

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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Contents

Categories of interviewees:.....	3
1. Introduction, including short description of fieldwork.....	4
2. Legal framework	7
3. Labour exploitation and the institutional setting	18
3.1 The responsibilities of institutions involved in preventing labour exploitation and enabling victims to access justice	18
4.1. Identification of common risk factors for labour exploitation	27
4.2 Prevention measures aimed to reduce the risks of labour exploitation and the obligations of specific organisations in this area.....	32
4.2.1 Prevention measures and promising practice.....	32
4.2.2. Pre-departure information programmes implemented by governmental and non-governmental organisations	33
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	35
5. Victim support and access to justice	37
5.1. Victim support, including available support services	37
5.2. Access to justice and other mechanism to employer victims.....	38
6. Attitudes.....	42
6.1 General attitudes towards interventions into situations of labour exploitation.....	42
6.2 Why exploited migrant workers are not seeking support or making reports to the police, and what are their most important considerations?.....	43
6.3. An evaluation of the current Hungarian situation and measures that would improve the way labour exploitation is being addressed.....	45
7. Conclusions	47

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

In all, 20 interviews were conducted during the research. This included three interviews with representatives of monitoring bodies, three with representatives of police and law enforcement bodies, five with staff members of victim support services, one with a judge, one with a prosecutor, one with a lawyer, two with representatives of recruitment and relocation agencies, two with representatives of trade unions, one with a leading employment agency and one with a national policy expert (on issues related to human trafficking, including labour exploitation).

The 20 interviews were conducted by a team of three interviewers. The interviews were carried out between 20 February and 22 May 2014.

Severe problems arose during the interview process while the research team approached various target groups with a request for an interview. Some interviewees, who worked for the police and monitoring bodies, did not authorise the interviewers to audio record the interview. Moreover, a significant proportion of the interviewees did not provide any relevant information on the matter, claiming that they have not come across cases that are relevant in terms of the issue explored in the research. Some of these interviews contained useful information; on the whole, however, they do not seem fully relevant. With few exceptions, the interviewees could not mention any specific cases concerning labour exploitation.

The reason why they could not mention any specific cases was that Hungary is primarily a source or transit country rather than a target country of labour migration. Furthermore, latency is also assumed to be a crucial problem in this area. Hence most of the experts referred to cases of Hungarian citizens exploited either in Western European countries or in Hungary.

These serious problems were reported several times to the European Union Agency for Fundamental Rights (FRA), and as a result the fieldwork process was halted by the FRA at the end of May. Following careful consideration by both the Hungarian research team and the FRA, it was decided to end the fieldwork phase, since it emerged from the already concluded interviews that there was a lack of knowledge, relevant policies and measures relating to labour exploitation.

Overall, nine interviews were conducted with representatives of Hungarian authorities. For the reasons previously indicated, however, only three of these were assessed as relevant. It is important to point out that seven of the nine interview subjects are involved in the work of the National Coordination Mechanism against Trafficking. For the research project, this is significant because presumably these officials have more information on the issues of human trafficking, exploitation and victim protection than the average professionals in these fields; nevertheless, the majority of them were unable to provide relevant information about the labour exploitation of migrant workers. Two out of the five interviewees from the victim support group work for international organisations, and therefore have detailed insight into the situation and the problem of labour exploitation of children and workers in European

countries. It needs to be pointed out, however, that these interviewees provided hardly any relevant information on the Hungarian situation of labour exploitation.

In light of the above, the Hungarian research team conducted only 20 of the originally planned 30 interviews, and only five case studies were completed out of the originally planned 10-12. The focus group was also cancelled since the recruitment process was not successful among the designated target groups, with the exception of experts from the victim support services.

Eventually 12 interviews were assessed as relevant. This country report is mostly based on the information provided by these 12 interviews, though the report is also supplemented with pieces of information provided by the other interviews and other literature.

The composition of the “relevant” interview sample

The following analysis provides only the relevant sample in terms of statistical distributions. The distribution of the 12 relevant interviews between the target groups was as follows: two interviewees were representatives of monitoring bodies (M), five were staff members of victim support services (S), one was a judge (J), one was a lawyer (L), one was a representative of a relocation agency (R) and two were representatives of trade unions (W).

The gender composition of the interviewees was fully balanced: six were male and six were female. Half the interviewees were aged between 30 and 50; five were older than 50 and only one was younger than 30. All the interviewees were of Hungarian nationality. Unfortunately, none of the interviewees was from outside Budapest, which was a result of the decision to end the fieldwork phase early. (Several interviews were originally planned to take place in Bács-Kiskun County, where labour exploitation of migrants seemed to be relatively relevant.)

The interviewees' experience in dealing with issues relating to labour exploitation varied significantly. The shortest period mentioned was less than two years, while the most extensive experience in this area spanned 30 years. On average, the interviewees' professional experience in this field was reported to be 12.6 years.

Though they all fell within a certain range, the interviews varied in length: the shortest was 55 minutes long, the longest lasted 83 minutes; the average length of an interview was 64 minutes. The length of each depended mostly on the target group—since the number of questions to be asked varied significantly between target groups— as well as on the knowledge and communication style of the interviewees. All interviews were conducted face to face and 11 out of 12 were audio-recorded. One interviewee from the monitoring bodies did not authorise the audio recording.

This summary report was compiled by looking at the completed summary templates of the interviews, the case studies and the aggregated data derived from the research. Statistical analysis of the interview metadata was performed by compiling the necessary calculations (crosstabs and means) in an excel sheet prepared by the FRA.

The composition of the case studies

Altogether five case studies were elaborated during the fieldwork phase. Three cases

concern individual complaints provided by the Menedék – Hungarian Association for Migrants. Menedék carried out a research project entitled “For Undocumented Migrants’ Rights in Central Europe” (EPIM Project) to explore the implementation and impact of the Employer Sanctions Directive in Hungary. In the framework of this project Menedék provided legal assistance to workers who were third country nationals, and we considered three of their cases relevant in this context. Finally, there are two case studies that are based on investigative media reports.

After consulting with the authors of the articles as well as representatives of victim support organisations, it has been decided to review the phenomenon in the form of a case study even though no individual victim had been identified. One case concerns forced labour in the area of seasonal agricultural work. Roma men escaping and fleeing extreme poverty in Romania come to Hungary to collect potatoes and to carry out other agricultural tasks under exploitative working conditions. The other case concerns exploitation of Albanian and Hungarian workers under particularly exploitative working conditions in bakery stores. Economic sector: one case concerns agricultural work; two cases are reported as food service activities, one case concerns an activity involving physical well-being (massage therapist) and one case concerns education (teacher).

The outcome of the cases: A key uniting feature of all these cases is that there was no investigation into the case of labour exploitation. They were never recognised as victims of labour exploitation by the Hungarian authorities, and no assistance was provided to them. In those cases in which Menedék provided legal aid to the third country national migrant workers, the victims sought legal assistance but insisted that no criminal claims be filed on the grounds of labour exploitation.

There is one case in which legal action was taken on behalf of the victim. The perpetrator did not officially register him as an employee, and as a consequence the victim did not accumulate the required years of pensionable service to submit his retirement application and receive a pension. After his efforts to negotiate with the employer were unsuccessful, the victim submitted a civil law claim to the Regional Court of Labour and Public Administration Grievances. The case is still pending.

2. Legal framework

Implementation of EU legislation and EU policies concerning exploitation of migrant workers and the rights of victims of severe labour exploitation in Hungary

The present project looks into different forms of exploitation of the work of migrants. In this section the legal setting underpinning the national response to labour exploitation is set out and an overview of the implementation of the relevant directives pertaining to criminal justice is provided. It can be concluded that at the legislative level, Hungary has complied with its obligations to implement directives that are relevant to the issue of labour exploitation. However, based on the experience gathered in our field research, we have been able to determine that labour exploitation of migrant workers is not particularly relevant in the Hungarian context and almost invisible to the responsible authorities.

When introducing the legal setting concerning labour exploitation, the following directives and their national implementation are in focus:

- Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims (Human Trafficking Directive).
- Directive 2009/52/EC providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals (Employer Sanctions Directive).
- Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime.

I. Human Trafficking Directive

At the level of legislation, Hungary has complied with the implementation obligations arising from the directive. The Fundamental Law of Hungary provides the following: “No person shall be subjected to torture, any inhuman or degrading treatment or punishment, or be enslaved. Human trafficking shall be prohibited.”¹ This principle was implemented in several phases. First, Parliament adopted the Act on the promulgation of the Council of Europe Convention on Action against Trafficking in Human Beings on 19 March 2013.² In order to fully implement the directive, further legal modifications were needed. The relevant legal regulation concerning labour exploitation is the New Criminal Code,³ which entered into force on 1 July 2013. With the amendment of the Criminal Code, the definition of human trafficking has been modified, while forced labour and child labour are regulated as separate categories of offences.

¹ Hungary, Fundamental Law of Hungary, Chapter ‘Freedom and responsibility’ Article III (1) (*Magyarország Alaptörvénye, Szabadság és felelősség, III. cikk (1)*).

² Hungary, Act on the promulgation of the Council of Europe Convention on Action against Trafficking in Human Beings (2013. évi XVIII. törvény az Európa Tanács Emberkereskedelem Elleni Fellépéséről szóló Egyezményének kihirdetéséről).

³ Hungary, Act C of 2012 on the Criminal Code (2012. évi C. törvény a Büntető Törvénykönyvről).

Human trafficking

Trafficking in human beings includes sexual exploitation, labour exploitation, organised begging, illegal adoption and trafficking in organs. The various forms of trafficking in human beings differ in several aspects; the range of victims and the extent to which Hungary is affected by the problem varies.

Under Article 192 of the new Criminal Code, the particular legal definition of trafficking in human beings rules, by retaining the previously effective provisions, and at the same time complementing them with rules that included trafficking with the purpose of exploitation as a new element. "Any person who - for the purpose of exploitation - sells, purchases, exchanges, supplies, receives, recruits, transports, harbours or shelters another person, including transfer of control over such a person, is punishable by imprisonment between one to five years."⁴ In cases when the offence in question is perpetrated by a criminal organisation, the maximum punishment has risen to ten years' imprisonment.

Forced labour

Forced labour is now included in the Criminal Code as a distinct offence: "Any person who forces another person by taking advantage of his vulnerable situation, or by force or by threat of force, to perform work against his will, is guilty of a felony punishable by imprisonment between one to five years."⁵ The main element of exploitation is the attempt to benefit from abusing the position of a victim brought into or kept in a vulnerable position. In this respect, benefit does not exclusively refer to financial benefit; it denotes any type of benefit, advantage or advantageous position that is gained by abusing the position of the victim.⁶

Child labour

According to the law, any person who a) violates the statutory provisions on the employment of persons under the age of eighteen years; or b) employs a third-country national under the age of eighteen years without authorisation to undertake gainful employment is guilty of a felony punishable by imprisonment not exceeding three years.⁷

The rules concerning the age limit are regulated by the Labour Code.⁸ Accordingly, all persons entering into an employment relationship as employees must be at least sixteen years of age. Notwithstanding the above, during the school vacation period an employment relationship may be entered into by a person of at least fifteen years of age pursuing fulltime studies in elementary, vocational or secondary school.

In 2010, the Parliamentary Commissioner for Fundamental Rights (the Ombudsman) undertook an investigation into the phenomenon of child labour and the measures taken by the authorities to uncover and scale back the occurrence of this problem.⁹ The incident that

⁴ Hungary, Act C of 2012 on the Criminal Code (*2012. évi C. törvény a Büntető Törvénykönyvről*), Article 192 (2).

⁵ Hungary, Act C of 2012 on the Criminal Code (*2012. évi C. törvény a Büntető Törvénykönyvről*), Article 193 (1). Section 1.

⁶ Hungary, Act C of 2012 on the Criminal Code (*2012. évi C. törvény a Büntető Törvénykönyvről*), Article 192 (8).

⁷ Hungary, Act C of 2012 on the Criminal Code (*2012. évi C. törvény a Büntető Törvénykönyvről*), Article 209.

⁸ Hungary, Act I. on the Labour Code (*2012. évi I. törvény a munka törvénykönyvéről*), Article 134.

⁹ Hungary, Commissioner for Fundamental Rights (2010) Report by the Parliamentary Commissioner for Fundamental Rights in case number AJB 4147/2010 (*Az alapvető jogok biztosának Jelentése az AJB-4147/2010. számú ügyben*).

gave rise to this investigation was the discovery that underage workers were found at a motorway construction site. As a result of the investigation, the relevant legal provisions concerning labour inspections were amended to reflect the following:

- Labour inspections must also extend to verifying that the age of employees is in accordance with the age requirements specific to the position in question.
- If the authority observes the illegal employment of an underage employee during its inspection, then it must inform the competent child welfare service.¹⁰

In 2012, the ombudsman performed a post-control investigation – in the framework of the Dignity of Work Project (*Munka Méltósága Projekt*)¹¹ – wherein he examined whether the previous adverse inspection practices, which had violated the rights of children, had changed, and whether the illegal employment of children (that is employment without the consent of the parents or without official registration by the employer) a rising or declining tendency. Among other things, the investigation revealed the following.¹²

- There were only 10 instances between 2010 and 2012 when the labour inspectorate authorities uncovered illegal child labour. All of these cases without exception took place in either agriculture or construction. There were no persons under 14 years of age among the affected underage employees.
- Labour inspectors do not apply protocols or procedural specificities applicable to instances when they encounter children or minors during their control procedures.
- The Ombudsman further noted that the officers of the Employment Authority had not been aware of the obligation to report the engagement or unlawful labour employment of children or minors to the Child Protection authorities. Only a single case was reported to the child protection authority during the reporting period. The authorities failed to address the case of the victims, and the victims did not receive any assistance or support; the system overall failed to intervene.

The Ombudsman called the Head of the National Labour Office (*Nemzeti Munkaügyi Hivatal* - NMH) and proposed that whenever labour inspectors encounter illegal child labour in the course of their inspections, they signal their observation to the competent child welfare service. He also proposed that a professional protocol be drawn up to provide a guideline for situations when inspectors become aware of the illegal employment of minors who are not Hungarian citizens. The Commissioner's report also stressed that the labour inspectorate's signalling obligation also obtains in situations when the child found working illegally is not a Hungarian citizen.

As a response to the report of the Ombudsman, the Head of the National Labour Office issued a circular to the heads of the Budapest and the regional supervision authorities of the Labour Inspectorate. "The circular addresses all the deficiencies pointed out in the

¹⁰ Hungary, Act LXXV on Labour Inspections (*1996. évi LXXV. törvény a munkaügyi ellenőrzésről*), Article 3, Section 1.

¹¹ Hungary, Commissioner for Fundamental Rights (2013) Dignity of Work Project (*A Munka Méltósága Projekt*) ed. Zemplényi Adrienne, Budapest, pp. 80-89.

¹² Hungary, Commissioner for Fundamental Rights (2012) Report by the Parliamentary Commissioner for Fundamental Rights in case number AJB 4152/2012 (*Az alapvető jogok biztosának Jelentése az AJB-4152/2012. számú ügyben*).

Ombudsman's report, and correspondingly it stresses above all the need to bolster relations with the public guardianship authority and the child welfare services, the signalling obligations, and the procedures to be followed in cases involving youth who are foreign nationals."¹³

II. Employer Sanctions Directive

The directive was transposed in two phases in Hungary. First, the Hungarian Labour Code was amended on 27 July 2011.¹⁴ Second, with the adoption of new Criminal Code the provisions concerning the unlawful employment of third-country nationals were also modified.¹⁵ Pursuant to the new rules, any person who employs: *a*) a third-country national on a regular basis or frequently without authorisation to undertake gainful employment; or *b*) a substantial number of third-country nationals at one and the same time without authorisation to undertake gainful employment; is guilty of a misdemeanour punishable by imprisonment not exceeding two years. The penalty shall be imprisonment not exceeding three years for a felony: *a*) if the offender employs a third-country national without authorisation to undertake gainful employment **under particularly exploitative working conditions**; *b*) if the third-country national employed without authorisation to undertake gainful employment is the victim of trafficking in human beings.

'Particularly exploitative working conditions' are defined by the Act on the Admission and Residence of Third-Country Nationals.¹⁶ Accordingly, 'particularly exploitative working conditions' shall mean working conditions, including those resulting from gender-based or other discrimination, when the working conditions of the victims are strikingly disadvantageous as compared to the terms of employment afforded to legally employed workers which, for example, affects workers' health and safety and offends their human dignity.

The definition of particularly exploitative working conditions also plays a relevant role when third country nationals without a residence permit seek to regularise their status in Hungary. Under the provisions of Article 29 of the same Act, a residence permit may be granted on humanitarian grounds even in the absence of the petitioner meeting the requirements that apply to a third-country national, e.g. on the grounds of having been "exposed to particularly exploitative working conditions," or to "third-country national minors who were employed illegally without a valid residence permit or other authorisation to stay."¹⁷

The Hungarian Association for Migrants (*Menedék Egyesület*) carried out a research project entitled "For Undocumented Migrants' Rights in Central Europe" (EPIM Project) to explore the implementation and impact of the Employer Sanctions Directive in five Central European

¹³ Hungary, Information provided by dr. Adrienne Zemplényi, legal expert of the Parliamentary Commissioner for Fundamental Rights, for the purposes of the present report, via e-mail, dated 16 June 2014.

¹⁴ Hungary, Act CV of 2011 amending the Hungarian Labour Code (2011. évi CV. törvény egyes munkaügyi tárgyú és más kapcsolódó törvénye jogharmonizációs célú módosításáról).

¹⁵ Hungary, Act C of 2012 on the Criminal Code (2012. évi C. törvény a Büntető Törvénykönyvről), Article 356.

¹⁶ Hungary, Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals (*A harmadik országbeli állampolgárok beutazásáról és tartózkodásáról szóló 2007. évi II. törvény*), Article 2 s.

¹⁷ Hungary, Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals (*A harmadik országbeli állampolgárok beutazásáról és tartózkodásáról szóló 2007. évi II. törvény*), Article 29 f.

countries.¹⁸ As a result of the research they concluded that the directive - or the Hungarian legislation implementing it - does not exert a significant impact on the employment of foreign nationals in Hungary, regular or irregular, and that it fails to significantly improve their level of protection against exploitation. 'As far as its practical application is concerned, the implementation of the provisions of the Sanctions Directive concerning the protection of the rights of third-country nationals is not very successful. According to the data provided by the Office of Immigration and Nationality, no residence permits were granted on humanitarian grounds in 2012 and 2013, and no procedures were initiated to secure the back payment of the remunerations of migrant workers. The relevant regulations, however, are relatively new, so their practical application may well improve in the future.'¹⁹

III. Directive establishing minimum standards on the rights, support and protection of victims of crime

The Act on Support and State Compensation for Crime Victims²⁰ defines the 'victim of a crime' as any natural person who has suffered injuries as a direct consequence of criminal acts, in particular bodily or emotional harm, mental shock or economic loss. Victims may be entitled to victim assistance if the crime was committed on the territory of Hungary and the victim is:

- a Hungarian citizen,
- a citizen of any EU Member State,
- a citizen of any non-EU country with a residence permit,
- a stateless person lawfully residing on the territory of the Republic of Hungary,
- a victim of trafficking in human beings, or
- any other person deemed eligible based on international treaties between their respective states of nationality and Hungary, or on the basis of reciprocity.

Victim assistance means victim support (instant monetary aid, legal aid), state compensation, information and counselling. The identification system for the victims of human trafficking is a new element in the legal framework. The new governmental Protocol for Identifying Victims of Human Trafficking entered into force on the 1 January 2013.²¹ The decree, a formalised protocol, includes an official identification form²² as an annex, with a list of indicators regarding the appearance, the personal conditions, the work conditions and other circumstances of the alleged victims, categorised as "high", "medium" and "low" probability signs.

Institutional setting underpinning the national response to labour exploitation

It is important to note that at the governmental level, the issue of labour exploitation is dealt

¹⁸ See: <http://menedek.hu/en/projects/for-undocumented-migrants-rights-in-central-europe>

¹⁹ Hungary, Menedék – Hungarian Association for Migrants (forthcoming) *Employees Beyond Borders, Country Report, Hungary*, p. 38.

²⁰ Hungary, Act CXXXV of 2005 on Support and State Compensation for Crime Victims (2005. évi CXXXV. törvény a bűncselekmények áldozatainak segítéséről és az állami kárenyhítésről).

²¹ Hungary, Governmental Decree No 354/2012 (XII. 13.) on the Protocol of Identifying Victims of Human Trafficking (354/2012 (XII. 13.) Kormányrendelet az emberkereskedelem áldozatai azonosításának rendjéről).

²² Hungary, Governmental Decree No 354/2012 (XII. 13.) on the Protocol of Identifying Victims of Human Trafficking (354/2012 (XII. 13.) Kormányrendelet az emberkereskedelem áldozatai azonosításának rendjéről), Annex 1: Identification form for identifying victims of Human Trafficking (A. melléklet: Azonosító adatlap az emberkereskedelem áldozatainak azonosításához).

with as part of the national strategy on the fight against human trafficking. The Ministry of Interior drew up a four-year plan related to the Directive against Human Trafficking.²³ The national strategy enumerates various action plans that are also relevant in combating labour exploitation, such as establishing a national victim referral mechanism, strengthening the child protection system, disseminating information on labour rights and migrant rights, and setting up and operating joint investigation teams.

However, it needs to be stressed that the issue of labour exploitation is only mentioned as part of the implementation of the relevant directives into the national legal system, and the issue is given no special attention in terms of governmental plans or actions.

The low relevance of the issue is also reflected in the interviews conducted with the representatives of governmental institutions. In the course of our field research, we found that several interviewees from governmental institutions, including relevant police departments, could not provide relevant information or case-law on the labour exploitation of migrant workers. In the course of the interviews, the only governmental institution that had come across the phenomenon of labour exploitation of migrant workers was the Labour Inspectorate. In light of the above, we provide a short introduction of the institutions - both at the governmental and non-governmental level - that either play or are supposed to play a role in combating labour exploitation of migrant workers.

The Employment Service Structure

In 2011, the Hungarian Employment Service was restructured and has been operating in a new framework since.²⁴ The National Labour Office is the central agency in charge of implementing tasks related to employment policy, occupational safety, labour affairs and vocational and adult training. Within its employment policy remit, the Office directs the professional activities of Labour Centres and the Office's local branches. The Labour Centres function as public employment agencies. In the framework of their services, they provide information, register job seekers, organise labour market services and license the employment of foreign nationals in Hungary.

The other autonomous remit of the National Labour Office concerns the Hungarian Labour Inspectorate. The Inspectorate performs its tasks within the statutory framework and applies measures against employers that are in breach of the law. Remits and powers of the Inspectorate are set out in Act LXXV of 1996 on Labour Inspection.²⁵ The Inspectorate shall check compliance with the statutory requirements regarding the following, in particular:

- the establishment of employment,
- mandatory substantial elements of employment contracts,
- working and resting time,
- salary payment,

²³ Hungary, Government Decision No 1351/2013. (VI. 19.) regarding the National Strategy for Combating Human Trafficking for the period 2013–2016 (*1351/2013. (VI. 19.) Korm. határozat az Emberkereskedelem Elleni Küzdelemről szóló 2013–2016 közötti Nemzeti Stratégiáról*).

²⁴ Hungary, Government Decree No 323/2011 (XII. 28.) on the National Labour Office and the Remit and Competence of Policy Agencies under its Professional Governance (*323/2011. számú Korm. rendelet a Nemzeti Munkaügyi Hivatalról és a szakmai irányítása alá tartozó szakigazgatási szervek feladat és hatásköréről*).

²⁵ Hungary, Act LXXV of 1996 on Labour Inspections (*1996. évi LXXV. törvény a munkaügyi ellenőrzésről*).

- special employment conditions (women, young employees, employees with changed working abilities),
- registration of employment
- posting, assignment, hiring-out of workers, and
- the employment of foreigners in Hungary.

The Inspectorate performs inspections via the regional supervisory authorities. Supervisory authorities operate in a total of seven regions. The Inspectorate is entitled to inspect any work in the territory of Hungary, regardless of the worker's place of residence and nationality, or the official designation of the given job performed in Hungary.

In the field of labour relations, private employment agencies also play a role and are thus worth mentioning. The main task of the agencies is to help bring together job seekers (including foreign workers) and employers for the purpose of establishing legal employment relations between them. Although employers are normally brought into contact with foreign workers - especially unauthorised foreign workers - through their network of personal acquaintances, agencies might be relevant in creating or preventing situations that make migrant workers vulnerable to labour exploitation. Legal rules applicable to services and activities of private employment agencies are covered by Government Decree No 118/2011.²⁶

Office of Immigration and Nationality

One of the most important decision-making and controlling authorities with relevance to the employment of foreign workers is the Office of Immigration and Nationality.²⁷ The Office deals with the administration of asylum, alien policing and citizenship cases in Hungary. The authority deals with cases of clients in 24 sub-offices of 7 regional offices throughout Hungary. The rules and procedures applicable to different types of resident permits are detailed on the Office's website.²⁸ From the perspective of our study, residence permits issued to third country nationals are important to mention. According to the provisions of Act II of 2007, a residence permit may be granted to a third-country national on humanitarian grounds even in the absence of the requirements, e.g. for having been "exposed to particularly exploitative working conditions," or to "third-country national minors who were employed illegally without a valid residence permit or other authorisation to stay."²⁹ According to the data provided by the Office of Immigration and Nationality, no residence permits were granted in Hungary on humanitarian grounds in 2012 and 2013.³⁰

Victim Support Services

Assistance for victims of labour exploitation may be provided at either or both, the governmental and non-governmental levels. Victim assistance, according to the Act on

²⁶ Hungary, Government Decree No 118/2011 (VI.30.) on the registration and conditions for offering temporary agency work services and private recruitment services(118/2011. számú Korm. Rendelet a munkaerő-kölcsönzési és a magán-munkaközvetítói tevékenység nyilvántartásba vételéről és folytatásának feltételeiről).

²⁷ Hungary, Government Decree No 162/1999 (XI.19.) on the Office of Immigration and Nationality (162/199. Korm. rendelet a Bevándorlási és Állampolgársági Hivatalról).

²⁸ Hungary, see at: www.bmbah.hu/jomla/index.php?lang=en.

²⁹ Hungary, Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals (A harmadik országbeli állampolgárok beutazásáról és tartózkodásáról szóló 2007. évi II. törvény), Article 29 f.

³⁰ Hungary, Menedék – Hungarian Association for Migrants (forthcoming) *Employees Beyond Borders, Country Report, Hungary*, p. 38. Hungary, Menedék – Hungarian Association for Migrants (forthcoming) *Employees Beyond Borders, Country Report, Hungary*, p. 38.

Support and State Compensation for Crime Victims,³¹ is provided by county-level units of the Victim Support Service of the Office of Public Administration and Justice (*Közigazgatási és Igazságügyi Hivatal Áldozatsegítő Szolgálat*). In order to receive help from the Victim Support Service, a certificate issued by the police is required. The financial forms of assistance only aim to mitigate damages rather than to compensate all damages the victim has suffered. Victims are entitled to financial assistance (instant monetary aid) if they report their case within three working days (after the crime was committed) to the Victim Support Service and to the police. If the victim fails to report the crime to the police, he or she is not entitled to financial assistance but only to legal assistance, counselling and psychological assistance.

It is important to note that services may also be offered to third country nationals who are identified as victims of trafficking in human beings. The services aim at meeting the special needs of victims who are third country nationals in terms of their social integration or voluntary return.

The National Police Headquarters (*Országos Rendőr-főkapitányság - ORFK*) issued a directive³² on the creation of special units for victim support within **the Crime Prevention Department of the National Police** (*Országos Rendőr-főkapitányság Bűnmegelőzési Osztály*). The directive regulates the tasks and actions of the police regarding victim support and establishes a network of victim support officers within the various divisions of the police. Furthermore, the directive prescribes that victim protection officers shall pay special attention to victims who are children, elderly, disabled, foreigner, or who are in a disadvantaged position (*hátrányos helyzetű*). Besides people who fall in the abovementioned categories, the order refers to victims of human trafficking, victims of repeat victimisation and victims of certain types of crimes as deserving special attention (e.g. “crimes against human dignity”). The network of victim support officers has already been established on the regional (county) level. Victim support officers provide information for victims of crimes about their rights and available victim support.

The Decree of the Ministry of Justice defines the responsibilities of both police and customs officers in terms of dealing with victims of trafficking.³³ In all such cases police and customs officers are obliged to notify the government officials, to formally brief the victims on all available victim support and to issue the latter a record/certificate of their status. This certificate provides the basis of their application for victim support.

Relevant non-governmental organisations working in the field victim support

The most relevant non-governmental organisation in the field of combating labour exploitation of migrant workers is for obvious reasons the Menedék – Hungarian Association for Migrants (*Migránsokat Segítő Egyesület*).³⁴ Not only because their primary focus is on migrants, but also because they have been implementing a specific programme called “For

³¹ Hungary, Act CXXXV of 2005 on Support and State Compensation for Crime Victims (2005. évi CXXXV. törvény a bűncselekmények áldozatainak segítéséről és az állami kárenyhítésről).

³² Hungary, Directive 2/2013 on police responsibilities in victim support (2/2013. (1.31.) ORFK utasítás a rendőrség áldozatsegítő feladatairól), see at: http://police.hu/sites/default/files/2_2013.pdf.

³³ Hungary, Ministry of Justice and Police decree 17/2007. (III. 13.) regarding the responsibilities of police and border guards in assisting victims (17/2007. (III. 13.) IRM rendelet a rendőrség és a határőrség áldozatsegítő feladatairól).

³⁴ Hungary, see at: www.menedek.hu/en/contact.

Undocumented Migrants' Rights in Central Europe," which has been operating within the framework of the "European Programme for Integration and Migration" (EPIM) since September 2012. Furthermore, the Association is also operating a counselling service that can be approached voluntarily by the migrants. The Association's counselling service primarily provides information and social services for migrants. The service is aimed at promoting social integration and rights protection.³⁵ The organisation reaches out to asylum seekers through its national network of social workers working at a refugee reception centre (in Debrecen) and at alien detention centres (in Kiskunhalas, Nyírbátor, Győr, and at the Budapest Airport Police Directorate), as well as through its network of domestic and international organizations working in the field of migration (e.g. the Hungarian Helsinki Committee and the Cordelia Foundation in Hungary, and IOM and UNHCR on the international level). Most of their programmes are available for persons with refugee status or subsidiary protection residing in Hungary. [S(1)]

As a member of the National Coordination Mechanism against Trafficking in Human Beings, the Hungarian Baptist Aid (*Magyar Baptista Szeretetszolgálat*)³⁶ is also an important player in this field. Their primary activities in relation to labour exploitation include prevention (training sessions in schools and social institutions) and providing help for victims of trafficking (they help not only victims officially recognised as such, but use the term "victim" with a broader understanding)..

In 2013 they gave lectures (including the presentation of a short film³⁷ and an interactive game) to over 1,500 high school students nation-wide, providing information on the potential dangers of becoming victims of forced prostitution, trafficking and slavery. They also issued an essay writing competition to students on the topic in the framework of this one-year-long prevention project, supported by the Visegrad Fund.

In 2014 they held training sessions on human trafficking for officers working in the child protection services, as well as other professionals potentially working with such victims (police officers, staff of victim support services, social workers, etc.). Some of their other plans for 2014 include organising training sessions for Hungarian consuls.

The V4 project (supported by the Visegrad Fund) was implemented as a continuation of the EuropeAid project between 2013 and 2014. During the project's 14 months the Hungarian Baptist Aid (HBAid) increased the number of students involved in the project: 1,634 students in 19 high schools all over the country took part in their presentation. The target group consisted of students between the age of 14 and 18. The selection of the schools was based on the interest of teachers and school administrators, as well as on the vulnerability of certain social and ethnic groups. All together 30 45-minute-long presentations were held, which included the following elements:

- introducing students to general and basic questions on trafficking in human beings, and the latest research data on the subject matter;

³⁵ Hungary, see at: <http://menedek.hu/en/counselling-service-opening-hours-in-budapest>.

³⁶ Hungary, see at: <http://baptistasegely.hu/what-we-do?lang=en>.

³⁷ <http://youtu.be/Oe6Gih0PV0s>.

- providing an overview of the current situation of trafficking in human beings in participating countries;
- clarifying the difference between human trafficking and smuggling;
- presenting a short video³⁸ on trafficking in Cambodia, Hungary and Sweden containing interviews with victims of trafficking, experts, and government decision makers
- staging a role play about finding a job abroad,
- handing out project leaflets among students, introducing the essay competition

The main target group of the anti-trafficking programmes are Hungarian nationals who became victims of different kinds of exploitation (such as prostitution or forced labour).³⁹ The Hungarian Baptist Aid maintains safe houses to provide shelter for victims of trafficking. In 2014 they also set up two temporary homes for migrant families ('családok átmeneti otthona migránsok számára') that are open to third country national trafficking victims.⁴⁰ Moreover, their lobbying activity in the field of anti-trafficking is also worth mentioning.

In the case of persons in prostitution and children, there is cooperation between the Hungarian police and the Hungarian Baptist Aid in the form of a cooperation agreement signed in March 2014. Through the Hungarian police they also cooperate with police in the Netherlands. Victims of labour exploitation are not specifically in the focus of the Baptist Aid, except for minors, those forced into slavery, or persons who have been coerced in some way. The Hungarian Baptist Aid also participates in an international project called LUCIA, which is a cooperation with the Austrian organisation LEFÖ-IBF.⁴¹

The Refugee Mission of the Reformed Church in Hungary (*Református Menekültmisszió Központ*)⁴² provides assistance to people in need regardless of nationality, race, religion or social position. The Mission aims not only to help with material needs but also seek to assist individuals with their spiritual and psycho-social needs, welcoming them into a supportive community. Since we could not reach them during the fieldwork phase, we do not have detailed and precise information on their work in relation to labour exploitation.

As far as international organisations are concerned, the International Organisation for Migrants (IOM)⁴³ is the most important to mention here. Even though the protection of the rights of workers and of migrant workers specifically is part of the IOM's mandate generally, IOM Budapest does not have any projects that aim to protect the rights of workers and migrant workers specifically, due to the migration environment and other factors [S(1)].

Focusing on child welfare organisations, the work of Terre Des Hommes and UNICEF should also be taken into account in this regard. The Regional office of Terre Des Hommes

³⁸ <https://youtube.com/watch?v=Oe6Gih0PV0s>.

³⁹ Hungary, information provided for the purposes of the present report by a respondent at the Hungarian Baptist Aid (via e-mail, dated 31st of January, 2014.).

⁴⁰ Hungary, information provided for the purposes of the present report by a respondent at the Hungarian Baptist Aid (via e-mail, dated 20th of August, 2014.).

⁴¹ See: <http://lefoe.at/index.php>. Information about Hungarian Baptist Aid and their projects presented here derives from desk research and e-mail communication with the organisation.

⁴² Hungary, see: www.rmk.hu/menekultmisszio/index.php?p=2.

⁴³ Hungary, see: www.iom.hu/.

in Budapest⁴⁴ has a dual mandate: on the one hand it seeks to assist the work of Terre des Hommes delegations in Albania, Kosovo, Moldova and Romania, and on the other hand to enhance Terre des Hommes' regional advocacy based on lessons learnt in the field. The main aim of the office is to ensure that children in vulnerable situations have access to minimum standards of services both at the national and international levels. Currently they have two ongoing research projects in the field of child exploitation, neither of which is being implemented in Hungary, however [S(1)].

As UNICEF's⁴⁵ main mandate is the protection of children from violence, abuse and exploitation, their work is definitely relevant for our research. It needs to be pointed out, however, that we do not have comprehensive information on the current projects of the Hungarian National Committee for UNICEF.⁴⁶

⁴⁴ Hungary, see at: <http://tdh-childprotection.org/static/about-us>.

⁴⁵ Hungary, see at www.unicef.org/infobycountry/hungary.html.

⁴⁶ Hungary, see at: <http://unicef.hu/>.

3. Labour exploitation and the institutional setting

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

In this section we focus primarily on information provided by the interviewees that was not covered in chapter 2 during the introduction of the institutional framework underpinning the national response to labour exploitation. As already mentioned in the introduction, due to lack of relevant information from the representatives of policing bodies, we can only provide limited information on the authorities' perspective. Two representatives from the monitoring bodies, one judge and one representative of the victim support service provided relevant information. In contrast to governmental bodies, the representatives of victim support organisations have more experience with regard to labour exploitation, and as a result they provided more information.

In relation to the brief of the institutions in the context of labour exploitation, both representatives of the monitoring body referred to the new governmental Protocol for Identifying Victims of Human Trafficking.⁴⁷ The decree, a formalised protocol, includes the official identification form⁴⁸ as an annex, with a list of indicators regarding the appearance, the personal conditions, the work conditions and other circumstances of the alleged victims, categorised as “high,” “medium” and “low” probability signs of exploitation.

QUOTATION: *“So far, no one has ever filed one of these forms. This also shows how rare cases are, and the state of latency. However, labour inspectors could play an important role, as we can see from the Western model, that with proper training they can be very helpful both in prevention and in identifying cases”*⁴⁹ [M(1)].

A guideline that the labour inspection authorities should take into account in their work was also mentioned in this context [M(1)]. The guidelines have been issued to labour inspectors and list the criteria that have to be taken into account if they encounter exploitative labour situations.

Both representatives of monitoring bodies who were interviewed by us stressed that labour inspectorates protect the rights of migrant workers through their general activities: carrying out inspections, ensuring compliance with the major labour regulations and compelling victims to cease violations. Most of the interviewed organisations provide counselling or other support for victims of labour exploitation [S(4); M(2); W(1); L(1)].

⁴⁷ Hungary, Governmental Decree 354/2012 (XII. 13.) on the Protocol for Identifying Victims of Human Trafficking (354/2012 (XII. 13.) Kormányrendelet az emberkereskedelem áldozatai azonosításának rendjéről).

⁴⁸ Hungary, Governmental Decree 354/2012 (XII. 13.) on the Protocol for Identifying Victims of Human Trafficking (354/2012 (XII. 13.) Kormányrendelet az emberkereskedelem áldozatai azonosításának rendjéről), Annex 1: Identification form for identifying victims of human trafficking (A. melléklet: Azonosító adatlap az emberkereskedelem áldozatainak azonosításához).

⁴⁹ In original language (Hungarian): *“Ilyen lap mindezedáig nem történt felvételre. Ez is mutatja a ritka esetszámot, látenciát. Egyébként fontos szerepe lenne a munkaügyi felügyelőségeknek, látjuk a nyugati példákön, hogy megfelelő kiképzés esetén ez milyen hasznos lehet. Egyrészt a prevencióban, másrészt pedig a felderítésben.”*

Of the 12 interviewed organisations, seven take part in monitoring or carrying out inspections [S(4); M(2); L(1)] and six are involved in workers' rights advocacy [S(3); W(2); L(1)]. Another two organisations working in the field of victim support services mentioned other activities, namely training and research and organising a job seekers' club. The interviewed judge obviously indicated the criminal justice functions. The answers were slightly different when we inquired about personal involvement. The most relevant cases and other information in this respect were provided by one of the S group interviewees, who reported 15 cases they had come across, out of which only three could be identified as cases of labour exploitation.

QUOTATION: *“Legal assistance and advising have been offered since January 2013, so for a year now really, and during that one year we had 15 cases altogether, they were rather mixed, we had more severe and less severe ones”* [S(1)].⁵⁰

Several interviewees [M(2); R(1)] reported encountering at least one case per month. The rest of the interviewees learn about cases twice or more per year [M(1); L(1); W(1)] or once a year or less [S(1); J(1)]. Some of the respondents have never personally encountered any cases [S(2)] or do not know about such cases [S(1); W(1)].

Concerning the mandate of victim support organisations, the majority of respondents from victim support services mentioned that although their role involves different types of assistance for migrants, migrant children or victims of crimes, they do not have special programmes focusing on the labour exploitation of migrants. The only exception is Menedék's EPIM project, which was mentioned by several interviewees [S(2); L(1)].

QUOTATION: *“What may happen, for example, is that a third country national comes to Hungary. He/she has a visa and is then promised that his/her official documents will be arranged for by the person who invited him/her or by some relative. In return, he/she must work... That specific case involves both issues specified in Directive 2009/52 EC of the European Parliament and of the Council, namely exploitation and a third country national who is staying here illegally. Unfortunately, this case involves both legal categories. And we finally managed to legalise his/her residency status”* [L(1)].⁵¹

The classification of workers is relevant for the authorities in terms of conducting their proceedings, since different rules apply to EU citizens and to third-country nationals in Hungary [M(2)]. The key question is whether a given third country national has a residence permit, which – according to the new rules – serves as a single permit that also encompasses a work permit. The rules concerning the single permit procedures are detailed in Act II of 2007.⁵²

⁵⁰ In original language (Hungarian): *“A jogi segítségnyújtás és tanácsadás az 2013 januárja óta folyik gyakorlatilag, tehát most már egy éve, és egy év alatt 15 esetünk volt összesen, vegyesen, hogy mik súlyosabb vagy kevésbé súlyosabb esetek.”*

⁵¹ In original language (Hungarian): *“Igazából, ami előfordulhat, hogy Magyarországra érkezik egy harmadik országbeli állampolgár. Ugye vízummal és aztán olyan ígéretet kap, hogy a papírjait rendezi majd a meghívója vagy valami rokona. Cserébe neki ingyen kell dolgoznia.... Ilyen esetünk van is egy, ami a projektünkben felvételre került. Ez a konkrét ügy az Európai Parlament és Tanács 2009/52-es EK irányelv alapján felel meg a kizsákmányolásnak, illetőleg az illegálisan tartózkodó harmadik országbeli állampolgár kategóriájának. Itt mindkét kategóriának sajnos megfelel. És végül sikerült legalizálni a tartózkodását.”*

⁵² Hungary, Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals (A *harmadik országbeli állampolgárok beutazásáról és tartózkodásáról* szóló 2007. évi II. törvény), Article 29.

The majority of respondents from the victim support services said that they provide support to victims regardless of their legal status. The exceptions here are trade unions, for workers, especially migrant workers employed illegally, are totally invisible to them [W(1)]. At the same time, the work of non-governmental organisations is generally project-based, and thus the focus of the assistance they provide may vary depending on the priorities applicable to the project they are pursuing at the time.

As a rule, half of the interviewed organisations learn of cases from private persons [M(2); S(2); L(1); W(1)]. Both representatives of the monitoring bodies and one S group interviewee told us that they proactively seek out new cases. Two of the S group experts learn about cases from other private institutions [S(2); L(1)]. In addition to these, cases are brought to the attention of certain institutions – such as the National Labour Office and the Victim Support Service of the Office of Public Administration and Justice – by other public institutions [M(1);S(1)], for example the police:

QUOTATION: *“The way our clients get plugged in is 90% of the time via the police, either by sending us information on them, or by referring the victims directly to us.”* [S(1)]⁵³

According to one of the trade union representatives, they only learn about instances of labour exploitation when their own member organisations bring such cases to their attention.

Regarding the actions they take in situations when the labour exploitation of migrant workers is suspected, respondents of the monitoring bodies listed the general responsibilities within their scope of competence: providing information about the rights of employees and about occupational safety, launching proceedings against employers, informing the police or immigration authorities, etc. As mentioned earlier, monitoring bodies are familiar with the existence of the new governmental Protocol for Identifying Victims of Human Trafficking. Nevertheless, one respondent stressed that no action has been taken so far in relation to labour exploitation [M(1)].

All respondents from the victim support services - with one exception - confirmed that as part of their work they provide both information and assistance to victims. Only two respondents mentioned that they have a guideline for assessing situations of labour exploitation and/or identifying victims of labour exploitation. One referred to the governmental Protocol for Identifying Victims of Human Trafficking, whereas another respondent mentioned the ‘screening interview form’ for the victims of trafficking.

In relation to the question about passing information to other public or private institutions, the response by a representative of a victim support service is worth mentioning.

QUOTATION: *“It is quite tricky to consider both the interests of the victim and information privacy. We are not obliged to report it to the police, but if the victim asks for it, we can act on their behalf, including by reporting the crime to the police”* [S(1)].⁵⁴

⁵³ Hungary, Quotation in original language (Hungarian): “Nálunk az ügyfelek becsatornázása úgy történik, hogy az esetek kilencven százalékában a rendőrségtől kapjuk a jelzéseket, illetve az ügyfeleket ők továbbítják hozzánk.”

As far as the language barrier is concerned, labour inspectors encounter language difficulties when they carry out inspections at the premises of Chinese, Vietnamese, Macedonian or Arabic employers [M(2)]. In accordance with the relevant Hungarian procedural law, the services of an interpreter can be used.⁵⁵ There are some cases when they ask for help from the interpreters at the immigration office [M(1)].

Cooperation with partner organisations is part of the work of labour inspectors, as well as of the procedures they follow [M(2)]. They carry out joint inspections in cooperation with the police, the tax authorities and the immigration authorities on an annual basis, though they have never performed joint inspections concerning labour exploitation.

The majority of respondents in groups S and W confirmed that they cooperate with national and international NGOs in the field. One respondent [S] mentioned that they cooperate with several NGOs and governmental organisations in the framework of the National Coordination Mechanism against Trafficking in Human Beings. One interviewee was critical about the cooperation with national organisations:

QUOTATION: "...we didn't get any from Cordelia [Foundation], we don't cooperate with them although their clients would perfectly fit the target group of our project. And we didn't get any cases from Artemisszió [Foundation] either, although a lot of migrants turn up there." [S(1)].

⁵⁶

According to the interviewees, the most frequently observed forms of labour exploitation were the following:

- Eight interviewees found the practice of employers withholding wages or paying considerably less than what they would be obliged to pay typical ([S(3); W(2); M(1) J(1); L(1)])
- Seven interviewees agreed with the statement that "migrant workers are not properly informed about their entitlements in terms of wages, working conditions, annual leave, etc." ([S(2); W(2); M(2) J(1)])
- Furthermore, seven of them found the practice of the employer failing to pay social security contributions typical in Hungary ([S(2); W(2); M(1) J(1); L(1)])
- The problem of not providing a contract written in a language the migrant workers understand, or of failing to provide any contract at all, was designated as important by half the respondents [S(2); M(2) J(1); L(1)].

According to the respondents from the monitoring bodies, 90% of inspections are carried out without prior notice, as that is the most effective way of doing it. Labour inspectors are not allowed to carry out inspections in private homes unless the homeowner allows them to

⁵⁴ In original language (Hungarian): „Kicsit nehézkes, hogy az adatvédelem és az áldozat érdeke hogyan értékelhető. Feljelentési kötelezettségünk nincsen, de az áldozat kérésére tudunk intézkedni akár feljelentés tételében.”

⁵⁵ Hungary, Act CXL of 2004 on the General Rules of Administrative Proceedings and Services (2004. évi CXL. törvény közigazgatási hatósági eljárás és szolgáltatás általános szabályairól).

⁵⁶ In original language (Hungarian): "...akkor például a Cordeliától nem kaptunk, vele nincs együttműködés, pedig simán beleférne a projekt célcsoportjai közé. És az Artemissziótól sem kaptunk, pedig náluk sokan megfordulnak, de nem kaptunk.”

enter. If they suspect that a criminal offence has been committed, then the police can obtain a warrant to enter a private home.

As a result of the field work we can conclude that child labour in Hungary is not of high relevance. Only a minority of respondents designated child labour as a possible form of exploitation [M(2); S(1)]. As we pointed out in chapter 2, the relevant legal regulation concerning labour exploitation has been amended due to the recent modification of the New Criminal Code.⁵⁷ As part of the amendment, child labour - along with forced labour – has been regulated as a separate offence category since 1 July 2013.

Both representatives of monitoring bodies mentioned that labour inspectorates are responsible for monitoring child labour, which includes the obligation to ensure that age requirements are met. When this is not the case, they can impose fines and they are obliged to report these cases to the competent child protection services. They consider the reporting system effective. With regard to the referral mechanism, the comment of an S group representative is worth mentioning:

QUOTATION: *“In 2011 we have created a methodological policy that is compulsory in the whole country on how to make reports. Because earlier it was all ad hoc, people sometime just called on the phone, it wasn’t possible to track and monitor things”* [S(1)].⁵⁸

One of the respondents [S] expressed a criticism of the child protection system, specifically concerning street work. QUOTATION: *“What’s really missing is social work on the street. These are generally lacking in Hungary. Most social work starts with the client coming in to the office. Certainly in the case of child labour, since it is happening on the street, there should be social workers out there trying to survey things and help.”*⁵⁹

With regard to improving their efforts in combating labour exploitation, three respondents [M(2); S(1)] referred to the importance of trainings aimed at all actors in the field, including workers, employers and professionals both at the governmental and non-governmental levels. In this respect the comment of one S group expert is worth mentioning.

QUOTATION: *“there is a need for mechanisms that reveal these cases: either governmental or non-governmental organisations that identify and refer the victims to us. In those countries where there are IOM offices, it more or less works like that. So the return of EU nationals should also be supported by these programs, not just of third country nationals”* [S(1)].⁶⁰

⁵⁷ Hungary, Act C of 2012 on the Criminal Code (2012. évi C. törvény a Büntető Törvénykönyvről).

⁵⁸ In original language (Hungarian): „2011 őszén hoztunk egy olyan módszertani állásfoglalást, ami kötelező értékű az egész országra, és abban mintairatokat készítettünk a területi szolgálatok számára, hogy hogyan kell a jelzést megtenni. Mert korábban ilyen ad hoc módon, volt, hogy telefonon szóltak oda, tehát nem volt visszakövethető és ellenőrizhető.”

⁵⁹ In original language (Hungarian): “És, ami nagyon hiányzik, az utcai szociális munka. Magyarországon ez általában nagyon hiányos. A legtöbb szociális munka úgy működik, hogy a kliens bejön az irodába. Legalábbis a gyermekmunka esetében ez egy utcán lévő tevékenység, amit csak úgy lehetne felismerni és kezelni, ha a szociális munkások ott járnának.”

⁶⁰ In original language (Hungarian): „Ehhez az is kellene, hogy legyenek olyan mechanizmusok, amik ezeket feltárják: Akár kormányzati akár civil szervezetek, akik azonosítják és hozzánk referálják az áldozatokat. Ez többé-kevésbé azokban az országokban ahol vannak IOM irodák, ez így működik. Tehát az is fontos lenne, hogy ne csak a harmadik országbeliek hazatérését támogassák ezek a programok, hanem az EU állampolgárokat is.”

3.2 The various forms and frequency of incidents of labour exploitation encountered by experts in their work; economic areas affected

As we previously stated, some of the Hungarian experts had not encountered any of the listed forms of labour exploitation involving migrant workers in the course of their professional work. Therefore the answers in this section are partly based on their experiences with Hungarian workers who were exploited in other European countries.

Most experts selected the category of “exploitation of a migrant worker under particularly exploitative working conditions” and they also provided some specific examples: bakers from Kosovo or Albania or Ukrainian workers in the construction industry.

QUOTATION: *“The Ukrainian worker would climb up on scaffolding that was not fastened to the building because he is more desperate about money than his Hungarian mates. They would take the job for less money. They make them work longer hours without resting time.”* [M(1)]⁶¹

Note: The interviewee did not refer to a specific case. The statement above is a general comment on the construction industry. In fact, no action has been taken so far by the respondent’s organisation in cases of labour exploitation.

According to one S group interviewee, a typical form of exploitation is the employment of a migrant worker without paying social security contributions or indicating fewer work hours in the employment contract than the worker actually performs. One of the case studies provides more information about the phenomenon of the abovementioned type of labour exploitation:

A male victim from abroad was a teacher at a school in Budapest. He was recruited through fellow non-Hungarian citizens. The school did not officially register him as an employee and failed to pay the obligatory social security and pension fund contributions. The victim also reported that unpaid summer vacations and delayed salary payments were usual practices at the offending school. The problem was discovered when the victim submitted his pension application to the competent authority.

While employing someone without paying social security contributions for them is more typical in the case of unskilled, semi-skilled or skilled workers, as well as service occupations, the practice of regular overtime, or even working seven days per week, is also typical for professional and technical occupations, says the R group respondent, who argues that this type of employment is a form of open and systematic exploitation:

QUOTATION: *“...It is completely open, systematic exploitation. They work 11-12 hours a day on average. Even Saturdays and Sundays, when they are allowed to wear jeans, so it’s a lot*

⁶¹ In original language (Hungarian): “Az ukrán munkás például rögzítés nélküli állványra is felmegy, mert jobban szüksége van a pénzre, mint a magyar munkásnak. Kevesebb pénzért is bevállalják a munkát. Hosszabb ideig dolgoztatják őket, pihenőidő nélkül.”

of fun... Their main motivation is that they know, and it is true, that if they survive the meat grinder, in 8 or 10 years they will have a very solid financial background” [R(1)].⁶²

Forced labour, including bonded labour, as well as trafficking for the purposes of labour exploitation were each mentioned by one-third of the interviewees. In a particular example of trafficking for labour exploitation, an expatriate family employs a nanny from a third country (usually in South-East Asia):

QUOTATION: “We know that there are cleaning women and nannies shipped in from the Philippines or other South East Asian countries, in whose cases the recruiting companies and agencies that work completely invisibly can be considered traffickers in human beings, in my opinion...” [R(1)].⁶³

Another example of trafficking for labour exploitation was mentioned by the J respondent:

The Vietnamese perpetrator rented a family house for the purpose of planting Cannabis. He arranged to bring to Hungary two fellow workers from Vietnam. The perpetrator compelled the workers to stay in the family house and forced them to work. The victims were limited in their freedom of movement and sometimes they were locked up in their living quarters. Their employer threatened them by withholding their documents.

Only a minority of respondents designated either child labour [M(2); S(1)] or slavery [S(2)] as potential forms of exploitation. Only one S group respondent did not select any of the listed forms of exploitation; however, at a later point in the interview he/she talked about Romanian children who are subject to labour exploitation as victims of trafficking in Hungary.

Some of the interviewees emphasised that it is not migrants as a group that are subjected to labour exploitation in Hungary. Instead, labour exploitation is characteristic of certain sectors of the economy. Anyone working in those sectors might face exploitation.

To sum up, the various forms of labour exploitation encountered by the professionals we interviewed can be broken down into the following categories: Slavery was mentioned only by the staff members of the victim support services; forced labour was selected by one of the representatives of the monitoring bodies, by one of the representatives of the victim support services as well as by J group and L group respondents. Child labour was mentioned by both representatives of the monitoring bodies, by one of the representatives of the victim support services and by a lawyer. Trafficking for labour exploitation was mentioned as relevant in the Hungarian context by two staff members of the victim support services, a lawyer and the R group respondent. Finally, the category of “exploitation of a migrant worker under particularly exploitative working conditions” was chosen by 7 of the 12 interviewees [S(3); W(2); M(1); L(1)].

⁶² In original language (Hungarian): „...Ez tehát egy teljesen nyílt, rendszerszerű szervezett kizsákmányolás. Átlagosan napi 11-12 órát dolgoznak. Meg szombaton és vasárnap is, de akkor nagyon, farmerben mennek be.... A legfőbb motiváció az, és ez tényleg így is van, és, hogy látják, hogy 8 vagy 10 év múlva egy nagyon komoly egzisztenciájuk lesz, ha ezt az egész húsdarálót kibírja.”

⁶³ In original language (Hungarian): “Tudjuk, hogy vannak fülöp-szigeteki meg más dél-kelet ázsiai helyekről beszállított takarítónők meg „nanny”-k, akiknek az esetében a közvetítő cégek, meg ügynökségek, melyek teljesen rejtetten működnek, ezek tekinthetők emberkereskedőknek, énszerintem...”

As far as **occupations and economic** sectors are concerned, the respondents were asked to name three occupations and economic sectors in which exploitation of migrant workers occurs most frequently.

“Unskilled workers” [S(2); L(1)] and “service occupations” [M(1); J(1); W(1)] were most often mentioned first (both of them three times). “Service sector occupations” were mentioned second by four respondents [M(1); S(1); R(1); L(1)].

The third occupation on the list varied greatly. The category of “skilled workers” (namely Chinese cooks) was mentioned by the R group interviewee; “semi-skilled construction workers” was mentioned by one S group interviewee; “unskilled workers in general” was mentioned by the representative of one of the trade unions; “sales occupations” (namely shop assistants) was mentioned by the lawyer; and “night club staff” was mentioned by one of representatives of the monitoring bodies. The phenomenon of exploiting Chinese cooks in Chinese restaurants in Hungary was mentioned by the R group interviewee, who deems this kind of exploitation to be slavery, since these people live and work in terrible working conditions.

QUOTATION:“*Latency is rampant. People come in droves... multitudes of Chinese cooks are said to be entering Hungary, and they practically work as slaves, I’m sure. In some places there’s a bench to sleep on so that they can start preparing the food in the kitchen at 4am. They work as slaves that’s for sure*” [R(1)].⁶⁴

To sum up, service sector occupations were mentioned most frequently (half of the respondents mentioned this category spontaneously), and the following occupations were named specifically:

- Workers in Asian restaurants: According to the respondent [M], in many of these cases the owner is typically not a Hungarian citizen but also an immigrant.
- Masseurs and masseuses, sex masseuses (One M group expert said it is difficult to distinguish between the two).
- Domestic workers and baby sitters: Exploited baby sitters and domestic workers are predominantly female workers from Asian countries working for expatriate families [R].
- Caretakers for the elderly [W(1); R(1)]: According to the respondents they are typically ethnic Hungarian female workers, mostly from Romania.

Unskilled workers were also mentioned by 5 of 12 respondents, who referred to the following specific groups of workers:

- Dishwashers in a kitchen
- Cleaners: According to an S group respondent, migrants only tend to be hired as cleaners for the night and dawn shifts.

The economic sectors referred to were in line with the occupations the respondents had previously mentioned: five experts named the construction industry [S(2); M(1); J(1); L(1)], as well as the hotel and the food service industry [S(2); M(2); J(1); L(1)]. Different types of human health and social work activities were also mentioned by both trade union

⁶⁴ In original language (Hungarian): „Borzasztó nagy a látencia. Rengetegen jönnek be... Kínai szakácsok tömegei jönnek be, állítólag, és biztos, hogy ezek gyakorlatilag rabszolgamunkát végeznek. Van valahol egy priccs, ahol éjszaka alhatnak, és reggel 4-kor már a konyhában vannak, és készítik elő az ételeket... Biztos, hogy ezek rabszolgamunkát végeznek.”

representatives. One of the interviewees mentioned restaurants as a place where labour exploitation has occurs [S]. Agriculture was mentioned by four of the 12 interviewees [S(2); L(1); M(1)], although none of the occupations previously mentioned by these respondents falls into this category.

In March and April 2012, several media reports appeared about a particular phenomenon of labour exploitation in agriculture in the southern part of Hungary.⁶⁵

Every year between May and September, many seasonal workers come to certain villages (Mórahalom, Zákányszék) in Csongrád and Bács-Kiskun counties. These casual seasonal workers come from Romania to perform agricultural labour. Most of them are Roma men escaping and fleeing from extreme poverty and/or usury. Some of them also bring their families. They work under harsh conditions, 10-12 hours in the fields. Their average hourly wage is 400-500 HUF (1.5 EUR). Families generally live on the employers' dilapidated farms in total isolation and work for the rent. Some of the seasonal workers are registered as casual workers, but many of them work illegally. Their exact numbers are unknown. The mayors of the villages affected have established civil security enforcement groups in the municipalities in order to preserve public order during the crucial periods. Migrants are often restrained from contacting the village inhabitants by being accompanied back to the farm whenever they visit the village.

In relation to the exploitation of masseurs, "physical well-being activities" were selected by one of the representatives of the monitoring bodies. In addition, "non-diplomatic households in which none of the members works as a diplomat" were mentioned "as employers of child day-care givers" by the R group respondent.

Finally it is important to point out that none of the experts working for international organisations was willing to name any occupations or economic sectors, since they did not have any information involving the exploitation of migrant workers in Hungary. One S group respondent stressed that the main reason underlying the fact that hardly any cases come to their attention is that there are no mechanisms whereby the Hungarian system could identify such cases.

QUOTATION: „*There is no such mechanism that would filter that somehow [in Hungary] ... If there was such a mechanism whereby they could identify these victims, and there existed a budget for supporting their return and re-integration, the [organisation] would be perfectly able to participate in that.*” [S(1)].⁶⁶

⁶⁵ Hungary, Szlavkovics, Rita (2013) „Gyilkosság után xenofóbia – gárdát toboroznak a vendégmunkások miatt”, *Magyar Narancs*, March 29, available at: <http://magyarnarancs.hu/kismagyarorszag/gyilkosság-es-xenofobia-gardat-toboroznak-a-vendegmunkasok-miatt-84177>; Horváth, Bence (2014) „Így tartják a román vendégmunkásokat rabszolgaként Mórahalmon”, *444.hu*, April 4, available at: <http://444.hu/2014/04/04/vendegmunkasok-kordaban-tartasarol-beszelt-morahalom-fideszes-polgarmestere/>; Szlavkovics, Rita (2014) „Van munka, hát, jöttünk – romániai napszámok Magyarországon”, *HVG.hu*, April 16, available at: http://hvg.hu/itthon/20140416_morahalom_vendegmunkasok_riport.

⁶⁶ In original language (Hungarian): “Nincs olyan mechanizmus, ami ezt valamilyen módon kiszűrné (Magyarországon) ... Ha lenne olyan mechanizmus, amiben azonosítják ezeket az áldozatokat és lenne olyan pénzforrás, amely hajlandó lenne támogatni a hazatérésüket és re-integrációjukat, akkor ebben klasszikusan részt tudna venni az IOM.”

4. Risks and risk management

4.1. Identification of common risk factors for labour exploitation

In the research, the respondents spontaneously listed various risk factors for labour exploitation, mostly stemming from the disadvantageous socio-economic background of migrant workers, such as poverty, lack of language skills, low level of education, gender and age. Most of the experts in the research pointed to problems caused by the lack of various elements of social capital (e.g. personal relationships, family, information; access to some form of help and social trust), as well as human capital (professional and language skills, a proper level of education, etc.).

Table 1: Elements of human and social capital whose lack is a risk factor

Lack of human capital	Lack of social and cultural capital
<ul style="list-style-type: none"> - lack of language skills [S(4); M(1)] - low level of education or lack of qualification [S(2)] 	<ul style="list-style-type: none"> - lack of necessary information [M(2)] - little local knowledge, especially concerning local institutions, and lack of trust in institutions [S(1)] - lack of protective networks, such as family [S(1)] - personal contacts and personal responsibility [W(1)]

Trends of migration can also be analysed in the framework of “push” and “pull” factors. In relation to labour exploitation, the following “push” factors were mentioned by quite a few of the respondents:

- poverty or financial vulnerability in the home country [S(2); J(1); M(1)]
- factors forcing migrants to leave their home countries might be present in their new countries as well [W(1)]

Some of the respondents also mentioned some potential grounds of discrimination. The representative of a child welfare organisation mentioned age and sex, meaning that women and children are more vulnerable to exploitation [S(1)]. The R-group expert mentioned country of origin as a possible source of discrimination [R(1)], as in the interviewee’s opinion, workers from Eastern Europe and the Far East are exploited the most in Hungary.

The defects and malfunctioning of the institutional setting, as well as precarious working situations were also mentioned by some of the experts as risk factors:

- working in specific sectors of the economy, namely in the construction industry and agriculture [L(1)];

- arriving in the country without official documents, or being deprived of documents [S(1)];
- low risk of prosecution to offenders and a low level of the enforcement of sanctions are the result of ineffective monitoring and investigating by the authorities [S(1)];
- precarious working situations, such as being self-employed [S(1)];
- not being a member of a trade union [W(1)].

An interviewee from the lawyers group opines that not only the notorious sectors of the construction industry and agriculture carry the inherent risk of labour exploitation, but also other areas, where inspections by the authorities are unlikely or even impossible to occur, are vulnerable.

QUOTATION: *“I am thinking of embassies here, for example, where it is inconceivable that labour inspections or the Immigration Authority just show up at the doorstep.”* [L(1)]⁶⁷

The following description of a case illustrates situations where authorities are unlikely to enter the work place.

A male (non-Hungarian) victim worked for the Embassy as a chef without a work contract. He was forced to work 7 days a week and more than twelve hours a day. He was not provided resting time and was not allowed to go on annual leave. He was also restricted in his movement, as he could not leave the building of the Embassy. After the victim escaped from the Embassy, he contacted a lawyer, who helped him apply for legal residence status based on employment relationship. The victim, however, was not willing to initiate any legal action against his employer.⁶⁸

As far as the **legal and institutional framework** is concerned, all of the Hungarian experts selected “lack of institutions effectively monitoring the situation of workers in sectors of economy where labour exploitation occurs.” Besides, “low risk to offenders of being prosecuted and punished” was mentioned by the great majority (9) of the interviewees [S(3); W(2); M(1); J(1); L(1); R(1)]. Five of the respondents agreed that the low risk to offenders of having to compensate exploited migrant workers seems to be an important factor as well [S(2); W(1); J(1); L(1)]. Corruption in other parts of the administration was mentioned by three respondents [S(2); R(1)], while corruption in the police was selected by two respondents [S(2)]. It can, therefore, be stated that the lack of an effective monitoring system of the economic sectors where labour exploitation occurs is a major institutional defect in Hungary.

Regarding the societal framework, the public climate, and the personal attributes of migrants, the great majority (10) of the respondents found it crucially important for migrants to know the language of their host country [S(5); W(1); M(1); J(1); L(1); R(1)]. The problem of low level of education was also thought to be an important risk factor by seven interviewees [M(2); S(2); J(1); L(1); W(1)]. Experiencing extreme poverty in the home country was mentioned by more than half of the respondents [S(4); M(1); R(1); W(1)]. The factor of migrants not being allowed to enter into employment was mentioned by two experts working

⁶⁷ In original language (Hungarian): „Gondolok itt a követségekre, tehát elképzelhetetlen az, hogy oda becsöngessen egy munkaügyi ellenőrzés, vagy egy Bevándorlási Hivatal.”

⁶⁸ Summary of a case study collected as part of the research.

for victim support services, by both representatives of the trade unions, as well as by a lawyer. “Worker comes from a country the nationals of which are often exploited in the destination country” was chosen by only three respondents [S(1); J(1); R(1)]. “Worker is prone to discrimination on behalf of their race or through their identification as belonging to a national minority” was selected by only one of the trade union representatives.

As far as the situation of the migrant in the workplace, and the specific employers’ actions are concerned, each of the two following factors was chosen by two thirds of the interviewees:

- “The migrant works in a sector of the economy that is particularly prone to exploitation” was chosen by one of the representatives of the monitoring bodies, both representatives of the trade unions, three out of the five experts working for victim support services, by an R group interviewee and a lawyer.
- “The migrant works in relative isolation with few contacts to clients or to people outside the firm” was selected by both the trade union representatives and the monitoring bodies’ representatives, the two experts working for victim support services, the judge, and the lawyer.
- Half of the interviewees selected “the migrant works in a precarious or insecure situation of employment.” [S(3); M(2); L(1)]
- Five respondents found not being a member of a trade union to be an important risk factor: [W(2); S(2); M(1)].
- Two experts working for victim support centres as well as an R group interviewee said not being directly employed by the business/organisation the employee works for (agency workers, employees of cleaning or security companies, etc.) is an important risk factor.
- Being employed as a seasonal worker was thought to be an important risk factor by two staff members of the interviewed victim support centres and by an R group interviewee.

None of the experts selected “the migrant worker is employed as a posted worker by a foreign company,” even though the R group interviewee stressed several times that the young managers (mostly male workers in their mid- or late twenties) working for multinational companies are severely overworked. Economic sectors were not specified. The interviewee referred to migrant workers from European and Asian countries. They work very hard during the week as well as on the weekends, sometimes 14 or even 16 hours per day, which means that their average working hours significantly exceed the eight-hour workday set by their contract. It has to be added, however, that they have a high goal to achieve. First they must pass through a so called “rotation period,” which means that they spend six-month periods in foreign countries, where the multinational company has subsidiaries. Years later, after a series of six-month assignments in different countries -(provided that they prove to be competent and suitable to lead a multinational group) they are promoted to a middle manager status with an annual salary of 180,000 USD. As the relocation agency the interviewee referred to is contracted to multinational companies, they primarily serve the interests of the employers, and not the employees. According to the interviewee even though they can see the problems of the employees they are dealing with—primarily related to overtime—there is nothing they can do, because their clients are the employers, not the employees.

QUOTATION *“Sure, we can see that all these young people work 16 hours, but, I’ll be honest, we will never bring that up. We just can’t. The fact that these people are overworked will of course surface: they will look for ways of letting off steam. As a result they have debaucheries with the neighbours calling the police, and it’s a scandal... But someone able to handle all the stress and overwork will be fine. They’ll go on to their next assignment, and we will never bring up anything...” [R(1)]*

“Hiába látjuk, hogy 16 órát dolgozik egy fiatal munkatárs, vagy sok fiatal munkatárs, mi ezt nem fogjuk szóvá tenni, megmondom őszintén. Nem is tehetjük. Sokszor kiderül egyébként ez a túlterheltség. Mert elkezdik keresni a módokat arra, hogy kiengedjék a feszültséget. Ennek sokszor olyan tivornyák lesznek az eredményei, hogy a házban lakók kihívják a rendőrséget, és akkor cirkusz van. De aki képes e nélkül kezelni ezt az állandó feszültséget és túlterheltséget, azzal nem történik semmi különös. Megy a következő helyre, mi meg nem fogjuk szóvá tenni....”

All of the interviewees that had relevant information on the recruitment agencies [W(2); R(1)] were very critical about their role, and said that they have a substantial responsibility in the exploitation of migrant workers.

None of the experts who were able to give a relevant answer thought that monitoring is effective. Neither the interviewed lawyer nor the judge had any knowledge about institutions that monitor the activities of recruitment and employment agencies; the lawyer thought such institutions are desperately needed.

Both representatives of the trade unions (W group) condemned recruiting agencies, as in their view these companies are partly responsible for the labour exploitation of migrant workers by restricting their freedom of choosing an employer, and levy high fees on the workers even subsequent to the actual job placement.

QUOTATION: *“It’s a type of restriction, of their personal freedom, their freedom of choosing an employer, with all that this involves ...” [W(1)]⁶⁹*

The other representative of the trade unions also found the role of the employment and recruitment agencies fundamentally important in creating or preventing situations of vulnerability to labour exploitation for migrant workers. This expert was very critical of the activities of especially those employment and recruitment agencies that move workers from Central and Eastern Europe to Germany via Hungary. The lawyer also made it clear that recruitment agencies have a substantial responsibility in this respect.

The R group interviewee also strongly doubted whether employment and recruitment agencies could do anything against exploitation. He/she thought decreasing the vulnerability of migrant workers to labour exploitation is a hopeless case anyway, because all parties—employers, employees and employment agencies—have a vested interest in preventing change. This is true for migrant workers as well because they are in precarious situations anyway and therefore fear of losing whatever source of income they have. The respondent

⁶⁹ In original language (Hungarian): “Egyfajta megkötés, személyi szabadság korlátozása, szabad munkahelyválasztás korlátozása, ebbe sok minden belefér...”

thought this vicious cycle is also the main reason for the high level of latency in labour exploitation.

As far as the monitoring of recruitment and employment agencies is concerned, the interviewed experts of the trade unions did not find it effective at all. One W group interviewee mentioned the work of EURES⁷⁰, whose main goal is to provide information, counselling and job-matching services for the benefit of workers and employers, as well as any citizen wishing to benefit from the principle of free movement of persons.

QUOTATION: "In theory these companies are registered at the Public Employment Service,⁷¹ but probably they don't have the authority to monitor them effectively. Otherwise so many problems would not come back to us from Germany, Austria, Belgium or the Netherlands." [W(1)]⁷²

The R group interviewee was aware of the fact that the labour inspectors monitor the recruitment and employment agencies employed by the Public Employment Service, National Labour Office⁷³ (*Nemzeti Foglalkoztatási Szolgálat, Nemzeti Munkaügyi Hivatal, NFSZ*)⁷⁴. In this interviewee's opinion this is not done randomly, but as follow up on reports, especially in the construction industry. The interviewee does not think that the system is effective: according to the interviewee, only a handful of companies are ever monitored, and there is a high level of corruption, with companies allegedly often either bribing inspectors or their overseers.

Both representatives of the monitoring bodies stressed that private recruitment agencies must be registered. In Hungary, this is done by the National Labour Office (NMH in Hungarian). In order to be registered, agencies have to pay a deposit in accordance with Government Decree 118/2001.⁷⁵ According to one of the representatives of the monitoring bodies what these companies are interested in is trying to employ as many people as possible, and not in solving the problem of exploitation. According to the other representative of the monitoring bodies, registration is a formal procedure: it does not mean that agencies are inspected in an effective way. The Office, however, can remove agencies from the registry if they are found in violation of regulations.

⁷⁰ European Job Mobility Portal, see at: www.ec.europa.eu/eures/page/homepage?lang=en.

⁷¹ Public Employment Service (*Nemzeti Foglalkoztatási Szolgálat*). See in Hungarian at: www.munka.hu/ and in English: www.eu.munka.hu/.

⁷² In original language (Hungarian): „Hát elvileg a Foglalkoztatási Hivatalban [Nemzeti Foglalkoztatási Szolgálat.] vannak regisztrálva ezek a cégek. De gondolom erre nekik nincsen jogosítványuk, hogy olyan szinten ellenőrizzék, hogy hatékony legyen. Mert különben nem jönnének vissza hozzánk azok a problémák, Németországból, Ausztriából, Belgiumból, Hollandiából még visszajönnék.”

⁷³ Hungary, see at: www.eu.munka.hu/ for further information in English.

⁷⁴ Hungary, see at: www.munka.hu/.

⁷⁵ Hungary, Government Decree, No 118/2001 on the conditions of registering and pursuing of activity of employment agency and temporary employment (*118/2001 (VI.30.) Kormányrendelet a munkaerő-kölcsönzési és a magán-munkaközvetítési nyilvántartásba vételről és feltételeiről*).

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

In Hungary, prevention measures are mostly carried out by non-governmental organisations providing victim support services, but the role of trade unions is also worth mentioning. Neither the Victim Support Service of the Office of Public Administration and Justice nor the interviewed monitoring bodies carry out prevention measures according to the interviewed experts. Experts from the victim support group were hardly able to mention any pre-departure information programme put in place by the Hungarian government. The representatives of the trade unions were somewhat better informed on this topic.

4.2.1 Prevention measures and promising practice

This part of the report reviews the prevention measures and practices of the interviewed organizations. Both M group representatives stressed that labour inspectors do not take any preventive measures specifically targeting labour exploitation. However, the nature and purpose of inspections performed by the authority may clearly contribute to prevention. According to one of the M interviewees, they consider workers as victims if they are not able to leave their employment situation or if it is difficult for them to do so for some reason. The interviewee also said that illegal situations are often “*caused by the workers themselves*”, as they request not be employed officially so as to evade taxation or so that they can be eligible to apply for certain social benefits.

Experts named a couple of forms of prevention measures NGOs had taken. In the framework of the EPIM project, **Menedék** has organized a leaflet campaign⁷⁶ both in English and in Hungarian disseminating information about migrant workers’ rights and giving examples of infringement by employers. Menedék also informs migrants about the dangers of labour exploitation during a two-day-long job search training, organised four times a year.

IOM Budapest has had several awareness raising projects in Hungary related to labour migration and trafficking in human beings. They have focused especially on potential victims of labour exploitation among Hungarian workers abroad.

QUOTATION: “*There have been awareness raising projects in Hungary, as well. When we joined the EU, and the labour markets of three countries opened immediately: There was one on the legal conditions of entering employment in England. As part of this a free phone [was operated] and there were many other components...*” [S(1)]⁷⁷

As far as the trafficking of children is concerned, the main goal of **Terre Des Hommes** (TDH) – according to one S-group expert - is prevention. They work mainly with the Roma,

⁷⁶ Hungary, see at: <http://menedek.hu/projektek/jogi-segitsegnyujtas-szabalytalanul-foglalkoztatott-kulfoldieknek>

⁷⁷ In original language (Hungarian): „Magyarországon is voltak felvilágosító típusú projektek. Amikor csatlakoztunk az EU-hoz, és azonnal megnyílt három ország munkaerőpiaca: Akkor volt egy, ami az angliai munkavállalás legális feltételeiről szólt. Ennek részeként volt egy ingyenesen hívható telefonszám, és még több komponens...”

providing information on migration in local communities and schools through discussions and sensitivity-raising programs. In some projects locals are trained to take over the work of the organisation. Another interviewee pointed out that it would be crucial to find a solution to do follow up on migrants on the move. (It has to be mentioned here that according to an S group expert, trafficking in children is not a relevant phenomenon in Hungary; their statements therefore apply only to the four other countries TDH works in, namely Bulgaria, Albania, Kosovo and Romania).

Although relocation companies have no obligation to inform migrant workers of their rights, some employees of such companies informally warn migrants of the dangers they might encounter in their employment. One S group interviewee emphasised that it is not prevention but intervention that is in the focus of their activities.

As **trade unions** work as advocacy groups, their primary goal is the protection of the rights of workers. However, as they do not differentiate between migrant and non-migrant workers, they do not have measures specifically aimed at preventing the labour exploitation of migrant workers. As the Democratic League of Independent Trade Unions (*LIGA, Független Szakszervezetek Demokratikus Ligája*) is a federation, they relatively rarely provide workers with information, as this is the task of unions at the employers' level. The National Federation of Workers' Councils (MOSZ) is currently working on the development of an international partners' network that will provide workers planning to go abroad with information on both the local labour laws and culture. Recently LIGA has launched a campaign that targets workers in general, entitled „For the Work” („*A munkért*”)⁷⁸ Within the framework of the campaign a video was launched, calling for action against substandard working conditions, with the title “Let's clean our workplaces from the filth of unlawfulness.” („*Tisztítsuk meg munkahelyeinket a törvénytelenység mocskától!*”)⁷⁹ This slogan has been widely criticised for its extreme tone, according to one interviewee.

Box 1: Promising practice

The EPIM (European Program for Integration and Migrants) project of Menedék can be considered to be a promising practice in Hungary, primarily due to its legal aid component: In the framework of the project they provide legal assistance to irregular migrant workers by lawyers specialized in the employment of foreigners. The expenses related to the honoraria of the lawyers are covered by the the budget of the EPIM project. Also, the project covers a large area, as it is carried out in five Central and Eastern European countries, namely in Poland, Slovakia, the Czech Republic, Hungary and Romania. On the other hand it has to be mentioned that it cannot be considered sustainable, since it is project-based, and its long term continuity is not guaranteed.

4.2.2. Pre-departure information programmes implemented by governmental and non-governmental organisations

The most relevant information campaign is run by the Ministry of Interior: Its title is “*Integrated approach for prevention of labour exploitation in origin and destination countries,*”

⁷⁸ Hungary, see at: www.liganet.hu/page/313/art/7444/akt/1/html/a-liga-szakszervezetek-orszagos-projektjea-munkaert.html.

⁷⁹ Hungary, see at: www.youtube.com/watch?v=4-Dtle9IUJU.

and it is funded by the Directorate General Home Affairs of the European Commission. The prevention campaign, which has started in June 2013, aims to decrease labour exploitation in the origin-, transit- and destination countries. The message of the campaign (*“To work is a right; to exploit work is a crime! Together we can fight human trafficking!”*) has been widely disseminated through campaign materials—posters, USB memory stick, brochures, TV and radio spots—to the target groups with the help of partner institutions, namely the Office of Public Administration and Justice, the Department of Victim Support and Legal Assistance, the Consular Department of the Ministry of Foreign Affairs, the Crime Prevention Department of the National Police Headquarters, and the EURES Department of the National Labour Office.⁸⁰ It can be safely assumed that all of our interviewees who mentioned campaigns in relation to the Ministry of Interior, the National Labour Office or EURES referred to this campaign.

According to the interviewees, the Hungarian government has put some information programmes to prevent labour exploitation in place in the past decade, but they were hardly able to mention any campaigns directly targeting workers intending to leave Hungary. One S group representative and a W group representative mentioned a campaign recently run by the Hungarian Police entitled “Don’t become a victim” (*“Ne légy áldozat”*)⁸¹, but this definitely cannot be categorised as a pre-departure information campaign, as it targets victims of crime in general.

One of the representatives of the victim support services and one of the representatives of the trade unions could recall the same campaign (they referred to it as “the EURES campaign”), without mentioning any other specific campaigns. According to one of the S respondents, these programmes could be improved by greater publicity and more effective communication. According to one representative from a trade union, providing workers with pre-departure information should primarily be EURES’ task; however, he/she did not consider EURES’ work and efforts to be successful.

The other representative of the trade unions recalled that there were certain information brochures by the government for workers planning to move abroad, but they could not name any specific campaigns. The interviewee thought information campaigns would be more effective if employers disseminated information brochures among their migrant employees. They were not aware of any national or international standards.

An S group representative mentioned some campaigns that were put in place in the past decade aiming to prevent labour exploitation, but could not name any specific campaigns implemented by the Hungarian government. Instead, the interviewee named a campaign carried out by IOM at the time Hungary joined the EU. This awareness raising campaign was implemented by IOM Budapest, in 2004 (in the year that Hungary joined the European Union) to protect young women and girls from becoming victims of sexual exploitation abroad.

⁸⁰ For more information on the campaign see: Report on the implementation of the campaign of JLS/2009/ISEC/AG/207 Integrated approach for prevention of labour exploitation in origin and destination countries project, at: <http://thb.kormany.hu/report-on-the-implementation-of-the-prevention-campaign-of-jls-2009-isec-ag-207-integrated-approach-for-prevention-of-labour-exploitation-in-origin-and-destination-countries-project>.

⁸¹ This campaign was implemented by the Hungarian Police, see: www.police.hu/hirek-es-informaciok/bunmegelozes/aktualis/ne-legy-aldozat.

QUOTATION: *“For example, there was [an awareness raising campaign in 2004, targeting girls and young women] ... the victims of sexual exploitation did not come from the same circle as today. Back then it was not that total vulnerability made up the single case type. So the situation got worse. Back then there was a rationale behind combating the ‘naivety factor.’ It made sense to prevent secondary school or graduating girls not to be fooled by this or that au-pair work or allegedly sex-free job offers. Today all that happens in a much more organised manner.”* [S(1)]⁸²

As far as the mechanisms of standard-setting and accreditation at national and international level are concerned, the Hungarian interviewees could hardly provide any information on these issues. One of the representatives of the trade unions evaluated the work and role of mechanisms of standard-setting and accreditation positively, especially on the international level. However, he/she was more doubtful about their successful implementation on the national level. The interviewee was not aware of any national or international standards. According to the R group respondent, the mechanisms of standard-setting and accreditation—both at national and international level—only play a minor role nowadays. The interviewee also emphasized that these mechanisms require a long time to become effective.

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

Due to our lack of relevant interviews from policing bodies, we can only provide limited information in this section. Three representatives of the police and one prosecutor were interviewed during the fieldwork, and all respondents confirmed that they have not encountered labour exploitation in relation to migrants in Hungary. Cases of Hungarian workers exploited in other European countries were mentioned but they could not provide any relevant information on migrants working in Hungary. None of the four respondents was aware of any criminal investigation with regard to labour exploitation of migrant workers in the past or present. All respondents whose interviews were considered relevant were in agreement that in case the police carried out a raid on the premises of a company and detected migrants with an irregular residence status working under very poor conditions, the police would simply treat them as offenders. One of the interviewees from the monitoring bodies who provided the most substantial information coming from authorities, said the following:

QUOTATION: *“The police would see the migrant workers as criminal offenders. This is my personal opinion; it doesn’t reflect the opinion of our organization.”* [M(1)].⁸³

⁸² In original language (Hungarian): „Például, amikor [2004-ben egy lányokat és fiatal nőket célzó figyelemfelhívó kampány] volt, akkor még a szexuális célú kizsákmányolásnál az áldozatok nem teljesen ugyanebből a körből kerültek ki, mint ma. Akkor még nem feltétlenül a totális kiszolgáltatottság volt az egyetlen esettípus. Tehát romlott a helyzet. Volt tere annak, hogy erre a >>naivitás faktorra<< próbálj hatni. Volt tere annak, hogy, mondjuk, gimnazista vagy érettségiző lányok ne dőljenek be ilyen-olyan au-pair munkának vagy az ígért szexmentes munkának. Ma ez sokkal szervezettebben zajlik...”

⁸³ In original language (Hungarian): “Nincs olyan mechanizmus, ami ezt valamilyen módon kiszűrné (Magyarországon) ... Ha lenne olyan mechanizmus, amiben azonosítják ezeket az áldozatokat és lenne olyan pénzforrás, amely hajlandó lenne támogatni a hazatérésüket és re-integrációjukat, akkor ebben klasszikusan

Another interviewee stated that in this situation the migrant would be seen as somebody who is illegally staying in the country, and he/she thought the attitude of the police is to be blamed for this [S(1)].

QUOTATION: *“I think there is very little sensitivity on the part of the police to see these people as victims primarily, and question of residency and status are secondary.”*⁸⁴

In relation to the question on the effectiveness of the referral system, three respondents (S(2); L(1)) provided relevant information. While two of them [S(1); L(1)] firmly stated that the referral system does not work in Hungary at all, an S group respondent working in child protection thought that the referral system works well, and the problem is rather the weakness of the system in recognising victims of exploitation. At the same time, the respondent talked positively about the National Crisis Management and Information Line Service (*Országos Kríziskezelő és Információ Telefonszolgálat – OKIT*), which is a special crisis helpline for victims of domestic violence, sexual exploitation and trafficking of human beings.⁸⁵

Finally, it has to be mentioned that two respondents [S(1); L(1)] referred to the legal possibility of third country national victims receiving residence permit on humanitarian grounds.⁸⁶ They both said that to their knowledge no such permit has yet been issued in Hungary.

részt tudna venni az IOM.” “A rendőrök bűnözőknek tekintenék a migráns munkásokat. Ez a személyes véleményem, nem tükrözi a szervezet hivatalos véleményét.”

⁸⁴ In original language (Hungarian): “Szerintem nagyon alacsony a rendőrségben az érzékenység arra, hogy ezek elsősorban áldozatok, és csak másodsorban van tartózkodási engedély és státuszkérdés.”

⁸⁵ Hungary, see at: www.bantalmazas.hu/.

⁸⁶ Hungary, Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals (A *harmadik országbeli állampolgárok beutazásáról és tartózkodásáról szóló 2007. évi II. törvény*), Article 29 f.

5. Victim support and access to justice

5.1. Victim support, including available support services

For the activities of the victim support organisations, please see Chapter 2 of the present report. According to the majority of the experts, the legal framework is well-constructed and the victim support organisations do help victims. There was a wide range of diverse opinions concerning the efficiency of the available victim support services. All respondents agreed that assistance for victims of labour exploitation is provided by both governmental and non-governmental organisations free of charge.

Victim assistance is provided by county-level units of the Victim Support Service of the Office of Public Administration and Justice (*Közigazgatási és Igazságügyi Hivatal Áldozatsegítő Szolgálat*) if a person is formally recognised—by a certificate from the police—as a victim of a crime.

According to a representative from the Victim Support Service of the Office of Public Administration and Justice, the organisation's support services may be provided to third country nationals identified as victims of trafficking in human beings as well. The representative assessed the work of the support services as effective; what they are not satisfied with is the volume of victims reaching the organisation. The representative thinks that this problem might be solved by more effective communication and dissemination of information.

QUOTATION: "The system itself works just fine: the problem is victims do not reach the service. Like I said: the ratio of foreigners is very small. We have been taking measures that our information brochure is available in all the languages of the received ethnic minorities in Hungary, like for instance we now have it in Armenian. Informing people, communication is essential. After that we can just wait for the victims to turn up." [S(1)]⁸⁷

Services of the non-governmental organisations are more flexible and available to victims without any formal victim recognition procedures.

Two out of the five interviewees working for victim support services raised their concerns with regards to the availability of these services for irregular or third country migrants. According one S group expert, the fact that most of the services funded by EU projects are only open to Hungarian and EU nationals is highly problematic; as a result, third country nationals are often without any assistance. Another S group interviewee also criticised the targeting methods of these support mechanisms: they explained that EU funds that sustain NGOs like Menedék do not usually include irregular migrant workers and third-country citizens in their mandate. (The EPIM project is an exception in this regard, as it deals with third country nationals including irregularly employed migrants) Moreover, with regards to the recognition of victims, she found it highly problematic that irregularly employed migrants generally try to hide from the authorities in fear of being expelled from the country.

⁸⁷ In original language (Hungarian): „A rendszer maga, az jól üzemel, a probléma az, hogy nem jutnak el az áldozatok a szolgálathoz. Ahogy mondtam, hogy a külföldiek közül mennyire alacsony az aránya azoknak. Most már teszünk lépéseket, hogy a Magyarországon elismert nemzetiségek nyelvére mindegyikre le van fordítva a tájékoztató anyagunk, például örmény nyelvű tájékoztatónk is van. A tájékoztatás, az információáramlás nélkülözhetetlen. Onnantól kezdve mi várjuk az áldozatokat.”

Almost all respondents agreed that these services are available free of charge in Hungary [S(5); W(1)]. As far as efficiency is concerned, most of the experts working for NGOs stressed that the services provided by the government do not work effectively in the practice [S(3)]. It has to be added that the support mechanisms in place with regards to human trafficking - with protected houses and severe sanctions on perpetrators - was evaluated more positively [S(2)].

According to one S group expert, the main reason behind low efficiency is mainly the latency of the phenomena. It is worth mentioning the gender aspect in this regard: In their view, the exploitation of male victims is less likely to be revealed and referred to the victim support services, as compared to that of female victims.

QUOTATION: „In the case of labour exploitations with men there are entirely different mechanisms at work than with women, and victim support mechanisms must be created bearing that difference in mind. Men experience exploitative circumstances differently: they do not admit that they are victims; it is more difficult for them to accept that they have been deceived, and they are much more reluctant to ask for help. That should be taken into consideration when mechanisms for victims of labour exploitation are devised....”⁸⁸ [S(1)]

According to another S group expert, the targeting of the campaigns and the dissemination of information should be improved as well. On the one hand, male victims should be targeted differently from female victims, and on the other hand migrant victims need information in languages other than Hungarian. The hotline should be operated by a staff speaking various languages.

As far as legal advice is concerned, Legal Aid⁸⁹—which is offered by the Ministry of Public Administration and Justice⁹⁰ to disadvantaged persons in case they need legal representation—was mentioned by one S group interviewee, as a government institution that helps migrants find legal solutions free of charge. The interviewee was convinced that applicants with a refugee status can apply for legal support at this institution, but he/she was uncertain about whether a temporary residence permit would also allow victims to apply. The interviewee explained that people with a temporary residence permit and those awaiting removal can only work illegally and so they are not entitled to legal support.

5.2. Access to justice and other mechanism to employer victims

Experts were in agreement that, for different reasons, the civil justice system with regards to the promise of enabling victims to claim compensation and back payment of denied wages is

⁸⁸ In original language (Hungarian): „A munkacélú kizsákmányolás esetében teljesen más mechanizmusok működnek a férfiak és a nők esetében, nyilván a segítő mechanizmusokat is ennek a figyelembe vételével kellene kialakítani. A férfiak máshogy élik ezt meg: nem ismerik el, hogy áldozatok, nehezebben fogadják el, hogy őket átverték, sokkal nehezebben kérnek segítséget. Ezt figyelembe kéne venni, amikor munkacélú kizsákmányoltaknak terveznek mechanizmusoknak...”

⁸⁹Hungary, see at: www.kih.gov.hu/miben-tudunk-segiteni/-/asset_publisher/4frusdbuyVxX/content/miben-tudunk-segiteni-1?redirect=http%3A%2F%2Fkih.gov.hu%2Fmiben-tudunk-segiteni-%3Fp_p_id%3D101_INSTANCE_4frusdbuyVxX%26p_p_lifecycle%3D0%26p_p_state%3Dnormal%26p_p_mode%3Dview%26p_p_col_id%3Dcolumn-2%26p_p_col_count%3D1.

⁹⁰ Hungary, see: www.2010-2014.kormany.hu/en/ministry-of-public-administration-and-justice.

not effective in Hungary. Respondents were of different opinions on the mechanism that would facilitate the lodging of complaints by migrant workers against their employers. The judge argued for a higher involvement of NGOs, the lawyer highlighted the importance of applying for the residence permit on humanitarian grounds, whereas one of the S-group respondents suggested empowering the ombudsman to facilitate the lodging of complaints against employers.

The majority of the respondents [S(3); W(1); L(1); J(1)] does not consider the civil justice system effective in general, with the rest of the interviewees saying that they do not have information on this issue. One of the interviewees [W] made a specific statement that although the Hungarian Labour Code heavily favours employers, once a labour court grants damages, workers certainly get it.

The L group interviewee stressed that the first problem is how to steer an irregular migrant into legal employment. Another problem is that, in the legal procedures, employees are vulnerable because of the difficulties of proving their claim.

QUOTATION: *“Whether they will be able to continue to stay if they lodge a complaint, if they decide to turn against their employer. That is the essence of the entire issue.”*⁹¹

A J group respondent argued that the verdict of a criminal court is more likely to be implemented than that of a civil court.

QUOTATION: *“Should I say that when a criminal court judge hands down a verdict, at least it gets implemented? A judge from a civil law court can't say that. It's the issue of execution. Maybe the verdict is there on paper, maybe they read the paper and see how much they are owed, but they won't get actual money from that, that's for sure. Though the criminal procedural system could help in this respect, because you can enforce civil law claims in the context of criminal proceedings.”* [J(1)].⁹²

One S group respondent criticised the inconsistency in the law that makes it difficult for victims to regain wages they have been denied. Although according to the Labour Code⁹³ victims are entitled to claim compensation and back payment even after they have returned to their home country, she argued that there is no legislation on the details of how this is to be implemented and executed, which she considers a serious gap.

Regarding the question about civil law claims dealt with by the criminal justice system, only one respondent [J] provided relevant information. According to them, civil law claims can be dealt with by the criminal justice system under the rules of the Criminal Code.⁹⁴ Where

⁹¹ In original language (Hungarian): “Hogy itt tud-e maradni a későbbiek során, vagy sem ha panaszt tesz, ha szembefordul a munkáltatójával. Tehát ez az egésznek a lényege.”

⁹² In original language (Hungarian): “Most mondjam azt, hogy egy büntető bíró ítéletét legalább végrehajtják? A polgári bíró nem mondhatja el ezt magáról. Ez a végrehajtás kérdése. Lehet, hogy papíron megvan az ítélet, és lehet, hogy a papíron elolvashatja, hogy neki mennyi jár, de abból pénz effektíve nem lesz, az biztos. De egyébként ezen tudna segíteni a büntető eljárási rendszer, mert a büntető eljárás keretében is lehet érvényesíteni polgári jogi igényt.”

⁹³ Hungary Act I. of 2012 on the Labour Code (2012. évi I. törvény a Munka törvénykönyvéről).

⁹⁴ Hungary, Act XIX of 1998 on Criminal Procedure (1998. évi XIX. törvény a büntetőeljárásról), Article 54.

the grounds and quantifications for a civil claim can be unequivocally determined, the claim must be heard on its own merits.

*QUOTATION: "However, within the context of criminal proceedings, only damages directly connected to the criminal offence can be enforced. So if we take a parallel example, if someone is killed, then say they can't make a claim for funeral expenses. Although I would say that there is a causal relationship there. In the case of burglary for example, the victim can make a claim for what was actually taken from his home."*⁹⁵ [J(1)]

Respondents gave different replies to the question as to whether complaints can be lodged through third parties in Hungary. The reason for this might be their different understanding of the question. Those interviewees (W(2); J(1); S(1)) who were able to respond said that it is possible to lodge complaints through third parties, whereas an L group interviewee firmly stated that such legal institution does not exist in Hungary. The rest of the respondents were not familiar with the legal regulations and indicated that they have no information on this issue.

A W-group interviewee mentioned that LIGA has already initiated some cases based on class action, stressing at the same time that trade unions always try to settle cases through negotiations. Another respondent from the victim support services said that the same rule applies to Hungarians and foreigners, hence they can either represent themselves in a proceeding, or can lodge a complaint through a third party, who must be a natural person, such as a lawyer. There is only one exception to that; namely if the migrants' right to receive equal treatment has been violated, because in that case they can also be represented by a non-profit organization before the Equal Treatment Authority. A J group respondent argued that he/she is only familiar with the criminal system in this regard. Accordingly, criminal complaints are launched based on the victim's request. Furthermore, anyone can report an offence, and proceedings can also be launched *ex officio* by the prosecutor.

Finally, the interviewees' views on the mechanism that would facilitate the lodging of complaints by migrant workers against employers varied to a great extent, reflecting their professional experiences. A J group expert argued for the need of the more effective involvement of supporting organisations (NGOs) in all proceedings initiated on the ground of labour exploitation. Another [L] stressed that applying for the residence permit on humanitarian grounds could facilitate this purpose. The respondent referred to their previous argument according to which for migrant workers the most important thing in any case is obtaining a residence permit. The respondent recommended the following: a 6-month moratorium with a temporary residence permit should be applied to migrant workers applying for the residence permit on humanitarian grounds. This would provide a minimum protection for them.

The OKIT helpline⁹⁶ for victims of domestic violence, sexual exploitation and trafficking of human beings should be available in languages other than Hungarian, and more financial

⁹⁵ In original language (Hungarian): *„Azonban büntető eljárás keretén belül csak a bűncselekménnyel szorosan összefüggő kárigeny érvényesíthető. Párhuzamos példával élve tehát, ha valakit megölnek, akkor, mondjuk, temetési költséget nem érvényesíthet. Pedig szerintem ott is van okozati összefüggés. Lopás esetében például az érvényesíthető, amit konkrétan elvisznek a lakásból.”*

⁹⁶ Hungary, see at: www.bantalmazas.hu/.

support is also needed, argued a respondent from the victim support services. Another interviewee from the same group believed that an ombudsman or a trade union could facilitate the lodging of complaints by migrant workers against employers. The importance of a well-functioning trade union was also mentioned by one of the respondents [W(1)].

A strong level of distrust among migrants towards the authorities was also mentioned by one respondent [S] who argued that this problem could be partially eliminated by more efficient information campaigns targeted at migrant workers. Migrants' distrust towards authorities could also be countered by the option of lodging complaints anonymously. In addition, this interviewee mentioned that a positive image building campaign by the authorities could also increase the confidence of migrants in the authorities. The police have a particularly threatening image in that respect.

QUOTATION: "...clients have bad experiences. When they go there [to the authorities such as the police] with their problems, it is them, who get penalized."⁹⁷ [S(1)]

⁹⁷ In original language (Hungarian): "...mert rossz tapasztalataik is vannak, hogyha odamennek a problémáikkal, akkor csak őket büntetik meg. Hogy nagyobb bizalommal forduljanak a hatóságokhoz, ami Magyarországon nem jellemző a rendőrségre."

6. Attitudes

As far as interventions into situation of labour exploitation are concerned, respondents had diverse views on the frequency and efficiency of interventions, and also on whether these interventions serve the interest of victims. Except for the two representatives of the monitoring bodies and one S group interviewee, all experts were rather dissatisfied with the measures taken by the Hungarian authorities in order to fight severe forms of labour exploitation.

6.1 General attitudes towards interventions into situations of labour exploitation

The EPIM project examines the implementation of the Sanction Directive on the legislative and the practical level, and one of the interviewees was able to share relevant information about this, including on third country nationals. In this regard, the interviewee pointed out a discrepancy between practice and legislation. In theory, if labour exploitation is detected, a migrant's status can be regularised on humanitarian grounds;⁹⁸ however, not a single residence permit has been issued by the Office of Immigration and Nationality on such grounds. The interviewee simply stated the fact that no permit had been issued on such ground, but gave no further details or explanation.

According to the report of the EPIM project, no residence permits were granted on humanitarian grounds in 2012 and 2013, and no procedures were initiated to secure the back payment of the remunerations of migrant workers on the ground of exploitative working conditions.⁹⁹ An S group expert also mentioned this possibility. An L group respondent stressed that there is a great variety of situations, and in certain cases—especially when migrants are staying in the country illegally—intervention holds many risks for the exploited workers, and that is why hardly any of them seek for help from the authorities.

QUOTATION: *“There are no real exit possibilities. This is a dead-end for the victims, since if they complain they will also bring themselves into a situation where it is revealed that they were here illegally, were or are employed illegally, that the employer is not the same as was indicated in their residence permit, or that they were not employed with the objective or at the location indicated in the permit.”* [L(1)]¹⁰⁰

Some of the respondents [S(2); R(1); J(1)] were confident that interventions into situations of labour exploitation do not serve the interest of the migrant victims at all. An S group expert stressed that this is primarily because of the precarious situation of migrants.

⁹⁸ Hungary, Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals (A *harmadik országbeli állampolgárok beutazásáról és tartózkodásáról szóló 2007. évi II. törvény*), Article 29 f.

⁹⁹ Hungary, Menedék – Hungarian Association for Migrants (forthcoming) *Employees Beyond Borders, Country Report, Hungary*, p. 38. (See also in Section 2 „Legal framework / II. Employer Sanctions Directive” of the present report.

¹⁰⁰ In original language (Hungarian): „Nincs valós kilépési lehetőség. Tehát azért ez egy ilyen zsákutca, hiába jelzi ő, ezzel saját magát is olyan helyzetbe hozza, hogy akkor tényleg illegálisan van itt, illegálisan foglalkoztatják, nem a tartózkodási engedélynek megfelelő munkáltató, vagy nem azzal a céllal foglalkoztatja, mint amire mondjuk, az engedélye szól és ahol az engedélye szól.”

QUOTATION: *“They are not conscious of being victims, they don’t think anything is wrong, or perhaps they do, but they are used to it, but it is still better than what they had before.”* [S(1)]

„Nincs is áldozattudata, tehát nem is érzi azt, hogy rossz lenne, vagy rossz, de hozzászokott, de még mindig jobb, mint a korábbi rossz.” [S(1)]

One interviewee [S] who has everyday contact with migrants (both with regular as well as irregular migrant workers and job seekers) and both representatives of the trade unions [W(2)] formed a different opinion. In their view, interventions into situations of labour exploitation do serve the interest of the migrant victims. According to the S group expert, the crucial factor in a successful intervention is for migrants to accept the help they are offered, and according to one representative of the trade unions the most important thing is to be a member of a trade union.

An S group representative doubted whether there is any intervention taking place at all in Hungary with regards to labour exploitation. The representatives of the monitoring body confirmed that no intervention has taken place so far in Hungary in this regard, and therefore it is impossible to evaluate the effectiveness of the present system.

6.2 Why exploited migrant workers are not seeking support or making reports to the police, and what are their most important considerations?

Respondents agreed to a large extent on why victims are not coming forward and seeking for a way out of their situations. Most of the experts argued that the majority of victims would obviously end up in a worse situation. Some of the experts thought that the intervention’s result in most cases is that although the exploitation ceases, the employees lose their jobs [M(1); R(1)]. The R group interviewee mentioned the case of a nanny from the Philippines who, as a result of the intervention into her situation, was expelled from Hungary for being irregularly employed.

QUOTATION: *“If the person leaves the exploitative situation, then exploitation stops, but he or she also won’t have a job or any income. This is especially true if the persons exploiting the worker are from the same country, because then the victim ends up completely alone and isolated.”* [M(1)]¹⁰¹

The other experts emphasised the role of various personal reasons and structural factors that might hold back migrant workers from coming forward and standing up against exploitation:

- having already been oppressed in their home country [W(1)]
- not necessarily being conscious of their victimhood [J(1); S(1)]
- being kept in fear by the employer [W(1); S(1)]

¹⁰¹ In original language (Hungarian): „Ha kilép a kizsákmányoló helyzetből, akkor megszűnik a kizsákmányolás, de nem lesz munkája, bevétele. Főleg, ha olyan személy zsákmányolja ki, aki a saját országából való, mert akkor az áldozat egyedül marad, mint a kisujjam.”

- having the fear of expulsion [W(1)]
- having the fear of financial uncertainty [S(1)]
- being better off even exploited than previously in their home countries [W(1)]
- having families to support in their home countries [S(1)]
- working in comparatively better conditions than in their home countries [M(1)]
- lacking language skills [S(2)]
- lacking a network of people [S(1)] or having no contact with service providers [S(1)]
- lacking information [S(3); J(1)]
- having no trust in authorities [S(2)]

Obviously, different kinds of fear are important reasons why migrant workers do not seek a way out of an exploitive labour situation. It should be noted that this list—with a dominant presence of factors having to do with lacking human and social capital—is quite similar to the one presented in Table 1 (under section 4.1), where we asked the experts about the risk factors of becoming a victim of labour exploitation.

When respondents had to choose from the prepared list, the following factors were selected by at least one third of the experts as the most relevant reasons that account for the fact that not many exploited migrant workers come forward, seek support or report to the police (this question was asked of only 10 out of the 12 interviewees as per schedule):

- 9 out of the 10 interviewees asked this question asked found the factor of “Victims are not aware of their rights and of support available to them” to be crucially important [S(4); M(2); W(2); J(1)]
- 6 respondents selected “victims believe that speaking to authorities is not worthwhile or they would not benefit from subsequent proceedings” [S(2); W(2); M(1); J(1)]
- 4 respondents found the factor of “victims fear that if their situation became known to the authorities, they would have to leave the country” as one of the most important ones, with primary relevance to irregular migrants [S(2); W(1); M(1)]
- “Lack of targeted support service provision available for victims“ was selected by one of the representatives of the trade unions and by two experts working for victim support services.

In selecting the most important factors to migrant workers who are victims, there was almost unanimous agreement that being able to stay and make a living in an EU country are among the three most important factors. Except for one W group expert, all the respondents selected this factor.

“To be in a position to economically support other family members” was also selected by a great majority of the respondents [S(5); M(2); J(1); W(1)]. The factor of “To be safe and to be protected against further victimisation” was selected by 6 experts [S(2); M(1); J(1); L(1); W(1)] and the factor of “For their family to be safe” was selected by 5 of the respondents [S(2); M(1); L(1); W(1)].

6.3. An evaluation of the current Hungarian situation and measures that would improve the way labour exploitation is being addressed

Except for three representatives of government authorities [M(2); S(1)], all experts were dissatisfied with the level of monitoring and inspections, as well as with the measures taken in the Hungarian labour market to fight severe forms of labour exploitation [S(4); R(1), L(1); J(1)] though some of the respondents thought that there are some efforts aiming at improving the situation [J(1); W(1)].

One M group respondent argued that the Hungarian system is effective. The interviewee added, however, that there is a need for training labour inspectors, but this will only yield results in the long term. Another M group interviewee stressed that severe forms of exploitation are not sufficiently common in Hungary to justify an extreme reaction or the creation of an institutional network. They also admitted that there are basic shortcomings in the targeting of their inspections.

QUOTATION: "We can only reach those who are working within an organized framework. Anyone who isn't just falls through the cracks, we don't know much about them. Unfortunately, those are the areas in which exploitation occurs." [M(1)]¹⁰²

One S group expert was also satisfied with the Hungarian situation in this regard: they argued that the actions taken by the authorities are satisfactory, considering that Hungary is not a target country of migration. This interviewee added that in case the volume of migration increased, the same measures would not be sufficient.

QUOTATION: "Yes, enough. Hungary is of course not really a target country, so perhaps if we were having this conversation in Belgium, I might give a different answer. This isn't a central issue in Hungary, it is not out in the public, so authorities deal with it accordingly. Their measures would be insufficient in Western Europe. But people in Hungary don't think migrants are exploited, and they're not exploited either, so these measures are proportionally sufficient." [S(1)]¹⁰³

One L group; one W group and one S group representative stated that although Hungary implemented the relevant Directives on a regulatory level, the practice is not effective at all. According to the lawyer, the fact that there are no cases definitely proves that authorities and prosecutors are not acting on the behalf of the victims.

Two S group experts emphasized that there is a very strong underground economy in many sectors, and inspection faces difficulties in these areas. According to one of them, the

¹⁰² In original language (Hungarian): „Csak azokat tudjuk megszólítani, akik szervezett keretek között dolgoznak. Akik nem, azokat nem, az nálunk kiesik, arról keveset tudunk, pedig a kizsákmányolás pont ezeken a területeken van.”

¹⁰³ In original language (Hungarian): „Igen, eleget. Magyarország nem annyira célszág, persze, ha Belgiumban élnék, ott beszélgetnék, akkor lehet, hogy mást válaszolnék. Magyarországon, ez nem központi téma, nem jelenik meg, ennek mérten reagálnak a hatóságok. Ez a reakció máshol, Nyugat-Európában kevés lenne. De ez nem része a köztudatnak, hogy Magyarországon kizsákmányolják a migránsokat, és ez nincs is így, ehhez képest teljesen megfelelő.”

reason behind the underground economy is that employers must pay unrealistically high contributions after their employees, and are therefore reluctant to report them as full-time employees. A third S group interviewee stressed the importance of distributing information, as well as improving the cooperation of experts and monitoring authorities. According to them, improving access to services, as well as shaping the attitudes of policemen directly in touch with victims via trainings is desperately needed.

QUOTATION: "Despite the fact that there are loads of trainings, there is a need for shaping the attitudes of policemen who directly get in touch with the victims. That's obvious." [S(1)]

104

A J group interviewee also mentioned the need for trainings on the topic of labour exploitation for lawyers, policemen, judges, and prosecutors.

According to the R group respondent, the core of the problem is lack of information, lack of knowledge of the laws, and a lack of moral consciousness in general.

One S group interviewee was of the opinion that the core problem is that the current ad-hoc inspections and sanctions are not severe enough to function as effective deterrents, but are simply pre-calculated costs for employers.

Finally all the respondents were asked to select three measures which would most improve the way labour exploitation is addressed in Hungary. The following factors were selected by at least one third of the respondents:

- "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" was selected by 9 interviewees [S(4); M(1); J(1); L(1); R(1); W(1)]
- "More effective monitoring of the situation of workers in the areas of economy particular prone to labour exploitation" was selected by 6 respondents [S(2); M(2); J(1); R(1)]
- "Measures to ensure that all workers know their rights" was found very important by 5 respondents [S(1); M(1); W(2); R(1)]

¹⁰⁴ In original language (Hungarian): „Annak ellenére, hogy rengeteg képzés van, a közvetlenül az áldozattal kapcsolatba kerülő rendőrök attitűdformálására szükség van. Ez nem kérdés.”

7. Conclusions

Based on the fieldwork, the prevalence of labour exploitation of migrant workers in Hungary cannot be determined. As indicated in the introduction, a number of severe problems arose while approaching the various target groups for interviewing. The main problem was that the majority of the respondents claimed that they had not come across relevant cases in their work, and therefore had no relevant information on the subject of our research.

In light of the above, concerns can be raised regarding the absence of information itself carries information. There are a number of possible interpretations of the fact that the relevant law enforcement authorities have not come across cases of labour exploitation of migrant workers: (i) the issue is not relevant because the number of cases is minuscule; (ii) the authorities fail to recognise relevant cases due to their lack of awareness, and due to their improper training, etc.; (iii) the victims of labour exploitation are afraid to come forward with complaints.

The responses of actors in civil society lead to similar conclusions. As far as the prevalence of cases is concerned the experts working for the victim support services confirmed that the number of relevant cases is indeed minuscule. Only cases from the experts of the EPIM project were identified: They reported 15 cases during the first 14 months of the project, out of which we could only classify three as cases of labour exploitation.

One possibility for the reason the majority of the respondents could not cite any specific cases is that with regards to the labour exploitation of migrant workers, Hungary is primarily a source-country: it is more typical of Hungarian citizens being exploited outside Hungary (e.g. in Germany and Austria), and labour exploitation cases in Hungary primarily involve Hungarian citizens. According to this interpretation this is due to the fact that (i) Hungary is not a target, but rather a transit country for migrants, and (ii) the wide ranging poverty and social marginalization of many Hungarian citizens creates a vulnerability for labour exploitation, which, however, due to the exploited workers' citizenship, is outside of the scope of our research.

As far as the legal framework is concerned, with the amendment of the Criminal Code in 2013, on the legislative level Hungary has complied with the obligations set by directives relevant to the issue of labour exploitation. The definition of trafficking in human beings has been modified, while forced labour and child labour are now regulated as separate categories of offence in the new Criminal Code.

In relation to the legal regulations and their applications, a few issues received criticism. First, the implementation of the provisions of the Sanctions Directive to protect the rights of third-country nationals is not very successful, as far as its practical application is concerned. According to the data provided by the Office of Immigration and Nationality, no residence permit was granted on humanitarian grounds either in 2012 or 2013; neither were any procedures to secure the back payment of remunerations to migrant workers initiated. However, because of the already mentioned limitations of the present project, it is difficult to know the reasons behind the paucity of cases.

Despite their shortcomings, it can be concluded that there are proper legal regulations in place; however, so far no action has been taken by the responsible authorities with regards to labour exploitation. As far as the role of authorities is concerned, interviewees confidently say that any labour exploitation of migrant workers is practically invisible for the police and law enforcement bodies. Four interviews were conducted with representatives of the field during the research, and all four of them were deemed not relevant to the research due to lack of information. Furthermore, with regards to the general approach of the police to migrants, it is important to highlight that all respondents were in agreement that if the police were to carry out a raid on the premises of a company and detected migrants with an irregular residence status working under very poor conditions, they would primarily treat the migrant workers as criminal offenders, and not as victims. This information is relevant insofar as according to the new regulations in the Criminal Code, the police must carry out investigations in cases of trafficking in human beings, forced labour, and child labour. Accordingly, the police should be able to recognise these violations of the law and treat victims of labour exploitation as victims, not as criminals, as they did in the case of the Vietnamese workers that we have presented in detail (see the case description in section 3).

The other important authority responsible for revealing and combating labour exploitation is the Labour Inspectorate. This is the only authority that might encounter situations of labour exploitation at first hand while carrying out inspections without notice. Although the respondents of the monitoring body were much better informed and up-to-date on labour exploitation, as well as on recent legal changes and developments, no action has so far been taken by labour inspectors with regards to labour exploitation. One senior M group representative also argued that the problem should be approached from a labour law perspective rather than a criminal law perspective.

Looking at the labour exploitation by the residence status of the victims, the following picture emerges. The most vulnerable group consists of third country nationals who are neither legally residing in Hungary nor legally employed. The second most vulnerable group consists of workers who—being Hungarian or EU nationals—legally reside and work in Hungary (e.g. seasonal workers from Romania), yet they are irregularly employed (without a work contract, working under exploitative working conditions, etc.).

Victims of labour exploitation are usually illegally employed workers (either migrant or non-migrant), as they are completely invisible to the authorities. A further structural problem in Hungary is that these workers are invisible to trade unions as well, since trade unions can only assist legally employed workers.

A typical case of such invisible workers is that of domestic health care workers and nannies. Due to the latency of labour exploitation in this sector, the nature of the information we gained is very limited. According to the R-group expert, the main problem with domestic work is that employees are dependent on the employers in several ways. It is common for the residence status of domestic workers to remain uncertain for years; they either work without a valid residence permit or they are registered as family members, which makes their situation even more vulnerable.

The group that is least vulnerable to labour exploitation consists of either EU nationals, or citizens of developed countries (Switzerland, Norway, USA, Japan, etc.), who are legally

employed. They are typically highly qualified employees (usually in junior positions at multinational companies), who are strictly speaking not severely exploited, yet the extent to which they are overworked might be considered to be a form of exploitation according to one respondent. According to the representative from the R group, in Hungary, there is open and systematic exploitation at multinational companies: employees working in a so-called “rotational system” have a clear understanding of the work conditions awaiting them (their average working hours significantly exceed the eight-hour workday set by their contract), yet they accept these conditions in exchange for midrange gains in their careers.

It can be concluded that the main reason for the high level of latency in labour exploitation is that all parties involved - employers, employees and employment agencies - have a vested interest in covering up exploitation, as a potential discovery would result in the loss of jobs, which would hurt everyone involved.

The following recommendations were most frequently put forward by the experts interviewed within the framework of the present project, with regards to the improvement of combating labour exploitation:

- **Providing training** for representatives of authorities who get into contact with potential victims of labour exploitation (police, labour inspectorates, judges, prosecutors and lawyers). Training should focus on (i) familiarisation with the new legislative framework, (ii) shaping the attitude of authorities towards labour exploitation and victim recognition.
- **Improving ongoing and future campaigns** targeting labour exploitation (e.g. different approaches should be taken towards male and female victims of labour exploitation, as male victims are less likely to be revealed and referred to the victim support services as compared to female victims; focusing on the demand side—especially in the case of campaigns related to trafficking in persons in prostitution—might be more effective.
- **Improving cooperation** between authorities and non-governmental organisations.
- **Providing information and services for migrant victims in languages other than Hungarian** (e.g. multilingual leaflets, hotline services operated in several languages).
- **Information distribution and cooperation between experts and monitoring authorities** that primarily needs to be improved in relation to labour exploitation in Hungary.