

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

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Categories of interviewees:

Nine categories of experts working in the context of labour exploitation took part in the interviews and focus groups:

M – Monitoring bodies (such as labour inspectorates, health and safety bodies)

P – Police and law enforcement bodies

S – Victim support organisations

J – Judges and prosecutors

L – Lawyers

R – Recruitment and employment agencies

W – Workers' organisations, trade unions

E – Employers' organisations

N – National policy experts at Member State level.

FG – Focus Group

Throughout this report, references to these groups as 'M', 'P' etc. are to be understood as referring to the above-named 9 categories.

Where [M(X)] appears, this denotes the group from which the referenced interviewee came, in addition to the number of interviewees from that group referenced (for example, if a statement is supported by references to three interviewees from the M group, two from the S group and one from the J group, the reference will read '[M(3); S(2); J(1)]'. Likewise, if a statement is supported by statements from interviewees who participated in focus groups (in the following example, a lawyer), the reference will read '[FG(L)]'.

For data protection reasons, no names of interviewees have been mentioned.

1. Introduction, including short description of fieldwork

The Research

Table 1: Sample Composition

Professional Group		Gender		Geographical coverage		Duration of interview		Years of experience		Age group	
E	3	M	20	Brussels (+Zaventem)	21	<45	3	<4 yrs	6	1	3
J	3	F	8	Ghent	5	45-60	4	5 yrs - 10 yrs	4	2	11
L	3	N/A	2	Antwerp	2	60-75	6	11 yrs - 19 yrs	10	3	14
M	6			Sint-Niklaas	1	>75	17	>20 yrs	5	N/A	2
N	1			Telephone interview	2			N/A	5		
P	4										
S	7										
W	3										

A different approach was adopted for the various groups. For the M group, the researchers looked into all the different inspection services available in Belgium. They contacted them first through their general e-mail address and telephone number, to get transferred to someone who could participate in the interview.

For the P group, the researchers contacted different police bodies through the normal ways of contact (e-mail and telephone), which was largely unsuccessful. They relied on references from other participants to identify appropriate interviewees.

For the S group, the researchers identified the different victim support services available to the victims through an online search and the Annual Reports of the Centre for Equal Opportunities and Opposition to Racism. They then contacted them and were quickly helped by one of their staff members.

To find appropriate interviewees for the L group, it required references from other interviewees. To identify interviewees for the J group, they encountered some difficulties in the beginning, but the researchers were assisted by the other interviewees who referred them to prosecutors. The judges, however, were difficult to reach.

None of the employment and recruitment agencies replied to several requests for participation in the study. The reasons for not engaging in the research may have been linked to suspicion (including a fear of being exposed), or simply a lack of interest in the study. An alternative discussed with the FRA was to interview a public official familiar with recruiting processes and ideally also with processes of subcontracting in sectors that labour exploitation seems to occur

often (construction, for example). The SIOD¹ (Social Intelligence and Investigation Service) was contacted in this respect. It is a coordinating organisation between all the inspection services. These include the Monitoring body of social law² that look for worker rights (e.g. has the worker been paid, is he/she allowed on leave etc.), Social security,³ federal employment institution⁴ and the federal institution for sickness and disability insurance.⁵ They also coordinate with foreign inspections. They do not do their own inspections but are an umbrella service for the others. They are the ones who analyse and guide the monthly large inspections between all the institutions that focus on specific sectors. Their main concern is the correct application of all the different types of legislation for all workers (not specifically migrants). The interview was coded as M as it fell within the category of public authority, even though the interviewee was set up as an alternative for the R group.

For the E group (the representatives of the employers) the researchers contacted the Belgian Federation of Entrepreneurs, who referred them to the representatives of what we had then identified as the three sectors with the highest risk of being exploited: the cleaning sector, construction and transport. Unfortunately, regarding the W group, only one of the different unions in Belgium was able and willing to participate in an interview. The other interview for the W group was carried out with an organisation mandated with safeguarding specifically the rights of migrant workers. A national policy expert on human trafficking was interviewed and falls within the N category.

In total 30 people were interviewed, covering 8 target groups: Monitoring bodies, Police and Law enforcement bodies, Victim support services, Judges and Prosecutors, Lawyers, Workers organisations/trade unions, Employers organisations and a National policy expert. Most interviews were conducted face to face, but four interviews (including one P, one L and two S) were conducted over the phone.

The first of these target groups was the **monitoring bodies** and involved six interviews with representatives from the main monitoring bodies in Belgium. Belgium does not have one unified labour monitoring body, rather it has multiple organisations that are tasked with monitoring. The SIOD, (Social Intelligence and Investigation Service)⁶ were interviewed and they, along with the victim support services, were the institutions most active in the field and closest to the migrant workers. The interviews were spread out over Belgium. Most of the interviews from this group lasted over 75 minutes.

The second group, **Police and law enforcement bodies**, were, along with the R and J group, also a difficult group to engage in the social research. The research team set up a meeting with the interdepartmental cell for human trafficking within the police, as well as the Brussels International Airport police. Most of the interviews from this group lasted over 75 minutes.

Of the official **victim support services** that were interviewed, the research team identified several across the large cities in Belgium. For Antwerp they interviewed Pag-Asa and for Ghent ODICE (Oost Vlaams Diversiteits Centrum , East Flemish Diversity Centre). The centre for equal opportunities and opposition to racism (CEOOR – since renamed as the Federal Migration Centre) was also integral to the interview process as they have a good overview of the situation in Belgium (including Wallonia) and are located in Brussels. Aside from having legal standing to file complaints for victims and act as a civil party in court cases, they are also the national reporter in Belgium concerning economic exploitation, covering Brussels, Flanders and Wallonia.

¹ Sociale inlichtingen- en Opsporingsdienst.

² TSW: Toezicht sociale wetten.

³ RSZ: Rijksdienst sociale zekerheid.

⁴ www.rva.be RVA: Rijksdienst voor Arbeidsvoorziening.

⁵ www.riziv.be/homenl.htm RIZIV: Rijksdienst voor ziekte en invalide verzekering.

⁶ TSW: Toezich Sociale Wetten.

The victim support services were very helpful and most of the social workers in these organisations were very engaged and spirited. The sample was also spread evenly over first-line and second-line actors. First-line actors represent the people that are closest to the problem and will often be the first respondents as well, such as the police or certain victim support organisations. A second line actor on the other hand, receives people after they have been to a first-line respondent or acts as a link between different organisations. Pag-Asa and Or.c.a (Organisatie voor clandestiene arbeid: Organisation for Clandestine Labour) are first-line responders. If a migrant worker is found by the police to be working in terrible conditions of economic exploitation, that person will be removed from the scene and placed in a support organisation such as Pag-Asa where they have a temporary place to stay. Or.c.a receives migrant workers who have legal questions regarding their current situation and will often be contacted before any action is taken to contact the police. The centre of equal opportunities and ODICE are second line responders. The centre is not tasked with handling individual cases, rather they compile cases where there is clear evidence of racism or discrimination and then take those cases to court. ODICE functions more as a phone line that various actors can call regarding legal information about migration and labour. To include information on labour exploitation of children, the research team interviewed a representative from Esperanto, an NGO specialised in supporting child human trafficking victims. Most of the interviews from this group lasted over 75 minutes.

Judges and prosecutors was another group for which it was difficult to identify interviewees. Repeated attempts and official formal requests were not answered quickly and it took repeated attempts before being granted an interview. The interviews lasted on average 75 minutes (one was 45 minutes, one was 60-75 minutes, and one lasted over 75 minutes).

The category of **lawyers** was also covered: all of the interviews were all conducted face to face at their respective places of work. The interviews varied in length, one lasted under 45 minutes, one was 60-75 and one was over 75 minutes.

Workers organisations and Trade unions: three interviews were carried out from this group. All of the interviews were located in Brussels. Two interviews lasted between 60 and 75 minutes, the third lasted over 75 minutes.

The **employers' organisations** were stakeholders in three of the larger sectors in Belgium, which included transport, construction and cleaning. The research team was also in contact with the Belgian Federation for Entrepreneurs. The interviews were always conducted at the offices of the representatives, all in Brussels. Two interviews lasted more than 75 minutes, one was under 45 minutes.

Interview Process

The interviews were carried out by the research group specialising in human rights at the Free University of Brussels (the VUB). Two employees of the research group of Fundamental Rights and Constitutionalism carried out the interviews: one female, one male. One of them has a Master's degree in Criminal Law and is working on their second Master in International Law. As a part of the Research Group, this researcher was responsible for most of the coordination. The other researcher is finishing up a Master's degree in Criminology specialising in human rights and crime.

While one researcher took care of all the French speaking interviews and some in Dutch and English, the other researcher took care of the majority of those held in Dutch and English. The length of the interviews depended a lot on the professional group the interviewee belonged to and the amount of questions asked but they never exceeded two hours. Almost all interviews went smoothly and generally the interviewees were collaborative. Some of the questions

however brought up questions but this might have been caused by the nature of Belgium's defining legislation.

The interviews were conducted from the end of October 2013 to mid-February 2014. The researchers had difficulties identifying some of the interviewees, as many stakeholders contacted worked in the field of human trafficking and did not have specific expertise on labour exploitation.

Focus Group Discussion

The focus group discussion was held amongst five participants: one representative of the federal police (P), one from an inspection service (M), one from an organisation for the rights of migrant workers (W), one national policy expert (N) and one from an Employers' Organisation (E). All of the interviewees had participated in earlier individual interviews.

The focus group discussion took approximately one hour and forty five minutes. In total there were three women present, including the female researcher who conducted the focus group discussion, and three male participants.

The discussion went well, without any important interruptions or altercations. The group was very much in agreement with a majority of the themes. The only theme that had some different opinions were those concerning migration policy. The victim support services were pro – open ended policies that would allow all migrants to work in Belgium with no limitations, as is the case in Sweden right now. The employer's union however did not think this was a good idea and was very much afraid of the negative economic impacts it might have. One of the interviewees from the J group thought that we should open our labour markets for all foreign employees, because they are necessary. The interviewee said that the idea of foreign work migration no longer being needed is an illusion. Others, such as the social inspection and the employers' representative, strongly disagreed with this.

Case Studies

The case studies covered most of the economic sectors discussed in the individual interviews: the cleaning sector, the household personnel, the transport sector, restaurants, and also one sector that was not covered in any of the individual interviews: forced begging.

The case studies span a period of 2005-2014, in order to be able to adequately illustrate issues surrounding labour exploitation in Belgium.

Most of the victims succeeded in reaching the authorities and in being granted the status of victim of human trafficking as well, in order to be able to stay in Belgium. Some, however, were forced to return to their home country. In one case, the victim did not wish to come forward as he was afraid of being deported given that he was not a victim of human trafficking but 'merely' of labour exploitation.

2. Legal framework

I. Slavery/ Servitude or Forced/Compulsory Labour

Legislation in place criminalising slavery/ servitude or forced/compulsory labour was introduced in the Belgian legal system with the ratification of various international conventions in the 1920s:

- Slavery Convention of 25 September 1926⁷ - provides for taking measures to prevent compulsory or forced labour from developing into conditions analogous to slavery;
- Labour Convention of 28 June 1930⁸ - prohibits the use of forced or compulsory labour in all its forms within the shortest possible period of time;
- Protection of Wages Convention of 1 July 1949⁹ - sanctions regular payment of wages and prohibits methods of payment which deprive the worker of a genuine possibility of terminating his/her employment;
- Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery of 7 September 1956¹⁰ - introduces the complete abolition of debt bondage and serfdom;
- Abolition of Forced Labour Convention of 25 June 25 1957¹¹ - ensures that each member of the International Labour Organisation (ILO) which ratified this convention, undertakes effective measures to secure the immediate and complete abolition of forced or compulsory labour, used as specified in the Convention.

In national legislation, the criminalisation of slavery/servitude or forced/compulsory labour is contained in:

- The Belgian Penal Code¹² which covers criminalisation of crime against humanity through a general or systematic attack on the civil population by means of slavery. This provision was introduced by means of the Law on serious violations of international humanitarian law of 7 August 2003.¹³

The Law of 29 April 2013, passed with a view to clarifying and extending the definition of trafficking in human beings, which was published on 23 July 2013, has amended Article 433quinquies of the Criminal Code. Article 433quinquies, paragraph 1, of the Criminal Code, provides that:

“Trafficking in human beings is constituted by the act of recruiting, transporting, transferring, harbouring or receiving a person, or taking or transferring control exercised over that person,:

- 1° for the purpose of exploitation of prostitution or other forms of sexual exploitation;
- 2° for the purpose of exploitation of begging;
- 3° for the purpose of work or services in conditions contrary to human dignity;
- 4° for the purpose of organ removal in violation of the Law of 13 June 1986 on the removal and transplantation of organs, or removal of tissues or human corporal material in violation of the Law of 19 December 2008 concerning the procurement and use of human corporal material on the removal and transplantation of organs for medical or scientific research purposes;

⁷ Slavery Convention, 25 September 1926, in force since: 1 January 1945. ([EN](#)).

⁸ Labour Convention, 28 June 1930, in force since: 1 January 1945. ([EN](#)).

⁹ Protection of Wages Convention, 1 July 1949, in force since: 22 April 1971; ([EN](#)).

¹⁰ Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery, of 7 September 1956. In force since 13 December 1962. ([EN](#)).

¹¹ Abolition of Forced Labour Convention, 25 June 1957. In force since 23 January 1962. ([EN](#)).

¹² Belgian Penal Code ([FR](#)), Article 136ter, paragraph 1, 3° Sw.

¹³ Law on serious violations of international humanitarian law (Wet betreffende ernstige schendingen van het international humanitair recht, BS, 7 August 2003) 5 August 2003; ([FR](#)).

5° or for the purpose of making that person commit a crime or misdemeanour against his or her will.

II. Criminalisation of the Exploitation of Child Labour

The following national laws in force criminalise the exploitation of child labour:

- Law on child labour of 28 August 1992¹⁴ prohibiting children to work outside the context of their education, and with regard to work which could have a negative influence on any aspect of their well-being;
- The Royal Resolution on child labour of 11 March 1993 specifying further this law;¹⁵
- Convention no. 138 concerning the Minimum Age for Admission to Employment of 26 June 1973¹⁶ to establish a general instrument on the subject of minimum age, to replace existing conventions applicable to limited economic sectors, to come to the total abolition of child labour;
- Convention of the Rights of the Child of 20 November 1989¹⁷ setting out the political, civil, economic, social, health and cultural rights of the child, as well as the measures to be undertaken in order to guarantee such rights;
- Council Directive 94/33/EC of 22 June 22 1994 on the protection of young people at work¹⁸ - with regard to rights of working children under the age of 15 - Member States must ensure that the conditions are adapted to their young age, and that the labour is regulated and protected. Children must also be protected from economic exploitation and harmful labour;
- Convention no. 182, Worst Forms of Child Labour Convention¹⁹ by which Member States undertake immediate action for the prohibition and the elimination of the worst forms of child labour, as specified in Article 3 of the Convention, including all kinds of slavery, child prostitution, the use for illicit activities and all other harmful labour.

III. Legislation criminalising human trafficking

Criminalisation of human trafficking is regulated in the following way:

- Direct application in Belgium of the Council Framework Decision of 19 July 2002 on combating human trafficking²⁰, by which each Member State must take measures to ensure that the acts specified in the Council Framework Decision concerning human trafficking for the purposes of labour and/or sexual exploitation are punishable. It involves “recruitment, transportation, transfer, harbouring, subsequent reception of a person, including exchange or transfer of control over that person, where: (a) use is made of coercion, force or threat, including abduction, or (b) use is made of deceit or fraud, or (c) there is an abuse of authority or of a position of vulnerability, which is such that the person has no real and acceptable alternative but to submit to the abuse involved, or (d) payments or benefits are given or received to achieve the consent of a person having control over another person for the purpose of exploitation of that person's labour or services, including at least forced or compulsory labour or services,

¹⁴ Law on Child Labour (Wet betreffende kinderarbeid, BS 28 augustus 1992/ Loi concernant le travail des enfants, MB 28 août 1992) 5 August 1992, in force since 1 February 1993; ([FR](#)).

¹⁵ Article 7.1 completed by the Royal Resolution on child labour, of 11 March 1993 (Koninklijk Besluit betreffende de kinderarbeid, BS 9 april 1993/Arrêté royale relatif au travail des enfants, MB 9 avril 1993). In force since 1 February 1993; ([FR](#)).

¹⁶ Convention no. 138 concerning Minimum Age for Admission to Employment, 26 June 1973. In force since 19 April 1989; ([EN](#)).

¹⁷ Convention of the Rights of the Child, 20 November 1989; entered into force on 15 January 1992; ([EN](#)).

¹⁸ The Directive is transposed into Belgian law by Royal Resolution on the protection of youngsters at work, 3 May 1999 (Koninklijk Besluit betreffende bescherming van jongeren op het werk, BS 3 juni 1999). ([FR](#), [NL/EN](#)).

¹⁹ Convention no. 182, Worst Forms of Child Labour Convention, 17 June 1999, in force since 8 May 2003; ([EN](#)).

²⁰ Council Framework Decision of 19 July 2002 on combating human trafficking, OJ L 203, 01/08/2002 P. 1-4 ([EN](#)).

slavery or practices similar to slavery or servitude, or for the purpose of the exploitation of the prostitution of others or other forms of sexual exploitation, including pornography.

- Article. 433 *quinquies* of the Penal Code²¹ defines human trafficking as “the recruitment, transportation, transfer, housing, caring of a person and the change or transfer of control over him in order to exploit him sexually, exploit him with purpose of forced begging, labour exploitation, for the removal of his organs or for the use of this person in illicit activities, constitutes the crime of human trafficking.”²²
- The Law on the determination of sanctions and measures for the employers of illegal residents on Belgian soil²³ of 1 February 2013 transposes the Employers’ Sanctions Directive.

²¹ Article 433 *quinquies* Sw. This article was inserted in the Penal Code in 2005 (Wet van 10 augustus 2005/Law of 10 August 2005). ([EN](#)).

²² Additional information: The European and international definitions of human trafficking require specific elements to be present, such as the use of violence or compulsion, threats, a vulnerable situation, etc. Before the insertion of article 433 *quinquies*, human trafficking was criminalised in Belgium by another law which takes into account the same elements to determine whether or not a particular case amount to human trafficking. Since the entry into force of article 433 *quinquies* however, these elements are no longer constitutive parts of the crime but constitute aggravating circumstances and., thereby creating a conflict with the above-mentioned definitions. There is a limited number of forms of trafficking covered by the Belgian penal law: trafficking for the purpose of sexual exploitation, labour exploitation, forced begging, the removal of organs and human tissue and the use of a person for the purpose of illicit activities.

²³ Law on the determination of sanctions and measures for the employers of illegal residents on Belgian soil (Wet tot vaststelling van sancties en maatregelen voor werkgevers van illegaal verblijvende onderdanen van derde landen, BS 22 February 2013/Loi prévoyant des sanctions et des mesures à l’encontre des employeurs de ressortissants de pays tiers en séjour illégal, MB 33 février 2013, of 1 February 2013. In force since 4 March 2013; ([FR](#)).

3. Labour exploitation and the institutional setting

3.1 Tasks of institutions involved in preventing labour exploitation and in enabling victims to access justice

Overview of the institutional mechanisms in place at the national level to prevent and fight against labour exploitation by setting out the tasks undertaken by various bodies identified throughout the research.

Table 2: Overview of the institutional mechanisms in place at national level to prevent and fight against labour exploitation

Name	Tasks and mandates
Worker organisations	
Febetra ²⁴ , Royal Federation of Belgian Transporters & Logistic Service Providers	This is a work federation tasked to look over the entire transport sector specifically. They are focused on looking into illegal employment and anything that might be cause for unfair competition. They represent the employers and the interests of the transport sector, not the employees. They regularly lobby the politicians to adopt stricter legislation (e.g. with regards to inspections). They work together with other foreign partners, unions and inspection services to try and signal and spread awareness about the problem to local government institutions.
General Christian Union (ACV-CSC)	The mandate of ACV-CSC is to protect the rights of workers and migrant workers and to combat labour exploitation. There is no victim support organisation for the migrant workers specialised in labour exploitation, with the exception of OR.CA. The union itself only advocates the rights of workers on a general level, not for example, concerning legislative changes in acquisition of residence permits. The aims and tasks of the General Christian Union are provided for in an internal regulation. Their work is based on the labour legislation.
PICUM (Platform for international cooperation on undocumented migrants)	PICUM is an international organisation that works on multiple levels. They are grouped with 170 other organisations that are all working to uphold and protect the right of undocumented workers across 38 countries. As a membership based NGO, PICUM provides a direct link between the grassroots level, where undocumented migrants' experience is most visible, and the European level where policies relating to them are deliberated. They also have a working group that meets biannually and specifically looks at fair working conditions for migrants. PICUM works at three levels: 1) They inform the European institutions (for example they worked with them on the seasonal legislation concerning migrant workers) and international institutions (for example, they try and promote the modification

²⁴ FEBETRA: Koninklijke Federatie van Belgische Transporteurs & Logistieke Dienstverleners www.febetra.be/modules/mmpages/.

	of the ILO conventions and UN conventions. 2) They engage with the “special procedures” of the OHCHR ²⁵ and they submit evidence to the UN committee on migrant workers(quantitative data they gather from the various NGO’s and institutions that they work with rather than specific case files). 3) On a national level, they are organised in work groups and provide support to the member institutions within the countries. Their main tasks are advocacy and policy work.
Employment organisations	
ABSU ²⁶ (national federation of the cleaning sector)	This is an employment organisation specifically for the cleaning sector. It is their task to report inconsistencies they have noticed to the social inspection services. This could be through employers, employees or anyone who brings to their attention situations of possible exploitation. They have regular contact with the inspection services and take part in meetings with them 3 to 4 times a year. The inspection services are focused on the general interests of the employers from the cleaning sector and protect said sector from unfair competition caused by exploitation.
ACV Construction	This is a worker organisation specifically for the construction sector and employers within that sector. They mostly do lobbying (working together with other political bodies like the Unions and NVA ²⁷) and have a control function against social fraud and social dumping (mostly false secondment and independent contracting schemes). They have a warning function and can send information or tips to the social inspection services to point out problem areas. They are not directly involved with the migrant workers; rather they try and fight exploitation so that it does not damage their sector with unfair competition. The tools they have to do this are reporting and the organisation of strikes within companies
Justice system	
Belgian State – Prosecution at the Labour Court	<p>The Labour Prosecution is the part of the federal public justice service.²⁸ The Ministry of Justice is tasked with handling social law, with their focus being on organised social fraud and human trafficking for economic exploitation. They lead the investigations conducted by the inspection services and the police in the field. After receiving the minutes (i.e. official records of investigations) they can ask for additional investigative measures.</p> <p>The Labour Prosecution is also in charge of the criminal proceedings. They act in the name of the general interest so they promote the rights of workers in general. They are also the ones that officially declare the migrant workers as victims of economic exploitation. The Labour Prosecution receives the minutes written by police and inspection services, analyses them and chooses whether to proceed with more investigations or to drop the charges. They control the compliance with the social and</p>

²⁵ “Special procedures” is the general name given to the mechanisms established by the Commission on Human Rights and assumed by the Human Rights Council to examine, monitor, advise and publicly report on human rights situations in specific countries or territories (country mandates), or on major phenomena of human rights violations worldwide (thematic mandates).” (see [Handbook OHCHR](#)).

²⁶ Algemene Belgische schoonmaak unie.

²⁷ New Flemish Alliance (Nieuw Vlaamse Alliantie).

²⁸ Service fédérale publique Justice (SPF Justice).

	<p>labour law and can attribute the victims' statute to the workers when they are encountered in an exploitative condition. They do not specifically handle migrant workers but work in the general interest.</p> <p>Prosecutors are directly linked to everything regarding social fraud. So this implies the aspect of human trafficking on an economic level. They will summon and hold enquiries, and will then prosecute for everything related to economic trafficking. Their role is to prosecute all offences that occur in social law, including to protect the worker, regardless of whether they are a migrant or not. In this respect, they advocate for migrant rights.</p>
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Lawyers

Lawyers

Different types of lawyers were interviewed in the fieldwork research:

1. An independent lawyer defending the victims of labour exploitation in court. The basis of his mandate is the criminal procedure: making sure that the victims' rights are respected and that he/she has a right to defence.
2. A private lawyer specialised in social law. His/her role was to defend/advocate the rights of any worker who is a client.
3. A lawyer who handles civil claims and offers information and assistance to victims. He/she evaluates many other lawyers to eventually compile an analysis which in turn is sent as advisory notes to help future policy. Though he/she works mostly with migrants who have been victims, in theory the legislation applies to all workers not just migrant workers. This person does not carry out inspections, but by initiating legal procedures this can result in further investigations which are carried out by the prosecution and investigating judges.

Police

Police - Federal Judicial Police, Directorate for the fight against crime, Section Human Trafficking

There is a branch of the police station specialising in exploitation. They work with many different institutions to combat not only economic exploitation but other forms of exploitation as well. They send officers to tag along with the inspection services or follow up on tips or leads they attain from mostly the inspection, sometimes anonymous calls and informants. They do their own research and publish reports showing current trends and advising on the problem areas that are published in reports every four years, setting out the direction the police aim to take. They also work with Europol, playing a part in their more internationally oriented plan on economic exploitation. They work closely with the victim support groups and frequently bring them along to talk to migrants they encounter in their work. Mostly they are focused on tracking down instances of economic exploitation and the people responsible, which means less focus on the victims which is mostly left to the inspection services and victim support groups. Using their Europol contacts they can quickly interact with other countries. [P(1)]

Police

Federal Judicial Police, Directorate for the fight

There is a branch of the police station specialising in exploitation. They work with many different institutions to combat not only

<p>against crime, Section Human Trafficking</p>	<p>economic exploitation but other forms of exploitation as well. They send officers to tag along with the inspection services or follow up on tips or leads they attain from mostly the inspection, sometimes anonymous calls and informants. They do their own research and publish reports showing current trends and advising on the problem areas that are published in reports every four years, setting out the direction the police aim to take. They also work with Europol, playing a part in their more internationally oriented plan on economic exploitation. They work closely with the victim support groups and frequently bring them along to talk to migrants they encounter in their work. Mostly they are focused on tracking down instances of economic exploitation and the people responsible, which means less focus on the victims which is mostly left to the inspection services and victim support groups. Using their Europol contacts they can quickly interact with other countries.</p>
<p>Federal Judicial Police of Bruges <i>Centrale Dienst Mensenhandel Gerechtelijke Politie/Service Central de Traite des êtres humains de la Police judiciaire fédérale.</i></p>	<p>The Central Service for Human Trafficking monitors all forms of human smuggling and trafficking, by working together with all external federal services and departments, as well as non-police and non-governmental organisations. The federal judicial police started a project regarding social fraud, which was part of the 'national security plan' (a plan setting out guidelines and priorities for police missions). The federal police coordinate this plan. This national security plan covers the different regions, for which it is adapted, depending on the priorities in each region. For all regions, however, human trafficking and human smuggling are at the top of this list. This national security plan is the basis of the police's work against human trafficking and in relation to that, labour exploitation. The protection of the rights of workers and of migrant workers specifically is not a priority of the federal police, but they are nonetheless closely followed up by the institution. They will achieve this by working with the other services in this domain (such as Payoke and Pag-Asa).</p>
<p>Federal judicial police – airport police, section Human Trafficking and Smuggling</p>	<p>The task of the airport police has a direct link with the fight against labour exploitation, as they are concerned in the inspections and the investigations of people crossing the nation's borders. When flights arrive from third countries, the passengers are asked some questions. They also have to have a valid travel reason and the right documents. If the border officers suspect that the immigration might be happening in the context of labour exploitation, they will investigate a possible illegal migration, draft the appropriate documents and refer the case to the other police departments.</p> <p>During the border control and the process of fighting illegal immigration, they can detect labour exploitation in early phases. It is, however, not part of the mandate of interviewee's institution to directly protect the rights of workers and of migrant workers specifically.</p>
<p>Public authorities</p>	
<p>Social inspection services</p>	<p>Social inspection service (SPF Social Security) are a government body that mostly check if workers are properly employed with suitable contracts and employers are paying social contributions. They are not solely focused on paying back</p>

<p>FOD Sociale Zekerheid/SPF Sécurité Sociale</p>	<p>wages (although they support the migrants with that, too), but more on the social security aspect - Social Law Inspection services is competent with regard to labour period, labour wages, anything that has to do with labour.</p> <p>They carry out inspections and research, often in cooperation with police but sometimes alone. They are allowed to prioritise the sectors they deem most problematic. Like the other inspection services, upon contact with migrants who are being exploited, they will try to inform them about their rights and direct them towards the agencies responsible for that as well. When they run into problematic cases involving exploitation they will notify the labour prosecutor who will lead the case from then on and decide if the case will be given the status of human trafficking for economic exploitation. Economic exploitation is a small part of what they do, as they do many inspections throughout the day.</p>
<p>The Work and Social Economy Inspectorate Division, Directie-Generaal Sociale Inspectie/ Direction générale- Inspection sociale²⁹, Labour Inspectorate</p>	<p>The Work and Social Economy Inspectorate Division's³⁰ (referred to as Labour Inspection's) main mandate is to protect the rights of employees, which includes workers with a legal statute and workers without legal statute. Its staff equally looks into cases of migrants and Belgian workers and watches out not to discriminate employees because of their nationality. Its main task is to monitor the abidance of labour laws – the Belgian social law and the EU Directive 96/71/EC³¹. The legal basis for the work of this labour inspection service is the <i>EAO</i>³² (<i>road map for the handling of serious labour accidents</i>). People who are independent (and possibly work with false “independent status” contracts) do not fall in his jurisdiction. He works together with police to coordinate inspections.</p> <p>The Inspection Service controls the application of social security regulation by employers, informs the employee about the legal and regulatory definitions and helps fight human trafficking.</p>
<p>Social Inspection Brussels</p>	<p>The inspection works either alone, or together with some support services, other inspection services and the police. All of the cases found are referred to the magistrate in Brussels. They are mainly considered to be a first line assistance. The competence is given to them by the social criminal code and the regular criminal code. Their work will be to assemble information on these cases, to protect the workers and see that their rights are respected. They will also, financially, be authorised to check all the declarations to the social security instances. They will help the workers in general, because their work affects all of the concerned parties. The basis of their intervention is the protection of the social security system and of the workers in general.</p>

²⁹ Regulatory basis: Federale OverheidsDienst (FOD) Sociale Zekerheid - Department of Social Security.

³⁰ Afdeling Inspectie Werk en Sociale Economie.

³¹ [Directive 96/71/EC](#) of 16 December 1996 regulates the working conditions of posted workers.

³² Stappenplan voor aanpak van Ernstige Arbeidsongevallen (*EAO*) [Road map for the handling of serious labour accidents] www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=fr&la=N&cn=1971041001&table_name=wet.

<p>The SIOD³³ (Social Intelligence and Investigation Service) Federal government, SIOD SIOD/SIRS-Sociale Inlichtingen- en OpsporingsDienst /Service D'Information et de Recherche Social³⁴</p>	<p>The SIOD³⁵ is a coordinating organisation between all the inspection services. These include the Monitoring body of Social Law (TSW)³⁶ that monitor worker rights (e.g. with regard to payment, annual leave), the National Social Security body (RSZ)³⁷, the Federal Employment Institution (RVA)³⁸ and the Federal Institution for Sickness and Disability Insurance (RIZIV)³⁹. They also coordinate with foreign inspections. They do not carry out their own inspections but are an umbrella service. They are the ones who analyse and guide the monthly large inspections between all the institutions that focus on specific sectors. Their main concern is the correct application of all the different types of legislation for all workers (not specific to migrants). They also develop annual policy and operational plans to detect social fraud, and support the federal social inspection services to fight illicit labour.</p>
<p>Federal Health Inspections - Federale Gezondheidsinspecties/Inspection d'hygiène fédérale;</p>	<p>Federal health inspections have the obligation to report illegal activities to the judicial authorities.</p>
<p>National policy experts</p>	
<p>Centre for Equal Opportunities and Opposition to Racism (CEOOR - since renamed as the Federal Migration Centre)</p>	<p>The Act of 15 February 1995 on the Centre for Equal Opportunities and Opposition to Racism describes the mandate of the Centre, and it refers to the legislation concerning human trafficking. It also mentions that the Centre has the authority to undertake judicial steps and provide policy advice regarding this matter. There are 2-3 people in the Centre focusing on human trafficking. This task force also deals with problems of labour exploitation.</p> <p>The Centre is mandated with promoting the fight against human trafficking. They will analyse the phenomenon and the policy around and report to the government from an independent perspective on current policies. Many of their employees are also involved with workgroups concerning new legislation on these topics and so they also exercise an indirect advisory role [S(1)]. They are also able to act as a third party and file civil claims. They filed 18 claims in the year 2013, 6 of them concerning economic exploitation. They assume the labour laws and social laws to be part of the fundamental rights for the foreigners here in Belgium. They work for migrants specifically in this economic exploitation cell, however the Centre's general mandate is only focused on discrimination and does not differentiate between migrant and non-migrant.</p>
<p>Victim support services</p>	

³³ Sociale inlichtingen- en Opsporingdienst.

³⁴ Regulatory basis: Law concerning the change of the federal board coordination-committee for the battle against illicit labour and social fraud (Programmawet ter vervanging van de federale raad en coördinatiecomité voor de strijd tegen de illegale arbeid en de sociale fraude Articles 309-328), 27 December 2006; ([FR](#)).

³⁵ Sociale inlichtingen- en Opsporingdienst.

³⁶ TSW: Toezicht sociale wetten.

³⁷ RSZ: Rijksdienst sociale zekerheid.

³⁸ www.rva.be RVA: Rijksdienst voor Arbeidsvoorziening.

³⁹ www.riziv.be/homenl.htm RIZIV: Rijksdienst voor ziekte en invalide verzekering.

<p>Organisation for clandestine workers (ORCA)</p>	<p>ORCA is an independent non-profit organisation founded by a group of social workers. Its mission is to defend migrants with irregular status whose labour laws are not respected. Migrants with irregular status who have been victims of economic exploitation can come to ORCA and seek advice or counsel. With signed permission from the victim, ORCA can then contact other institutions such as the social inspection to try and obtain compensation from the employers. ORCA's main focus is on accompanying the workers and helping them enforce their rights, informing and supporting the victims; and helping them file complaints. Informing and advocating the problems of economic exploitation, trying to raise awareness specifically towards the first line assistants.</p>
<p>Payoke</p>	<p>Payoke is one of the three main victim support organisations in Belgium, the other two being Surya and Pag-asa. Victims of human trafficking, economic as well as sexual, can be referred to this victim support organisation. There are three major branches in this victim support organisation, the first being judicial, then an administrative guidance/support, and a psychological-social guidance function. They receive the recognised victims of economic exploitation. As soon as someone is identified by the labour prosecutor as a victim, Payoke is tasked with supporting them, and sometimes help them obtain residential documents so they can stay in Belgium. They can also act as third party and file a civil claim, however they do not tend to do this much as they no longer have the budget for lawyers.</p>
<p><i>Pag-Asa</i></p>	<p>Pag-asa is one of the three victim support services for the victims of human trafficking. They are recognised as such and work closely with all the authorities. They have several goals: they aim to raise awareness amongst the public, provide the victims with all the humanitarian help they need, and help fight against the networks of human trafficking and exploitation. Their mandate is based on legislation criminalising human trafficking, as well as the National Action Plan against Human Trafficking. They indirectly protect the rights of the workers, as that is often a part of the cases regarding human trafficking they encounter.</p>
<p><i>Esperanto</i></p>	<p>This is an institution for the child victims of human trafficking. They focus on the psychological guidance and housing of these victims after the police or the inspection services have referred them to their organisations. Their mandate is set out in the Circular letter for the fight against human trafficking. They are not recognised yet as a specialised victim support centre, like Pag-Asa/Surya/Payoke. This means that they cannot ask for the residency permit for the minors. The protection of the rights of workers in general and of migrant workers specifically is not their main objective, however.</p>
<p><i>ODICE (Oost Vlaams Diversiteits Centrum, East Flemish Diversity Centre)</i></p>	<p>The main task of ODICE is providing legislative information and answering judicial questions on the application of the right to work under the immigration law. Most of the questions relate to labour cards⁴⁰ as they are very technical and difficult to handle</p>

⁴⁰ For a migrant of a non-EU country to come work in Belgium, a labour card B is needed. This is a document that is requested by the employer and has to be signed by both parties. The labour card also guarantees their residency but has to be reapplied for every couple of years (by the employer).

	administratively. The advice is given to employers and welfare organisations, migrants themselves, and any person with a question concerning labour and immigration status.
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3.2 Forms and frequency of incidents of labour exploitation encountered by experts in their work; economic areas affected

Forms of labour exploitation encountered by the professional groups

	W	S	P	N	M	L	J	E	Total
Trafficking for labour exploitation (04)	3	6	4	1	5	2	3	1	25
Other: exploitation of a migrants worker under particularly exploitative conditions) (05)	3	4	3	1	3	3	3	3	23
Forced labour, incl. boded labour (02)	3	5	1	1	3	2	2		17
Child labour (03)	3	4	1	1	2	1	3		15
Slavery(01)	3	3	1	1	3	2			13

Table 3, forms of labour exploitation (Q1), by professional group

Most types of cases recalled were those concerning human trafficking for labour exploitation and the exploitation of migrant workers under particularly exploitative conditions, in the terms of the employer's sanctions directive. The victim support services received the most serious cases of human trafficking [S(3)] and had examples of many migrant workers being seriously exploited.

Slavery

On the whole, the different forms of labour exploitation did not vary greatly between the groups. All groups had almost no accounts of slavery. Real cases of slavery in Belgium are rare although there were discussions among the different interviewees on how to define slavery [N(1); W(1)]. Many thought the term slavery was outdated and the newer forms of serious economic exploitation can be viewed as modern forms of slavery [W(2); S(1)]. This was also agreed on in the Focus Group by all participants.

Child labour

Cases of child labour are also a rare occurrence [W(1)]. Only a couple of cases were recalled and concerned solely labour associated with exploitation by a family member [J(1)]. This would concern children unlawfully working in their parent's shop or restaurant [M(1)]. One of the interviewees recalled a case of a whole family working a paper route together with the children being included to help speed up the work [S(1)]. However these examples were often old and outdated, according to the interviewees. According to a victim support service working with children, there is very little labour exploitation of minors [S(1)]. This was also agreed on in the Focus Group by all participants.

Trafficking for labour exploitation

According to the majority of interviewees, cases of bonded labour were more frequent. Most of these cases involved trafficking. The costs of trafficking the migrant employee are the debts that the employees often have to pay themselves [S(2); P(1); M(1); J(1)].

During the focus group discussion it was mentioned that cases of social fraud are generally increasing and becoming more frequent than they used to be.

Most frequent occupations and sectors in which economic exploitation is present:

	W	S	P	N	M	L	J	E	Total
unskilled worker (03)	3	7	8	3	13	6	7	5	52
service occupations (05)	2	7	1		3		1		14
semi-skilled worker (02)	1	3	2		1	1	1		9
skilled worker (01)	1	2							3
farm worker (04)		1	1			1			3
sales occupations (06)		1							1
clerical occupations (07)									0
professional and technical occupations (08)									0
other (09)									0

Table 4, frequent occupations of exploited migrant workers (Q2), by professional group

	W	S	P	N	M	L	J	E	Total
43 construction	3	6	4	1	6	2	3	1	26
44 construction of buildings									4
60 accommodation and food service activities		7		1	4	2	2		16
64 restaurants, mobile food services									7
65 event catering									4
86 cleaning activities	1	1	2	1	2		1	3	11
01 agriculture, forestry, fishing	2		2		3	3	1		11
02 growing of vegetables									2
03 growing of fruits									1
04 animal production									1
08 logging									1

120 activities of households as employers	3	3	2		1				9
122 non-diplomatic households as employers of domestic personnel									1
19 manufacturing		2	1				1	3	7
20 ...of food products									5
22 ...of textiles									2
54 transportation and storage									2
111 sex workers, social escorts, club hosts									2

Table 5, economic sectors where migrant sectors are most often exploited (Q3), by professional group

Unskilled labour is by far the occupation in which migrant workers are most often exploited. Interviewees across all professional groups seemed to agree on this (see table 2). The other two occupations in which migrants are frequently exploited – however, much less often in unskilled labour – are service occupations and semi-skilled labour. Only very few interviewees (3) said that skilled migrant workers were often exploited, none said that workers in clerical or professional and technical occupations were frequently exploited.

According to some interviewees, there is a shortage of Belgians who are willing to do jobs that require manual labour. Reportedly, labour exploitation of migrant workers in Belgium mainly involves un-skilled, labour intensive work, and work that requires no education and can be done by anyone [P(1); M(1)]. Often they are sectors in which employers struggle to find the workforce.

One interviewee from the M group spoke of

“(...) the fruit sector. Who is going to pick our fruit for us? I used to do that. And my mother and my sister did it, and now not anymore. Nobody does it. What Belgian person is going to pick fruit in this day and age? So what is the consequence? They aren’t exploited but for that you have the Bulgarians, Romanians and Polish that do their seasonal work”. [M(1)]

Fruit and vegetable picking used to be a problem sector but has since greatly improved.

The construction sector was mentioned as one of the three economic sectors in which labour exploitation occurs most often by almost all the interviewees (26 interviewees across different professional groups). According to one interviewee from the S group, the construction sector was seriously affected during the economic recession and for this reason is striving to cut corners and lower the costs required for new infrastructure. Among this sector there are various groups of people active with various occupations. One of the inspection service’s employees, an interviewee from the M group stated the following:

“There were Portuguese firms who got their labourers from Brazil. They would pay the flight but the workers would have to work 6 months without wages, after the sixth month

they would be snitched on by the same Portuguese people and they would disappear.”
[M(1)]

Brazilian migrant workers for example are mainly recruited for plastering and finishing constructions [P(1); M(1); S(1)]. According to an interviewee [P(1)], road construction, roofing and painting are also occupations in which labour exploitation frequently occurs.

The construction sector has high risks because a lot of the work is done through subcontracting and so the responsibility is spread out to different subcontractors, with the migrant workers being at the bottom of the chain receiving the lowest pay. According to interviewees from the M-group, some of the migrant workers are forced to sign contracts that they do not understand making them independent contractors without their knowledge, which is a way to circumvent social legislation and make them work for extended periods of time [M(3)]. Foreign recruitment agencies bring in large groups of migrant workers to work in construction as well and therefore also account for a large part of the problem according to many interviewees (this was especially raised by interviewees from the employers' unions: [E(3)]. One interviewee [M(1)] mentioned that the problems in the construction area were diminishing in one geographical area as they have been putting in extra effort to control the sector.

These issues relating to subcontracting schemes and the involvement of employment agencies are also frequent in the cleaning sector. Many interviewees were able to give examples of large companies subcontracting irregular migrants for cleaning activities and exploiting them [S(1); M(1); J(1); N(1)]. Interviewees from the S and M group also claimed that the cleaning of certain official administrative buildings is also done by irregular immigrants working for subcontracted companies [S(1); M(1)]. According to an interviewee from the E group, the cleaning sector is mostly active out-of-hours, after work, and this brings in a factor of exclusion and isolation that helps conceal the migrant workers. The cleaning company Carestel and the train company NMBS were cited as examples of cases of labour exploitation in the cleaning sector. The case of Carestel-Kronos includes labour exploitation in various forms (wages below minimum, employment of persons in an illegal residence situation, no declaration at the Social Security Services) and human trafficking.

Domestic and non-domestic household help is a sector with similar risk factors as the cleaning sector and was also commented on multiple times [S(1); W(2)]. This sector is often harder to inspect as it mostly concerns private homes which are not as easy to monitor as other work places.

According to one interviewee [M(1)], the agriculture sector was also mentioned, especially picking fruit and vegetables. Belgium has various seasons within this sector that requires labour intensive work for short periods of time. Mushrooms have to be picked and shipped quickly and are a good example of a sector that is often prone to exploitation because of limited time frames available for that kind of labour. Meat processing was also raised as a problem sector by many interviewees [S(3); E(2); M(1); J(1)]. According to one interviewee [M(1)], butchers and slaughterhouses have a high demand for manual labour and not many Belgian people are willing to do this kind of work. One interviewee [S(1)] also explained that, as a result, many migrant workers are employed in the various butcher shops working behind the scenes cutting meat and packaging it. A similar situation is also found in bakeries.

Restaurants and catering is often a place of exploitation as well, especially when it concerns foreign restaurants, for example Chinese businesses [S(2); M(2); L(1)]. They often employ migrants to help out in the kitchen or clean up after the chefs.

Aside from these main categories, the transport sector was also mentioned, particularly truck drivers transporting goods [M(1); J(1); E(1)]; car-washers [M(1)]; and the rags industry. The

latter involves recycling of used clothes or creating long sheets of cloth for other industries. The migrant workers involved with this industrial process are often Syrians [J(1); M(1)].

4. Risk and Risk management

4.1 Identification of common risk factors for labour exploitation

On the whole, there was a wide consensus among interviewees relating to the main three to four risk factors in each of the different categories. Concerning the personal situation of the worker, the lack of language competence in the destination country, the workers' poverty in the country of origin and a low level of education, were identified as making migrants particularly prone to exploitation. The legal and institutional settings were seen as deficient in making offenders compensate exploited migrants and prosecuting and punishing them; this makes it easier for offenders to employ migrants in an exploitative way. Furthermore, many interviewees identified a lack of institutions' effectiveness in monitoring labour exploitation, which was mainly attributed to the lack of funds and staff. Concerning the migrant workers' situation at the workplace, working in specific sectors increases the risk of exploitation, as well as working in isolation, working in a precarious or insecure situation and not being directly employed by a business or organisation. Some of these factors (e.g., isolation and sectors) are linked to each other.

Conduct contributing to labour exploitation

Employers withholding wages or paying considerably less than required was the conduct that the majority of interviewees in all professional groups (in total 24) identified as significantly contributing to labour exploitation. Not many interviewees provided further comments on this question, but several interviewees from different professional groups pointed out that this conduct was almost always the case in situations of labour exploitation⁴¹. One interviewee [M(1)] explained one withholding strategy:

*"The trick is, something a lot of these firms do, is to make sure the workers are two, three months behind on receiving their payment. This binds them. If they want to leave, they will not be paid. So they are bound to stay, really bound"*⁴² [M(1)].

Another interviewee [M(1)] indicated exactly the same mechanism of binding people to stay at work by only paying them partly and promising the full pay at a later point. The economic crisis may have been a driver for labour exploitation in terms of payment below a minimum salary. One interviewee [S(1)] pointed out that this was the case for the construction sector, where employers are finding ways to pay less for labour. A similar trend was noted in the transport sector by another interviewee [E(1)].

Another form of binding workers without paying them is by making them work in order to pay for travel expenses. This was the case of Chinese restaurant workers (as illustrated in one case study) who work 10 to 12 hours a day in order to pay back travel expenses of 10,000 euros.

Two other significant conducts mentioned across most professional groups, were that migrant workers are not properly informed about their labour rights and that they do not have a contract written in a language that they understand. Again, several interviewees mentioned that these two factors were often prevalent in situations of labour exploitation. One interviewee [M(1)]

⁴¹ This was mentioned in interviews [S(1); M(3); P(2); L(2)].

⁴² "Wat eigenlijk de truc nu elke keer is bij heel veel firma's, is dat ze ervoor zorgen dat die mensen telkens twee drie maanden loon nog niet zijn uitbetaald. Daardoor zijn ze dus eigenlijk gebonden. En als ze dan wegwillen, krijgen ze die twee of drie maand niet uitbetaald. Dus ze zijn echt gedwongen om te blijven, echt gebonden."

said that the first conduct (low pay, withholding wages), inadequate information and a missing contract were closely tied together and seen in most cases of labour exploitation.

Another important conduct identified was that the employer does not pay social security contributions. Again, an interviewee [M(1)] said that this was always observed in cases of labour exploitation. One example of circumvention of social security contributions is by working with subcontractors (foreign companies) (e.g., as illustrated in one case study) who claim to pay social contributions abroad. This was mentioned by two interviewees [E(1); J(1)].

Conducts that do not relate to economic factors (dependence on the employer outside the contract, isolation, restriction in movement and impaired health) were also mentioned as frequent contributors, although to a lesser extent. It was mentioned several times that dependency was often the case when employees lived with their employers [M(2); S(1)]. This is also closely related to the conduct that “part of what is paid flows back to the employers”, i.e. when part of a salary is withheld as payment for accommodation with the employer. One interviewee from the victim support group mentioned that the issue of the worker experiencing isolation is particularly frequent in the household personnel sector.

Another form of dependency is created when employers hold back migrants’ identity or travel documents (this was mentioned by two interviewees, one from the monitoring bodies, one from a workers’ organisation). One interviewee [W(1)] explained that it was often the employer who arranged travel, residential and working documents (see also below on Labour Card B), which the interviewee thought increased the dependency on the employer.

As mentioned by several interviewees, economic factors (such as withholding of wages, missing contracts) and psychological factors (isolation, dependency) are often closely interlinked to each other. As one interviewee [M(1)] explained:

“Often I run into people who only work and sleep. They are picked up at home, well sometimes more like a caravan, by the employer in a van, brought to work and in the evening they are brought back, completely exhausted. So they have no time, no money, they are much too tired to do anything else, they have absolutely no social life and are very, very dependent on the employer. I think that from the long list of indicators from the COL 1⁴³, this is the most important one. It is the least material one, wages are something you can indicate, have you had your pay? How much did you receive? But, are you dependent on the employer? That is very hard data to demonstrate.”⁴⁴ [M(1)]

Only four interviewees mentioned physical violence as a conduct migrants were frequently subjected to.

Only one interviewee mentioned that negative impacts on health occurred frequently [J(1)]. He/she said that Belgian safety regulations were often not applied to migrant workers. If accidents or health impairments occurred, this was said to often lead to the identification of a situation of labour exploitation – either reported by the migrants themselves or identified by the authorities.

⁴³ See “use of checklists”, chapter 4.3.

⁴⁴ “vaak kom ik mensen tegen die werken en slapen. Ze worden thuis, of ja thuis, soms een caravan, door de werkgever opgehaald met een busje naar het werk gebracht en ’s avonds laat terug gebracht, dood moe. Dus ze hebben geen tijd, geen geld, ze zijn veel te moe om nog wat anders ook te doen, hebben absoluut geen sociaal leven en zijn zeer zeer afhankelijk van de werkgever. Ik vind eigenlijk uit die zeer lange lijst van indicatoren uit die COL 1, de belangrijkste indicator. Het is de minst materiele, loon kan je aantonen, heb je je loon gehad? Hoeveel heb je gekregen? Maar bent u afhankelijk van de werkgever? Dat is zeer moeilijk om data aan te tonen.”

	W	S	P	N	M	L	J	E	Total
Employers withhold wages or pay less than obliged (03)	2	6	3	x	5	3	3	2	24
Migrant workers not properly informed about their entitlements concerning wages, working conditions, etc. (02)	2	6	3	x	1	2	3	2	19
Migrant workers do not have a contract written in a language they understand, or no contract at all (01)		7	3	x	3	2	2	1	18
Employer does not pay social security contributions (06)	1	2	1	x	2	1	3	2	12
Migrant worker depends on employer beyond employment contract (05)	1	3	3	x	3				10
Migrant workers restricted in their movement (08)	2	2		x	3	2			9
Migrant worker's health impaired (11)		1	2	x	2	1	2		8
Employer adds to migrant workers isolation (09)		2	2	x	2	1	1		8
Part of what is paid flows back to employer (04)		1	1	x	2	1		1	6
Migrant worker subjected to physical violence (10)	1	1		x	2				4
Don't know (99)	1			x			1	3	5
Migrant worker not allowed to go on annual leave (07)		2		x					2
Other (12)				x		1		1	2

Table 6, most frequent forms of conduct contributing to labour exploitation by professional group

Personal situation of the worker

	W	S	P	N	M	L	J	E	Total
Migrant worker does not know the language of the country of the workplace. (02)	1	6	2	0	4	3	3	2	21
Worker has experienced extreme poverty at home. (07)	0	4	3	1	3	3	2	3	19
Migrant worker has a low level of education. (01)	0	5	4	0	4	0	2	2	17
Migrant is not allowed to enter into employment. (03)	2	3	0	1	2	2	1	1	12
Worker comes from a country the nationals of which are often exploited in the destination country. (04)	0	1	2	0	1	0	1	0	5
Worker is prone to discrimination on behalf of their race/national minority. (05)	1	0	0	0	2	1	0	0	4
Worker is prone to discrimination on behalf of their sex. (06)	2	1	0	0	0	0	0	0	3
Other (08)	1	1	0	1	2	0	0	0	5
Don't know (99)	2	0	1	0	0	0	0	1	4

Table 7, risk factors related to personal characteristics and initial situation of the migrant worker by professional group

The risk factor mentioned most frequently was not knowing the language of the country of the workplace. This was mentioned by 21 interviewees across all professional groups (except one interviewee [N(1)]). It was especially frequently mentioned among the social workers, the inspection officers, the lawyers and judges. The isolation caused by not knowing the language or not having an education also led to the migrant workers often having no idea that they are being exploited and not regarding themselves as victims [S(2); M(2); P(1); N(1); L(1)].

Another risk factor mentioned very frequently was experiencing extreme poverty in the country of origin. This was mentioned by 19 interviewees across all professional groups (except the W group). In fact, the leading cause of economic exploitation is identified by many interviewees as the socio-economic inequality between nation states. According to one interviewee [E(1)], it is the reason the workers migrate, *“they come here to work and make money”*⁴⁵, and work without complaining about the difficult conditions. They are financially tied to the exploitation and however bad it is, to them it will always be better than having no job.

Another important risk factor raised was the migrants' low level of education which was identified by 17 interviewees, in particular by social workers, inspection officers, judges and by all four police officers. Twelve interviewees mentioned the fact that the migrant is not allowed to enter into employment as an important risk factor. It emerged from several interviews that this was a factor that contributed to migrant workers not coming forward in cases of exploitation. The prohibition of regular employment made them dependent on their employer as they fear that otherwise they will not be able to work at all in the country of destination. One interviewee [L(1)] explained: *“If the migrant is staying illegally, it makes him more vulnerable. This way, he will not report himself to the police and his illegal status will become a tool to put pressure on the worker”*⁴⁶

The other factors were only identified by five or fewer interviewees as being important risk factors.

There was a general consensus across the different professional groups concerning the four main risk factors mentioned above (language, poverty at home, education and irregular employment). The only small difference between groups is that discrimination (sexual or racial) is mentioned comparatively often by interviewees from workers' organisations/trade unions. Sexual discrimination seems to sometimes be related to specific sectors. One interviewee [W(1)], for example, said that sexual discrimination is an issue when it comes to household work which is mainly done by women. The interviewee further stated that discrimination in this sector went hand in hand with increased dependency.

Furthermore, according to the majority of the cases from the case studies, important risk factors were language barriers and poor education, but also unfamiliarity and poor knowledge of procedures and laws. Other risk factors relating to the personal situation identified in the case studies related to the experienced poverty in the home country and the lack of legal status in the receiving country.

⁴⁵ “ze komen hier om te werken en geld te verdienen”

⁴⁶ “Si l'étranger est irrégulier, ça le rend vulnérable. Ainsi, il ne va pas se déclarer auprès des autorités et ceci devient un moyen de pression sur le travailleur”

Legal and Institutional problems

	W	S	P	N	M	L	J	E	total
Low risk of offenders having to compensate exploited migrant workers. (02)	2	4	2	1	5	1	1	3	19
Lack of institutions' effectiveness. (03)	3	5	1	1	3	3	3	0	19
Low risk of offenders being prosecuted and punished. (01)	1	2	3	1	4	2	2	3	18
Corruption in the police (04)	0	0	0	0	0	0	0	0	0
Corruption in other parts of administration (05)	0	0	0	0	1	0	0	0	1
Other (06)	1	6	4		3	1	2	3	22
Don't know (99)	2	4	1		1	2	1	0	11

Table 8, risk factors related to the legal and institutional setting by professional group

The interviewees identified a few institutional problems.

The low risk of offenders having to compensate the migrant workers was one category most of the interviewees (19, across all professional groups) chose. Several reasons were given for this. In cases where migrant workers are identified as victims of economic exploitation and the judicial system is set in motion to recuperate their wages, it often takes too long. The migrants who have no legal residential permits are often sent back to their country of origin before they have a chance of receiving their money. The elusiveness of the employee and employer can also have a disruptive effect. They are often moving around, with no registered address and no way of contact. Offenders often move their assets around as well, making it increasingly harder to reclaim anything [M(2); J(1)].

According to one interviewee [M(1)], when any money is reclaimed, the migrant workers are often unable to be found or contacted and their money is put into a deposit account. All of their personal information is recorded, together with the deposit, and the migrant worker has the option to collect the money in person in an office in Brussels. If the migrant worker has left the country, or if he or she has been deported, there will be no way for them to claim the money. The same inspection officer raised another problem migrant workers might come across:

“Especially when we speak of people without legal residency, they have no bank account number. You cannot go to a bank here and open an account without valid proof of identity.”⁴⁷

Therefore, transferring the money to the workers is often difficult. If the money is not collected by the migrant worker it will remain there for 30 years, at which time the statute of limitation will pass and the money will be released to the government (according to one interviewee [S(1)]). In the opinion of the same interviewee, the end result is often that

“only the consignment bank will profit, that is the bank where the employer has to transfer the money and it will be kept there for thirty years so the victims can be compensated.”⁴⁸ [S(1)]

⁴⁷ Met name wanneer we spreken over mensen zonder een wettige verblijfsvergunning, hebben ze geen bankrekeningnummer. Je kunt hier niet naar een bank gaan en een rekening openen zonder een geldig identiteitsbewijs”.

⁴⁸ “De Consignatie kas waar dat de werkgever zijn geld op moet storten en dat moet daar dertig jaar bewaard worden zodat die mens hun geld nog kunnen halen.”

Furthermore, many of the interviewees (18) agreed on the fact that there is already a low chance for the offenders to be prosecuted and punished. Often, the offenders are unknown and cannot be traced back or found and they are sometimes even irregular migrants themselves. According to one interviewee [J(1)], this makes it difficult to prosecute them. The same interviewee also pointed out that if the offender is a recruitment agency located abroad, the labour prosecution would have to cooperate with foreign authorities which does not always work very well (see also below). This interviewee also stated that it was common among criminal organisations to settle abroad. When trying to punish the offenders, according to one interviewee, the problems are similar to the above-mentioned lack of compensation: employers often hide their assets and in this way they “(...) *are out faster than they can be caught (e.g. by filing for bankruptcy)*” [E(1)]. Some interviewees found the punishments not strict enough [E(3); P(1); J(1)].

According to one interviewee [E(1)], a lot of sentencing results in fines, which are easily paid by the offenders (if they pay at all). Moreover, the offenders will often even continue the exploitation after having been prosecuted [E(1)]. One representative [P(1)] relates the low level of fines to reoffending by many employers and says that even if the employers are identified and punished, the fines are often much too low and they will pretty much immediately continue their operations as soon as it is over. This assumption is supported by another statement from a representative [E(1)] who also points out that fines are not enough punishment to prevent reoffending:

“Meanwhile the problem companies and organisations that are causing the exploitation are only being fined while in the meantime they simply continue their exploitation.”[E(1)].

Nineteen interviewees across all professional groups (except for the employers’ organisations) found the lack of institutions monitoring the situation of workers effectively, to be an important risk factor. Related to this, a key theme that recurred was the lack of means and funding across many of the institutions. Many interviewees stressed that more funding was needed for inspection services to allow more resources for inspections and guarantee better quality and control in the sectors that are prone to economic exploitation [M(3); E(2); S(1)]. However, the inspection services are not the only service that are in need of means, funding for victim support services is also lacking [S(5)].

Problems concerning the cooperation of foreign institutions were also mentioned by several interviewees across different professional groups who are either tasked with cooperation with foreign institutions [M(1); J(1)] or have knowledge of foreign companies [E(2)]. Cooperation with the different Member States varies in quality, some offer full cooperation and are very willing to help (e.g. France), others are not supportive in providing information or helping inspection services and will provide little to no help in the requests that are sent to them. Examples of such countries unwilling to participate are often the migrants’ countries of origin (e.g. Bulgaria, Romania). One interviewee [P(1)] explained that those authorities did not recognise the same problem as the Belgian Labour Prosecution:

*“I call that a De Minimis approach. They do what is expected of them but no more than that. (...) They will cooperate to some extent, but it is clear that they approach it as our case and also our problem”*⁴⁹ [J(1)].

⁴⁹ “Ik noem dat een De Minimis, ze doen wat op zich van hen verwacht wordt maar ook niet meer dan dat. Je merkt ook bij het uitvoeren van die opdrachten krijg je wel in principe de nodige medewerking maar het is duidelijk dat ze dat benaderen als ons dossier en ons probleem dus voor hen stopt het daar dan ook.”

Furthermore, corruption was seen as an issue not for Belgian, but for foreign authorities. An interviewee [E(1)] said that measures to handle corruption in foreign administrations would be an important step to combat labour exploitation.

Many interviewees mentioned other risk factors related to the institutional and legal setting.

For example, the complexity of the legislation transposing the Sanctions Directive was mentioned. An interviewee [P(1)] stated the following on the implementation of the Sanctions Directive:

“(...) [it is] so overly complicated that the implementation part is made very difficult for the inspection services. If you look at the social law and the controls of social inspection services on all the different worker modalities, well it is not simple. ... And if the will (to tackle this problem) is not present, that might just be one of the important factors that could lead to economic exploitation”⁵⁰ [P(1)].

Another risk factor mentioned several times was the labour card legislation which has been present in Belgium since 1999⁵¹. Third country nationals who wish to work in Belgium need an employer to apply for a labour card B in their name to allow them to work in Belgium. This card not only allows them to work, it is also tied to their residence status and allows them to reside in Belgium legally. The labour card has to be renewed every year by the employer. This puts all of the administrative power in the hands of the employers [S(1); M(1)]. Interviewees did not mention if this legislation was only applicable in some sectors or in all.

Situation of migrant workers in the workplace

	W	S	P	N	M	L	J	E	total
Migrant works in sector prone to exploitation. (01)	1	6	4	1	4	3	3	1	23
Migrant works in isolation. (02)	3	4	3	1	4	1	1	1	18
Migrant works in precarious or insecure situation of employment. (04)	1	6	1	1	3	3	2	1	18
Migrant worker not directly employed by business/ organisation (05)	1	3			4	1	2	3	14
Migrant worker employed as a posted worker by a foreign company (06)		1	1		2		1	1	6
Migrant worker not a member of trade union. (03)	1	1						2	4
Migrant is a seasonal worker (07)						1			1
Other (08)			1		1				2
Don't know (99)	2	2							4

Table 9, risk factors related to the situation of migrant workers at their workplace by professional group

⁵⁰ “ja men heeft dat ook niet zo simpel gemaakt he. Dus de vraag zou kunnen zijn, ik denk dat de grootste handicap nu is, wil men wel dat het wordt aangepakt, en als de wil er niet is, is dat een van de belangrijke actoren van uitbuiting.”

⁵¹ www.ejustice.just.fgov.be/cgi_loi/loi_a1.pl?DETAIL=1999043045%2FN&caller=list&row_id=1&numero=1&rech=1&cn=1999043045&table_name=wet&nm=1999012338&la=N&dt=WET&language=nl&choix1=EN&choix2=EN&romtab=wet_all&nl=n&trier=afkondiging&chercher=t&ddd=1999&sql=dt+contains+%27WET%27+and+dd+%3D+date%271999-04-30%27+and+so1+contains+%27TEWERKSTELLING+EN+ARBEID%27and+actif+%3D+%27Y%27&tri=dd+AS+RANK+&dddj=30&so=TEWERKSTELLING+EN+ARBEID&dddm=04&imgcn.x=40&imgcn.y=7.

The three most important factors mentioned were: firstly specific sectors of the economy the migrant is working in that are prone to exploitation; secondly the migrant is working in a precarious or insecure situation; and lastly the migrants work in relative isolation having little to no contact with others.

As mentioned above, the industries of construction, agriculture, cleaning and meat processing can all be considered risk sectors. These were often linked in the interviews to precarious and insecure situations of employment [S(2); L(2); J(2); M(1); N(1)]. Sectors such as construction or fruit and vegetable picking reportedly create precarious situations because of the limited time periods that people can work there. According to one interviewee [S(1)], risk factors are also linked to each other, for example, isolation was said to be more prevalent among migrant workers in restaurants or household cleaning personnel [S(1)].

This is confirmed by the case studies showing that in many cases the victims working in households are living with their employers, or the provided stay allows the employers close vicinity and control, such as in the case of collective housing for restaurant personnel. This also results in the unlimited working hours demand and a significant isolation of the victim from the outside world.

Another risk factor mentioned frequently (by 14 interviewees) is that a migrant worker is not directly employed by the business or organisation, but for example, by an agency. Further explanation on the role of recruitment agencies is provided below.

A risk factor mentioned less frequently was that migrant workers are rarely members of unions [E(2); W(1); S(1)]. Two interviewees [S(1); M(1)] believed more effort should be made by the unions to try and incorporate the migrant population in their own ranks. In Belgium the unions are, according to these interviewees, generally not interested in helping the migrants if they are not union members.

However, some trade unions seem to either have undocumented migrants as members (such as the General Christian Union, of which a representative was interviewed for this project [W(1)] or sometimes defend labour rights of migrants. The latter was indicated by an interviewee from the inspection services who had learnt about cases of labour exploitation from Trade Unions and concluded that these sometimes did support migrants, even if they were not Union members:

“The employees are never members of a trade union but the union will sometimes stand up for them. So it is a good thing that they frequently contact us to let us know, “something is going on here”, even when the migrants are not members.”⁵² [M(1)].

One of the reasons for which migrants are not members seems to be the participation fees. According to one interviewee [W(1)], there should be a *“symbolic fee of four euros, because we do not want people to say that the migrant workers (without residency documents) do not contribute to the general cause.”⁵³* This indicates that migrants may not have the same means as nationals to pay union fees. An interviewee from the labour inspection also assumed that the help from the union for migrants should be free:

“The unions think ‘I am not going to help you because you aren’t a member anyway’. On the one hand I understand that, but on the other hand I think there are enough

⁵² “Ze zijn nooit lid van een vakbond. Maar de vakbond gaat er wel voor optreden! Dat is wel fijn, ze laten regelmatig weten aan ons: “hier is iets aan de hand”, ook als die mensen geen lid zijn.”

⁵³ “on demande une cotisation symbolique de quatre euros, parce qu’on ne veut pas qu’au sein du mouvement on accuse des travailleurs sans papiers de ne pas participer à la lutte collective. »

members willing to help these people for free, set up some kind of 'pro bono' system."⁵⁴
[M(1)].

Some unions, such as the General Christian Union have reduced monthly fees specifically for migrant workers.

Another point which arose from the case studies was that some cases of labour exploitation were connected to the insecurity related to the working conditions. There are cases in which labour exploitation involved putting the victim in an insecure and unhealthy work environment where the work involved handling dangerous substances without prior and adequate training (as exemplified in two case studies).

Role of recruitment agencies

As mentioned above, most of the interviewees (across all professional groups asked about this topic) stated that indirect employment (e.g., via recruitment agencies) is an important risk factor to labour exploitation. However, recruitment agencies were not seen as aggravating the problem per se. A majority of the interviewees acknowledged both the dangers as well as the benefits of recruitment agencies. Here, interviewees frequently made a distinction between Belgian and foreign agencies and their different roles concerning labour exploitation. A distinction needs to be made between, Belgian recruitment agencies on the one hand and on the other hand Belgian companies (or private employers) subcontracting foreign recruitment agencies.

Belgian recruitment agencies rarely pose a particular problem, according to many interviewees commenting on this issue, as recruitment agencies are subject to the same inspections as the other employers and businesses. The separate Belgian regions are tasked with arranging the certifications necessary to be a legal and registered recruitment agency. According to one interviewee [W(1)], these recruitment agencies are very unlikely to employ undocumented migrants.

However, one interviewee from the group of lawyers suggested that recruitment agencies impede the detection of human trafficking or labour exploitation:

"The more middle men there are, the easier it gets to hide the trafficking and exploitation." [L(1)].

Furthermore, one interviewee [W(1)] said that temporary work contracts (as often provided by recruitment agencies) did not provide enough protection for the migrants.

One interviewee [L(1)] stated that recruitment agencies in Belgium help prevent situations of exploitation because they make sure the Belgian labour legislation is followed correctly. The interviewee argued this by pointing out the strict monitoring system and the risk these agencies run to lose their permit if they do not respect the legislation. However, it was also pointed out that there are also agencies engaged in criminal acts and mentioned that ad-hoc employment with many sub-contractors renders inspections and monitoring much more difficult.

One response by an interviewee from the transport sector (E group) indicated that the reasons why companies hire employees from Belgian and from foreign recruitment agencies seem to be different, and one could not replace the other. They explained *"that it is mostly to push back*

⁵⁴"De vakbonden denken ik doe het voor u niet omdat je toch geen lid bent, van de ene kant begrijp ik het wel maar langs de andere kant denk ik dat er genoeg leden zijn die een aantal van die mensen toch willen gratis helpen, en soort pro deo systeem op zetten."

*the costs that people think of these frameworks (foreign recruitment agencies) to work with*⁵⁵. Since Belgian recruitment agencies are frequently monitored and inspected, it is unlikely that they can offer the same cheap labour as foreign ones. Therefore, they can also not contribute to prevention of labour exploitation.

Recruitment agencies located in foreign countries were perceived by almost all interviewees as very problematic⁵⁶ (the other ones did not mention foreign agencies). Many migrant workers who are exploited are recruited through these types of agencies. Some of these organisations are masked by foreign social regulation and do not have to pay taxes or social contributions in Belgium. Although often illegal, these companies profile themselves as professional businesses with professional websites and mailings. This was reportedly the case in the transport sector, for example. They contact employers in Belgium and offer a unique deal: they take care of transportation, coordination and provision of workers, all at very competitive and low prices [M(3); W(1)]. The migrant workers are then transported and put to work in Belgium under low pay conditions, often without legal residence permits or contracts. One representative of the monitoring bodies also explained that by circumventing obligatory payments in Belgium, these agencies earn a lot of money:

*“And that is also what makes people rich ... they will bill for example €18 or €20 to the customer and pay €6 or €7 to the worker who is being posted here, the rest just disappears into the pocket of the person organising it ... I once made a calculation that dates back to 2006. That man earned, with ten employees, 4 million Belgian francs a month.”*⁵⁷

Many of these companies are often shell companies and will file for bankruptcy when they feel they are being investigated, only to resurface and continue their work as a new company, with a new name, days later. The focus group did not shed light on the precise role of recruitment agencies.

Sectors in which foreign recruitment agencies operate were said to be the transport, the construction and the fruit-picking sector (these were explicitly mentioned by interviewees). According to an interviewee from the transport sector [E(1)], foreign recruitment agencies offered cheap labour force to Belgian companies which often accepted these due to the current economic climate.

The inspection services and prosecutors reported that tracking down these foreign agencies requires contact and cooperation of foreign administrations who do not always comply with the requests that are sent [J(3); M(4)]. These recruitment agencies do pay some (often minimal) amount of social contribution to the foreign states however, therefore some interviewees found it logical that these countries are not helping, as they would lose out on earnings if they were to tackle this issue. One interviewee from the construction sector reported that Belgium, but also Poland had a good check-up system for these types of agencies.

Only one case study involved a recruitment agency to some extent, as one of the exploited servants claimed to have been recruited by a Moroccan agency. However, no more information on the operations of this agency was obtained through the case study.

⁵⁵ “degenen die hier legaal alles doen dat gebeurt maar het is vooral ja, om de kosten te drukken dat men dergelijke constructies opzet om te werken.”

⁵⁶ This was said in many interviews [M(6); N(1); E(3); W(2); L(2)].

⁵⁷ “en daar worden ook mensen rijk van ... die factoreren bijvoorbeeld 18, of 20 euro aan de klant in belgie en betalen 6 of 7 euro aan de werknemer die naar hier worden gedetacheerd, de rest verdwijnt gewoon in de zak van degene die dat organiseert ... Ik heb ooit een berekening moeten maken die dateert van 2006. Die man verdiende met tien werknemers al 4 miljoen belgische franc per maand.”

4.2 Prevention measures aimed to reduce the risks of labour exploitation and the obligations of specific organisations in this area

Organisations carrying out prevention measures

Victim support services mainly carry out prevention measures, although the employer organisations, government social inspection services, and CEOOR also play a role in this area.

Type of prevention measures carried out (including promising practices)

Prevention measures in Belgium reported by interviewees are reportedly mostly information based. The monitoring bodies often carry out inspections with the police services. When encountering and arresting irregular migrant workers – and they are not immediately sent to the victim support organisations – they will do their best to brief them on their rights and in that way work towards preventing repeat victimisation [M(4); P(1)].

They also provide various informational brochures. Two brochures specifically were mentioned for diplomatic and non-diplomatic household personnel. The police services and some of the victim support services have similar programmes and also create folders and pamphlets to hand out [S(1); P(1)]. All of these informational projects are provided in different languages and focused on including all languages of their targeted demographic groups.

One interviewee [S(1)] reported that there are seminars for migrant workers where social legislation is explained and the workers are taught the merits of having clear work agreements and a contract. It was found to be very relevant and helpful as many migrants often have no idea that they are being exploited. However, as the migrant population is hard to find and contact, these types of programmes seem to have a limited reach. One interviewee [S(1)] managed a Dutch-speaking phone-operating centre, a helpline exclusively for queries concerning migration and labour legislation. This line can be called by the migrant workers themselves who wish to seek advice concerning their potential situation of exploitation. However, migrant workers are not their main target group. Employers and social workers will mostly call this line to make sure that their own employment of foreign workers in their company is handled according to legislation, which has a preventative effect.

One interviewee from the employers' organisations is involved in prevention insofar as supplying information to employers concerning applicable legislation.

Promising practice:

One interviewee [M(1)] explained that social inspection services liaise with employer organisations and develop sector protocols to prevent labour exploitation. For example, one representative from the Social Inspection Services said they had regular meetings with sector representatives, with employer and employee organisations. There are protocols for example with the construction sector, the taxis and the cleaning sector. The cleaning sector even has a joint committee with the Labour Inspection. This means that these representatives provide the Inspection Services with dossiers and that the Inspection Services will inform them of labour exploitation.

Pre departure information programmes

Pre-departure programmes are in place but not many interviewees were familiar with them. Two instances were able to confirm that there are programmes in various countries where informational pamphlets are provided to the migrant workers at the embassy before their departure [N(1); S(1)] for example from China and Brazil. The Netherlands and England also had similar pre-departure programmes focused more on sensitising people with the culture. Referring to these programmes, one interviewee [W(1)] stated that *“the majority of the initiatives that we have come across are kind of like reality checks, saying: ‘by the way the streets aren’t paved with gold, do not come to Europe.’”*⁵⁸. Another interviewee [S(1)] added that generally not enough was being done concerning prevention, more awareness and information needs to be spread. According to one participant [FG(S)], to help prevent the cases that take place through recruitment agencies and other foreign legal frameworks, creating a type of Europol for social legislation might improve the situation and address the issue of a lack of interstate coordination within Europe. This point was also raised by another interviewee [P(1)].

4.3 Protection against (repeat) victimisation: actions undertaken by the police to protect victims against the risk of repeated victimisation, including how the police conduct investigations

Reactions and protocols of police in the field (would migrant workers primarily be seen as potential victims or illegally staying in the country)

Of all of the questions asked, this section seemed to be the only one where some interviewees felt a little uncomfortable. In theory the motives to do the interventions were sound, however it does not always end well for the migrant workers in practice.

Overall the reactions of the police towards situations of exploitation depend on the type of police and the seriousness of the situation.

One interviewee [S(1)] also commented on the multitude of police forces in Belgium, saying that the difference in objectives also changes the way they handle cases of economic exploitation. So it is not always a coherent policy:

“The thing is, there are so many different kinds of police, there’s intervention police, community police, migration police, and often when I ask police people I know, they always say, if that was us, were it our division that is handling this we would handle this way, but if it would be their colleagues from a different cell they would handle it like so. So the changes in objectives also changes the way they handle certain themes”.⁵⁹

Another interviewee [S(1)] said that technically the police are required to contact the various victim support services if they encounter a situation of trafficking for labour exploitation. The interviewee explained that there are no problems when the specialised police cells are the ones doing the investigation but cases could be overlooked when non-specialised local police

⁵⁸ (no Belgian translation as interview conducted in English).

⁵⁹ “Het ding is ook, je hebt zodanig veel soorten politie, je hebt interventie politie, wijk politie, migranten politie, en vaak als ik vraag aan politiemensen die ik ken zeggen ze altijd, als wij dat zijn, moest dat onze dienst zijn die daarmee te maken heeft gaan wij dat doen, maar let op als dat collega’s zijn van die cel zou dat iets anders zijn. Dus de verandering van de verschillende doelstellingen verandert ook de wijze waarmee ze omgaan met bepaalde thematieken.”

forces who are not trained in these matters stumble upon a case. Another interviewee [S(1)] said that *“The police are just not qualified for labour conflicts, do not know how to handle these things and try to ignore it as best as possible.”*⁶⁰

Nevertheless, in a scenario where police are present and have encountered irregular migrants, they are professionally obliged to arrest and report them as this is a crime punishable by law. However, due to the high amount of irregular migrants present in the country, the punishments are generally waived and the migrant will be detained to await deportation. According to the same interviewee [S(1)], usually no action to support or compensate the migrant worker is taken unless it is a very clear case of human trafficking. Overall there is a difference in treatment and according to another interviewee [S(1)] that will also:

“(...) depend on the service. If it is a police service that is specialised in trafficking, they will be seen as victims. If not, they will be seen as residing illegally on the territory. It will depend on the case.” [S(1)]

One interviewee [P(1)] stated that more specialised police units and more training for police officers would be useful, due to the complexity of the issue.

Promising practice:

Specialised cells on human trafficking/labour exploitation are becoming more and more frequent within the police and are tasked with maintaining research, fieldwork and cooperating with other institutions when it concerns cases of labour exploitation [P(1)]. These specialised cells also facilitate cooperation with inspection services. According to the interviewee [M(1)] who raised this example, *“there are good contacts with the police because they have specialised cells, they have a cell for human trafficking”*

With regard to coordinated inspection raids, the police will be present to guarantee the safety of the inspection officers. In this scenario the inspection services will be looking specifically for situations of social fraud and exploitation and, thanks to their training, they will most likely be able to identify a victim if it concerns a real situation of exploitation. However, during these coordinated inspections the police will leave the details concerning labour to the inspection services and as the police have the obligation to register irregular migrants they will prioritise the focus on the migration status [M(1); L(1)]. In practice these tasks are divided between the two institutions. One representative from the police found this division in tasks to be natural, explaining that the police is tasked only with observing and holding people when necessary, that is where they should draw the line:

*“(...) the measures taken in the context of the intervention of the police are sufficient: watching the people and making sure they are available for inspection by the authorities...we cannot take any additional measures.”*⁶¹ [P(1)].

⁶⁰ “Politie is gewoon niet bevoegd voor zaken arbeid, weten niet hoe dat moeten aanpakken en proberen dan zo goed mogelijk te negeren.”

⁶¹ “Ik denk dat de maatregelen voortvloeien uit de politionele tussenkomst: het bekijken van de mensen, kijken dat die ter beschikking worden gesteld van de autoriteiten. ... Meer maatregelen kunnen daarbovenop niet worden genomen.”

However, according to an interviewee [S(1)], this dualistic approach creates a lot of practical problems for the inspection services as the irregular migrants often refuse to cooperate if the police are present.

If regular police officers enter a place of work without the presence of the inspection services and encounter migrant workers, the chances are high that they will continue to do the task they are most trained for and used to, which is focusing on their migration status [M(2); E(1)]. They will be less likely to ask questions concerning their labour situation but will rather invoke procedures involving immigration services. According to one interviewee [P(1)], if they suspect something more is going on, but they do not have the expertise to deal with it, they can call up either the inspection services or their colleagues in the police cells that are specialised in economic exploitation. According to an interviewee [M(1)], the police officers who work in the specialised cell and the inspection services are trained in labour protocols and will be more likely to accurately identify cases of exploitation. However the success of these scenarios all depends on the communication and coordination between the different services which varies between the different regions.

An interviewee [P(1)] explained that cases of human trafficking and/or labour exploitation are also detected by the border control at the airport. During border control processes (for international flights), the officers are looking out for indications of irregular immigration and, in this context, human trafficking and labour exploitation. When a case of human trafficking is suspected, two files are made and the migrants would both be regarded as victims and as irregular migrants. The officers at the airport pass on the files to the Immigration Office and the Public Prosecution of the Labour Court [P(2)]. According to an interviewee [P(1)]: *“[the victim] will automatically be referred to the victim support services. [The border agency] will then sustain further contact with the victim, in cooperation with the prosecution and the Immigration Office.”*

Speaking about cases of human trafficking in general and difficulties in identifying cases, one interviewee from border control stated that they are confronted with people crossing borders implies that often the crime has not taken place yet or has taken place on the territory of another country. In order to look for evidence that people use false documents or migrate illegally, it would be helpful if there was more of an information exchange between the different countries. This would facilitate refusing possible offenders the access to the country [P(1)].

Use of checklists

The use of checklists when conducting inspections or controls varies a lot between different institutions, even within the same professional groups. The specialised unit for the fight against crime against people in the Federal Judicial Police reportedly uses checklists and have a *“specific brochure in the police service, with all the different kinds of violations that can be made by an employer, because the police are not experts. This brochure has 80 of the most important violations in it but in police jargon, so they can record issues on migrant rights in a minute”*⁶² [P(1)]. Other police services, such as a decentralized directorate and the airport police, reportedly do not use checklists, however. One interviewee from the airport police said that it would be useful to brief all policemen on possible indications of labour exploitation.

Also within the monitoring bodies and inspection services, the use of checklists varies. Some reportedly do not use such lists. Two interviewees [M(2)] said their organisations used documents called “COL 1” and “COL 7”. These lists provide indicators to apply to a situation

⁶² “ook bijvoorbeeld, we hebben een bepaalde brochure hier in de dienst, met alle inbreuken in hoofde van de werkgever in belang van de werknemer, want de politie man in geen expert, en dat is een brochure met allerlei, de 80 belangrijkste inbreuken maar in de taal van de politie man die dat kan opnemen verbaal, ivm de rechten van de arbeider.”

in order to define it as a case of economic exploitation, such as poor housing and wages below the minimum wage. Annex 2 of COL 1 reportedly is a list of indicators used when the inspectors question employees. The legal basis is set out in a circular from 2008⁶³. One of the labour inspectors said they and their colleagues base their assessment (to determine if someone is a victim of human trafficking) on a Circular Letter⁶⁴ regarding human trafficking. Some victim support services reportedly use the same or similar checklists as the police and monitoring bodies or use combinations of those [S(3)]. The indicators low pay and inadequate housing were again mentioned by an interviewee from the victim support group as most important [S(1)]. Another interviewee [S(1)] explained in detail what their checklist asked for:

*“We are going to go over: where did you find the employer, what is their nationality, information on the employer, what was the exact work situation, how many hours did they worked, what status does he have? Then we have specific side questions: if the company worked with sub-contractors, if you worked for different clients, do you have information on them, different construction sites? Were you threatened by the employer? Assault and battery, was there a work accident involved? What kind of evidence do you have? Were there inspections you knew of? What do you want from us? Plus some extra information and then the information about the workers.”*⁶⁵ [S(1)]

One interviewee [S(1)] provided their checklist (on human trafficking). This list includes several indicators on: human trafficking, displacement, travel and identification documents, working conditions, housing, physical integrity of the victim, freedom of circulation of the victim, links to the country of origin, among others.

Those interviewees whose organisations do not use checklists felt that these are not needed – either, because the organisation is not tasked with inspections directly [S(2)] or because they identify cases on a different basis, such as experience [(S(1))] or general police enforcement tools [P(1)].

Measures taken by the police

Action taken by the police to put an end to the situation of labour exploitation includes house searches, writing minutes and inspections, according to one interviewee [L(1)]. This helps report findings, collect evidence and support prosecution. Another interviewee [M(1)] added that establishments can be closed as well as buildings and machines when cases of severe economic exploitation are found. Explaining that this usually leads to the business closing up, immediately afterwards, the interviewee said:

*“I can tell you when you barge in somewhere and everyone is taken away, and with that I mean literally everyone, there will not be any activity in that place anymore afterwards.”*⁶⁶ [M(1)].

Authorised house entries and private house searches are rare and are not done between the hours of 9pm and 5am. According to one interviewee [P(1)], they are only done when deemed absolutely necessary by the investigating judge and these court ordered searches will only be

⁶³ www.ejustice.just.fgov.be/cgi/loi/change_lg.pl?language=fr&la=N&table_name=wet&cn=2008092633

⁶⁴ www.diversiteit.be/sites/default/files/legacy_files/wetgeving_legislation/national/mensenhandel_TEH/omzendbrief%2026%20SEPTEMBER%202008%20-%20nl.pdf.

⁶⁵ “we gaan eerst overlopen, waar heb je de werkgever gevonden, welke nationaliteit heeft hij, gegevens van de werkgever, wat was precies de werksituatie, hoeveel uren heeft hij moeten werken, en welk statuut heeft hij. Dan specifieke bijvragen, of het bedrijf in onder-aanneming werkte, of je bij verschillende klanten werkte, heb je daar gegevens van, verschillende werven. Werd je bedreigd door de werkgever? Slagen en verwondingen, is er een arbeidsongeval gebeurd? Wat voor bewijsmateriaal heb je, zijn er inspecties geweest waar je weet van hebt? Wat wil je van ons? Plus nog extra informatie en dan gegevens van de werknemer zelf.”

⁶⁶ “en ik kan u zeggen als je zo ergens binnenvalt en iedereen wordt meegenomen maar dan letterlijk iedereen, dan is daar achteraf geen activiteit meer.”

filed for if there is clear evidence present that these private homes are being used for criminal forms of exploitation. One interviewee [M(1)] pointed out that the measures police can take are limited. They are able to contact the prosecution and, if necessary, that can lead to the building being sealed, after which no more economic activity is allowed there. This is a serious measure however and is only done in the most extreme cases or very large cases where the entire workforce of the company consists of economically exploited migrants.

Effectiveness of measures:

An interviewee [J(1)] explained that, due to the complexity of defining and proving economic exploitation, the judicial system will sometimes drop that label altogether and focus more on the illegal employment or other infraction of the social laws simply because they are easier to prove and have a higher rate of ending in sentencing. The same interviewee referred especially to human trafficking when explaining this phenomenon:

“I have to admit honestly that we sometimes leave the qualification of human trafficking behind and focus more on the illegal employment of migrants or other social law infractions because they are easier to prove and because we have more elements of proof for those things than we do for the larger problem of human trafficking.” [J(1)]⁶⁷

Some problems of effectiveness are due to the slow stream of information between the different institutions, as explained by another interviewee [J(1)]:

“It is the chain between justice, police and inspection that should be shorter. We work in a chain approach, the people in the field have to start and the time it takes before it gets to us should be shorter so that we can indeed react and steer the cases faster and therefore handle them better in the short term”⁶⁸ [J(1)]

However, this is improving with an increase in reports by the police and general calls for support in these matters when the police and inspection services are unsure of what to do [J(1)]. Most police services will often contact the appropriate services when confronted with material that they have no experience of.

One interviewee from the lawyer group suggested that cases in larger cities are handled faster and more effectively by the police than the outlying villages [L(1)].

Referral

If the police acknowledge the situation as one of human trafficking for economic exploitation, they are tasked to refer the victims to one of the three main victim support services in Belgium, Payoke, Surya or Pagasa [S(1); P(1)]. This is aimed at ensuring that the victim is removed from the exploitative environment upon which they are given shelter and have an option to obtain legal residential documentation. One interviewee added that this is only done when

⁶⁷ “Ik moet ook eerlijk toegeven dat wij soms, je let op al die moeilijkheden, de kwalificatie mensenhandel achterwege laten, en ons gewoon focussen op illegale tewerkstelling van vreemdelingen of andere inbreuken op sociale wetgeving, omdat die gemakkelijker bewijsbaar en aantoonbaar zijn en omdat we daar meer bewijselementen hebben dan voor de grotere problematiek van mensenhandel. En dat dat tot veroordelingen leidt, snellere veroordelingen voor de rechtbank die niet per se lichter zijn dan mocht je vervolgd worden voor mensenhandel.”

⁶⁸ „Het is de keten in feite, de keten tussen justitie, politie en inspectie die zou korter moeten. We zitten in feite in een soort van keten aanpak, iemand moet er mee beginnen dat zijn dan de mensen op het terrein en de tijd vooralleer dat dat bij ons komt die moet korter zodat wij inderdaad sneller kunnen sturen en aansturing geven om die dossiers op kort termijn beter aan te pakken.”

economic exploitation is suspected, otherwise the police will contact the immigration services [J(1)].

One interviewee [P(1)] stated that the police also have a lot of pamphlets regarding victim support as mentioned previously, and are seemingly moving towards a more user friendly format of these. The police also increasingly have better training to handle situations of exploitation [P(1)]. The same interviewee described how sensitive the first contact is with these migrant workers. When encountering a case, police officers and inspection services have to act quickly as pamphlets are not always a good way to refer victims to support services. In this context, the interviewee stated the following:

*“If you merely give them a pamphlet that says “go here for help” no one is going to come. (...) I think referrals are, I think they are unrealistic; if you make sure they are there with you, present at the time, the chance is greater that you can refer them”*⁶⁹
[P(1)]

The same interviewee added that most of the victim referrals were made through the various contacts of the centres or the social inspection services, not the police themselves [P(1)].

One of the problems here however, is that the migrants have to acknowledge themselves as victims and allow themselves to be referred and sheltered. In one of the cases examined, an African woman working as a house cleaner in exploitative conditions refused help by a social worker who was aware of the situation. The migrant reportedly feared deportation and the loss of the income. Furthermore, the presence of the police, as noted before, often makes the migrant workers unwilling to come forward and cooperate [S(1); L(1)]:

*“The problem with inspection and migrants is that during an inspection, in that moment, there is a lot of stress, fear, adrenaline, which leads to the employees not telling the truth and this causes the inspection to miss out on vital information, so they cannot make a proper case file”.*⁷⁰

The referral system is seen as effective for human trafficking but anything outside of that categorisation will not receive any support as there is no official referral system for victims of social fraud [J(1)]. However, according to two case studies, the police also refer victims to support services in cases that are not defined as human trafficking. In one case study, for example, one of the victims directly reported to the police who then referred the victims to the support services. In two other cases examined where the police was the first institution aware of the situation, the police also referred victims to support services. These were cases involving human trafficking.

One judge suggested that the most serious cases that involve the people in the most precarious situations are also those that are least likely to be identified. This has the adverse effect of the authorities possibly being more wary of people who do come forward as they might be the ones trying to abuse the law to achieve legal residential status. The referral system for victims is well designed for victims of human trafficking, but not all perceived forms of labour exploitation fit in this category and for the rest of the cases the referral system works poorly.

⁶⁹ “Als je die mensen iets geeft en zegt, daar kan je naartoe, dan weet je bijna zeker dat ze daar niet naartoe gaan he. (...) Ja, verwijzen, ik denk dat verwijzen moeilijk is, onrealistisch is, als je zorgt dat ze erbij zijn, dichtbij jou, dat de kans groter is dat je ze kan doorverwijzen.”

⁷⁰ “Probleem is ook heel vaak voor inspectie en mensen zonder wettig verblijf is dat tijdens die inspectie, in dat moment, heel veel stress is, angst, adrenaline, wat ervoor zorgt dat ze niet de waarheid zeggen en dat zorgt er weer voor dat de inspectie hun job niet goed kan uitvoeren, dat het dossier niet fatsoenlijk wordt opgesteld, dat de persoon zonder wettelijk verblijf nooit in een situatie zit waar hij op zijn gemak kan zijn, veilig kan zijn zodat hij zijn verhaal kan doen.”

As regards the Focus Group, most of the participants were in agreement that there is a good referral system in place for human trafficking for economic exploitation, but outside of that there is not much else. There is no general referral system in place. There were also a lot of complications concerning the handling of victims, including victims not communicating or being deported before legal measures can be taken.

Effectiveness of investigations and prosecution

Opinions were divided on the effectiveness of the investigations and prosecutions. Two interviewees felt that there are too many networks of traffickers and smugglers for the justice system to effectively keep up with [L(1); E(1)]. Therefore, according to one interviewee [L(1)], while the effectiveness of investigations and prosecutions might vary from district to district, comments were made that on the whole this type of exploitation is a vicious cycle that is difficult to break.

*“There are networks of human traffickers and smugglers uncovered in Brussels and prosecuted, sanctioned, but within the month there will be a new network, often with people who just got out of prison. The money streams are so important and large there, the profits so large, that people pretty much make a calculation and sacrifice others to do temporary jail time but meanwhile start all over again. The efficiency is very low actually.”*⁷¹ [L(1)]

A key recurring element in the interviews which seemed to halt the effectiveness of investigations and prosecution was the lengthy judicial procedures. As explained by an interviewee [P(1)], before a case is filed, a lot of time will go by and often the migrant workers are deported before they have a chance to reclaim their lost wages.

The same interviewee also referred to procedural mistakes by the judicial system, leading to suspected traffickers being released. In this respect he stated:

*“The police and inspection services together have one frustration. Even though we are performing our jobs correctly, it is the judge who eventually decides something different. So the question is, are we working efficiently? I think you might have heard yesterday, a couple of human traffickers who were responsible for the death of some of the people they trafficked, were released due to procedural mistakes. So again, the question is, are we working effectively? I think not.”*⁷² [P(1)]

According to one interviewee [S(1)], prosecution is also made difficult because evidence in exploitation cases is difficult to collect. Unless the migrant workers have been taking pictures of themselves on the work-site these cases are difficult to prove in court as it is usually the employer's word against the employee's [S(1)]. Another interviewee [S(1)] pointed out that the Law on the determination of sanctions and measures for the employers of illegal residents on Belgian soil⁷³ (ch.3, Art.7) arranges a three month 'buffer' for irregular migrants from third

⁷¹ „Er worden in Brussel netwerken van mensensmokkelaars vervolgd, veroordeeld, maar binnen de maand is er een nieuw netwerk he, dikwijls ook met de mensen die net uit de gevangenis komen. De geldstromen zijn daar zo belangrijk en zo groot, de winsten zijn daar zo groot dat men dat eigenlijk bijna incalculeert en daarvoor mensen opoffert om tijdelijk in de gevangenis plaats te nemen maar men begint meteen opnieuw he. Dus de efficiëntie is vrij laag eigenlijk.”

⁷² “ik denk dat politie en inspectie diensten samen soms 1 frustratie hebben, dat tegenstaande ons werk goed is, de rechter iets anders gaat beslissen. En dan is de vraag, zijn wij efficiënt bezig? ... Ik denk gisteren ook je hebt het misschien gehoord, die mensensmokkelaars die verantwoordelijk waren voor de dood van enkele gesmokkelden, die zijn vrijgesproken wegens procedure fouten. Dus dan is de vraag zijn we efficiënt bezig... ik denk van niet.”

⁷³ Law on the determination of sanctions and measures for the employers of illegal residents on Belgian soil (Wet tot vaststelling van sancties en maatregelen voor werkgevers van illegaal verblijvende onderdanen van derde landen, BS 22 February 2013/Loi prévoyant des sanctions et des mesures à l'encontre des employeurs de

countries. If irregularly residing third country migrants have worked in Belgium with a working contract, they are automatically assumed to have worked with the employer for three months and the burden of proof is on the employer to prove it was less. However, one interviewee [L(1)] feels that the victims' rights are not always respected because of the lack of the presence of a lawyer. This was mentioned in the context of the migrants' residence status – migrants' irregular status is often considered as more important than their situation as victims of labour exploitation [L(1)].

As mentioned above, investigations at the airport by the airport police are rendered difficult because often the crime has not taken place yet or has taken place on the territory of another country. According to one interviewee [P(1)], in order to look for evidence that people use false documents or have committed or intend to commit a crime (belong to a trafficking network, etc.), there would need to be a better exchange of information between countries.

ressortissants de pays tiers en séjour illégal, MB 33 février 2013, of 1 February 2013. In force since 4 March 2013; [\(FR\)](#)

5. Victim support and access to justice

5.1 Victim support, including available support services

There are three official victim support services. If police or inspection services encounter victims of human trafficking for example, they will refer them to one of these three support services (each one is described below). Besides the official services there are a number of non-profit organisations or organisations semi-funded by the government that count as victim support instances as well. Overall these concern mostly informational programs and serve to advise victims.

Pag-asa, Payoke, Surya If the police or social inspections discover victims of economic exploitation during their daily tasks, the three official federal funded victim support services: Pag-Asa in Brussels, Payoke in Antwerp and Surya in Liege are the centres they will refer them to. As one interviewee [S(1)] explained, the centres are active in three main fields, namely a judicial support branch, administrative guidance and also psychological-social guidance [S(1)]. Victims of human trafficking and labour exploitation from outside the EU can obtain a special victim status that allows them residential privileges in Belgium. Being formally identified as a victim is not only necessary, it is often the only way for non-EU migrants to stay in Belgium after they have been discovered residing illegally [S(1)]. These support services offer shelter to the victims and cooperate with the OCMW (Openbaar centrum voor maatschappelijk welzijn, Public Centre of Societal Wellbeing) so they can obtain a residence for the long term. All of the victim support services are free of charge but not all migrants have access to them. They have to be identified as victims by the first line-responders first and then transferred to the victim support services.

Esperanto

Esperanto is a victim support service that informs and gives judicial advice specifically for child victims of human trafficking. They focus on the psychological guidance and housing of these victims after the police or the inspection services have referred them to their organisations. They are not officially recognised yet so they cannot ask for a residency permit for the victims [S(1)]. They tend not to come across many cases, child labour is rarely encountered. Esperanto (situated in Beauraing) is part of an official referral mechanism, specifically for minor victims of human trafficking. There are two other referral centres for children in Belgium, including Juna (Flanders) and Monor-Ndako (Brussels), but Esperanto is the only one specialised in receiving child victims of trafficking.

Orca

Besides the three large victim support organisations, there are many other services designed to help the migrant workers. Orca is in Brussels and is an open first line responder. Any migrant can approach them and ask questions regarding their situation. They are mainly an informative instance but will also personally guide the victims and give them legal advice [S(1)].

Odice

ODICE is a second or third line responder. They are experts in migratory and labour laws and their phone lines provide anyone with answers to these themes. Employers and employees alike call them to ask questions concerning their employment. They try to clarify confusion often caused by the complex legislation surrounding the labour cards [S(1)]. This line is free of charge.

Centre for equal opportunities and opposition to racism (since renamed as the Federal Migration Centre)

The centre for equal opportunities and opposition to racism is a unique victim support service as they have legal standing [N(1)]. This means they can pro-actively search for cases and then file a complaint and act as civil party. For example: if a company is reported on the news to have severely exploited a specific group of people, the centre for equal opportunities can become a civil party in that case if they believe there is an account of racism or discrimination. This victim support service is focused on discrimination and is more of a second line help, not directly for the migrants themselves but rather protecting their rights in general.

General effectiveness of victim support services in Belgium

The interviewees mostly agreed that the three main victim support services (Pag-asa, Payoke and Surya) were effective in their work. Interviewees provided diverging views on whether being formally recognised as a victim is a requirement to receive support by support services: The interviewee from an NGO providing advice to victims as well as interviewees from the police, said that migrants needed to be identified as victims of human trafficking in order to receive full support by the official support services [P(2); S(1)]. On the other hand, an interviewee from one of the officially recognised victim support services said that *“there is no need to be formally recognised as a victim”* to access their service. If the victims are discovered and identified correctly, the help from the three main services is definitely effective. As far as the rest of the support services go, they too provide good care and information and often co-operate with other centres (such as drug centres but also public social welfare institutions) to provide more optimal and needs-based care [S(1)]. However a lot of their effectiveness is lost due to underfunding. One interviewee [S(1)] explained that the lack of proper economic means and human resources makes their work difficult, including offering real legal support [S(1)]. One interviewee [W(1)] stated that: *“sometimes that (the lack of effectiveness) is not always related to legislative measures but also to funding for example, that is the case for Pag-Asa, you do not get reimbursement for a migrant who has an irregular status”* [W(1)].

Do victim support services accommodate the needs of migrant workers specifically?

The victim support services offer a multitude of services specifically for the migrant workers. There is the judicial support, they help make the migrants aware of their rights and guide them through legal processes, if they are undergoing any. They also provide psychosocial support. They provide all the basic needs, including food and shelter, and even provide further residential options when the public welfare institutions get involved. Generally the care package is catered to victims specifically [S(1)]. The system for children is similar to that of adults and they can be referred to the same victim support services for shelter or a specialised child support centre such as Esperanto. Though, as mentioned before, child labour is rarely an issue [S(1)].

Furthermore, findings from the case studies show that general social services are also involved in the process of identifying and providing support to the victims. Social services become aware of the victims and exploitation cases through their own field work and anonymous reports. The case studies confirm that victims are less reluctant to go to the social workers in search for help and support, than reporting the perpetrators to the police. This is due to several reasons, one of them being the irregular residence status held by the large part of the victims and the fear of jeopardising their stay and the source of income in the receiving country. Another reason is also the confidentiality rule the social workers are subjected to – if the victims do not wish to pursue the case further, the caseworkers would not inform the authorities of their situation.

5.2 Access to justice and other mechanisms to empower victims

Civil Justice System

On the whole, the interviewees were unsatisfied with the civil justice system on its own to help compensate wages. Victims rarely ever file a claim on their own, possibly because of the lack of awareness concerning their rights and the possibilities they have to reclaim their wages or their fear of being caught as having an irregular status in Belgium. One interviewee [J(1)] explained that if they do, however, there is a high chance they will not be successful as these cases require robust evidence. As the victims have to prove they have actually done the work, they need pictures, video or witnesses to support that claim. The inspection services and police on the scene will try and debrief the workers as soon as possible. They will inquire about all the aspects of the labour situation, how long they have been working in that specific setting, how much they are being paid, etc. However, this is often difficult because of language restraints or the unwillingness of the migrant workers to speak to authority figures, as they fear being deported. Members of the group of inspection services explained that it takes them a few tries every time to explain the situation to the migrant workers. However, when it has been made clear that they are not from the immigration services and only need information concerning the workplace which might lead to compensation, the migrants tend to be more forthcoming with their information. Even if successful, the above-mentioned problems will still be present (for example, no money for compensation is available or all the money has disappeared with the employer). The procedures also tend to take a very long time and at the end of the procedure it is possible that both parties have disappeared [J(1)].

Access to Lawyers

Another problem raised during the interviews was that of access to lawyers. The pro-bono system in Belgium is not in place for all victims and a new tax law has just been raised making lawyers more expensive. This is problematic for victim support services, such as Payoke or the Centre for Equal opportunities, as they can barely afford to pay for legal support anymore [S(1); W(1)].

Civil law claims dealt with by the criminal Justice system

In Belgium, civil claims can be combined with the criminal proceedings so that the outcome of the criminal trial can be used in the civil claim [S(1)]. Generally this system works well, according to interviewees, as the criminal justice system is more adept at handling these cases as they can often apprehend people before they flee and call in extra investigative measures, such as the checking of bank accounts etc. [J(1); L(1)].

The labour prosecution can also file a specific claim in the labour court to obtain a declaratory sentencing which is a title that can help the employees come forward afterwards to claim their lost wages or general compensation. However, this is something that they have never done as it is difficult enough to identify the victims, contact them and in the end it is not even certain that any of the victims would even use this title in a court [J(1)].

Overall there was an agreement that there are plenty of mechanisms and possibilities for migrant victims to come forward and try to reclaim their wages. However, due to many administrative complications and lengthy procedures, victims often opt not to file claims as they feel that it would be ineffective to do so.

Complaints lodged by third parties

Anyone can file complaints. Not only are the inspection services open to complaints, but if it concerns specialised matters such as racism or discrimination, a person can also call on the Centre for Equal opportunities. The various other victim support services also direct victims to the appropriate service and will make sure that the complaint is directed to the appropriate authorities if someone were to approach them [J(2)]. However, for the migrant workers it involves a certain amount of risk to file a complaint with official institutions, such as the police and inspection services, as their residential status will often be checked and registered by immigration services, something the migrant victims fear [S(1)].

Mechanisms that would facilitate lodging of complaints of migrant workers against employers

It was commented that one of the key mechanisms that needs to change to help the migrant increase the lodging of complaints has to do with the fear of being repatriated. At this time if the migrant workers file complaints with police or inspection bodies, they run a high risk of those institutions checking up and following up on their residential status. According to one interviewee [W(1)], a division needs to be made between inspection and police as well for the same reason. An interviewee from the victim support group added that there needs to be a place that they can safely file a complaint, regardless of their residential status.

At this time there is a categorisation for the victims of human trafficking but not for other types of victims, such as victims of social fraud. Quicker administrative handling is needed, possibly through the use of new legislative victim definition [L(1)]. Some interviewees also mentioned the necessity for better access to lawyers. One interviewee explained that this might also cause the migrants to be better informed and more willing to step forward [S(1)].

Unions were also mentioned multiple times across all groups. As mentioned before, the unions are not helping the situation to a big extent at the moment and if they were to make membership easier for migrant workers, they could definitely carry a more supportive role [J(1)].

6. Attitudes

Are interventions in the best interest of the migrants?

Opinions on this question were somewhat varied. One of the interviewees summarised the discussion by explaining that interventions “*are primarily offender-oriented*” [J(1)]. Generally, the focus is less on the outcome for the migrants and more on catching and sentencing offenders [J(1); N(1); W(1)], which is in the interest of the State [E(1)].

Most of the employers’ organisations found that interventions in situations of human trafficking for labour exploitation are able to remove the victims from the exploitative condition, which in itself is a positive outcome [E(1)]. From a societal and humanitarian based perspective, these interventions are definitely necessary and are in the best interests of the migrants in the long-term perspective. It also acts as a deterrent for employers from engaging in labour exploitation [L(1)].

However, many interviewees (across several professional groups, but mainly from among support services and labour inspections) felt that, from the migrant’s perspective, interventions were not likely to be perceived in their best interests. Generally the interventions mean they lose their work, their source of income, basically the reason they left their country of origin in the first place [J(1)]. Representatives of workers’ organisations spoke of a lack of rights based approach and the national policy expert believed there was much room for improvement for a more victim based approach as well [N(1); W(1)]. According to some interviewees, for example, many of the regulations are specifically focused on the safety and rights of the employee, which the migrants do not always value as they are used to conditions that are worse and are satisfied as long as they are making money [S(1)].

After the intervention, if the case involves irregular migrants, they will most likely be removed from the country as well and, as long as they are abroad, repayment to them is impossible as they need to be present in Belgium to access the compensation. In addition, some interviewees explained that interventions scare migrants a lot. This is partly because coordinated police and inspection efforts are usually large in scale and involve apprehending many workers at the same time, but also because the migrant workers have sometimes had negative experiences with police forces in their own country [L(1); P(1)].

Most were in agreement that interventions are usually not perceived as a good thing by the migrants themselves and the effects for the migrant workers can be considered bad. From a broad perspective however, the interventions are serving the best interests long-term by helping them to restore their rights or forcing things as simple as safety regulations [E(1); S(1)].

Reasons migrant workers do not come forward and report

	W	S	P	N	M	L	J	E	Total
Victims fear that if their situation became known to the authorities, they would have to leave the country. (08)	3	5	2	1	3	3	3	X	20
Victims are not aware of their rights and of support available to them (03)	3	6	2		5	1	2	X	19
Victims fear retaliation from the side of offenders against them or against family members (04)	3	4	1	1	3	2		X	14

Victims perceive being jobless as worse than working in exploitative conditions (10)		3	2		3	1	2	X	11
Victims believe that speaking to authorities is not worthwhile or they would not benefit from subsequent proceedings (06)			2	1	2	1		X	6
Victims believe that proceedings are too bureaucratic and costly (07)		1			1			X	2
Victims do not trust that the police in particular would treat them in a sympathetic manner. (09)		2	2		1		1	X	6
Lack of effective monitoring of relevant areas of economy (01)						1		X	1
Victims suffer from feelings of shame (05)								X	0
Lack of targeted support service provision available to victims (02)								X	0
Other (11)			1				1	X	2
Don't know (99)								X	0

Table 10, Reasons for exploited migrant workers not to come forward, seek support or report to the police by professional group

The three main reasons for victims not coming forward, seeking support or reporting to the police cited were spread fairly evenly over the different groups. The answer given most frequently across all groups was that the victims fear that if their situation became known to the authorities, they would have to leave the country. Secondly, victims are not aware of their rights and of the support available to them (code 03). An interviewee [P(1)] stated the following as being the main reasons for victims not coming forward:

“Especially not knowing his rights. In his mind he still has the rights from his home country. And then of course the isolation at that time.”⁷⁴ [P(1)].

The third most important reason mentioned was that victims fear retaliation from the side of offenders against them or family members. This was highlighted by all groups, except for the judges. Finally, victims’ perception of being jobless as being worse than working under exploitation was also frequently mentioned.

Several interviewees pointed out that many migrants working in exploitation are economic migrants whose main drive is to make money that they can send back home [M(3); S(2); P(2)]. Many do not think of themselves as being exploited and they are happy to be making any kind of money. In fact, some migrant workers who are seconded earn a similar amount than a Belgian person earns net, but they, and the employer, pay no social contributions or taxes and they work overtime [M(2); E(1); P(1) - see section above on role of recruitment agencies]. So in many cases they will not come forward as they will lose their financial security. As one interviewee [M(1)] explained:

“(…) you cut off their source of income; even if they are being exploited they will always make more here than what they would have made at home”⁷⁵ [M(1)]

⁷⁴ “Vooral het niet weten van zijn rechten. In zijn hoofd heeft hij vaak nog de rechten van zijn thuisland. En dan natuurlijk de isolatie op dat moment.”

⁷⁵ “Het feit dat ze gerepatriëerd worden als we ze tegenkomen. Je snijdt hun bron van inkomsten af ook al worden zij uitgebuit ze gaan nog altijd meer verdienen dan wat ze bij hun thuis zouden verdienen. Dat is juist hetzelfde met gedetacheerden”.

In discussing other reasons migrant workers might not be coming forward, a second theme appeared which concerned the situation of the migrants in general. Their dependency and isolation, not knowing the language and as a result the lack of communication and possibilities, are all reasons migrants will not come forward. They are not knowledgeable about the opportunities, their rights or services that they can contact to help them [S(2); W(1)]. According to one interviewee from the police group, sometimes they simply “(...) do not want to go back. Because: what is the alternative? There is also a part of them losing face, being embarrassed.”

In the case of irregular migrants, they are also very fearful of being deported. This is related to the previously mentioned economic factors. Another concern frequently observed, was fear of retaliation by the employer. Threats were more common than actual physical violence, but nonetheless the interviewees believed the migrants were fearful of possible retaliations. There is a dependency relation between the migrants and the exploiters. According to one interviewee [P(1)], it is often the case that exploiters owe the workers money and the workers need the exploiter to guarantee the work opportunities, which is why in the end “the victims look at their exploiters as their worst enemy, but their best friend at the same time” [P(1)].

Other factors mentioned were a lack of coordination among victims and lack of a spokesperson, [L(1)] as well as the shame of being labelled as a victim of labour exploitation [E(1)] and lack of guarantees for protection and support [N(1)].

Most important factors for the migrants themselves

	W	S	P	N	M	L	J	E	Total
To be able to stay and to make a living in an EU country (03)	1	4	4	1	2	2	2	X	16
To be in a position to economically support other family members (06)		5	3		4	2		X	14
To receive compensation and back pay from employers (07)	1	4	2		4	1	2	X	14
To be safe and to be protected against further victimisation (01)	1	2			1	2	3	X	9
For their family to be safe (02)		3	2		3	1		X	9
To be respected and to see that their rights are taken seriously (05)	2	1	1	1	3			X	8
To see that offenders are held accountable and that justice is done (04)	1	1			1	1	1	X	5
To be able to return home safely (08)		1		1			1	X	3
Other (09)								X	
Don't know (99)	3							X	

Table 11, most important factors to migrants who are victims by professional group

The three factors mentioned the most often by interviewees across all professional groups all relate to the economic aspect of working under exploitation. According to the interviewees, the migrants' main concern was staying in the country and continuing to make money (code 03). One of the interviewees [W(1)] said:

“I have cases where I wonder why they do not go back home. They are in such a terrible situation here. I tell them, but they do not want to listen.” [W(1)]

Almost half of the interviewees (14) agreed and furthermore, it was very important to migrants to be able to economically support their family members (code 06). In many interviews it was

pointed out that the money the migrants earn is almost always sent to their families who are still in their country of origin, which is their main goal and priority (code 06) [S(3); P(2)]. It was seen as equally important for them to reclaim unpaid wages and receive back pay and compensation (code 07).

Is enough being done in Belgium to address severe forms of labour exploitation?

Some members of the S group were unsatisfied with the amount of focus and attention the problem is generating [S(2)]. The rest of the interviewees generally agreed that Belgium has a lot of measures and legislation in place to combat economic exploitation, certainly when compared to other EU countries [S(2); P(1); E(1)]. One interviewee [S(1)] said that:

“I think that we, as one of the smaller countries, have the best and greatest tools to start the fight against human trafficking and if all the actors involved would use those tools correctly, everything would go perfectly.”⁷⁶ [S(1)]

Two interviewees also stated that the issue was in using measures and legislation in place [S(1); E(1)]. For example, some of the administrative barriers and practical difficulties, such as lengthy procedures and inadequate access to lawyers, are making it difficult to address the problems effectively [P(1); E(1)]. However, many interviewees also stated that there is always room for improvement. Some interviewees across different professional groups referred to previously commented issues, for example the lack of means and personnel that are withholding quality support from both the inspection and victim support services at times [M(2); W(1)] and could be improved upon. Shortcomings in the provisions for victims to claim compensation were also highlighted again, particularly the fact that victims have to be present in Belgium to receive compensation [S(1)].

One interviewee's [J(1)] statement summarises an opinion held by many interviewees on the effectiveness of the framework in place:

“I think that the legislation exists, and the framework largely as well. I think the people in the field are willing and able but we always bump into practical difficulties. Difficulties that you will experience in any case file, procedural and other areas.”⁷⁷ [J(1)]

However, some also highlighted that the causes of economic exploitation lie in the legislation itself and needed to be addressed, especially revising migration policies [E(2); W(1)]. According to one interviewee [FG(E)], improving the legislation and measures was also said to be a question of political will and some interviewees were doubtful about the amount of political incentive that is available right now concerning cases of exploitation.

Overall many stated that no matter how much effort you put into it, there is always room for improvement [M(1); S(1)]. One of the interviewees [M(1)] noted that Belgium is, compared to other EU countries, taking a proactive approach to this issue, saying that:

“(…) as long as you are working in a Belgian context you think, this could be better, should be better and these cases are not being prosecuted and are not leading to compensation. But when you compare the number of the amount of cases being tried and sentenced with any other country, also the Netherlands, Germany, we score very high.” [M(1)]

⁷⁶ “Ik denk dat wij als klein landje de mooiste en de beste instrumenten hebben om de strijd tegen de mensenhandel aan te gaan en als alle actoren die op de juiste manier zouden gebruiken dan zou alles perfect lopen.”

⁷⁷ “Ik denk dat de wetgeving er is dat het kader er wel grotendeels is en goed is, ik denk dat de mensen op het terrein het zeer zeker willen doen en met inzet maar we botsen altijd op praktische bezwaren. De moeilijkheden die je ervaart in elk dossier, procedureel en op andere vlakken op capaciteit.”

Most effective measures to improve the way labour exploitation is being addressed

	W	S	P	N	M	L	J	E	Total
More training of police, labour inspectors and other authorities (11)		4	2		3	1	2	1	13
Measures to ensure that all workers know their rights (04)		4	2	1	4	1	1		13
More effective coordination and cooperation between labour inspectorates, the police and other parts of administration as well as victim support organisations and the criminal justice system (06)	1	1	1	1	1	2	1	3	11
Improve legislation against labour exploitation and its implementation (01)	2	1	3		2		1	2	11
More effective monitoring of the situation of workers in the areas of economy particular prone to labour exploitation (03)		1		1	2	2	1	1	8
Setting up of specialised police units to monitor and investigate labour exploitation (07)		3	1			2		1	7
Police and courts taking labour exploitation more seriously (12)		3	1	2	1				7
Measures to ensure that all workers have access to labour unions (05)		1		1	2		1		5
Improve legislation to allow better access to justice and compensation (02)	1	1			1		1		4
Regularising the situation of migrant workers once they have become victims of severe labour exploitation (09)	1	1					1		3
Regularising the situation of certain groups of migrant workers with an irregular status (08)	1	1							2
Measures addressing corruption in the administration (10)								1	1
Don't know (99)	1				1				2

Table 12, measures which would mostly improve the way labour exploitation is addressed by professional group

Measures mentioned the most frequently (each by 13 interviewees) as most important were on the one hand, more training of the police, labour inspections and other authorities; on the other hand, measures to ensure all migrants know their rights.

Increased training of the police and other authorities was mentioned by a large part of the respondents from the support services and the labour inspections, but also by two respondents from the police and two prosecutors (as well as one lawyer and one respondent from the employers' organisation). The local police are not sufficiently trained in social and labour legislation, which often leads them to overlook cases that might be relevant [S(1); J(1)]. This is especially true for the smaller regions and smaller police bodies. According to one interviewee [S(1)], more awareness needs to be spread and more focus has to be put on the

cases concerning economic exploitation in general [S(1)]. One interviewee [J(1)] mentioned programmes that involve training for police services for example, where a representative of the prosecution comes by and explains matters from their point of view. More training like this is generally regarded as a good step forward [S(1); M(1)]. Prosecutors as well are being progressively more confronted with these cases and learning step by step how to deal with them better [J(2)].

Another important measure (mentioned by 11 interviewees across all professional groups) was better coordination between inspection services, police services and other organisations. One of the interviewees [P(1)] mentioned the “*golden administration*” which is a theoretical perfect coordination between all possible services. If such an administration were to exist, it would contribute to preventing situations of exploitation.

During the interviews it was clear that many institutions are still learning a lot about each other. Police services learn about social and labour legislation from the inspection services and the inspection services learn about the administrative and judicial procedures from the labour prosecution. This matter is relatively new to labour inspections as they have not always been tasked with seeking out and reporting exploitation [M(1)]. Through cooperation with these instances they are learning what kind of evidence they need to collect to make a successful case. As there are many institutions and governing bodies in Belgium tasked with many different ways of monitoring cases of exploitation, it is imperative that they learn to fully cooperate and communicate in order to be able to fulfil their respective roles [P(1)]. Two other interviewees [P(2)] confirmed that another problem right now is all the different databases that are completely separate from each other [P(2)]. According to one interviewee [P(1)]:

“All the available information from the different inspection services is not linked. The Council on Labour, for example, does not know if someone is a manager or owns a business. A database would be a handy tool” [P(1)].

Equally important would be an improvement of the legislation against labour exploitation (mentioned by 11 interviewees from all professional groups, except the lawyers and national policy expert). Some interviewees believed legislation had to be improved on a European level. Representatives of employers’ organisations were generally unsatisfied with migratory labour movement and believed the more open ended European approach was hurting the economic sectors within the country [E(3)].

There was also talk about subcontracting and the application of layered responsibility (having all the actors within the subcontracting chain be equally responsible for the exploitation) and how it is not being applied correctly here in Belgium [E(1)]. Cases of secondment and independent contracting should be dealt with on a European level as it involves cross-border activities and often international cooperation. Improving social legislation between countries would also be beneficial [E(2); W(1)].

Another aspect of the legislation criticised has come up before and refers to the dependency of migrants on one single employer [W(1)]. This can be the case if migrants are not allowed to enter into legal employment or if they work with a labour card B.

Legislation within Belgium itself could also be improved upon. Belgium is in many ways unique when it concerns legislation and administration which often differ between regions or districts. This makes slight differences in the way protocols are handled and how institutions function. Each choose their own priorities and this is reflected in the way they address labour exploitation [M(1)]. Furthermore, one interviewee from the monitoring bodies pointed out that:

“Legislation is defined too generally. Furthermore, if it is not very obvious that a case is labour exploitation, sanctions will not be applied under this legislation”⁷⁸ [M(1)].

One interviewee from the group of judges found that the legislation did not provide a clear definition of what makes a migrant a victim of economic exploitation, while according to a police officer, the legislation on labour exploitation is too complex.

One interviewee [P(1)] said that the current legislation is not sufficiently enforced. Another interviewee mentioned again that penalties and sentences against the employers were too low [P(1)]. Also concerning enforcement, a representative of the monitoring bodies found that there should be more short-term measures to halt situations of economic exploitation, as now they persist while the administration is working on the cases [M(1)].

No reference to the Employers’ Sanctions Directive was made under this point, however, it was mentioned that this legislation is too complex (see chapter 4.1 on risk factors relating to legal and institutional setting).

Regarding measures to ensure workers know their rights, one of the interviewees suggested that if migrants knew they were entitled to compensation, this would encourage them to step forward and seek a way out of their situation [P(1)].

Some interviewees (8) also referred to more effective monitoring of the situation of workers in the areas particularly prone to labour exploitation, such as the construction, cleaning and transport sector [L(2); M(1); E(1)]. More resources should be invested to ensure that sufficient inspections are carried out [J(1)].

⁷⁸ “De wetgeving bestaat natuurlijk, maar het is redelijk ruim omschreven. Als je dan natuurlijk op de grens zit van de ‘net niet twijfel gevallen’, hoewel er toch iets aan de hand is, dan valt dat niet meer onder die wetgeving.”

7. Conclusion and any other observations, including contentious issues from interviews/focus groups

To conclude, most cases of labour exploitation raised during the fieldwork concerned either human trafficking or the situations of working under exploitative conditions within the meaning of the Sanctions directive. The sectors where labour exploitation was most frequent were those that require unskilled labour-intensive work such as construction, agriculture, cleaning and catering.

The main risk factors identified when considering the personal situation of the worker were: migrants working in isolation, not knowing the language and being further dependent on the employer for basic needs and information. From a legal and institutional setting, the risk factors included a low chance for compensation and general low chance of catching and sentencing offenders, along with the lack of means and funds for institutions that monitor these situations. Considering the situations of migrants in the workplace, the risk factors are dependent on the specific sectors of the economy where exploitation is most present, along with insecure work situations and working in isolation. Foreign recruitment agencies are a definite problem and account for a lot of the exploitation going on.

Prevention

Prevention against economic exploitation in Belgium is led mostly by the victim support services. In cooperation with inspection services and police, different brochures are made targeting different types of victims. Sometimes training sessions and information campaigns are held and the migrant can learn about labour legislation.

Protection

Raids are almost always organised in cooperation with the inspection services. The police will investigate their migration status and the inspection services will look for evidence of exploitation. In cases where the situation is identified as a clear case of human trafficking, the police and inspection services will refer the victim to one of the three official victim support services for shelter and further guidance.

Victim support

The three main victim support services are Pag-asa, Surya and Payoke. They are responsible for the victims of human trafficking and have specialised treatment in many different fields. Besides those, there are a number of non-profit organisations who provide information and try to spread awareness.

Access to justice

Generally, access to justice was not perceived as being adequate. Only victims of human trafficking were able to call in judicial guidance from pro-bono lawyers. The civil justice system is slow and unlikely to get the migrants the pay that they have lost. When combined with the criminal justice system however, their chances increase as they have more measures to apply. There are many mechanisms designed to file complaints but they are rarely used by the migrants themselves.

Attitudes

Overall, interventions are deemed necessary in the long-term and ultimately help the migrants by taking them out of the exploitative situation. However, from the migrant's point of view they often have no choice and do not feel like the intervention benefits them at all. Irregular migrants are often deported immediately without the chance to recover their lost wages and this is often the reason not many are coming forward. The migrant workers are here to earn money to support their families that are still in their country of origin [E(1)]. One interviewee [E(1)] said:

“They have zero financial incentive to step forward. The pay they receive here, although low for our standards, is a lot to them”. As regards the benefits of intervention, the same interviewee said: “on a direct level they will lose their job, it will take a lot of time to handle their attitudes and the situation so that they will not be confronted with the same choices anytime soon... I do not think it is in their best interest in the short term.”⁷⁹

They do not want to lose the job they have, even if they are being exploited. They make more money here than they ever would back home. Often times they simply do not know that they are being exploited. They often depend on the employer but also fear them, as threats are often made or they hear accounts of physical violence.

⁷⁹ “Rechtstreeks verliezen ze hun job, het zal heel veel tijd in beslag nemen om de mentaliteit en de toestand aan te pakken waardoor dat zij op korte termijn niet meer met dergelijke wegen geconfronteerd worden. Ik weet het niet, dat denk ik niet dat dat op korte termijn in hun belang is.”