees who came into contact with the regular police, alien police or the monitoring section (labour conditions/hygiene) of the labour inspectorate (i.e. not the specific trafficking units of law enforcement) indicated that these services did not detect the signs of labour exploitation. In contrast, special THB units in the labour inspectorate

and the police did pick up the signals when confronted with situations of exploitation. Neither did the monitoring authorities of the municipality (focusing on illegal housing) recognise the situation as labour exploitation (according to two interviewees).

- One interviewee reached out to a support organisation (Salvation Army) to ask for help finding alternative work and accommodation. It did not recognise him as a victim of labour exploitation, despite sharing clear signals (20 people in the house, bad working conditions, not being paid).
- Many interviewees (11 out of 16) had no idea about the current status of their criminal proceedings and had limited contact with their lawyers, revealing a lack of communication in legal support (11 out of 16 interviewees who have indicated that court proceedings were on-going (see further below)).

Several interviewees mentioned the employer's continued influence as a challenge while receiving support. One interviewee explained that a victim in another shelter was still in contact with the employer and knew where they were staying. This raised fears of being tracked by the employer. Two other interviewees left the shelter and initially refused to cooperate with the authorities due to peer pressure in the group not to report.

*Within the group there was a worker who kept contact with the employer. He was the only one who had the phone number of the employer, we did not. And we noticed he was continuously in contact with him to inform him about what was happening. Through this worker the employer also warned us not to press charges. As a result no one decided to press charges (Netherlands, male interviewee from Middle East, hospitality (laundromat), beneficiary of international protection). (*

Two others stated that they continued to experience threats from the employer to stop cooperating with the authorities.

Some interviewees found it hard to accept assistance. They felt that they were 'using' the system, while they wanted to work and provide for themselves and their families – a feeling mostly expressed by workers in the O and P categories (six interviewees). Another interviewee stated that the experience of exploitation had created mistrust, making it difficult to trust in the provided support and to receive assistance.

Finally, those who have not been officially recognised as victims of labour exploitation, have not received the assistance that they needed to report the malpractices at the workplace and for their rights to be respected (mentioned by participants in focus group 2).

## Experience of reporting to the police

In the end, all interviewees and most focus group participants decided to report to the police. The most commonly given reason was the desire to see the employer punished (focus group 1 participants and six interviewees). Research participants also mentioned preventing the same thing happening to others (focus group 1 participants and four interviewees), even if this meant putting their own security at risk (three interviewees).

Two interviewees explained that although they were initially hesitant to report because they knew the family of the employer (in one case) and because it felt like betrayal (in another case), ensuing events led them to press charges.

*When I came out of my coma [as a result of an accident at the workplace], my former employer did pay me a visit. He said to me he was sorry about what happened and begged me not to betray him and that he would let me marry his daughter so that she would ensure that I would get a passport and nationality and that I would also live with him, as long as I would not betray him. It was repulsive. He did not have any humanity.*

*He was not concerned with my well-being at all* (Netherlands, male interviewee from Northern Africa, agriculture, migrant in an irregular situation at the time of exploitation).

Six interviewees stated that the trust instilled by the police or the labour inspectorate that they would be protected allowed them to come forward. Interestingly, this included not only seasonal workers, but also those seeking international protection and an interviewee in an irregular situation. One interviewee was convinced by the lawyer of another victim to report.

## Experience of court proceedings

Most interviewees (16 out of 20) stated that criminal court proceedings (on counts of human trafficking or others) were on-going.<sup>34</sup> Three interviewees had no idea about whether criminal court proceedings had been started and for one interviewee and all of the focus group participants, no court proceedings had been started by the time of the interviews/discussions.

Of those interviewees whose case was still under consideration, three mentioned that their case was still under investigation, while five others mentioned theirs was brought to court but was still in its preliminary phases. Nevertheless, most of the interviewees (11 out of 16) who said that criminal court proceedings were on-going had no idea about the current stage of their criminal proceedings and had only spoken to their lawyer once or twice. Information provision in the legal proceedings therefore appears ineffective. Interviewees who went to court mainly referred to situations where they were interrogated by the defendant's lawyer; they were not confronted directly with the defendant. This experience was considered intimidating (according to six interviewees).

*I went to court twice. They interrogated me two days, total of 5 hours. That time I almost had a depression. Because the lawyer of the employer asked me many questions: why are you like this, why did you do this. I almost got a depression. It was so hard.* (Netherlands, female interviewee from Asia, domestic work, regular migrant).

In her particular case the criminal court proceedings led to a successful conviction, where the employer was convicted for human trafficking for purposes of labour exploitation and sentenced to 6 months imprisonment and compensation of several thousand euro to be paid to the victim (and more to other victims). But as the employer appealed, the victim fears that the employer will not be imprisoned after all.

With half of the interviewees (who are considered victims of THB for purposes of labour exploitation) it was discussed whether other than criminal proceedings are instigated to acquire compensation. While some interviewees stated that they have discussed this possibility with their lawyer, none had actual knowledge about whether these proceedings (civil or otherwise) were actually started.<sup>35</sup> This is a particular point of concern. The sharing of information about the possibilities to acquire compensation and to remain updated about the state of affairs is important for the migrant workers' feeling that their rights are respected and ensured. In the first focus group the importance of compensation was generally stressed in order to feel justice being done.

*How you are in the situation [of exploitation], is like a prison. You cannot do what you want. And if the employer is punished with six months imprisonment, where is your*

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<sup>34</sup> Although some interviewees stated that criminal proceedings were ongoing, the researcher later found that their cases had already been dismissed.

<sup>35</sup> Apart from requesting compensation in criminal or civil proceedings, victims can rely on the Violent Offences Compensation Fund (*Schadefonds Geweldsmisdrijven*) for compensation. Yet, for victims of labour exploitation to rely on this fund threat or actual frequent use of physical violence (or the threat thereof) needs to be inflicted, which is not always the case in relation to victims of labour exploitation. The fund may reward compensation from €1.000 to €35.000. For more information on the Violent Offences Compensation Fund, see: <https://schadefonds.nl/en/missie-visie-en-doelstellingen/> and [www.wegwijzermensenhandel.nl/organisatieprofielen/SchadefondsGeweldsmisdrijven.aspx](http://www.wegwijzermensenhandel.nl/organisatieprofielen/SchadefondsGeweldsmisdrijven.aspx)

justice then? (...) So if he receives six months, plus your money back, then the person feels better than only with imprisonment. (Netherlands, male focus group participant from Morocco, service/hospitality, irregular migrant at the time of discussion).

Whereas the issue of compensation was not discussed on an individual basis in the first focus group, in the second focus group none of the participants have had access to compensation (through court or otherwise). Their requests for assistance in this respect have remained unanswered (focus group 2 participants).

## Access to information about rights

With the exception of four interviewees who previously had decent jobs, almost all interviewees and focus group participants knew nothing about workers' rights before starting their job. This added to their vulnerability. Although it was clear that conditions were violated, many interviewees did not know that their situation was so severe that it amounted to labour exploitation in the Netherlands. They were told about their rights only after getting out of the exploitative situation, by the police (three-quarters of interviewees), support organisations (one-third of interviewees), or by a lawyer and the trade union (two interviewees).<sup>36</sup> One interviewee stated that he was not informed about worker's rights at all .

## Level of satisfaction with current situation

On the whole, most research participants were pleased with their current situation. Although it takes time to rebuild, they were slowly regaining the feeling of having a future. Interviewees mentioned aspects such as feeling safe, having a house, a decent job, and being reunited with family as adding to their level of satisfaction with their current situation.

Research participants nevertheless identified areas for improvement. Most referred to their desire to work to rebuild their lives. Mostly interviewees from the O category stated that being in the shelter and/or being unemployed made them feel that they were taking advantage of the system (four interviewees). They were eager to feel useful again.

*I am upset about it, with my hands in my hair, that I am not working, I am doing nothing. I am just sitting, I am just waiting. I do not know anything. I am waiting, for what? This [shelter] is a beautiful place, the employees are great, sweet, nice, they love us, you see it in all they do, but I have too much spare time. I cannot work, I want to work, I am so eager to do something useful. (...) I can imagine what they think [mentors of shelter], all those people, they worked like the devil, day and night, just let them get their rest. But I am not 80. I do not know what to do with myself. I want to continue. I want to start working tomorrow. But how?* (Netherlands, female interviewee from Hungary, car wash, EU national).

While they are allowed to work despite their victim status, being in a shelter at times practically prevents victims from finding a job (e.g. when it is remotely situated). Some of the research participants think that they are not allowed to work while they can. For third country migrants who have acquired temporary residence on the basis of their victim status, it proves difficult to find employers who want to hire them due to their temporary residence status. Three interviewees said they want to receive their due payment but know that this will be difficult. Finally, one interviewee still needed medical care for the injuries incurred in the situation of exploitation.

## Conclusion

Migrant workers were generally unaware of their rights and that their situation amounts to labour exploitation in the Netherlands, making them more vulnerable to exploitation. They had

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<sup>36</sup> Some interviewees were informed by several institutions.

no idea how to reach out to support organisations and doubted whether law enforcement could be trusted (particularly for those with an irregular status). Victims of exploitation mostly relied on third parties to reach out first. In several cases inspections had taken place but the situation of exploitation was not identified. While the assistance provided was generally well received, challenges remain in informing migrant workers about their rights, about what constitutes labour exploitation, and about the state of their criminal proceedings. In practice it is difficult to realise compensation including for unpaid wages. Being able to support oneself emerged as a key theme in feelings of satisfaction; having one's own place to stay and a decent job were among the frequently mentioned factors that contributed, or will contribute, to victims' sense of well-being. Support needs to be directed towards making the transition to independence as quickly and smoothly as possible.

## Ways forward and prevention

In the interviews and focus groups, migrant workers were prompted to think of measures that would encourage victims to reach out and get out of the situation (sooner) as well as measures which would contribute to preventing labour exploitation all together. The interviewees and participants in the second focus group discussion generally found it more difficult to speak about such overarching issues than about their own experiences. This was less apparent in the first focus group discussion.

Exploited migrant workers will not easily reach out themselves; according to most research participants, proactive action by third parties is required. Whereas most participants saw a central role for law enforcement and, to a lesser extent, for support organisations – in the end it is the police/labour inspectorate that needs to provide them with protection and who have a mandate to enter work places – some also referred to the importance of ordinary civilians to signal and report situations of exploitation. Interviewees saw this as a significant addition to action taken by law enforcement, since the labour inspectorate and police have limited capacities to be proactive and therefore also depend on others to report. Self-reporting by victims was generally not considered a self-evident course of action since they are trapped in the situation.

The most frequently mentioned preventative measures concerned providing information and raising awareness. Apart from explaining why the information is needed (e.g. to reduce vulnerability), research participants suggested what information needs to be given (about labour rights, exploitation, and where to turn in case problems arise) as well as when and how this information can best be provided. Numerous research participants suggested that much more attention should be given to establishing trust in the authorities, emphasising that they will protect migrant workers when their rights are violated. Finally, considerable attention was given to the prosecution of perpetrators. Only helping workers get out of the situation means letting the exploitation of others continue. Here, interviewees referred to criminal prosecution, imprisonment, and paying outstanding salaries/compensation as suitable ways of punishing employers. Others mentioned the importance of public attention to labour exploitation and firm action taken against it to deter employers from exploiting workers.

The table below shows the interviewees' answers at a glance. They are explained one by one below.

Recommendations on prevention and ways forward	Number of interviewees	Number of focus group participants
Third party involvement required before reaching out	13/20	2/9
Would not accept the job today under same poor conditions	20/20	9/9
Would accept the job under same poor conditions while being paid	1/20	0/9
What is needed to feel safe, respected and protected <ul style="list-style-type: none"> <li>- Receive contract</li> <li>- Restore lack of trust</li> </ul>	6/20	0/9

<ul style="list-style-type: none"> <li>- Receive information in understandable language</li> <li>- Receive information about worker's rights</li> <li>- Knowing that rights will be protected</li> </ul>	3/20	0/9
	4/20	2/9
	7/20	4/9
	3/20	2/5
Prevention through information about worker's rights, exploitation and how to reach out	17/20	3/9
Offering information through the internet	0/20	5/9
Offering information through other avenues	3/20	2/9
Offering information how and when one can legally work in the Netherlands (receiving social security number, work visa, or residency)	5/20	0/9
Offering information through migrant communities	2/20	5/9
Prevention through raising awareness about the existence of labour exploitation and how to recognise it	6/20	2/9
Prevention through sharing own experience in country of origin	2/20	0/9
Prevention through proactive action by third parties and regular and efficient controls	10/20	6/9
Prevention through punishing employers	5/20	3/9
Prevention through better access to the labour market	1/20	0/9

Prevention through setting minimum working standards in the EU	1/20	0/9
Prevention through addressing discrimination on the Dutch labour market	1/20	5/9

### Accepting the job today despite the conditions of labour exploitation

None of the interviewees said they would accept the same job today. Only one said that he would accept the job if he were paid; he explicitly stated that it was not the severe labour conditions that made him feel exploited, as he accepted these, but the fact of not getting paid:

*I thought that the work would be really hard. I knew it. I was prepared for it. Generally I have such an attitude in life. That I expect the worst and if it is better than expected then I am lucky. But the severity of the work tasks was not the problem. I was prepared for it, but the financial compensation, that became the problem. If I had been paid normally, then I would have accepted all the other circumstances (Netherlands, male interviewee from Ukraine, construction, migrant in an irregular situation at the time of exploitation).*

Another interviewee, also an irregular migrant, admitted that although he would not accept the same conditions today, his irregular migration status made it more difficult to find a job where his rights are observed. Companies that strictly respect labour conditions will not hire him due to his irregular status, forcing persons to accept any job that is offered just to get by.

Several suggestions concerned the kinds of safeguards needed for workers to feel safe and protected. Most interviewees mentioned the importance of receiving a contract in a language people understand. Three interviewees mentioned receiving all information in a language they understand before agreeing to it or signing a document, which they related to the issue of trust. Many mentioned employers observing their rights as workers as a condition for accepting a job. The importance of payment was mentioned by almost half of the interviewees as an important condition to accept a job and to keep working. As one interviewee explained:

*I want to work under good conditions, so that I can support my family and that my children can go to school. My children quit school because I cannot send them money anymore. My situation is actually quite sad (Netherlands, male interviewee from the Philippines, transport sector, regular migrant (posted worker) at the time of exploitation).*

Three interviewees indicated that their contact with support organisations will continue to be of use as they are able to reach out to them to double check whether a new work situation can be trusted and when problems might arise in the future.

### Advice to other workers

When asked about the advice they would give to others in similar situations, the responses of interviewees were quite diverse, depending on the extent to which they remained caught up in their own situation and experience.

Four interviewees, in different target groups, wish to reach out and advise others in situations of exploitation. Due to their own experience, they were, to varying extents, committed to advising and warning others. Their agency was reflected in the empowerment they hoped to awaken in other workers who remained in situations of exploitation. As one interviewee remarked:



*The most important thing is that people don't give up. They have to stand up and fight, that's all* (Netherlands, male interviewee from Bulgaria, agriculture, EU national).

Not all persons who have experienced labour exploitation feel empowered to stand up for their rights, let alone for the rights of others. Most interviewees were still very much caught up in their own experience and did not see how they could be of any assistance or advise others to come forward.

*What can I advise? I am having my own difficulties. Other persons probably too and therefore will keep their mouth shut. Just like I did in my situation* (Netherlands, male interviewee from India, service/hospitality (restaurant), migrant in an irregular situation at the time of exploitation).

Several interviewees mentioned that efforts would be better directed towards preventing labour exploitation in the first place. They mentioned the importance of offering proactive advice before people start their job and ensuring that they know about workers' rights and receive a contract in a language they understand before agreeing to its terms (according to five interviewees).

Based on their experience, many interviewees questioned whether persons in a situation of exploitation would even reach out for advice from others. They thought most people would remain in the situation without asking anyone for help:

*Someone who is in such a dire situation, that person cannot help himself. You can advise him 100 times, he cannot help it. This is because he is strangled, pushed in a corner. He is paralysed and just works and sleeps. Physically, mentally, in any way that person is so exhausted that you cannot think about the situation you are in, let alone do something about it. You simply do not have that luxury if you are in the middle of the situation. That is why only someone from outside can do something about it* (Netherlands, male interviewee from Hungary, car wash, EU national).

If a severely exploited worker reached out for advice, many interviewees said they would try to convince the person that their situation will not improve so long as they remain in the situation, and that what they are waiting for (e.g. being paid) will never happen as they are being tricked.

*If someone is actually working there, as I did, I would advise them strongly to go away, as fast as they can. Everything is better than the situation they are in. Your financial situation will not improve as long as you work there. You will not proceed. It is a hopeless situation, a bottomless pit* (Netherlands, female interviewee from Hungary, car wash, EU national).

Most interviewees who would advise reporting the situation recommended going to law enforcement rather than to support organisations. Four interviewees recommended stressing that law enforcement can be trusted and that rights will be protected, irrespective of migration status. But one interviewee said that if the person was an irregular migrant, he would advise them to find another job rather than report to the police.

Even when advice is given (proactively), this is no guarantee that the person will actually get out of, or report, the exploitative situation – particularly when it involves irregular migrants (according to three interviewees). According to the interviewees, many people, if they reach out at all, will only reach out when they are already trapped in an exploitative situation and are looking for alternative job opportunities and ways to receive their due payment. By not reporting the situation to the police, they allow the exploitation of others to continue. Interviewees referred to fear of their own (financial) situation (including reprisals by employers,

irregular migration status) and the fear of not being believed/protected by the police as reasons for persons in situations of exploitation not to report.

*I do not have to imagine running into someone who is in the same situation I was in, because I know many and I speak with them, tell them what I decided and advise them in the same way. But until now, no one thinks even one second to do the same, because they all started working for other employers in the Netherlands. They need the money and they are worrying about their families and they do not want to report as an irregular migrant. I understand that it works this way and that for people it is most important to take care of themselves and not only for the good against the evil (Netherlands, male interviewee from Ukraine, construction, migrant in an irregular situation at the time of exploitation).*

This is a well-known strategy for irregular migrants who encounter exploitative practices. They reach out to others, mostly in their own migrant communities, to change their situation. This was also reflected in the first focus group discussion.

Because the chance of recovering outstanding salary after reporting to the authorities is small, the choice is often made not to bring the situation to the attention of the authorities. All research participants with an irregular status confirmed this. One interviewee explicitly stated that if asked for advice, he would not recommend an irregular migrant to go to the police, but to find alternative work – a strategy he recognized allows the employer to continue exploiting others. According to numerous interviewees, this is precisely why employers like to hire irregular migrants; they can be exploited easily and the likelihood of them reporting the situation to law enforcement is small.

## **General safeguards to feel safe, respected and protected now and in the future**

For workers to feel safe, respected and protected while working in the Netherlands, many research participants stressed the importance of knowledge of workers' rights, including about labour conditions that must be observed. This includes information about the existence of labour exploitation, what it precisely entails, and the avenues for seeking help in case workers' rights are not protected. Information needs to be provided in a language the migrant worker understands. The lack of Dutch language skills was considered a barrier to suitable job opportunities as well as adding to migrant workers' vulnerability to exploitation.

Several interviewees stressed the importance of not only knowing about workers' rights but, perhaps more importantly, knowing that their rights will be protected if violated. In that sense it is of crucial importance, as three interviewees highlighted, that efforts are undertaken to convince migrant workers that the authorities can be trusted and that their rights will be protected. Some emphasised that establishing trust in the authorities will be more challenging for those in an irregular situation. This again shows the importance of disentangling responsibilities, particularly for the labour inspectorate, which checks both illegal employment and labour conditions.

One interviewee as well as the second focus group participants observed that the current practices of (Polish and other) recruitment agencies keep migrant workers from fully enjoying their rights and, ultimately, contribute to their vulnerability to labour exploitation. Recruitment agencies offer contracts for a maximum of 78 weeks; after six months of non employment, the person can be employed again. This prevents workers from fully enjoying their rights, as they remain in starting positions. Based on the Collective Agreements for Recruitment Agencies (ABU and NBBU) recruitment agencies make use of a phased system, wherein the temporary workers obtain more rights and better (dismissal) protection the longer they work for the

recruitment agency.<sup>37</sup> Depending on the particular Collective Agreement applicable, the system is divided into phase A-C (ABU) or phases 1-4 (NBBU) and gradually grants more protection and a permanent contract. In practice, many migrant workers (all of those in the second focus group) who are employed through a recruitment agency are kept in the first phase for many years, sometimes even for their whole working life. They will be working on paper for several recruitment agencies (allowing the temporary worker to be off the payroll for a few weeks to make them fall back to week 0 in the first phase again), while in fact working for the same. In this way the workers are not building up more rights and better (dismissal) protection, making them more vulnerable to abuse. Therefore it was recommended by the interviewee as well as the focus group participant to adjust this system to limit abuse and vulnerability of the workers.

Finally, one interviewee made an important recommendation to EU policy makers. The differences in working standards in EU countries, he noted, allows for situations of labour exploitation to continue. As long as minimum working conditions are not equal, there will always be people who accept lower standards, based on their own experience in their country of origin. He believed that labour exploitation can be prevented only by equalising the standard for all countries. By not dealing with this issue, EU countries are contributing to the existence of labour exploitation in the EU.

## **Prevention – ideas and proposals about what measures could be taken to prevent labour exploitation and what could help workers to come forward**

While many had ideas, some found it difficult to provide answers. A quarter of the interviewees thought it difficult, even impossible, to prevent migrant workers from being exploited for the simple reason that there are always employers who want to exploit and always people willing to accept conditions others would not. It is difficult to break the circle of exploitation. Interviewees' ideas on preventing exploitation, grouped in categories, are presented below.

### **Informing migrant workers about rights, exploitation and avenues for help**

By far the most frequently mentioned suggestion to prevent labour exploitation, by both interviewees and focus group participants, was to inform people about their rights, about what constitutes labour exploitation, and how to reach out in case problems arise. Being unaware of their rights and about the existence and nature of labour exploitation in the Netherlands made them, they said, more vulnerable to exploitation.

*Nobody provided me with information about labour rights in the Netherlands upon arrival. At school we receive information about insurances, about health care, but nothing about labour rights. That information may have prevented me from accepting the job (Netherlands, male interviewee from Middle East, hospitality (laundromat), beneficiary of international protection).*

*People who arrive in the Netherlands do not know anything about their possibilities of where to turn to and which institutions to call. They don't know what is out there, since they do not speak the language (Netherlands, female interviewee from Hungary, car wash, EU national).*

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<sup>37</sup> In the Netherlands there is one generally binding collective agreement for recruitment agencies which is the ABU Collective Agreement. Further many recruitment agencies apply the NBBU Collective Agreement. In general terms both collective agreements are similar.

Interviewees underlined the importance of informing migrant workers that law enforcement can be trusted, and that when they reach out, they will be supported, regardless of their irregular situation. Information might include an explanation of why law enforcement can be trusted; if workers remain hesitant, they can first be advised by a support organisation, which will explicitly not inform the police unless the migrant worker agrees. One-third of the interviewees highlighted this point, which was also confirmed in the first focus group.

### *How to inform*

Several interviewees made suggestions about how and when this information should be given. While participants in the first focus group suggested the internet, and especially Facebook, three interviewees claimed the opposite. They stressed that although much information can be found online, they were unable to find the relevant information .

*While there might be information currently on the internet, it is not easily found/accessible, so it has not been useful* (Netherlands, male interviewee from Bulgaria, agriculture, EU national).

Interviewees and focus group participants agreed that information should also be given personally – either orally, on paper, or in a different format – in a language they understand.

### *When to inform*

Interviewees had many ideas about when this information is best provided. Given their freedom of movement, one interviewee thought providing information to EU migrants would be more challenging. Nevertheless, EU citizens who wish to work in the Netherlands must go to the city hall to apply for a social security number – a good moment to provide information (according to two interviewees).

For asylum seekers, two interviewees suggested that information should be provided at the very moment this status is granted, when information is also provided about other obligations in the Netherlands such as having health insurance. As the migrant can hereafter legally enter the job market, it is a timely opportunity to explain about rights, exploitation and avenues for help in case problems arise. For migrants coming to the Netherlands on a visa, one interviewee suggested offering information at the embassy in the country of origin when the visa application is processed.

The most difficult groups to reach are irregular migrants and EU migrants who do not register. For these groups, focus group participants pointed to the importance of migrant communities, shops selling products from migrants' countries of origin, churches, and mosques for offering information about rights, exploitation and avenues for help.

One interviewee went as far as recommending that EU migrants be supervised, monitored or guided in their first weeks in the Netherlands. Although this sounds costly, he believed that it would save money in the end ('better prevent than cure').

Interviewees differed in their opinions about whether providing information in the country of origin would be effective. Some indicated that it would be useful. Others doubted whether the information would reach the right people, or whether recipients would believe the information or think it a strategy to discourage migration.

## **General awareness about labour exploitation**

### *In the Netherlands*

Several interviewees suggested that it is important that more people know about the existence of labour exploitation in the Netherlands. Many did not know that the phenomenon existed in a well-developed country like the Netherlands. This was confirmed by participants in the first

focus group. Little information is provided through mainstream media about the nature and scope of labour exploitation in the Netherlands, what has been done about it, how it can be recognised, and where it can be reported. This adds to vulnerability because self-identification as a victim of exploitation is, as the research participants shared, then made more difficult.

Greater attention to labour exploitation will have a preventative effect, interviewees believed, as more people would be aware of it. It may increase reporting since ordinary civilians will be able to recognise the signals as well. It may also contribute to countering the stereotype that some groups of workers can work for less and under different circumstances, because their situation at home is even worse. More action to combat labour exploitation (through monitoring, prosecution) could also have a deterring effect; if the chances of getting caught are higher, employers and intermediaries will think twice before exploiting people.

*I never hear about it [labour exploitation]. Not on the streets, not via friends. I have never heard about it (...). No attention is given to it. Why is there no radio spot or something in the newspaper? So that employers hear and also the middlemen who arrange jobs for irregular migrants. If the perpetrator hears about it on the television or on the radio, then he might be more careful, then he might think twice to do it because there are many people arrested. Maybe then it stops (Netherlands, male interviewee from Northern Africa, agriculture, migrant in an irregular situation at the time of exploitation).*

### **In the country of origin**

Two interviewees expressed their wish to share their experiences in their country of origin to warn about the dangers of labour exploitation abroad. But one of them remained hesitant; there could be repercussions for his family as the criminal network runs from the Netherlands to his country of origin.

### **Need for proactive action and regular and efficient controls**

Interviewees generally thought that victims of labour exploitation will not reach out themselves as they are trapped in the situation of exploitation. Proactive (third party) action is needed, preferably by law enforcement agencies (police/labour inspectorate) as they have the mandate to enter the workplace and to offer protection.

*Support needs to come from outside, and particularly law enforcement is an important trigger to leave the situation, knowing that the police is on your side. Support from support organisations will not have the same effect. People will still be afraid that they will not be protected/believed by the police (Netherlands, male interviewee from Poland, agriculture, EU national).*

Several interviewees expressed reservations about the effectiveness of monitoring inspections. While in the situation of exploitation, they had witnessed inspections but their situation had not been noticed. In one situation, although several controlling authorities (police on suspicion of drug trafficking; municipality for illegal housing; labour inspectorate for labour rights) were involved, the situation of exploitation remained unnoticed for a long time. This made two interviewees feel as if the authorities were cooperating with the employer.

*I had absolutely no trust in the Dutch State anymore because of the work methods of the labour inspectorate (controls). The labour inspectorate just worked on automatic pilot. They announced they would be coming, discussed it with the employer, when they would come and which questions they would ask. Those exact questions they asked and they just were satisfied with the answers despite the fact that all the employees gave precisely the same answers. They wrote it down and then it was handled.(...) I find it strange that such a work method is accepted by people higher up. That was completely different when I spoke with the [THB specialised] people of the labour inspectorate [law*

*enforcement] who did wonder about certain things. (Netherlands, male interviewee from Hungary, car wash, EU national).*

Research participants had numerous suggestions about how monitoring can be improved:

- Inspectors need to be changed regularly; inspections must be unannounced and ask different questions.
- Workers should not be questioned about labour conditions in the presence of the employer or other workers.
- Getting the same answers on each inspection does not necessarily mean that the employer is doing a good job but that employees are well instructed. In general, agencies should be more suspicious when things seem too well.
- Although controls having specific mandates (hygiene, labour conditions, illegal housing, criminal activities), there should be attention to the circumstances of workers and some coordination between these controls, particularly for companies in sectors at risk of exploitation.
- Inspections should focus on risk sectors and companies that advertise solely on the internet, without an intermediary.

## **Punishing employers**

A quarter of the interviewees referred to the importance of punishing employers as a way to prevent further exploitation and for workers to move forward. This was also confirmed in the first focus group. Interviewees were keen to see exploiters punished.

*That the one who abused you, that that man is punished. That he feels what he has done, that is important (Netherlands, male focus group participant from Morocco, service/hospitality, irregular migrant at the time of discussion).*

Focus group participants also stressed that punishments must be increased for exploitation to stop. They agreed that a crucial way to achieve this is to ensure compensation/payment of outstanding salary. Alongside imprisonment, they felt this to be a vital part of justice being done.

*If you are there for four years, it is like a prison. You cannot do what you want. And if the employer is punished with six months' imprisonment, where is your justice then? (...) So if he receives six months, plus your money back, then the person [who is exploited] will feel better than only with imprisonment.*

The importance of the employer paying outstanding salary was also stressed by some of the interviewees. Easing the process of collecting due payment may well increase the number of migrant workers coming forward, as it is the money that keeps them trapped in the situation. It would also hit the perpetrator where it hurts most. If employers know that they will eventually have to pay, this could deter them from exploiting workers in the first place.

## **Better access to the Dutch labour market**

One interviewee mentioned providing improved access to the Dutch labour market as a way to prevent exploitation. One interviewee and the second focus group participants referred to discriminatory practices that prevent migrants from getting decent and suitable jobs, pushing them into situations of exploitation and even criminality. Recruitment agencies prevent migrant workers from enjoying full social security rights by not allowing them to work for longer than two years without a half-year break.

## **Setting minimum work standards in the EU**

One interviewee recommended that the EU commit to uniform minimum working standards as the existence of different standards across the EU is an important factor allowing labour exploitation to continue.

## Conclusion and some other observations

This report focused on the experiences of migrant workers who have suffered severe forms of labour exploitation in the Netherlands. It sought to provide first-hand evidence about the nature of labour exploitation, as well as the push and pull factors that place migrant workers at risk of labour exploitation. The experiences and views of migrant workers in asking for help, receiving support, and accessing justice – as well as their recommendations for prevention and how to encourage exploited migrant workers to come forward – contribute to our understanding of what works, and what does not, in policies and practices to prevent and respond to instances of severe labour exploitation in the EU.

For labour exploitation to be combatted effectively, multi-stakeholder involvement is necessary. Considerable effort is still required to improve and maintain multi-stakeholder involvement and to ensure effective cooperation and communication between all relevant institutions and parties. The slow process of engaging the private sector is a particular concern, as is awarding presumed victims of labour exploitation the required protection.

Research on the risk factors for labour exploitation showed that all kinds of factors related to being a migrant makes this population vulnerable. Their lack of knowledge of the language, the country, their rights, and where to turn in case problems arise all add to their vulnerability. Being unaware of workers' rights and what constitutes labour exploitation in the Netherlands also places them at greater risk as it is more difficult to self-identify as a potential victim of exploitation, particularly for migrants who come from countries where labour conditions are similar to or worse than conditions in the Netherlands. The legal status of migrant workers influences the level of vulnerability: irregular migrants are more vulnerable to severe forms of exploitation than others. What we have further witnessed is that discrimination at the workplace exists, expressed particularly by European migrant workers. This same group also points once more towards the role of recruitment agencies that still needs more addressing.

The majority of migrant workers in this research stated that, despite the importance of having more information about their rights and whom to contact, the likelihood of exploited workers reaching out for help remains low, and that getting out of the situation largely depends on third parties reaching out first. Greater efforts are thus necessary to encourage proactive action by third parties. Interestingly, many migrants preferred the involvement of law enforcement to that of support organisations. Yet, at the same time it is witnessed that labour inspectors (controlling the workplaces) often miss signals of trafficking. Therefore much more attention needs to be given to training inspectors on combining signals but also efforts should be undertaken in making inspections more spontaneous in order to make them more effective. In cases of irregular migration status, the migrant community is an important third party to reach out to. Therefore, investing in relations with migrant communities and institutions so that they can form the bridge between victims of labour exploitation and formal support structures is a priority. Although considerable efforts have been made in this regard, much remains to be done. Action to ensure rapid transition to alternative work was a leading concern among research participants; this would give them a sense of ownership over their own lives, rather than being dependent on support structures. Furthermore, most research participants, while knowing that criminal proceedings were ongoing, had no idea about the current status of the proceedings. Action is necessary to structurally improve the flow of information from lawyers, if necessary through support organisations.

Finally, the research collected migrant workers' suggestions on how to prevent labour exploitation and to encourage victims to come forward. The most frequently identified preventative measures concerned providing information and raising awareness: about labour rights, about exploitation, about where to turn in case problems arise. There were many suggestions on when and how to provide this information. Numerous interviewees



emphasized that greater efforts are needed to establish trust in the authorities, that they will protect migrant workers when their rights are violated. Finally, migrant workers emphasised the importance of going after employers – through criminal prosecution, imprisonment, and payment of outstanding salaries/compensation – as a means of prevention. Many pointed to the importance of public awareness-raising e.g. through radio spots and punitive action to deter future employers from exploiting migrant workers. And last but not least, it was suggested that the general public could play a more active role in reaching out in situations of exploitation and therefore awareness raising campaigns should also be focused on the general public.

## ANNEX 1 – Desk Research template

Please answer the below questions in reference to the situation in your country. The information you provide should reflect the situation in your country at least as of 30 June 2017 (even more up-to-date information is welcome).

Where the answer is 'No', kindly indicate which sources were consulted.

For all information, please provide full references in accordance with the FRA style guide.

1 LEGISLATION and POLICY				
<p><b>For each question, please place an 'X' in the relevant box ('Yes' or 'No') and, under 'Supporting information', provide the following information:</b></p> <ul style="list-style-type: none"> <li>• Name the relevant law;</li> <li>• Provide a brief English translation of the most relevant parts of the relevant provision/definition or give a brief explanation of the contents;</li> <li>• In the reference, please include a link to the electronic version of the text in original language – and if available, to any official or unofficial English translations.</li> </ul>				
		Yes	No	Supporting information
1.1	<p>Based on a review of the information provided in Annex III published by FRA in 2015 – '<i>Criminal law provisions relating to labour exploitation</i>'<sup>38</sup> – have there been any changes to or new legislation in the area of criminal law relating to labour exploitation?</p> <p><b>If yes</b>, please provide information under 'Supporting information' (i.e. which law; explanation of relevant provision and reference).</p> <p><b>If no</b>, is there any draft legislation underway?</p>		xxx	<p>No draft legislation is underway to adjust the criminal provisions relating to labour exploitation (Art. 273f Sr Dutch Criminal Code, criminalising human trafficking for labour exploitation). Labour exploitation is still only criminalised under the human trafficking provision; it is not a separate offense.</p> <p>In 2016 further legislative proposal initiated that, when enacted, will establish a duty of care in relation to child labour for companies based and operating in the Netherlands. After being approved in the Lower House on 7 February 2017, the bill is now being examined by the Senate. The bill will oblige companies to submit a declaration including due diligence and an action plan addressing any risk that may be uncovered. A monitoring body will review the declaration. The bill also allows for punitive measures in the form of administrative fines, and even criminal prosecution.</p> <p>On 8 August 2017 the Netherlands has ratified the Protocol of 2014 to the Forced Labour Convention, the bill approving the protocol entered into force on 1 August 2017. The protocol itself will enter into force 8 August 2018.</p>

<sup>38</sup> Please download Annex III from <http://fra.europa.eu/en/publication/2015/severe-labour-exploitation-workers-moving-within-or-european-union>.

				<p>Sources</p> <p>Initiatiefvoorstel Kuiken (legislative proposal), see: <a href="https://www.eerstekamer.nl/wetsvoorstel/34506_initiatiefvoorstel_kuiken">https://www.eerstekamer.nl/wetsvoorstel/34506_initiatiefvoorstel_kuiken</a>;</p> <p>Vote of the Lower House, see: <a href="https://www.eerstekamer.nl/behandeling/20170207/stemmingsoverzicht_tweede_kamer">https://www.eerstekamer.nl/behandeling/20170207/stemmingsoverzicht_tweede_kamer</a></p> <p><a href="https://www.eerstekamer.nl/behandeling/20170207/gewijzigd_voorstel_van_wet">https://www.eerstekamer.nl/behandeling/20170207/gewijzigd_voorstel_van_wet</a></p> <p>Rijkswet van 19 april 2017 tot goedkeuring van het op 11 juni 2014 te Genève tot stand gekomen Protocol van 2014 bij het Verdrag betreffende de gedwongen of verplichte arbeid (Trb. 2015, 32 en Trb. 2015, 194),</p>
1.2	<p>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?</p> <p><b>If yes</b>, for what time period is such exclusion provided?</p>	<p>3. x x</p>		<p>Wet bevordering integriteitsbeoordelingen door het openbaar bestuur; hereafter: BIBOB Act (Act on the advancement of integrity assessments by public authorities) allows public authorities to exclude employers from entitlements to public benefits, aid or subsidies, in case there is serious danger that the entitlements will be used to commit criminal offences or if criminal offences have been committed. As human trafficking for purposes of labour exploitation (art. 273f Dutch Criminal Law) is a criminal offence, this ground for exclusion is applicable to employers who are convicted for labour exploitation as well.</p>

			<p>The assessment of danger is done by the Bureau for the advancement of integrity assessments by public authorities (Bureau bevordering integriteitsbeoordelingen door het openbaar bestuur or BIBOB Bureau) which then advises public authorities.</p> <p>Municipalities determine themselves when a BIBOB control (i.e. when it concerns a risk sector) is conducted.</p> <p>Wet bevordering integriteitsbeoordelingen door het openbaar bestuur 2002  <a href="http://wetten.overheid.nl/BWBR0013798/geldigheidsdatum_21-08-2014">http://wetten.overheid.nl/BWBR0013798/geldigheidsdatum_21-08-2014</a>.  <a href="https://www.justis.nl/producten/bibob/wet-bibob/toepassingsbereik/index.aspx">https://www.justis.nl/producten/bibob/wet-bibob/toepassingsbereik/index.aspx</a></p>
1.3	<p>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)?</p> <p><b>If yes</b> – for which crimes? Are criminal forms of labour exploitation among the relevant offences?</p> <p><b>If yes</b>, on which legal basis, and briefly explain to what extent (e.g. 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?</p>	4. x x	<p>An amendment to the 2012 Procurement law was adopted in 2016 to implement the EU Procurement Directive (2014/23/EU), requiring exclusion of employers for public procurement/concessions once convicted of child trafficking and any other form of human trafficking, including labour exploitation.</p> <p>The amendment adjusted <u>article 2.86 2012 Public Procurement Law (Aanbestedingswet)</u> which contains the exclusion grounds for participating in public procurement procedures. It now excludes from participation those who have been <u>irrevocably convicted of child trafficking or any form of human trafficking</u>, thus including (criminal forms of) labour exploitation. Other criminal offences include: participation in a criminal organisation; bribery; fraud; money laundering; and terrorism.</p> <p>The exclusion grounds can also be applied to sub-contractors but it has not been a strict condition (thus left to the specific procurement procedure for it to be included).</p>

			<p>The BIBOB Bureau can assist in advising public authorities on these matters (see above).</p> <p>Data on how often it has been used is not publically available.</p> <p><u>Sources:</u>  Wet van 22 juni 2016 tot wijziging van de Aanbestedingswet 2012 in verband met de implementatie van aanbestedingsrichtlijn en 2014/23/EU, 2014/23/EU, 2014/24/EU (Amendment Law of 22 June 2016) (<a href="https://zoek.officielebekendmakingen.nl/stb-2016-241.html">https://zoek.officielebekendmakingen.nl/stb-2016-241.html</a>)  Aanbestedingswet 2012 (Public Procurement Law 2012) (<a href="http://wetten.overheid.nl/BWBR0032203/2016-07-01#Deel2">http://wetten.overheid.nl/BWBR0032203/2016-07-01#Deel2</a>)</p>
1.4	<p>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, <u>and/or</u> 2) to withdraw a licence to conduct a business activity?</p> <p><b>If yes</b> – for which crimes? Are criminal forms of labour exploitation among the relevant offences?</p> <p><b>If yes</b>, how often was this provision used since 2014?</p>		<p><u>1) Closing down an establishment that has been used to commit a criminal offence</u></p> <p>Both the labour inspectorate as well as the municipalities have mandates to close down establishments. For the municipalities, this is laid down in their respective municipal by-laws (Algemene Plaatselijke Verordeningen). An example is article 2.10 of the municipal by-law of Amsterdam, which allows the mayor to close an establishment when there is a threat to public order. In cases of labour exploitation, this often means that the municipality can only close down an establishment during a raid when illegal goods (drugs, weapons) are found, since there is still only a suspicion of trafficking for labour exploitation, or on the basis of fire safety, danger to health or not in conformity with the destination plan.</p> <p>The labour inspectorate can close down (i.e. terminate) an establishment based on the <u>Aliens Employment Act (Wet Arbeid Vreemdelingen)</u>. This measure can be taken once the employer, despite warnings and even a temporary termination of certain activities, continues to breach the law (recidivism), based on article 17(b) of the Aliens Employment Act.</p>

			<p><u>Withdraw a licence to conduct a business activity</u>  There is no law that obliges authorities to withdraw a licence to conduct a business activity when severe forms of labour exploitation have taken place. This is a timely matter, since in many cases employers suspected of labour exploitation have other companies within which similar practices have taken place. Also many sectors at risk of labour exploitation do not require licensing.</p> <p>For sectors requiring licensing (for example restaurants), the previously mentioned BIBOB Act is applicable. Licenses can be withdrawn when there is a serious danger that it will be used for a criminal activity (article 3 BIBOB Act).</p> <p><u>How often provisions have been used</u>  No data is publicly available on whether and how often these provisions have been used against employers convicted of human trafficking for purposes of labour exploitation.</p> <p><u>Aliens Employment Act (Wet Arbeid Vreemdelingen)</u>  <a href="http://wetten.overheid.nl/BWBR0007149/2017-07-01">http://wetten.overheid.nl/BWBR0007149/2017-07-01</a></p> <p><u>Example municipal by-law (Algemene Plaatselijke Verordening) Amsterdam</u>  <a href="http://www.regelgeving.amsterdam.nl/algemene-plaatselijke-verordening-2008#H93765_0_2_14">http://www.regelgeving.amsterdam.nl/algemene-plaatselijke-verordening-2008#H93765_0_2_14</a></p> <p><u>BIBOB Act</u>  <a href="http://wetten.overheid.nl/BWBR0013798/2016-07-01">http://wetten.overheid.nl/BWBR0013798/2016-07-01</a></p>
2	<p><b>LABOUR EXPLOITATION AND THE INSTITUTIONAL SETTING</b></p> <p><i>For each question and each body mentioned under 'Supporting information', please provide the following information:</i></p> <ul style="list-style-type: none"> <li>• Name the body/organisation; indicate whether it operates at national or federal level and the year it began operating; and whether it is restricted to monitoring a particular economic sector or sectors;</li> <li>• Give a brief summary of the legal obligations and mandate of the body;</li> <li>• Indicate the regulatory basis for its work/mandate (legislation, internal regulation, etc.);</li> <li>• Provide a brief (1-3 sentences) description of its mandate and tasks.</li> </ul>		
			<p><b>Supporting information</b></p>

2.1	<p>a) Which authority (or authorities) is tasked by law with monitoring the rights of workers – for example through carrying out inspections?</p> <p>b) For each authority mentioned, is a distinction made between monitoring of the rights of:</p> <p>1) nationals and EU nationals, and</p> <p>2) third country nationals?</p> <p><i>I.e. Are any specific or different regimes or rules in place?</i></p> <p><i>Please name all bodies in case multiple bodies are involved – for example, labour inspectorates; specialised police units; trade unions or border guards.</i></p>	<p>a) the labour inspectorate (control) is the only authority tasked by law to monitor the rights of workers.</p> <p>b) the labour inspectorate (control) monitors the rights of all workers (nationals, EU nationals and third country nationals). The labour inspectorate also controls illegal employment.</p> <p>(<a href="https://www.arboportaal.nl/onderwerpen/inspectie-szw">https://www.arboportaal.nl/onderwerpen/inspectie-szw</a>)</p> <p>In order to obtain specific quality marks within certain sectors, there are controls that to some extent concern the rights of workers. These self-regulatory mechanisms can be joined by companies on a voluntary basis and are not authorised by law (for example, FairProduce for employers in the mushroom sector that treat their employers fairly, <a href="http://www.fairproduce.nl/?lang=en">http://www.fairproduce.nl/?lang=en</a> or Stichting Normering Arbeid (SNA) that offers certificates for recruitment agencies that treat workers fairly (labour standards register), <a href="http://www.normeringarbeid.nl/en/default.aspx">http://www.normeringarbeid.nl/en/default.aspx</a>, or GRASP, to name a few. This differs per sector)</p>
2.2	<p>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?).</p>	<p>The labour inspectorate decided several years ago to no longer report on inspections in annual reports. Therefore there are no statistics available on the number of inspections. The labour inspectorate has 10 different programs (e.g. hygiene, dangerous goods) of which labour exploitation is one. Inspections take place within the separate programs and do not always concern the rights of workers.</p> <p>Jaarstukken Inspectie SZW 2017 (Annual Report)</p> <p><a href="https://magazines.rijksoverheid.nl/inspectieszw/jaarstukken/2017/01/index">https://magazines.rijksoverheid.nl/inspectieszw/jaarstukken/2017/01/index</a></p>
2.3	<p>Name any other authorities in a position to learn (or that typically learn) about the situation of workers and their rights? (E.g. in Austria the financial police are the ones who know most about exploitation, even though they have no legal mandate to deal with the rights of workers).</p>	<p>Since the police initially had the full mandate to examine trafficking cases, the trafficking units of the police remain well equipped to look into situations of labour exploitation, although primarily this mandate lies with the labour inspectorate (see under 2.4). In essence it is a shared mandate; the police can always intervene/take action in cases of labour exploitation.</p>
2.4	<p>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</p>	<p>The labour inspectorate (which controls workplaces) also has a mandate to examine cases of severe labour exploitation. The labour inspectorate has a section that inspects, and a law enforcement section with similar competences as the police. This means that when there is a case of trafficking for purposes of sexual</p>

	<p>a substantive suspicion of severe labour exploitation?</p> <p><b>If yes</b>, please provide brief information about the obligation.</p>	<p>exploitation, the police will handle the case. In cases of trafficking for purposes of labour exploitation, the labour inspectorate or the labour inspectorate jointly with the police will handle the case (only the police when the labour inspectorate has insufficient capacity).</p> <p>Inspectors need to report to enforcement when there is suspicion of severe labour exploitation. In practice, much information does not reach enforcement. Efforts are underway to improve reporting to enforcement: improved risk analysis/check lists (to signal labour exploitation) and the appointment of three staff members (inspectors) at enforcement, to form a bridge and to improve the sharing of information between the two sections of the labour inspectorate.</p>
<p><b>3 VICTIM SUPPORT</b></p>		
	<p>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.)</p> <p>These could be, for example, NGOs, trade unions or other representative bodies (e.g. representing workers and their rights).</p>	<p>CoMensha: registers and coordinates the shelter and assistance to presumed victims of trafficking (including labour exploitation) in the Netherlands. CoMensha refers victims to a shelter and to a care coordinator for human trafficking in the particular region. The latter will provide direct assistance. In regions lacking a care coordinator, the responsibility lies with CoMensha.</p> <p>Jade Zorggroep: runs one of the three government-funded shelters for trafficking victims (16 places) and is the only one focussing on men. As a result many victims of labour exploitation are sheltered there. It also provides places for couples and families who have fallen victim to labour exploitation (an emerging group which challenges existing support structures for trafficking victims). Jade Zorggroep also offers emergency shelter (14-20 places, for 2-4 weeks) when the labour inspectorate discovers victims during a raid or any other action that requires immediate sheltering.</p> <p>Wende/Perspektief: male shelter, including victims of trafficking (and thus labour exploitation). Since 2017 it also offers emergency shelter (10 places, for 2-4 weeks) when the labour inspectorate discovers victims (men/women/children) during a raid or any other action that requires immediate sheltering.</p> <p>SHOP: provides assistance to victims of trafficking, including labour exploitation. It is the care coordinator for human trafficking for The Hague region.</p> <p>HVO Querido: provides shelter and assistance to victims of trafficking, including labour exploitation. Although it also has a male shelter, the government-funded shelter mainly accommodates women/children. It provides care coordination for trafficking victims, including (ambulant) care/support to many victims of labour exploitation.</p>



		<p>Other care coordinators for trafficking victims: care coordinators for trafficking coordinate the assistance to victims in their particular area/region. Those from HVO Querido and SHOP were mentioned separately, above, due to their extensive involvement in assisting victims of labour exploitation. Other care coordinators for trafficking victims are provided by the following organisations/institutions: MDJ; FIER; Lumens Werkt; PMW; GGD Drenthe; Moviera; Municipality Weert.</p> <p>FairWork: has a central role in assisting (migrant and other) workers who experience bad working conditions that may amount to labour exploitation. It offers direct assistance, raises awareness, and reaches out to migrant communities via cultural mediators. When there is suspicion of labour exploitation, cases are referred to CoMensha/police/shelters/support organisations as required.</p> <p>FNV: labour union that supports workers, including migrants, who experience bad working conditions that may amount to exploitation. Regarding labour exploitation, it is particularly active in the transport and agricultural sectors. FNV visits work places, meets with workers, tries to protect their rights, and does lobbying work.</p> <p>Legal support: Apart from lawyers, some NGOs offer legal support to victims of trafficking, including the Red Cross and VluchtelingenWerk (for refugees/asylum seekers).</p> <p>Informal support: Churches and migrant organisations are increasingly active but more needs to be done to connect them to formal support structures.</p>		
<b>4</b>	<b>RISK MANAGEMENT</b>			
		<b>Yes</b>	<b>No</b>	<b>Supporting information</b>
	<p>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)<sup>39</sup>.</p> <p><i>(E.g. in Belgium (see pg. 87 of FRA's 2015 report), specialised police units regularly investigate so-called</i></p>	xx		<p>The labour inspectorate's new programme on labour exploitation (2017-2019) pursues risk analysis based on general trends of criminality in the Netherlands and its own experience. It has identified risk sectors (transport, inland shipping, construction, food and accommodation services, food processing, cleaning, domestic work, agriculture, embassies, recruitment agencies, hotels) and vulnerable groups (EU migrants,</p>

<sup>39</sup> [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)).

	<p><i>non-risk and new sectors in an attempt to identify possible new risk factors for labour exploitation. They conduct their own research and publish reports showing current trends and advising on problem areas).</i></p>			<p>asylum seekers, irregular migrants, au pairs, disabled persons, minors, and sect members).</p> <p>On the basis of suspicions, the labour inspectorate has indicated groups vulnerable to labour exploitation about which little is known: asylum seekers, minors and disabled persons. A researcher is currently looking into these groups to see whether there is substantial evidence to believe that they are at risk, and if so, to develop policies.</p> <p>The labour inspectorate is currently developing a system for inspectors to signal potential situations of labour exploitation that emerge from a combination of indicators that in practice are not viewed together. The aim is to increase reporting by inspectors to the law enforcement division of the labour inspectorate.</p> <p>Apart from the labour inspectorate, the Expertise Center on Smuggling and Trafficking (government institute, <i>Expertise Centrum Mensenhandel en Mensensmokkel</i>, EMM) is responsible for detecting trends in smuggling and trafficking, also in relation to labour exploitation. It collects information, conducts research, and advises government bodies and others to redirect their policies if needed.</p>
	<p><b>If yes</b>, please describe any such systems in place, and include the following information:</p> <ul style="list-style-type: none"> <li>- List the bodies (for example, of those described in section 2) responsible and describe their various roles</li> <li>- Describe which sectors of the economy such risk assessments apply to</li> <li>- How often is such an assessment carried out?</li> </ul>			<p>See above.</p>
<b>5</b>	<b>COURT CASES</b>			
		<b>Yes</b>	<b>No</b>	<b>Supporting information</b>
	<p>Since 2014, is there any case law clarifying the criminal law provisions on severe labour exploitation? (<i>I.e.</i></p>	x		<p><u>Court of Appeal Arnhem-Leeuwarden 4 December 2014, confirmed in Court of Zeeland-West Brabant 23 July 2015 and confirmed in Supreme Court of 24</u></p>

	<p><i>court decisions which clarify basic concepts or categories constituting severe labour exploitation)?</i></p> <p>If yes, please provide:</p> <ul style="list-style-type: none"> <li>- Decision date</li> <li>- Reference details (name court, case number, link to decision)</li> <li>- Key facts of the case</li> <li>- Main reasoning/argumentation</li> <li>- Key issues (concepts, interpretations) clarified by the case</li> <li>- Results / key consequences or implications of the case</li> <li>- Key quotation in original language and translated into English with reference details</li> </ul>		<p><u>November 2015 and the appeal on cassation of the Court of Appeal Decision of 4 December 2016 by the Supreme Court on 5 April 2016</u></p> <p>Under article 273f sub 1(4) Dutch Criminal Code, a perpetrator could be convicted for trafficking when forced labour was proven. Since 2014/2015, the burden of proof is higher. Exploitation is now read into the provision and needs to be proven in order to arrive at a conviction; forced labour is no longer sufficient. The argument is that forced labour in the sex industry always amounts to exploitation, but that this is not necessarily so for labour cases. It now needs to be proven whether the nature of the forced labour brings about exploitation, and if not, whether other circumstances justify such a judgement of the facts.</p> <p><u>Supreme Court 29 April 2016</u></p> <p>confirmed that for a successful human trafficking conviction the physical or mental integrity of victims (in accordance with Article 4 of the European Convention on Human Rights does not have to be violated. This is important for labour exploitation cases as the violation of their physical and mental integrity is not always easily established.</p> <p><u>Court of Appeal Amsterdam 16 November 2016</u></p> <p>High penalties (for labour exploitation) by the Court of Appeal, upholding an earlier conviction for labour exploitation involving two Brazilian domestic workers. The two perpetrators were sentenced to imprisonments of 42 months and 18 months (of which 12 months are conditional).</p> <p><u>Court of Appeal Arnhem-Leeuwarden (Gerechtshof Arnhem Leeuwarden) of 16 March 2017</u></p> <p>The Court decided that the fact that workers are voluntarily working and are subjectively well off is not relevant for the determination of exploitation under Article 273f.</p> <p><u>Court of Amsterdam, 2 July 2017</u></p>
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				<p>The case is important in light of the growing number of cases of exploitation in laundry facilities. The conviction is considered a milestone.</p> <p>Hof Arnhem-Leeuwarden 4 December 2014, ECLI:NL:GHARL:2014:9415. 5</p> <p>Rb. Zeeland-West-Brabant 23 July 2015, ECLI:NL:RBZWB:2015:4870.</p> <p>Supreme Court in 2015, Supreme Court of 24 November 2015, ECLI:NL:HR:2015:3309.</p> <p>Supreme Court, 5 april 2016, ECLI:HR:2016:556</p> <p>Supreme Court, 29 maart 2016, ECLI:HR:2016:529</p> <p>Court of Appeal Arnhem-Leeuwarden (<i>Gerechtshof Arnhem Leeuwarden</i>) of 16 March 2017 ECLI:NL:GHARL:2017:2189</p> <p>Court of Appeal of Amsterdam, 16 November 2017, available via: <a href="https://uitspraken.rechtspraak.nl/inzien_document?id=ECLI:NL:GHAMS:2016:5035&amp;showbutton=true&amp;keyword=arbeidsuitbuiting">https://uitspraken.rechtspraak.nl/inzien_document?id=ECLI:NL:GHAMS:2016:5035&amp;showbutton=true&amp;keyword=arbeidsuitbuiting</a></p> <p>Court of Amsterdam, 2 June 2017 <a href="http://deeplink.rechtspraak.nl/uitspraak?id=ECLI:NL:RBAMS:2017:3807">http://deeplink.rechtspraak.nl/uitspraak?id=ECLI:NL:RBAMS:2017:3807</a></p>
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<b>6</b>	<b>PROMISING PRACTICES</b>			
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		Yes	No	Supporting information
	<p>Are there any promising practices in relation to any practical measures to tackle severe labour exploitation or support foreign victims?</p> <p>If yes, please provide:</p> <ul style="list-style-type: none"> <li>- Title of practice</li> <li>- Organisation implementing it</li> <li>- Funding body</li> <li>- Brief description, including start (and if relevant, finish) dates</li> </ul>	x		<p><u>Multidisciplinary cooperation</u> TeamWork Meetings organised by the Ministry of Security and Justice since 2015 (two or three times a year). Participants include: labour inspectorate, Ministry of Security and Justice, Ministry of Social Affairs and Employment, FairWork, CoMensha, several municipalities, FNV, police, and the Public Prosecution Office. The aim is to engage with the private sector to set-up/improve private-public partnerships to combat trafficking for labour exploitation. The current focus is</p>

			<p>on the high-risk hospitality and transport sectors as well as banking (ABN Amro actively works with the public sector to combat human trafficking and is thus a leading example).</p> <p><u>Multidisciplinary cooperation to place pressure on risk sectors</u>  The labour inspectorate's new program on labour exploitation (2017-2019) focuses on cooperation to create pressure on risk sectors. A first brainstorming meeting was held in May 2017. Subsequent action remains to be taken.</p> <p><u>SAFE! Project and STEP Project</u>  Both research projects (within the EU AMIF Call, 1 January 2016–31 December 2018) focus on the early identification of trafficking among migrants, refugees and asylum seekers.</p> <p>* The STEP Project seeks to inform newcomers about the existence of trafficking, how it can be recognised, and who to contact in case of suspicion of exploitation.</p> <p>* The SAFE! Project is developing training programs on early identification and safe return for victims of trafficking (in the Netherlands, Hungary, Macedonia, and Bulgaria). In the Netherlands, the focus is on training migrant organisations.</p> <p><u>Improving cooperation between parties involved in providing protection to victims (CoMensha)</u>  * Improve cooperation between support organisations and the labour inspectorate: several meetings have been held since 2015, leading to bi-annual meetings of care coordinators, trafficking inspectors, FairWork and CoMensha to discuss relevant issues.  * Expert Meeting (CoMensha, FairWork, Public Prosecution Office) on slightest indication of trafficking in cases of labour exploitation and the continuum between bad employment and labour exploitation (May 2017). Will be followed up in 2018.</p>
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			<p><u>The one-time subsidy from the Ministry of Social Affairs and Employment to CoMensha (July 2017 to February 2018) has several objectives:</u></p> <ul style="list-style-type: none"> <li>* Improve cooperation between parties involved in protecting victims of labour exploitation (31 December 2017).</li> <li>* Assess needs of victims and offer recommendations to improve assistance (if required) (31 December 2017).</li> <li>* Research into group dynamics among victims: how group dynamics among victims may undermine safety and willingness to cooperate with the authorities, and what can be done about it (31 December 2017).</li> <li>* Provide (and develop) information for refugees on their labour rights once they have obtained refugee status (28 February 2018).</li> <li>* Assess current curriculum on labour exploitation at various educational levels and develop modules to ensure better knowledge of labour exploitation among young professionals (28 February 2018).</li> </ul>
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## ANNEX 2 – Legal status research participants

Type of worker	When arriving in NL	Moment of exploitation	When interviewed
P1 (posted worker)	Work permit(tied to employer)	Work permit(tied to employer)	B8.3
P2 (posted worker)	Work permit(tied to employer)	Work permit (tied to employer)	B8.3
S1 (seasonal worker)	EU	EU	EU/B8.3
S2 (seasonal worker)	EU	EU	EU/B8.3
S3 (seasonal worker)	EU	EU	EU/B8.3
S4 (seasonal worker)	EU	EU	EU/B8.3
D1 (domestic worker)	Au pair	Irregular migrant	B8.3
IP1 (applicant international protection)	Asylum seeker	Refugee status	B8.3
IP1 (applicant international protection)	Asylum seeker	Refugee status	B8.3
IR1 (irregular migrant)	Short stay visa	Irregular migrant	B8.3
IR2 (irregular migrant)	Irregular migrant	Irregular migrant	B8.3
IR3 (irregular migrant)	Asylum seeker	Irregular migrant	B8.3
IR4 (irregular migrant)	Irregular migrant	Irregular migrant	B8.3
IR5 (irregular migrant)	Irregular migrant	Irregular migrant	B8.3
IR6 (irregular migrant)	Irregular migrant	Irregular migrant	B8.3

FG1 P1	Work permit (diplomatic household)	Irregular migrant	Irregular migrant
FG1 P2	Au pair	Irregular migrant	Irregular migrant
FG1 P3	Irregular migrant	Irregular migrant	B8.3
FG1 P4	Irregular migrant	Irregular migrant	B8.3
FG1 P5	Irregular migrant	Irregular migrant	B8.3
FG1 P1	EU	EU	EU
FG1 P2	EU	EU	EU
FG1 P3	EU	EU	EU
FG1 P4	EU	EU	EU