Social Fieldwork Research (FRANET)

Severe forms of Labour Exploitation

Supporting victims of severe forms of labour exploitation in having access to justice in EU Member States

The Netherlands, 2014

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Contents

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

This report presents the result of the fieldwork carried out for this project in the Netherlands between 26 February 2014 and 27 June 2014. In this period, a total of 30 interviews and one focus group were conducted. The focus group took place in Rotterdam. The interviewees and focus group participants were recruited from the following target groups:

- M category: professionals working in monitoring institutions;
- P category: professionals working in the law enforcement sector;
- S category: professionals working for support services for migrant victims;
- J category: prosecutors or judges;
- L category: lawyers;
- R category: representatives of recruitment, employment and temporary work agencies;
- W category: representatives of organisations representing migrant workers or advocating rights of workers;
- E category: representatives of employer organisations;
- N category: national policy expert.

The interviewees were distributed across the different target groups as follows:

	M	**P**	**S**	**J**	**L**	**R**	**W**	**E**	**N**
Number envisaged by FRA	3-6	3-6	4-7	3-6	1-3	1-3	1-3	1-3	1
Actual number of interviews	4	4	6	4	3	2	2	4	1

The achieved sample therefore matches the initial design relatively closely, whereby one more interview was conducted in the target group E. Within the S category, one interview was conducted with an organisation working on children's rights, as envisaged. In the J category, three interviews were conducted with Public Prosecutors and one interview with a judge. These were all active in the area of criminal law. It proved difficult to find judges to interview for this project. An official procedure had to be followed to request the cooperation of the Council for the Judiciary. This procedure took more than five months, which meant that the permission of the Council was received just before the end of the fieldwork phase. Following that, only one judge came forward to participate in the project.

The interviews were conducted by three interviewers and took place all over the Netherlands. There is a slight overrepresentation of interviews that were held in the Randstad area, particularly Amsterdam, which is due to the fact that institutions and organisations are concentrated there. The interviews were conducted at a location chosen by the interviewee, mostly the office or work place of the interviewee in question and sometimes a public location; for example, a cafe. All but one of the interviews were conducted face to face. Two interviews were conducted with two interviewees present. This was only done in cases where this was expressly requested by the interviewees. Reasons for interviewees to request a second person to be present was their self-perceived lack of knowledge on specific issues.

The duration of interviews was greater than expected. While the interviews were envisaged to take between 45 and 60 minutes, only eight interviews fell within that time range. Twelve interviews took between 60 and 75 minutes, seven interviews took longer than 75 minutes and three interviews took less than 45 minutes. The length of the interviews was mainly due to the length of the questionnaire. Different questionnaires were used for the different target groups.

The interviewees participating in the interviews were diverse in terms of gender, age and professional experience. Fifteen of the interviewees were female and 17 were male. Two of the interviewees were younger than 30, 15 were aged between 30 and 50 and 15 were over 50 years of age. Their years of professional experience in the field of labour exploitation varied from hardly any up to 30 years, though the majority of respondents had somewhere between three and ten years of experience.

The great majority of the interviewees were cooperative and open. The main issue interviewers had to deal with during the interview was time pressure, as the interviews were usually scheduled for one hour but often went on for longer. Some of the questions included show cards which were used to provide interviewees with answer categories to choose from. This was not always successful, as some interviewees did not want to choose a specific number of answer categories but preferred to explain their answer in their own words. Interviewees did not mind having the interview recorded.

In addition to the interviews, a focus group was organised. The objective of the focus group was to discuss the research topics with representatives of different target groups together, in order to find out their differing views and areas of agreement. We envisaged having five to eight participants from at least the target groups M, S, P, L and W. In the end, only four participants turned up for the focus group discussion, two from the M category and two from the S category. This was due to a number of last-minute cancellations of five interviewees from target groups J, P, S and W. In addition to the four participants, three researchers (one chair, one observer and one note taker) were present at the focus group, as well as one FRA representative (as an observer). The focus group took place at the contractor's office in Rotterdam and took a little over 2 hours.

In addition to the main topic areas of the research, a number of recurring themes and contentious issues were presented to the focus group participants. These themes and issues had come up during the interviews conducted up to that point. These were the issues that were identified:

- Definitions: the term labour exploitation means different things in different contexts, which does not facilitate a clear approach to the issue. This research project has a clear definition, but there are several definitions in practice. There is a large ‘grey area’ between what constitutes ‘severe’ and ‘regular’ labour exploitation. How can we get more clarity into this grey area?
- Legal approach: does the criminal law Article 273f (on human trafficking) suffice for tackling severe forms of labour exploitation? Do we need a lower criminal law threshold to sanction severe forms of exploitation?
- Recruitment agencies: are they the problem or the solution?
- The ‘soft’ side of victim support: what happens after referral? Does the support meet the needs of the victims?
- Awareness raising: a number of interviewees emphasise the need for a stronger focus on awareness raising instead of current focus on policing and prosecution. Who should be targeted by this awareness raising? What can be achieved?
- European cooperation: what are the opportunities and considerations in extending cooperation across borders?

- Is there, within the overall approach to exploitation and trafficking, enough attention paid to labour exploitation, as opposed to sexual exploitation?

In addition to the information collected through the interviews and focus group discussion, 11 case studies of cases of labour exploitation were described in a format provided by FRA. These cases were brought forward by interviewees and subsequently described by the researchers, based on the information provided by interviewees and additional information such as court files, press releases and media coverage. Interviewees were asked to fill in the format, but they preferred to only provide some information and have the format filled by the researchers.

The assessment of whether victims succeeded in accessing justice is not as straightforward as it might seem. In the assessment, the question whether the perpetrator was convicted of labour exploitation, as defined by the Criminal Code under human trafficking, was taken as the primary criterion. This does not automatically mean that all victims benefited from this judgment. For example, two case studies show that the outcome may be beneficial for the group of victims that was involved in the court case against the perpetrators, but that a lot of previously affected victims are unknown.

This report is based on the information collected in the interviews, focus group and the case studies. Where necessary, this information has been substantiated by desk research.

1.1. Legal framework

Labour exploitation is not a specific offence defined in Dutch criminal law, but falls under the offense of trafficking in human beings. The key article in the Dutch Criminal Code (*Wetboek van strafrecht*) which refers to trafficking in general and exploitation more specifically, is Article 273f.[1] In this article, no clear distinction is made between trafficking and exploitation. Guilty of trafficking is the person who:

> *"by force, violence or other act, by the threat of violence or other act, by extortion, fraud, deception or the misuse of authority arising from the actual state of affairs, by the misuse of a vulnerable position or by giving or receiving remuneration or benefits in order to obtain the consent of a person who has control over this other person recruits, transports, moves, accommodates or shelters another person, with the intention of exploiting this other person or removing his or her organs."*

Exploitation is further defined as follows:

> *"Exploitation shall include at least the exploitation of a person in prostitution, other forms of sexual exploitation, forced or compulsory labour or services, slavery and practices similar to slavery or servitude."*

The legal article refers to sexual exploitation, removal of organs and labour exploitation.[2]

The article also defines maximum penalties. These were raised in 2013 and now stand at 12 years in prison where only one perpetrator is involved; at 15 years in prison where two or more perpetrators are involved, when the victim is underage, or where violence is used; at

[1]The Netherlands, Criminal Code (*Wetboek van Strafrecht*), Art... 273f, 6 November 2013, available at: www.wetten.overheid.nl/BWBR0001854/TweedeBoek/TitelXVIII/Artikel273f/geldigheidsdatum_11-07-2014.
[2]The Netherlands, Criminal Code (*Wetboek van Strafrecht*), Art. 273f, 6 November 2013, available at: www.wetten.overheid.nl/BWBR0001854/TweedeBoek/TitelXVIII/Artikel273f/geldigheidsdatum_11-07-2014.

18 years in prison where the criminal acts lead to grievous bodily harm inflicted on the victim or danger to life; and up to 30 years in prison or imprisonment for life where the victim dies as a consequence of the crime.

In addition to Article 273f of the Criminal Code, Articles 197a and 197b are of relevance to labour exploitation of migrant workers. Article 197a of the Penal Code deals with people smuggling (*mensensmokkel*).[3] It stipulates that:

> *"He who assists another person in gaining access to or transit through the Netherlands, (...), or who provides the opportunity, means or information for this purpose, while he knows or has serious grounds to suspect that such access or transit is unlawful, shall be guilty of smuggling punished with imprisonment not exceeding four years or a fine of the fifth category."*

Article 197b concerns the employment of irregular migrants and stipulates that:

> *"He who makes another person who has illegally accessed entry or stay in the Netherlands, perform labour pursuant to an agreement or by employment, while he knows or has serious grounds to suspect that the entry or stay is illegal, shall be punished with imprisonment not exceeding one year or a fine of the fifth category."*[4]

However, the 197b provision is a dead-letter law. Since the introduction of administrative fines in 2005, this provision is no longer used (except for a very few arbitrary exceptions). The administrative fines are imposed based on the Alien Employment Act (*Wet arbeid vreemdelingen*).[5] This Act defines the conditions under which employment of aliens is allowed. The administrative fine for illegal employment of a person without the necessary work permit is set at €12,000.[6]

The Netherlands has implemented the Employers' Sanctions Directive. The act implementing the Directive specifically stipulates the obligation of employers to back pay the salary of illegally employed migrants, as defined in article 2, section j, of the Directive. It also establishes the liability for back pay of higher level employers (such as a main contractor or the organisation commissioning a project). However, the act does not refer to labour exploitation, exploitative conditions or other specific conditions as specified in article 9 of the Directive. The act refers purely to the Alien Employment Act which penalises all forms of illegal employment, regardless of the exploitative element. Since the Alien Employment Act applies to all situations of illegal employment, the legislation in place is already considered stricter than required by the Directive, even without reference to these particular conditions.[7]

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[3]The Netherlands, Criminal Code (*Wetboek van Strafrecht*), Art. 197a, 24 February 1993, available at: www.wetten.overheid.nl/BWBR0001854/TweedeBoek/TitelVIII/Artikel197a/geldigheidsdatum_11-07-2014.

[4]The Netherlands, Criminal Code (*Wetboek van Strafrecht*), Art. 197b, 23 December 1993, available at: www.wetten.overheid.nl/BWBR0001854/TweedeBoek/TitelVIII/Artikel197b/geldigheidsdatum_11-07-2014.

[5]Netherlands, Aliens Employment Act (*Wet arbeid Vreemdelingen*), 21 December 1994, Art. 19d, available at: www.wetten.overheid.nl/BWBR0007149/geldigheidsdatum_11-07-2014#IV_Artikel18.

[6] The Netherlands, Regulation on the imposition of fines concerning the Aliens Employment Act 2014 (*Beleidsregel boeteoplegging Wet arbeid vreemdelingen 2014*), annex to Art. 1, 1 April 2014, available at: www.wetten.overheid.nl/BWBR0034974/geldigheidsdatum_31-03-2014.

[7] The Netherlands, Act of 23 March 2012 for the amendment of the Alien Employment Act concerning the implementation of Directive 2009/52/EG of the European Parliament and the Council of 18 June 2009 providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals (*Wet van 23 maart 2012 tot wijziging van de Wet arbeid vreemdelingen in verband met de implementatie van de Richtlijn nr. 2009/52/EG van het Europees Parlement en de Raad van 18 juni 2009 tot vaststelling van minimumnormen inzake sancties en maatregelen tegen werkgevers van illegaal verblijvende onderdanen van derde landen*), available at: www.eerstekamer.nl/behandeling/20120405/publicatie_wet_2/document3/f=/viyeha6konyn.pdf.

Regarding child labour, Article 273f of the Criminal Code (referred to above) also separately and explicitly refers to exploitation (general and sexual) of another person who has not reached the age of 18 as constituting trafficking. This still refers to exploitation though, not labour in general. The most relevant legal provision concerning child labour in general is chapter 3 of the Working Time Act (*Arbeidstijdenwet*) which stipulates that child labour is illegal:

"The responsible person shall ensure that a child shall not be employed".[8]

The 'responsible person' is defined as the employer and as parent or parental guardian. This is not a criminal law provision, but administrative law.

The Working Time Act is of course also relevant to the situation of adult workers. Other administrative law provisions which are important in the context of labour exploitation are:

- the Minimum Wage and Vacation Benefit Act (*Wet minimumloon en vakantiebijslag*) which defines the weekly and monthly minimum wage applicable to the entire economy (as of 1 July, the monthly minimum wage is stipulated at €1,495.20);[9]
- the Intermediary allocation of labour force Act (*Wet allocatie arbeidskrachten door intermediairs*) which regulates the framework according to which recruitment and employment agencies carry out their activities, as well as the rights that employees of these agencies have in relation to regular employees;[10]
- the Working Conditions Act (*Arbeidsomstandighedenwet*) which defines the responsibilities of employers and employees to ensure a healthy and safe working environment.[11]

Finally, one specific legal provision which is of crucial importance in the context of labour exploitation, is the so-called B8 regulation, pertaining to the protection of victims of trafficking (including labour exploitation). This procedure is defined in chapter B8 of the Implementation Guidelines of the Aliens Act (*Vreemdelingencirculaire*). Referring to EU Council Directive 2004/81/EG, chapter B8 aims to protect victims and witnesses of human trafficking without valid residence permits for the duration of the investigation and trial. The victims of trafficking can thus contribute to the prosecution of perpetrators without being deported.[12]

According to the B8 regulation, police are obliged to offer migrants, at the slightest suspicion that they might be victims of trafficking, the so-called reflection period of three months. In these three months, the potential victims can decide whether they want to file a formal report against the perpetrator, and whether they want to cooperate with the prosecution in other ways. During this reflection period, no steps are undertaken to expel the migrant from the Netherlands. The reflection period ends when the victim disappears, when the victim decides not to contribute to the prosecution of perpetrators, when the victim does decide to

[8]The Netherlands, Working Times Act (*Arbeidstijdenwet*), 23 November 1995, chapter 3, available at: hwww.wetten.overheid.nl/BWBR0007671/geldigheidsdatum_22-07-2014#Hoofdstuk3.

[9] The Netherlands, Minimum Wage and Vacation Benefit Act (*Wet minimumloon en vakantiebijslag*), 27 November 1968, Art. 8, available at: www.wetten.overheid.nl/BWBR0002638/geldigheidsdatum_11-07-2014#HoofdstukII_Artikel8.

[10] The Netherlands, Intermediary allocation of labour force Act (*Wet allocatie arbeidskrachten door intermediairs*), 14 May 1998, Art. 8, available at: www.wetten.overheid.nl/BWBR0009616/geldigheidsdatum_11-07-2014#Hoofdstuk3_Artikel8.

[11]The Netherlands, Working Conditions Act (*Arbeidsomstandighedenwet*), 18 March 1999, available at: www.wetten.overheid.nl/BWBR0010346/geldigheidsdatum_11-07-2014.

[12] The Netherlands, Aliens Circular 2013 (*Vreemdelingencirculaire 2013*), 26 March 2013, chapter B8, section 3/1, available at: www.wetten.overheid.nl/BWBR0012289/B8/3/31/Tekst/geldigheidsdatum_08-01-2014.

contribute to the prosecution or when the victim files a request for a residence permit on other grounds.[13]

The temporary residence permit of the victim is only extended after the reflection period if a criminal investigation has been started in the case whereby the victim has provided cooperation, and if the Public Prosecution Services deems the presence of the victim in the Netherlands necessary. It does not depend on whether there is a conviction for trafficking. A victim would not be entitled to a B8 residential status if the case is prosecuted for any other offence than human trafficking.[14] Several support provisions are linked to the reflection period and the identification as victims of trafficking: thus, pursuant to the same chapter of the Aliens Circular, the police is obliged to provide victims with an application for special financial support. Also, the referral of victims to the Coordination Centre on Human Trafficking (*Coördinatiecentrum Mensenhandel*), the way in which shelter is provided and the obligation of the regional victim support coordinator to take care of the medical and legal support for victims are stipulated in this provision.[15]

While these are the most important provisions governing the fight against labour exploitation and the provision of support to victims in the Netherlands as stipulated by law, in the following chapters we describe interviewees' experiences and views on the actual situation in practice. Where necessary, we refer back to these legal provision or provide more explanations of how these provisions are supposed to work.

[13] The Netherlands, Aliens Circular 2013 (*Vreemdelingencirculaire 2013*), 26 March 2013, chapter B8, section 3/1, available at: www.wetten.overheid.nl/BWBR0012289/B8/3/31/Tekst/geldigheidsdatum_08-01-2014.
[14] The Netherlands, Aliens Circular 2013 (*Vreemdelingencirculaire 2013*), 26 March 2013, chapter B8, section 3/2, available at: www.wetten.overheid.nl/BWBR0012289/B8/3/31/Tekst/geldigheidsdatum_08-01-2014.
[15] The Netherlands, Aliens Circular 2013 (*Vreemdelingencirculaire 2013*), 26 March 2013, chapter B8, section 3/4, available at: www.wetten.overheid.nl/BWBR0012289/B8/3/31/Tekst/geldigheidsdatum_08-01-2014.

2. Labour exploitation and the institutional setting

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

In this section, we outline the different responsibilities, competences and activities of the authorities and organisations active in the field of labour exploitation. We start by explaining the organisational framework in the field of monitoring, investigation and prosecution and then move on to focus on the support provided to victims of labour exploitation. Finally, we discuss some of the issues that all the organisations involved in the field have to deal with. This section is based both on information collected during the interviews and focus groups and on publicly available sources.

2.1.1 Monitoring, investigation and prosecution

Several organisations, both public and private, are active in this field. Their activities and competences partly overlap or are based on work and cooperation agreements which are subject to change. The following organisations have been identified to play an important role in the monitoring, investigation and prosecution of perpetrators:

- the Inspectorate of Social Affairs and Employment (*Inspectie Sociale Zaken en Werkgelegenheid*, hereafter: the Inspectorate);
- the police;
- the Public Prosecution Service (*Openbaar Ministerie*, hereafter: PPS);
- the Expertise Centre on Human Trafficking and Human Smuggling (*Expertisecentrum Mensenhandel Mensensmokkel*, hereafter: EMM);
- the National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children (*Nationaal Rapporteur Mensenhandel en Seksueel Geweld Tegen Kinderen*) hereafter: National Rapporteur);
- the Coordination Centre on Human Trafficking (*Coördinatiecentrum Mensenhandel*, hereafter: CoMensha);
- sectoral/private organisations set up by social partners, such as the SNCU (Foundation for the Compliance of the Collective Bargaining Agreement in the Recruitment Sector, *Stichting Naleving CAO voor Uitzendkrachten*);
- trade unions and civil society organisations such as FairWork

The most important organisation in this context is clearly the Inspectorate. The Inspectorate was set up in 2012 as a merger of the previously existing labour inspectorate, the social investigation and information service and the work and income inspectorate. The Inspectorate is the key actor in both the monitoring and the investigation. The Inspectorate falls under the authority of the Minister of Social Affairs of Employment and is defined as a special investigative body by law.[16] The Inspectorate cooperates and shares responsibilities with the police in the investigation of criminal cases and with the Public Prosecution Service. The EMM coordinates the cooperation of these organisations by registering all current cases and ensuring a follow-up. The National Rapporteur and the NGO CoMensha are active in the broad sense of monitoring, i.e. registering the number of victims and cases of labour exploitation identified in the Netherlands. Private monitoring bodies such as the SNCU are active in specific sectors of the economy.

[16] The Netherlands, Law on special investigative services (*Wet op de bijzondere opsporingsdiensten*), 29 May 2006, Art. 2, 29 May 2006.

The Inspectorate is the main actor responsible for the monitoring of employers' adherence to legislation and regulation. The monitoring of the Inspectorate is based on an annual risk assessment, whereby high-risk sectors are the focus of the monitoring [FG(M)]. However, monitoring with the specific objective to identify cases of labour exploitation does not take place in the Netherlands. The monitoring activities of the Inspectorate focus on labour law related offences, falling under the Aliens Employment Act (*Wet arbeid vreemdelingen*), the Minimum Wage and Vacation Benefit Act (*Wet minimumloon en vakantiebijslag*), the Intermediary allocation of labour force Act (*Wet allocatie arbeidskrachten door intermediairs*), the Working Times Act (*Arbeidstijdenwet*) and the Working Conditions Act (*Arbeidsomstandighedenwet*).[17] The Inspectorate therefore focuses on offences such as illegal employment, underpayment and unsafe working conditions. Labour exploitation is a criminal offence and falls under the human trafficking article of the Criminal Code, which means that it is not covered by the monitoring activities of the Inspectorate.

Nonetheless, the investigation unit of the Inspectorate does focus on labour exploitation. In fact, interviewees from the monitoring bodies group explain that it has been agreed between the Inspectorate and the PPS that 35% of the Inspectorate's investigative capacity is dedicated to investigating criminal cases of labour exploitation [M(2)]. Therefore, the Inspectorate carries out different functions:

> *"Bij de Inspectie is het zo dat zowel toezicht en opsporing onder de Inspectie vallen"*
>
> *"Regarding the Inspectorate, the situation is that both monitoring and investigation fall under the responsibility of the Inspectorate."* [M(1)]

The Inspectorate has different units which are responsible for the different tasks, but it also has a joint back office of analysts and researchers who support the work of the other units from a broader perspective [M(1)]. The division between monitoring and investigation is not only theoretical. According to interviewees, this division has crucial consequences for the activities which are carried out. One respondent from the monitoring category explains: during inspections carried out for monitoring purposes, the employer (who is not a suspect), is obliged to cooperate. In the context of a criminal investigation, the employer (who is now a suspect) is not obliged to cooperate in his or her own prosecution [M(1)]. At the same time, monitoring inspections do not go as deep as investigative raids. Thus, one focus group participant from the M group explains that some forms of exploitation cannot be discovered during a monitoring check, since an employer may treat his or her employees properly on paper, but the reality may be clearly exploitative [FG(M)].

The fact that the monitoring activities of the Inspectorate do not focus on labour exploitation does not mean that the results of the monitoring process are not used for the purpose of tackling this phenomenon. On the contrary, the Inspections of the monitoring division of the Inspectorate can be passed on to the investigation unit to be further assessed from a criminal law perspective:

> *"We doen opsporingsonderzoeken op basis van signalen die ook uit toezicht komen."*
>
> *"We carry out criminal investigations based on signals that are the result of the monitoring"* [M(1)]

[17] The Netherlands, Inspectorate for Social Affairs and Employment (*Inspectie SZW*) (2014), *Jaarverslag 2013*, The Hague, Inspectie SZW, available at: www.inspectieszw.nl/Images/Jaarverslag-2013-Inspectie-Sociale-Zaken-en-Werkgelegenheid_tcm335-350978.pdf.

Although the information provided by the monitoring division is not the only source of information for the investigation unit of the Inspectorate, since the police, NGOs and individuals can also identify cases, it is certainly one of the most important sources [M(2)]. The investigation unit combines the signals of the monitoring unit with the information provided by the EMM in order to have a full picture [FG(M)].

In principal, a victim's nationality, residential or employment status are irrelevant to the work of the Inspectorate. However, one of the representatives of the Inspectorate said that, since a suspicion of illegal employment or human smuggling is easier to back up than a suspicion of labour exploitation, this offers a 'stepping stone' for cases where non-EU victims without a residential status are involved. An investigation into illegal employment can be started up and the labour exploitation aspect can later be added to the investigation. Where the victims are EU migrants or Dutch citizens, this is not possible, which means that the investigation unit has to use and substantiate the suspicion of labour exploitation from the very start [M(1)].

One case study shows that a regular inspection by the monitoring division of the Inspectorate can lead to a criminal investigation and a criminal court case. In one case, the situation of exploitation on a strawberry farm came to light when the Labour Inspectorate (which is now the monitoring department of the Inspectorate) detected irregularities during an inspection visit and a research of the accounts of the employer and passed on the signals to the SIOD (*Sociale Inlichtingen- en Opsporingsdienst*, Social and Intelligence Investigation Service, now the investigation department). This resulted in a criminal investigation by the SIOD and the subsequent court case.

Another case study involved a serious case of exploitation on an asparagus farm, and is an example of a case where the signalling from monitoring institutions did not work properly. For years it was known to the Labour Inspectorate, the municipality and the police that things were not right at the asparagus farm in question. During every harvest season, several dozens of foreign workers without a work permit were employed. For five years in a row, the Labour Inspectorate had issued fines for infringement of several labour laws. Over the years, the police had received several reports of mistreatment, intimidation, underpayment and the withholding of identity papers. The municipality finally carried out an enforcement action because they dormitories of the migrants did not comply with fire safety regulations. Even though the dormitories were shut down, the relevant authorities, including the mayor, the Labour Inspectorate, the police, the municipality, the fire department and the Public Prosecution, did not identify the issue as a possible case of labour exploitation. The action was limited to an administrative enforcement action. Only later, a criminal investigation was started.

It is interesting to see that the approach taken by the Inspectorate is reflected in the approach of other organisations in the field, whereby no specific monitoring activities focused only on labour exploitation are carried out, but whereby labour exploitation is integrated within the broader monitoring activities. Thus, the police, who of course have a responsibility to tackle labour exploitation as a criminal offence, also do not carry out specific monitoring activities focusing on labour exploitation.

However, according to one P group expert, the police does try to identify indications of labour exploitation in its own monitoring work, so that cases of labour exploitation can indeed be identified and lead to targeted criminal investigations [P(1)]. This is especially the case in relation to the traffic police which is a part of the infrastructural service of the police. This

means that these services carry out checks and monitoring from a broad perspective to discover potential offences. Within that broad perspective, they try to identify signals of labour exploitation as well [P(2)]. One interviewee from the P category gives the example of a truck driver who clearly transgresses the rules on maximum driving duration, working with several registration booklets under the authority of an employer who is based abroad. The police officer encountering such a truck driver should not only focus on the fine stipulated in traffic and labour conditions regulation, but should also recognise the possibility of labour exploitation [P(1)].

The same is true for the private monitoring organisation SNCU, which is active in the recruitment sector. This organisation does not approach the topic from the perspective of labour exploitation either. In the monitoring of recruitment agencies, the organisation has the mandate to enforce the adherence to the Collective Bargaining Agreement (CBA) in the sector:

> *"Bij ons is de term uitbuiting niet aan de orde. Wij zijn er om te bevorderen dat de CAO wordt nageleefd. (…) En niet naleven van de CAO heeft niet direct tot gevolg dat iemand wordt uitgebuit."*
>
> *"The term exploitation is not relevant to us. We are there to promote the compliance with the CBA. (…) Non-compliance with the CBA does not automatically result in someone being exploited."* [M(1)]

This organisation therefore focuses on aspects such as payment of the applicable wage, including holiday benefits, the charging of extra costs to migrant workers, the creation of dependency through the combination of work and accommodation, payment of insurance fees and social security contributions. However, despite this monitoring focus on CBA rules, it has been shown that 60% of the reports handled by the organisation in fact classify as criminal cases of exploitation, falling under the criminal law definition of human trafficking [M(1)].

SNCU investigates recruitment agencies that have been reported or are otherwise suspected of not complying with the CBA. The investigations focus on the company's administration which means that no workplace inspections are carried out. If an agency refuses to cooperate or comply with the requested alterations, SNCU will start a legal procedure against the agency. SNCU will publish the verdict on its website and inform regional media. SNCU cooperates with the Inspectorate and the EMM, which entails that these organisations inform each other of complaints that lie within the other organisations' domain [M(1)].

Most experts who mentioned the SNCU [E(2); J(1); R(2); W(2)] consider the organisation to be effective in monitoring recruitment agencies for compliance with CBA rules. However, they note that the organisation does not have the means or authority to effectively address severe forms of labour exploitation [E(1); R(1)] and that they have limited possibilities for enforcement [W(1)]. For the SNCU, the nationality or residential status of workers is not relevant, although in practice they deal mostly with EU-citizens. The CBA does not apply to unlawfully employed workers and they are not likely to report to the SNCU [M(1)].

The broad monitoring mandate of the different bodies combined with the targeted investigation practices clearly necessitates a proficient use of indicators for labour exploitation. Almost all interviewees in the categories M, P, J, W, and S can refer to specific lists of indicators of exploitation. The indicator checklists most commonly referred to are the

list of indicators defined in annex 3 of the Instructions of the PPS on human trafficking[18] and the ILO list of indicators of trafficking of adults for labour exploitation.[19] The list of indicators attached to the Instructions of the PPS contains the following five categories:

1. Multiple dependency: including the combination of work and accommodation, staying illegally in the country, lack of travel documents, debt;
2. Strong limitation of the basic freedoms of the victim: including not being allowed to contact others, no access to medical help, no freedom of movement, no passport, no independent access to income;
3. Working or service provision under very bad conditions: including very low wage, dangerous working conditions, very long working days or weeks, blackmail or threats to family;
4. Impairment of the physical integrity of the victim: including conceding organs, forced employment in prostitution, threatened or confronted with violence;
5. Exploitation is not incidental, but structural or somehow organised: including having to work in different places intermittently.[20]

It is important to note that this list of indicators focuses on trafficking in general, including trafficking for sexual exploitation and trafficking for organ trade. Since labour exploitation is generally seen as a sub-category of trafficking, the list is also regarded as relevant in this regard. The ILO list of indicators distinguishes between aspects of deceptive recruitment, coercive recruitment, recruitment by abuse of vulnerability, exploitation, coercion at destination and abuse of vulnerability at destination. The indicators of exploitation include excessive working days or hours, bad living conditions, hazardous work, low or no salary and wage manipulation.[21]

Despite referring to these checklists, interviewees are generally hesitant about the use of these indicators in defining and identifying cases of labour exploitation. Interviewees in the P category [P(3)] clarify that labour exploitation is not defined by one or two indicators, but by a combination of different factors, which has to be assessed from case to case from a broad perspective. This means that even the smallest indicators can lead to a case of exploitation, even though in themselves they do not constitute labour exploitation as such, as an interviewee from the P category explains:

> *"Soms heb je maar hele kleine indicatoren, en die kleine indicatoren leggen wij al vast, die beoordelen wij (…). Dat is voor ons voldoende om het vast te leggen, maar het is niet genoeg voor een strafrechtelijk onderzoek."*
>
> *"Sometimes you have only minute indicators, and we register those small indicators, we evaluate them. (…) It is enough for us to register them, but it is not enough to start a criminal* investigation." [P(1)]

[18] The Netherlands, Instructions on Trafficking (*Aanwijzing Mensenhandel*), *Bijlage 3 Lijst met indicatoren/kenmerken van mensenhandel*, 22 December 2011, available at www.wetten.overheid.nl/BWBR0025105/geldigheidsdatum_22-12-2011#Bijlage3.
[19] International Labour Organisation (2009), Indicators of trafficking of adults for labour exploitation, Geneva, ILO, available at www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_105884.pdf
[20] The Netherlands, Instructions on Trafficking (*Aanwijzing Mensenhandel*), *Bijlage 3 Lijst met indicatoren/kenmerken van mensenhandel*, 22 December 2011, available at www.wetten.overheid.nl/BWBR0025105/geldigheidsdatum_22-12-2011#Bijlage3.
[21] International Labour Organisation (2009), Indicators of trafficking of adults for labour exploitation, Geneva, ILO, available at www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_105884.pdf.

Other interviewees, for example in the M category, also question the use of an indicator checklist, since in the end, it all depends on a combination of factors [M(2)], and there is a large grey area of cases, adding a subjective element to the assessment which cannot be integrated into objective indicators:

> *"In de praktijk voel je dat wel aan (…). En als je inderdaad in die situatie komt, waarbij je ook echt die slaapplek van de mensen ziet, voelt, proeft, ja dan voel je wel aan dat dit nu echt een situatie is die je strafrechtelijk moet aanpakken. Dat ontwikkel je door ervaring."*
>
> *"In practice, you feel it (…) If you are in that situation, that you really see the sleeping place of the people, you feel it, you taste it, well then you feel that this is really a situation you have to tackle by criminal justice… You develop that through your own experience."* [M(1)]
>
> *"Je moet het hele verhaal horen, hoe die mensen hier zijn gekomen, hoe ze hier zitten, wat de situatie is in het land van herkomst."*
>
> *"You have to hear the whole story, how these people came here, how they live here, what the situation is like in the country of origin"* [M(1)]

One case study involved a notorious case of labour exploitation whereby the victims were forced to bake prawn crackers. It can be seen as an example of a case where a lot of the different indicators of exploitation come together to leave no doubt about whether this is a case of exploitation. The offenders recruited workers in Indonesia and promised them a good job in a European country (deception). Local people smugglers helped the victims come to the Netherlands on a tourist visa (vulnerable position). Victims had to pay a large sum of money for this (debt). In the Netherlands they were housed in a building, where they were also put to work, mostly baking prawn crackers and other foods, in primitive conditions (very bad conditions). The victims made 25 euro a day, working on average 10 hours per day (underpayment). Only a small number of victims in the building were allowed to work at a time, which was a conscious strategy of the perpetrator to have more income from rent and to prevent the victims from making enough money to be able to leave (dependency). Victims made 200 euro a month and had to pay 125 euro for a mattress to sleep on (underpayment). The rooms and working spaces were very hot because of the baking and drying of prawn crackers and they were infested with cockroaches and mice. There was open and unsafe wiring and fire hazard (very bad conditions).

Though their mandate does not cover the assessment of situations of exploitation, interviewees from victim support organisations report the use of the same checklists as the other target groups [S(4)]. While some interviewees in this target group find the use of checklists important and call for the development of more specific check lists focused on labour exploitation [S(2)], others do not see the need of a checklist, arguing that exploitation is their core business and they do not need a tool like a checklist [S(1)] or considering that the assessment of a situation is a task of the investigative services [S(1)].

When a case of exploitation is deemed to justify a criminal investigation, this investigation is either carried out by the Inspectorate or the police, in close conjunction with the PPS. It is the task of the Inspectorate and the police to secure as much evidence as possible which can lead to a successful prosecution. This can include digital information and documentation, traces and evidence found at the place where the exploitation has taken place and statements of victims [M(1)]. The PPS has the authority and obligation to act on

labour exploitation, as part of the criminal law article on trafficking. The authority of the PPS in this area is thus solely derived from the enforcement of the criminal code. At the same time, the PPS has defined trafficking, which includes labour exploitation, as a priority area for its work, which means that different divisions of the PPS pay special attention to this topic [J(1)]. Firstly, there is the so-called Financial, Environmental and Food Safety Offences Office (*Functioneel Parket*) which is responsible for prosecuting economic or financial offences, social security fraud or agricultural or environmental offences, which includes labour exploitation and is directly linked to the special investigative services including the Inspectorate [J(1)]. In addition, the National Office of the PPS (*Nationaal Parket*) deals with exploitation cases which have a clear international dimension, while the district offices should also have a specialised human trafficking officer who can deal with the relevant cases at regional level [J(1)]. According to one of the participants in the focus group from the monitoring bodies category, the Dutch authorities cooperate with authorities in a lot of different countries. Partnerships with Romania, Bulgaria and the Philippines exist, whereby data about cases are exchanged in order to identify criminal networks. In some countries (the example of Nigeria is given), cooperation is more difficult, since a lack of transparency means that it is not clear who the authorities are dealing with [FG(M).

Importantly, the PPS tackles labour exploitation, as part of human trafficking, within a programmatic approach, which means that it does not limit its activities to the narrow prosecution of suspects, but that it actively stimulates cooperation of the partner organisations such as the police and the Inspectorate [J(1)]. This has led both to the setting up of the Taskforce Human Trafficking (*Taskforce Mensenhandel*) and to the expertise centre on human trafficking and human smuggling EMM (*Expertisecentrum Mensenhandel en Mensensmokkel*).

The main task of the Taskforce Human Trafficking, which includes organisations from different Ministries to the Immigration and Naturalisation Service (*Immigratie en Naturalisatiedienst,* IND), is to identify problems in the combating of human trafficking and suggest solutions, The EMM is a national cooperation body of the Inspectorate, the National Police Services Agency (*Korps Landelijke Politiediensten*, KLPD), the Royal Netherlands Marechaussee (*Koninklijke Marechaussee*), the Immigration- & Naturalisation Service (*Immigratie- en naturalisatiedienst*, IND) and the Task Organisation Aliens (*Taakorganisatie Vreemdelingen*). The EMM collects and analyses information about human smuggling and human trafficking cases, including labour exploitation. At the regional level the Regional Centres on Information and Expertise (*Regionale Informatie- en Expertisecentrum*, *RIECs*) are cooperating bodies of local governments, police, PPS, special investigation services and tax authorities, that provide information and expertise to (semi) governments on the subject of combating organised crime, including labour exploitation [P(1); M(1)]. In all these different cooperation platforms, the investigation case load is divided between the police and the Inspectorate on a case by case basis. Rather than a clear division of responsibility and mandates, this can therefore be characterized as a network approach, which is confirmed by an interviewee in the M category:

"Ik denk dat wij steeds beter, georganiseerd in netwerken, samenwerken"

"I think that we cooperate better and better, organised in networks." [M(1)]

Within the criminal investigations, the Inspectorate and the police have all the authorities that come with criminal investigations. So contrary to monitoring inspections, when raids are carried out in the context of a criminal investigation, these can be carried out anywhere, including private property, as long as this is justified by a court order [M(1); P(1)]. In some cases, next to the officers of the Inspectorate and the police, CoMensha representatives are present at raids to immediately register the victims of exploitation [M(1)].

Connected to the investigation activities of the Inspectorate, the police and the PPS, three organisations are tasked with different aspects of registration and overall monitoring of the situation relating to labour exploitation. As already mentioned, the EMM registers and documents all cases of suspected labour exploitation, to ensure that evidence is secured and information is passed on to the relevant services [P(1)]. Whereas this is an operational function which arises from the stipulations laid down in the PPS Instructions on trafficking, the National Rapporteur has a mandate which is more removed from the operational activities, but can be seen as a supervisory role. Thus, the Rapporteur and her employees are present at all meetings concerning labour exploitation and the Rapporteur has the explicit personal mandate and responsibility to map everything that occurs in the area of labour exploitation. This mandate and responsibility are stipulated in the Act on the National Rapporteur on Trafficking in Human Beings Act and Sexual Exploitation of Children (*Wet Nationaal rapporteur mensenhandel en seksueel geweld tegen kinderen*)[22] and include the reporting about the extent of labour exploitation and the number of victims to the Minister of Security and Justice [N(1)]. According to an N group interviewee, the Public Prosecution registered 179 criminal charges of human trafficking and 80 convictions in 2011; in 2012 there were 239 criminal charges and 109 convictions. However, these statistics include all kinds of trafficking, including trafficking for the purpose of sexual exploitation, for the purpose of labour exploitation, and for the removal of organs.[23] Due to the overarching nature of the criminal law article on trafficking, these statistics cannot further be specified into labour exploitation and sexual exploitation. Finally, CoMensha registers all the victims of labour exploitation identified and reports annually about their number and background [M(1)].

In addition to the registration mandate, CoMensha plays a crucial coordination role in the provision of victim support. Thus, the organisation is not only responsible for the registration of victims, but also for the referral of victims to the respective care organisations. It does not provide care itself, but refers victims to the care organisations that have the regional responsibility for the care coordination [M(2); S(2); L(1)]. Almost all interviewees interviewed in the S category stated that the majority of their clients are referred to them by CoMensha [S(4)]. The same applies to the interviewees from the L category [L(2)]. CoMensha is an NGO and is financed by the Ministry of Security and Justice with the expressed task to coordinate the care provision [M(1)]. The victim support organisations that actually provide the support to victims at local and regional level are usually also NGOs or foundations which receive public funding (from local or national authorities) to carry out the specific support activities [S(4)]. For CoMensha, it is important to where a victim comes from, as people have different rights, or a different access to rights depending on their nationality and residential status [M(1)].

To support organisations, a victim's nationality or residential status is relevant with respect to their rights and the procedures that are followed. Dutch nationals are not eligible for a B8 status; EU-citizens are but the element of residential status, which is part of the B8, does not apply to them as it does with non-EU nationals or asylum seekers [S(4)]. This may mean that support organisations can offer different kinds of support to these victims [S(1)], although for other support organisations the support is the same for all victims [S(2)]. Interviewees from one support organisation said that children with limited (residential) rights are more vulnerable, although they also find that children who are EU-nationals are poorly recognised as victims by Dutch institutions [S(1)]. One support organisation, which is funded by a

[22] The Netherlands, Act on the National Rapporteur on Trafficking in Human Beings Act and Sexual Exploitation of Children (*Wet Nationaal rapporteur mensenhandel en seksueel geweld tegen kinderen*), 15 November 2013, available at: www.wetten.overheid.nl/BWBR0034176/geldigheidsdatum_25-06-2014.

[23] Nationaal Rapporteur Mensenhandel en Seksueel Geweld tegen Kinderen (National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children, BNRM) (2013), Mensenhandel in en uit beeld, Cijfers vervolging en berechting 2008-2012, The Hague, BNRM, available at: www.nationaalrapporteur.nl/Images/mensenhandel-in-en-uit-beeld-cijfers-vervolging-en-berechting-2008-2012_tcm63-513405.pdf.

municipality, is only allowed to offer support to victims who legally reside in the Netherlands, which means they cannot support non-EU nationals without a residential permit who have not (yet) received the B8 status [S(1)]. Please refer to section 5 of this report for more information on the victim support services provided.

Finally, in addition to those organisations with a publicly determined mandate, several organisations with an independent mandate focus some of their activities on labour exploitation. This includes activities of trade unions [W(1)], lobbying for the rights of migrant workers and victims of exploitation [W(1); S(1)] and preventive activities in the sphere of standard setting and certification developed by sectoral organisations [E(1)]. Some interviewees question the commitment of the trade unions, since the impression is that the unions are mainly interested in the protection of the regular Dutch employees [R(1); J(1)]. However, one of the trade unions for example focuses intensively on labour exploitation of migrant workers including irregular migrants (who can also join), not only from the perspective of the exploitation of the migrants itself, but also underpinned by a motivation of equal rights and protection of working standards:

> *"Dus daar hebben we ook een belang vanuit zeg maar de witte Nederlandse bouwvakker om de bouw CAO ook in stand te kunnen houden omdat anders ook hun eigen arbeidsvoorwaarden kapot gaan."*
>
> *"So there we have an interest also from the perspective of, let's say, the white Dutch building worker, to maintain the CBA because otherwise also our own working conditions go to the dogs."* [W(1)]

Based on this basic motivation, the union tries to identify cases of exploitation (both severe and less severe), secure information and evidence, pass this information on to investigation services or start up legal procedures directly. Thus, it is not based on a legal mandate, but on the general interest of workers represented by the unions. One respondent in the W category said their organisation only targets migrant workers from within the EU [W(1)], whereas to another respondent from this category these distinctions are relevant only with a view to risk analysis [W(1)]. Both workers who are legally or not legally employed can receive support from their organisations, these interviewees said, although this is a factor that influences victims' rights and the type of support that can be offered [W(1)] and one of the interviewees' organisation is strongly opposed to unlawful employment [W(1)].

Other organisations focus specifically on the rights of migrant workers, both through individual support and through lobbying for an improvement of the rights [W(1); S(1)]. The most prominent organisation lobbying for the rights of migrant workers is FairWork, which has both a lobbying and awareness raising role and an individual support role. The organisation works with voluntary cultural mediators who look for potential victims of exploitation within their own migrant communities [S(1)].

2.1.2 Child labour

When asked about the organisations responsible for tackling child labour, interviewees in the different target groups have difficulties providing clear explanations of the organisational framework. In general, the same organisations are responsible for the monitoring and investigation, i.e. the police and the Inspectorate, though in the case of the Inspectorate this really has to relate to child labour and no other kinds of exploitation of children [P(2); S(1); M(1)]. Regarding this last point, an ongoing discussion is whether (forced) begging counts as work-related or falls under other forms of child exploitation [M(1)] (see case study in section 3.2, where the judge ruled that specific forms of begging can be regarded as labour).

Organisations that are also named as responsible actors in the coordination of victim support in the case of child exploitation are the Youth Care Agencies (*Bureaus Jeugdzorg*), the Advice and Reporting Centre for Child Abuse (*AMKs*) and Nidos, which is the guardianship organisation for unaccompanied minor asylum seekers [M(2); P(1); J(3) S(1)].

Interestingly, two respondents from the J category mention that the referral system for child victims has to be improved and is indeed being revised at the moment [J(2)]. One respondent noted that care decentralisation in 2015 calls for a lot of work on this subject, which is new to local governments and has to be built from the ground up [J(1)]. The interviewee from a victim support organisation focusing on children however is able to explain the different actors and responsibilities: according to this interviewee, the police has the main responsibility in terms of intervention in cases of exploitation and refers the victims either to the Youth Care Agency (in cases of Dutch or EU migrant children) or to Nidos (in cases of non-EU migrant children). In cases whereby the parents are present in the Netherlands, the Youth Care Agency and Nidos will look into the necessity of imposing a youth protection measure on the family. In other cases, they will take care of assigning a guardian to the child and providing the care and protection required [S(1)].

2.1.3 Language barriers

All of the organisations working directly with migrants face language barriers in their work. At the same time, they are all able to overcome them easily by using interpreting services. For example, the Inspectorate is accompanied by interpreters who join previously planned raids, and the Inspectorate also uses certified interpreters who are physically present at interviews [M(2)].

The police, too, makes use of interpreters in interviews with victims, but also uses telephonic interpretation services in its monitoring work [P(3)]. Victim support organisations also make use of interpreting services, sometimes by telephone, or try to employ people with some foreign language skills [S(4)]. The same applies to the trade union which employs several people from specific migrant communities, e.g. of Eastern European origin [W(1)]. Languages that are named most frequently are Eastern European languages such as Polish, Romanian or Bulgarian, but Asian languages and African languages are also mentioned by interviewees [M(1)]. Some organisations also provide written information in the languages of the targeted migrant groups. Examples are CoMensha, FairWork and the Inspectorate.

Language is however not the only obstacle to communication between authorities, support organisations and migrant workers. An interviewee from the W category refers to cultural barriers as well. The interviewee does not specify which cultural factors play a role in this context, but according to him/her, it is easier for employees from the same or similar cultural background as the migrants to win the trust of the target group [W(1)]. Another interviewee from the M category points out that even with Dutch speaking victims of exploitation there may be a certain kind of language barrier, in the sense that definitions, experiences and value judgments regarding exploitations can differ greatly between people. This means that communication issues are inherent to the work in the area of labour exploitation [M(1)]. Finally, an interviewee from the M category points to the trauma of victims as influencing communication. The interviewee's organisation has to deal with people who are scared, suspicious and possibly traumatized. This requires special conversation techniques to make people feel at ease, to help them open up and to build up a relationship of trust [M(1)].

2.1.4 Cooperation between organisations

We can therefore speak of a varied and extensive organisational infrastructure focusing on preventing and tackling labour exploitation and on providing support to victims. While the

responsibilities appear to be partly overlapping, this is not an issue pointed out by interviewees. Indeed, it is notable that interviewees are very positive about the cooperation between the different organisations in the field, both public and private, both on the prosecution side and on the victim support side of the issue. One criticism of public private cooperation that is expressed several times is the one way direction of information exchange. This means that private organisations (both sectoral organisations and victim support organisations) feel that they provide public authorities, especially the Inspectorate and the police, with relevant information, but they do not hear back what happens with this information, at least not as long as an investigation is still ongoing [M(1); W(1); S(1)]. According to these respondents, still more open exchange of information can increase the effectiveness of the different efforts:

> *"Je hebt elkaar hard nodig. En met elkaar heb je de bevoegdheid om informatie te verzamelen. Dat doe je allemaal op het gebied waar je bevoegdheid van hebt. (…) Als je dat met elkaar mag delen, dan heb je het totale plaatje."*
>
> *"You really need each other. Together you have the authority to collect information. You do that all in the area where you have the authority. (…) If you can share that with each other, then you have the complete picture."* [M(1)]

Interestingly, this is the only point of criticism that directly relates to the organisational framework and to the sharing of responsibilities. The main point of improvement which is brought to attention by interviewees from most categories, is awareness raising.

> *"Bewustwording is altijd een punt. Niet iedereen is er zo mee bezig dat je altijd de signalen herkent. Dat blijft een aandachtspunt, maar dat is het altijd."*
>
> *"Awareness is always a point of attention. Not everyone is so focused on this that they recognise the signals. That remains a point of attention, but it always is."* [M(1)]

This necessity of awareness raising can refer both to interviewees' own organisation (including police and Inspectorate) and to broader awareness raising in society, [S(3); P(3); M(1); W(1); J(1); L(2)]. Especially in the category of victim support organisations, the necessity to focus more attention on labour exploitation, as opposed to sexual exploitation, plays a role in the assessment of present efforts [S(2)]. Other interviewees, especially in the J and M categories, actually emphasis the growing priority assigned to labour exploitation by their own organisations and in society at large [M(1); J(4); P(1)]. In the focus group discussion, participants confirm the growing focus on labour exploitation in comparison to sexual exploitation, but also defend the continuing emphasis on sexual exploitation. Sexual exploitation may not be more severe than labour exploitation, but the sheer number of cases of exploitation in the sex industry justifies additional focus [FG (S); (M); (M)] Overall, interviewees are positive about their own work. In section 6, we present a general assessment of the interviewees of the efforts to fight labour exploitation in the Netherlands, independent of the work of their own organisation.

2.2 Forms and frequency of incidents of labour exploitation encountered by experts in their work; economic areas affected

In this section, we discuss the interviewees' views on the form and frequency of incidents of labour exploitation. We report both the categories reported by interviewees and the comments and qualifications made in the discussions regarding these categories.

2.2.1 Different forms of labour exploitation

The table below presents the categories of labour exploitation encountered by respondents in their work.

Forms of labour exploitation according to professional group	M	P	J	L	S	W	R	E	N	Total
Slavery	3	0	2	3	5	0	1	0	0	**14**
Forced labour, including bonded labour (e.g. debt bondage)	4	2	3	2	5	2	0	2	1	**21**
Child labour	2	2	1	3	3	0	0	0	1	**12**
Trafficking for labour exploitation	4	4	3	3	5	2	1	2	1	**25**
Exploitation of a migrant worker under particularly exploitative working conditions (in the terms of the ESD)	3	1	2	2	3	1	1	1	1	**15**

We can see clearly that the categories of 'forced labour, including bonded labour' and 'trafficking for labour exploitation' are reported most frequently, whereas child labour is only reported by around a third of the interviewees. Looking at the different categories of interviewees, it can be noted that especially the interviewees from categories M, J, L, and S encounter a lot of different forms of labour exploitation (relative to the number of interviewees in these categories), whereas the interviewees from target groups R and E encounter fewer forms of exploitation. In the following, we will discuss the comments made by interviewees to justify their answers.

In fact, the results presented in the table above should be treated with care. Not all interviewees were able to distinguish the different categories and questioned their relevance for the situation in the Netherlands, or their work in particular. The main recurring point in this regard concerns the overarching nature of the term trafficking (*mensenhandel*) in the Dutch context. Thus, several respondents stated that the different forms of exploitation presented in the question all fall under the term trafficking. This mainly concerns the two categories 'forced labour' and 'trafficking for labour exploitation', but also the term 'slavery'. According to several interviewees, these categories are not clearly distinct from one another and, even more importantly, are not relevant in their work, because they all fall under the legal definition of human trafficking as stipulated by the criminal code [N(1); J(2); P(1); S(4); L(1)]. The following two quotes illustrate this point:

> *" We noemen het eigenlijk allemaal mensenhandel."*
>
> *"We actually call all of this trafficking."* [S(1)]

"Een meisje dat in een gezin als au pair moet werken wordt daar als slaaf gehouden, maar naar Nederlandse definitie is dat mensenhandel."

"A girl working as an au pair for a family, kept as a slave, according to the Dutch definition that is human trafficking."[L(1)]

Regarding the separate categories, interviewees do provide additional comments to clarify their answers. With respect to bonded labour, individual interviewees mention that a factor of debt leading to dependency is almost always present in cases of labour exploitation [M(1); J(1); W(1)]. This includes cases of migrants recruited in their country of origin, who build up a large debt to their employers by having to pay extortionate fees for specific 'services' provided by employers. Slavery is thought to occur more in cases of sexual exploitation and prostitution [N(1); M(1)] whereby violence plays a much more important role. Labour exploitation is thought to be based more on deception, misleading information and the creation of dependency [J(1); P(1); M(1)]:

"Het is niet dwang zoals in de seksuele uitbuiting. De dwang bestaat wel uit het feit dat je illegaal bent, je hebt een schuld, je bent in een land waarin je bijna niet weg kan komen want je kan de taal niet. Dus die afhankelijkheid zit er heel erg in"

"It is no coercion like in sexual exploitation. The coercion is present in the fact that you are illegal, you have debt, you are in a country where you cannot really get away because you don't speak the language. So the dependency is essential."[M(1)]

This point is also confirmed by the participants of the focus group. Dependency and the abuse of a vulnerable position are seen as defining elements of exploitation, more so than violence and physical coercion. The four participants of the focus group all agree on using the term 'other forms of exploitation' (*overige uitbuiting*) for labour exploitation. The 'other forms' hereby refers to forms other than sexual exploitation in the sex industry. Still, participants also use the overarching term 'trafficking' (*mensenhandel*) to describe the situations they encounter. Two participants representing victim support organisations also talk of slavery in relation to a specific case of a domestic worker exploited in a diplomatic household.

As said above, child labour is encountered by a minority of interviewees. Most of those who do report it, can provide isolated examples of child labour, but do not see it as a structural issue [P(1); M(2)]. Child victims are more often seen in exploitation in prostitution rather than in cases of labour exploitation [S(1); L(1)]. One interviewee from the L category has encountered child labour in households, both diplomatic and non-diplomatic. Other examples of child labour often concern exploitation of Roma children, forced to beg, play street music or sell street papers [N(1); J(1); P(1); L(1)]. It is an ongoing discussion whether these activities fall under labour exploitation or other forms of exploitation.

One case study shows that specific forms of begging can count as labour, and forced begging can therefore count as labour exploitation. The case of 5 Romanian victims (both adults and children) who were forced to sell street magazines, was the first time that the court was presented with a case on forced street paper sales and begging, and specifically, the first time that the court ruled that forcing people into begging and street paper sales can qualify as human trafficking. The court considered that the sale of street magazines, where magazines were sold with a profit margin, classifies as labour and not as begging, notwithstanding the fact that some citizens gave some extra money in addition to the fixed

price of the newspaper. The court also added that even if the victims would have been forced into begging, this could have been considered a form of forced labour as well.

Interviewees from the E and R target groups are the least familiar with the forms of labour exploitation, or at least do not encounter them in their work. Whereas individual respondents in these target groups have witnessed cases of trafficking in their respective economic sector [E(2)], the overall assessment of these interviewees is that these forms of exploitation are clearly more severe than what they encounter in practice [E(2); R(1)]. Bad employment practices such as long working hours and underpayment and financial fraud do occur according to these interviewees, but they do not fall under the severe forms of exploitation.

It is clear that the perspective of the representatives of employers and recruitment agencies therefore differs significantly from that of other target groups. This is illustrated by the following answer, given by an interviewee from the R group when presented with the different categories:

> *"Kinderarbeid sowieso niet. Mensenhandel ook niet. Slavernij ook niet. Maar dat is heel breed en ik werk in een politieke dimensie (...) waarbij nog wel eens dit soort termen worden gebezigd, waarbij ik mezelf nog afvraag of de termen juist worden gebezigd."*
>
> *"Child labour definitely not. Human trafficking neither. Slavery neither. But that is a very broad term and I work in a political dimension (...) whereby these kinds of terms are sometimes used, though I do ask myself whether they are used in the correct way."* [R(1)]

The way in which the different terms are used by different actors was also topic of discussion in the focus group. The participants, from the S and M target groups, do not feel that they encounter definitional misunderstandings in practice. On the contrary, they report that the professionals in the field all use more or less the same language and jargon. A grey area does exist in the context of defining people as victims or not, whereby victim support organisations are more likely to categorise a certain victim unequivocally as a victim, whereas the police might reach a different conclusion based on the same indicators. This is however not due to different definitions, but rather the result of a stricter perspective, and possibly of a different relationship to the victims in question, meaning that the victim tells a different story to the police than to the victim support organisation [FG(M)].

One case study, concerning a case whereby construction workers were recruited in Portugal to build a highway in the Netherlands, with large parts of their wages withheld for transport, accommodation and other costs, is a good illustration of the debate concerning labour exploitation in the Netherlands, where no clear distinction is made between labour exploitation and bad employment practices. In the media and by the trade union, this case was presented as labour exploitation, whereas the expert commission who investigated the case emphasised that no exploitation was encountered. This shows that the terms and definitions used by different actors clearly differ.

While the categories of the forms of labour exploitation are not familiar to all interviewees, the different forms of conduct witnessed in cases of labour exploitation do resonate with the experiences of the interviewees. The table below shows the answers of interviewees per professional group (whereby groups R and N were not asked this question).

Forms of conduct witnessed in cases of labour exploitation	M	P	J	L	S	W	R	E	N	Total
Migrant workers do not have a contract written in a language they understand, or do not have a contract at all	3	3	1	3	4	1	-	3	-	**18**
Migrant workers are not properly informed about their entitlements as concerns wages, working conditions, annual leave etc.	2	3	0	1	3	2	-	3	-	**14**
Employers withhold wages or pay considerably less than what they are obliged to pay	4	2	2	2	5	2	-	2	-	**19**
Parts of what is paid flows back to employers, e.g. for fees which the employer owes to recruiters or for food or services provided by the employer	2	2	1	1	2	2	-	3	-	**13**
The migrant worker depends on the employer beyond the employment contract, e.g. as concerns accommodation or employment of family members	2	2	1	2	4	1	-	0	-	**12**
Employer does not pay social security contributions	1	1	1	0	0	0	-	1	-	**4**
Migrant workers are not allowed to go on annual leave	2	0	0	0	0	0	-	0	-	**2**
Migrant workers are restricted in their movement, either by physical barriers or by practical means, such as withholding travel documents	2	2	2	1	3	0	-	1	-	**11**
The employer adds to the migrant worker's isolation by impeding communication e.g. communication to representatives of labour unions or to labour inspectors	2	0	3	1	2	1	-	0	-	**9**
The migrant worker is subjected to physical violence or to threats of such violence	1	0	1	1	2	0	-	0	-	**6**
The worker's health conditions are impaired, e.g. through labour-intensive work or long hours	2	3	2	3	3	0	-	2	-	**15**
Other (The category 'other' was used to indicate that respondents had difficulties choosing between options. One interviewee mentioned that workers are formally employed for a number of hours (for example 40 hours), but in practice, work more hours (for example 60) (NL_E_1). Another referred to the social limitations workers experience through a combination of a language barrier, housing and transportation being arranged by the employer and only communicating with colleagues and the employer (NL_J_4).)	1	0	1	0	1	0	-	1	-	**4**
Don't know	0	1	0	0	1	0	-	1	-	**3**

The table shows that practices relating to the wages of migrant workers and their labour

rights in general are encountered most commonly by those working in the field of labour exploitation. The withholding of wages is the most frequent occurrence, followed by the lack of a contract and a lack of information about entitlements and rights. In fact, interviewees comment that the withholding of wages is directly connected to these other practices, as migrants are not informed about their rights and do not know what they have signed in their contract ([L(1); J(1); P(1); E(1)]. The withholding of wages is also directly linked to wages flowing back to the employer, especially for accommodation costs, food, travel expenses and other kinds of services provided by the employer [W(1); P(1); S(1); E(1)]. The practice of withholding money for specific services is linked to debt bonding, as one interviewee from the J category points out [J(1)].

The connections between the different forms of conduct are therefore crucial. Though the withholding of wages is not sufficient to speak of severe forms of exploitation, the interviewees clarify that underpayment is so common that it is rather the rule than the exception [W(1); L(1)]. One interviewee from the M group explicitly mentions that the withholding of wages can be seen as the starting point of exploitation, as it leads to all other forms of conduct which constitute exploitation. As such, it is also the starting point of investigations into exploitation, since the level of remuneration provides a neutral entry point for an assessment of the overall situation [M(1)].

Several interviewees confirm that all of the different forms of conduct apply to a certain extent, which also implies that the totality of labour exploitation cannot be defined by one specific practice but lies in the combination of different factors [M(3); J(2); S(2)]. This combination varies form case to case, which makes it difficult to define the situation in general terms [M(1)]. Forms of physical violence and impediment of freedom to move around are thought to be less common [M(1); J(1); S(1)], though five interviewees still report it as a frequent occurrence. Dependence however is fostered actively by employers, through the provision of accommodation and transport [L(1); P(1)], the confiscation of travel documents [P(1); S(1)], and even making people sleep at their place of work [S(1)].

Dependence is also reinforced by the isolation of migrant workers and the impediment of communication. According to an interviewee from the J category, employers do not even need to withhold travel documents, since they can foster the dependence of their victims in other, easier ways, especially since victims are dependent on them in terms of housing and language [J(1)].

Employers exploit the lack of language proficiency of their migrant workers by working with interpreters who are loyal to the employer and therefore have an additional function in controlling workers [M(1)]. An interviewee from the W category confirms that it can be difficult for trade unions to approach workers in the work place. Workers are often not willing to discuss their situation at work for fear of their employer finding out. The trade union therefore tries to meet with them at home, which works better [W(1)]. Similarly, investigative services face situations whereby workers have clearly been instructed what to say in the case of inspections [J(1)]. Regardless of the language proficiency and the isolation of migrant workers, an interviewee from the M professional group poses the question whether migrant workers would even know who to get in touch with to report problems, even if they were free to do so [M(1)].

One case study clearly illustrates how far the isolation of victims can go, even in cases where they have contact with 'outsiders'. The court case file says that the victims who were forced to sell street papers could hardly make contact with others and ask for help, because they did not speak the Dutch language. The suspects did not shun violence or threats of violence. One of the victims declared that the suspects threatened to murder him or do harm

to their family members in Romania in case he would talk about his situation, and that he was beaten when he tried to run away. The victims were not allowed to talk to the neighbours. It was also said that it was no use going to the police, as the police would not believe them anyway. They were brought to the place where they had to sell the magazines, and picked up at the end of the day. An eye was kept on them during the day. They lived in the same house as the suspects, were not allowed to leave the house on their own and they could not move around freely.

Furthermore, the impairment of worker's health conditions is frequently witnessed by interviewees. One example provided of such unhealthy working conditions is the removal of asbestos without the necessary precautions and expertise [M(1)]. In addition, long working hours are also seen as a possible health threat in themselves [L(1)]. Especially in this context, it is noted that coercion plays a less important role than consent, as illustrated by the following quote:

> *"Onze ervaring is ook dat Oost-Europeanen heel vaak lange werkdagen accepteren waardoor ze in tweeenhalve week tijd 144 uur werken. Werkweken van 60 tot 70 uur, dat vinden zij heel normaal. (…) In onze westerse ogen zou dat arbeidsuitbuiting kunnen zijn, maar vaak zie je dat zij er zelf mee instemmen."*
>
> *"Our experience is that Eastern Europeans often accept long working days, so that they work 144 hours in two and a half weeks' time. Working 60 to 70 hours a week, they think that is very normal. (…) In our Western eyes that could be classified as labour exploitation, but you often see that they consent to it themselves."* [P(1)]

The same point is made by an interviewee from the E category, with reference to Chinese migrants.

One case study illustrates that consent of victims can play an important role. In this case, a strawberry grower was accused of abusing a large group of Slovakian and Polish employers by providing them with poor housing and poor sanitary services and making them work long hours for six days a week. He provided a piece rate instead of the promised hourly wage. There were sanctions for employees who performed poorly, and part of the salary was withheld as compensation for the sub-standard housing. According to the case file, the workers accepted the poor working and living conditions because of the financial reward that they were promised which can be explained in the context of their economic/financial situation. The suspect's lawyer stated that many of the seasonal migrant workers were returning annually to work for the employer and that they invited friends and family to come to work there as well. According to the suspect's lawyer, the day after the intervention of the Inspectorate, the majority of the workers even went back to work.

The different forms of exploitative conduct are less applicable to child labour. Child labour is in itself already so illegal and informal that aspects such as an invalid contract or a lack of information about workers' rights are not relevant. According to an interviewee from the S target group with experience in cases of child labour, child victims never have a contract or even think about their rights, so it does not make sense to consider to what extent these aspects are fulfilled or not.

2.2.2 Frequency of labour exploitation encountered

The frequency with which interviewees hear about cases of labour exploitation varies considerably, as can be seen in the table below.

Frequency of learning about cases of labour exploitation	M	P	J	L	S	W	R	E	N	Total
twice or more than twice a week	2	1	1	-	1	1	-	-	-	**6**
once a week	-	1	-	-	2	-	-	1	-	**4**
less than once a week but at least twice per month	1	-	1	-	2	-	-	-	-	**4**
once a month	1	2	1	-	1	-	-	-	-	**5**
twice or more per year	-	-	-	3	1	-	-	1	-	**5**
once a year or less	-	-	-	-	-	-	2	1	-	**3**
other (according to one respondent, the number fluctuates too much to name a frequency [N(1)], another stated he never encounters severe forms of labour exploitation [E(1)] and one respondent noted that although severe forms of exploitation are very exceptional, other forms of exploitation are very common [W(1)])	-	-	-	-	-	1	-	1	1	**3**
don't know	-	-	-	-	-	-	-	-	-	**-**

It can be noted that the target groups S, M and P report a higher frequency of cases witnessed than the categories L, R and E. The variety in the frequency of cases reported can partly be explained by the differences in roles performed by the interviewees. Thus it is to be expected that a person working in a coordination function at the EMM which registers all reports and signals of exploitation [P(1)], hears about more cases of exploitation than a representative of an employers' federation, which only indirectly deals with the topic of exploitation in a specific sector. In addition, the definition of what constitutes a case of exploitation may also have differed in the assessment of interviewees, so that the interviewees with a stricter definition may have reported fewer cases encountered than those with a wider definition in mind.

Learning about cases of labour exploitation	M	P	J	L	S	W	R	E	N	Total
Proactively looking for cases	3	1	-	1	2	2	-	-	-	**9**
The case is brought to your attention by another institution (public)	4	3	-	3	6	1	-	-	-	**17**
The case is brought to your attention by another institution (private)	3	3	-	3	5	1	-	-	-	**15**
The case is brought to your attention by a private person/individual	4	3	-	-	3	2	-	-	-	**12**
Other: Police encounter cases while using their control power (for example during traffic control with a different purpose) [P(1)], Taking part in networks [S(1)],	-	1	-	-	2	-	-	-	-	**3**

directly contacted by clients after hearing from others in their network that they were involved in a procedure against the perpetrator.										

To illustrate the different reports of interviewees, it can be pointed out that the Inspectorate carries out 20 to 25 criminal investigations per year, however many more signals of severe exploitation are received, but these may not be severe enough to fall under the definition of severe exploitation [M(1)]. Similarly, the trade union encounters cases of underpayment and other labour-law related offences regularly, but severe cases of exploitation remain very exceptional [W(1)] which also has an effect on the way the union approaches the topic:

> *"In de sectoren die ik benoemde [tuinbouw, vlees] daar is het eerder de regel dat de regels niet nageleefd worden. Maar dat wil niet zeggen dat we als organisatie daar constant mee bezig zijn."*
>
> *"In the sectors I mentioned [horticulture, meat production] it is rather the rule than the exception that the rules are not adhered to. But that doesn't mean that as an organisation we are constantly dealing with this."* [W(1)]

On the other hand, the private monitoring organisation SNCU receives 800 to 1,000 reports per year and up to 60 per cent of these reports may qualify as criminal cases [M(1)]. Two representatives of an employer organisation report to never hear of severe cases of exploitation in the context of their work [E(2)].

2.2.3 Professions and Sectors

Some sectors and professions are more prone to labour exploitation than others. Although professions and occupations can be separate from the economic sector where the activities take place, interviewees had difficulties distinguishing between the two. In addition, some interviewees, especially in the E category, only have knowledge about one specific sector. Thus, there is a clear overlap between the professions identified and the sectors where the activities take place.

Regarding the professions, by far the most commonly named category is that of unschooled worker. Two interviewees refer to the 'three D's': dirty, dangerous demeaning [N(1); J(1)]. Other interviewees name characteristics such as low wage, low schooling, labour intensive, high risk [J(1); W(1); P(1)]. This is explained by an interviewee in the J category as follows:

> *"We kunnen het niet tot een bepaald vak beperken, maar het gaat om die categorieën: lage scholing, vuil werk, risicovol werk, lage lonen, werk met een lage entree, toegankelijk voor diegenen die weinig op hun cv hebben staan, snel aan het werk moeten, daar waar het werk voor anderen om verschillende redenen niet aantrekkelijk is."*
>
> *"We cannot reduce it to one specific profession, but it is about these categories: low schooling, dirty work, risky work, low wages, work with a low entry threshold, accessible for those who have little on their CV, who have to get work quickly, where the work is unattractive to others for all sorts of reasons."* [J(1)]

An overlap exists between the category of unschooled work and that of farm worker. Some of the unschooled work in agriculture takes place in the primary processes, i.e. in fruit and

vegetable picking, whereas another part takes place in production work, i.e. processing of agricultural products. Both categories display the same characteristics defined by interviewees. These professions can be carried out by both men and women. However, in construction professions, men are clearly overrepresented. In the packaging and processing of agricultural products women are found more frequently. Examples of professions and occupations named under the categories of unschooled workers and farm labourers are the following:

- Construction workers [N(1); M(2); W(1); S(1); E(1)]
- Fruit and vegetable pickers, specifically mushroom and asparagus [N(1); M(3); W(1); R(2); L(2); J(2); P(3); S(3); E(1)]
- Kitchen assistant and dish washers [M(2); S(3)]
- Seamen and sailors [M(1); J(1); P(1)]
- Meat cutters and other food production workers [W(1); R(1); P(1)]
- Logistical, distribution and packaging workers [R(1); E(1)]

Other professions named fall under the category of service provision, even though they are also still mainly unskilled. In these cases, women are overrepresented as victims. This includes professions such as:

- Masseuse [M(1); L(1); J(1); S(1)]
- Housekeeper, au pair or domestic worker [L(3); P(1); S(4)]
- Cleaners, window cleaners and toilet ladies [M(1); P(1); E(2)]
- Waiters, cooks and bartenders, especially in Chinese restaurants [M(1); L(3); J(1); E(1)]

Furthermore, some interviewees state that cases of exploitation can take place in more skilled jobs carried out by unskilled migrants who do hazardous work without proper training. The lack of training hereby constitutes part of the exploitation. This includes the following examples:

- Asbestos remediator [M(1)]
- Bricklayers, welders [E(1), W(1)]
- Truck drivers [P(2)]

Occupations	**M**	**P**	**J**	**L**	**S**	**W**	**R**	**E**	**N**	**Total**
Construction workers	2, 4				4	2		2	1	6
Fruit and vegetable pickers, specifically mushroom and asparagus	1, 2, 4	1, 3, 4	2, 3	2, 3	1, 4, 5	2	1, 2	1	1	18
Kitchen assistant and dish washers	2, 4				2, 1, 6					5
Seamen and sailors	4	2	3							3
Meat cutters and other food production workers		1				2	1			3
Logistical, distribution and packaging workers							1	1		2

Masseuse	1		3	1	6					4
Housekeeper, au pair or domestic worker		3		1, 2, 3	2, 4, 5, 6					8
Cleaners, window cleaners and toilet ladies	4	3						3, 4		4
Waiters, cooks and bartenders, especially in Chinese restaurants	4		2	1, 2, 3				3		6
Asbestos remediator	4									1
Bricklayers, welders						2		2		2
Truck drivers		2, 4								2

As most of these professions are tied to a specific economic sector, it comes as no surprise that the sectors identified by interviewees as carrying a high risk of exploitation show a great deal of overlap with the professions. The sectors mentioned are the following:

- Agriculture [N(1); W(1); J(2); P(1); L(2)], especially vegetables [M(3); W(1); J(1)l P(1)l S(2)], even more specifically mushrooms [W(1)], but also flower bulbs [S(1)]
- Restaurants, hospitality and catering [N(1); M(3); L(1); J(2); P(1); S(1); E(1)], with an emphasis on Chinese restaurants
- Transportation and storage, especially road transport[M(1); J(2); P(2)], inland waterway shipping [N(1); M(1); L(1); P(1)], distribution [M(1)] and passenger transport by sea [P(1)]
- Construction [M(2); W(1); S(2); E(1)], especially in large projects such as energy plants and harbour construction [S(1); W(1); E(1)]
- Physical wellness activities, especially massage parlours [M(1); L(1); S(1)]
- Meat and food production [M(1); W(2); P(1)]
- Housekeeping [L(1); J(1); P(1); S(3)], including within diplomatic households [J(1); S(3)]
- Cleaning services [P(1); E(1)], especially in hotels
- Oil platforms [M(1); S(1)]

Economic sector	**M**	**P**	**J**	**L**	**S**	**W**	**R**	**E**	**N**	**Total**
Agriculture	1, 2, 3	1, 3	1, 2, 3	2, 3	4, 5	1, 2			1	**15**
Restaurants, hospitality and catering	1, 2, 4	1	1, 2	3	2			3	1	**10**
Transportation and storage	3, 4	2, 4	1, 3	1					1	**8**
Construction	2, 3				4, 5	2		2		**6**

Physical wellness activities, especially massage parlours	1			1	6					**3**
Meat and food production	2	1				1, 2				**4**
Housekeeping		3	3	1	2, 4, 5, 6					**7**
Cleaning services		3						3		**2**
Oil platforms	4				6					**2**

In addition to the strong level of coherence between the professions and sectors identified, we can also note a reasonably strong level of agreement between the different interviewees. Regardless of target group, the main sectors and professions are mentioned by a lot of different interviewees. The participants of the focus group also name the same sectors, such as agriculture, restaurants, domestic work and construction, and confirm each other's selection. Furthermore, they mention similar characteristics as the individual interviewees, such as the prevalence of unskilled labour, seasonal work, sectors with a strong involvement of recruitment agencies. One participant also mentions that a lot of these sectors are not very profitable, which means that the employers can feel forced to exploit their employees in order to survive.

This suggests that interviewees have a good picture of the places where exploitation happens, either based on their experience or based on the public discourse. There are no interviewees who have a clearly divergent impression of the sectors and professions that are prone to exploitation. Nonetheless, the selection of sectors should be treated with care, as the interviewee in the N category explains: the definition of sectors is influenced by the risk assessment and targeted monitoring and investigation activities of Inspectorate and police and therefore more an expression of the priorities of these organisations than a neutral assessment of the prevalence of exploitation per sector [N(1)]. This point is also brought up by one of the participants in the focus group, with specific reference to the National Rapporteur:

> *"Wat de Nationaal Rapporteur ook zei van ja je hebt risicosectoren...je moet ook gewoon eens een keer kijken naar niet-riscosectoren, want het wil niet zeggen dat het daar niet gebeurt. (...) Dus wij kijken niet op als het ergens gebeurt, ergens anders."*
>
> *"The National Rapporteur has referred to these high-risk sectors, as well as to the need to also check the non-high risk sectors, because it may be happening there too. (...) Therefore, we are no longer surprised when the problem pops up somewhere else."* {FG(M)]

3 Risks and risk management

3.1 Identification of common risk factors for labour exploitation

Certain factors can contribute to the vulnerability of individual migrants to exploitation. These factors can refer to personal characteristics of the migrant and his or her situation, to the situation at the workplace where the migrant is working, or to the legal and institutional setting which contributes to the risk of exploitation. In the following, we will first discuss the risk factors identified by interviewees by themselves before moving on to their assessment of a list of potential risk factors in the different areas.

3.1.1 General risk factors

When asked about potential risk factors for migrants, interviewees from all target groups can easily identify factors which in their view contribute to migrants' vulnerability to become a victim of exploitation. It is clear that the factors mentioned mainly refer to the personal characteristics, which may however be a result of the way the question was asked (asking for an explanation why some migrants are more at risk than others). Institutional factors, or the situation at the workplace are only mentioned rarely.

The factor that is mentioned most frequently and with most conviction, by interviewees in all professional groups, is poverty, especially in the country of origin. The strength with which this factor is emphasised can be illustrated by the following dialogue between interviewer and interviewee in the P category:

> *"Q: Wat denk jij, vanuit je professionele ervaring, wat zijn de belangrijkste factoren die iemand kwetsbaar maken?*
> *A: Armoede.*
> *Q: Armoede.*
> *A: Armoede.*
> *Q: In het thuisland of hier?*
> *A: Beide. Armoede."*
>
> *"Q: What do you think are, from your professional experience, the most important factors that make someone more vulnerable?*
> *A: Poverty.*
> *Q: Poverty.*
> *A: Poverty.*
> *Q: In the country of origin or here?*
> *A: Both. Poverty."*[P(1)]

Poverty contributes to the risk of migrants in different ways. Most fundamentally, poverty acts as a push factor for people from poorer member states to come to the Netherlands [N(1)]. Even more importantly however, it shapes the frame of reference of migrants, from which they assess their situation in the Netherlands [P(1)]. Poverty in the country of origin therefore makes it more likely that migrants will accept lower wages and worse working conditions than what would be considered acceptable by Dutch workers, since their level of income will still be higher than what it would be in the country of origin.

This argumentation, still focusing on the consent of migrants, is provided by interviewees from several target groups [E(1); S(1); M(1); L(1)]. Going even further, poverty can also be

seen as a factor which forces migrants to accept virtually anything, since their alternatives are so limited [M(1); L(2)]. In this context, interviewees also refer to the expectations and needs of family members who have stayed in the country of origin and desperately need financial support [M(1)] or to the lack of a safety net to fall back on [P(1)]. Thus, poverty not only accounts for a different frame of reference, but forces individuals to stay in exploitative situations due to a lack of alternatives.

In addition to poverty, interviewees from the S professional group emphasise the influence of a lack of pre-departure information, lack of knowledge about workers' rights, lack of knowledge about support organisations and the underlying lack of language proficiencies amongst migrants as crucial risk factors [S(5)]. Interviewees from the other categories also mention these factors, which also lead to unrealistic expectations of life in the Netherlands [N(1); W(2); R(2); L(1)]. A vicious cycle can be identified here, as bad preparation leads to high and unrealistic expectations, which again leads to bad preparations. Badly prepared migrants, who come to the Netherlands without having looked for accommodation, without having secured a job and without any information, are more likely to fall in the hands of exploitative employees. The lack of preparation therefore determines the situation of migrants also after they have arrived in the Netherlands, as an interviewee from the L group explains:

> *"De onwetendheid over hoe dat werkt, of je ergens wel of niet mag verblijven en wat de politie wel of niet kan doen als ze je ontdekken."*
>
> *"The ignorance about how it works, whether you can or cannot live somewhere, and about what the police can and cannot do if they discover you."* [L(1)]

The lack of preparation on the part of migrants brings us to a more complex risk factor, which is mentioned by several interviewees but interpreted in different ways. This concerns the unregulated nature of migration and related employment. One interviewee from the R group explains that migrants are in his/her view not by definition more vulnerable. However, since 2007, when the barriers to free movement within the EU were lifted, migrants have become more vulnerable because processes of migration have become more individualised, whereas before then the employer, often a recruitment agency, was able to offer an 'all-inclusive' package and thereby regulate the influx of migrants [R(1)]. This view is supported by the second representative of the recruitment sector interviewed, who warns of the low level of preparation of individual migrants [R(1)].

Although interviewees from other target groups acknowledge the shift towards more unregulated forms of employment as a risk factor [N(1)], they also see a high risk in the dependency of migrants on employers, which is in fact embodied by those very 'all in' contracts whereby employment, transport and accommodation are all organised by the employer. One interviewee explicitly mentions the risk of working permits which tie a migrant directly to his or her employer [W(1)]. The interviewees who emphasised that dependency see the risk lying not in the unregulated nature of the migration, but rather in the ability of recruitment agencies to mislead individual migrants [W(1); E(1); N(1)].

One case study is exemplary for the way in which migrants can be tied to their exploitative employer through a work permit. Because the victims in this case who were working extremely long hours in the construction industry and were housed in unacceptable conditions, were from Romania, they needed a work permit (*tewerkstellingsvergunning*). This permit was tied to this specific employer so they could not work for other employers; the

suspects allegedly said to the victims that they would be sent back to Romania if they did work for another employer.

In this context, migrants without a legal residence status are generally thought to be clearly more at risk, as employers can use the irregular residence status as a way to put pressure on the migrants [L(2)]. Furthermore, irregular migrants are less likely to report to the police, for fear of being asked about their residence status. This element is mainly brought forward by interviewees from the J and S categories, but it is not clear why these groups emphasis it more than other groups [J(4); S(4)]. In addition, the degree of isolation of the migrants contributes to their risk of being exploited. If a migrant cannot find his or her own way in the Netherlands and does not have a community to fall back on in the Netherlands, this enhances their dependency on the employer [M(1); W(1)]. For children, this means that those children who live in poverty and without family in the Netherlands are clearly more at risk [S(1)]. At the same time, the migrant community can be a contributing factor in itself, according to a male interviewee from the M target group, as specific "cultural values" may prevent victims of exploitation to come out and admit to the fact that they are being exploited, for fear of being excluded from their "cultural community" in the Netherlands. The example of the Chinese community is provided in this context, but the interviewee does not specify which particular "cultural values" should influence this situation [M(1)].

Finally, there are those very personal characteristics of the migrant in question which put people at risk. Two interviewees from the S category point out that migrants who suffer from mental disability or have a low IQ are much more vulnerable to exploitation than others [S(2)]. More generally, those migrants who are more timid and quiet are more at risk than those who are assertive [J(1)]. Employers are more likely to exploit and continue exploiting people who are less prone to stand up for themselves [J(1)].

These different risk factors, both pertaining to the situation in the home country, to the situation of migrants in the Netherlands and to the personal characteristics of the migrants, point towards one overarching heading: what is the alternative? As long as migrants realise, and have the ability, to choose a different option, for example, to go to a different employer, to report to the police or to return to their home country, their risk of being exploited is low. Where this ability is impaired either by personal characteristics, by a lack of knowledge about the options, by actions of the employer or by an actual lack of alternatives, migrants are prone to fall into the hands of exploitative employers and are not likely to find a way out of their situation.

3.1.2 Legal and institutional risk factors

We will now move on to presenting the views of interviewees regarding legal and institutional, personal and workplace related risk factors as presented in the questionnaire. The table below shows the responses given by interviewees to the list of legal and institutional risk factors presented to them during the interviews.

Legal and institutional risk factors pointed out by the interviewees according to the professional group	**M**	**P**	**J**	**L**	**S**	**W**	**R**	**E**	**N**	**Total**
Low risk to offenders of being prosecuted and punished;	2	4	1	3	6	2	2	3	0	**23**
Low risk to offenders of having to compensate exploited migrant workers;	1	1	1	1	4	2	1	3	0	**14**
Lack of institutions effectively monitoring the situation of workers in sectors of	3	0	1	1	5	2	2	3	0	**17**

economy where labour exploitation occurs;										
Corruption in the police;	0	0	0	0	0	0	0	0	0	**0**
Corruption in other parts of administration;	0	0	0	0	0	0	0	0	0	**0**
Other (The unregulated nature of temporary employment [N(1)]; the lack of stringent monitoring in the country of origin instead of the focus on prosecution [J(1)]; European Union legislation which makes it easy for employers to find loopholes [J(1)]; The public procurement and licensing system of the Dutch government which places a great emphasis on the price of services for example for large infrastructural projects (P), as well as the importance of consumers and especially retailers in determining the price of products and forcing producers to cut costs [E(1); P(1)]; strict migration policies which contribute to migrants' vulnerability instead of providing structures of protection [S(1)].	1	1	2	1	1	0	0	1	1	**8**
Don't know	2	3	2	0	1	0	0	0	1	**9**

The table shows that interviewees do not consider corruption, in the police or in other parts of the administration, as a risk factor contributing to exploitation. The other factors, and especially the low risk to offenders of being prosecuted and punished, are considered relevant by interviewees, throughout most target groups.

Especially the interviewees from the S, W and E target group consider all three risk categories (i.e. low risk to offenders of being persecuted, low risk of offenders of having to compensate workers, and the lack of institutions effectively monitoring the situation of workers) relevant risk factors. It is notable that the interviewees from target groups P, J and N are less convinced that the lack of institutions for monitoring the situation of workers in specific sectors contributes to the problem, as these interviewees represent a part of the authorities that are indeed responsible for tackling exploitation. A look at the comments provided by interviewees to justify their choice can help us explain the different views.

Especially the point of perceived lack of institutions deserves some qualification. A majority of respondents who see a lack of institutions for monitoring the situation in specific sectors as an important risk factor, explain that it is not a lack of institutions in itself that is a problem. On the contrary, there are enough institutions, but they are not working effectively enough. According to some interviewees, this is due to a lack of capacity and authorities, especially in the case of the Inspectorate, which sticks too narrowly to its legal mandate [E(2); J(1)]. As a result, the work of the monitoring institutions can be circumvented too easily by employers [R(2)].

One case study illustrates the fact that the monitoring infrastructure, despite the institutions that are active in it, does not succeed in identifying severe cases of exploitation. It concerns the case of a cook in two Chinese restaurants who had to work seven days a week, 15 hours a day. His situation was only recognised when he went to hospital because he had health problems, instigated by the hard labour he had been forced to do for nearly two years. In hospital he talked about his situation and filed a complaint with the police. If he had not become ill, an interviewee suggests, his situation would have persisted unnoticed [L(1)].

A respondent from the M category also supports the view that the institutions do exist, but that their work can be made more effective:

> *"Ik denk dat we wel genoeg instituties hebben om toezicht te houden, maar dat we wel nog een verbeterslag kunnen maken door ook wat beter de signalen te herkennen, wat meer proberen met mensen in contact te komen (…), met mogelijke slachtoffers."*
>
> *"I do think that we have enough institutions to monitor the situation, but there is room for improvement in recognising the signals, trying to get more into contact with the people, with the potential victims."* [M(1)]

This point is supported by interviewees who stress the importance of policy makers and monitoring institutions about what exploitation is and how to recognise it, but who see this as a separate point from the lack of institutions [M(1); L(1); J(1)]. Finally, a respondent from the P professional group considers that the effectiveness of the monitoring is also always a result of the balance between recognising the need for intervention and being aware of the danger of authoritarianism. According to this view, perfect monitoring would lead to a police state which controls everything and everyone [P(1)].

When it comes both to the risk of perpetrators to be prosecuted and punished, and to the risk of perpetrators to have to pay compensation, interviewees try to take on the role of a potential perpetrator. According to this reasoning, they not only confirm that the risk of being caught is indeed very low [L(2); M(1); J(1); W(1); E(1)], whereby the perception of the risk (and not the actual risk) is leading [M(1)]. They also explain that employers can take a calculated risk by looking at the likelihood of punishment, the costs of punishment and the profits of exploitation. Apparently, interviewees contend, the outcome of this risk analysis is positive in favour of exploitation [M(1); P(1)]. Interviewees from the L group hereby emphasis the difficulty to have enough proof [L(2)], whereas interviewees from the S group emphasise the low sentences [S(2)].

However, individual interviewees, from the N and M category, question the validity of this argument. According to the interviewee from the N category, the risk of having to pay compensation is not too low, but it does not have an impact on the actual problem of exploitation [N(1)]. Similarly, two interviewees from the M category contend that the institutional and legal risk factors do not really make a difference in enhancing or alleviating the risk of labour exploitation to happen. The motivation of the perpetrators is not directly influenced by the institutional framework, and the calculated reasoning does not come into the decision of perpetrators at all [M(2)]. According to these interviewees, the underlying motivation for exploitation lies in the normative framework of perpetrator and victim, which is thought to be determined by both "culture" and the individual situation, whereby the perpetrators are supposedly used to exploitation or do not see it as a problem. The following quotes illustrate this viewpoint:

> *"Het zit 'm veel meer in cultuur, daar ben ik van overtuigd, en dan heb ik het over je morele ontwikkelingsniveau."*
>
> *"It's much more down to culture, I'm convinced of that, and then I'm talking about your moral level of development."*[M(1)]
>
> *"Kijk: de straffen zijn onlangs verhoogd. (…) Ik vraag me af of er nu potentiele daders zijn die denken: nou, dan ga ik het maar niet doen. Ik denk het niet."*

> *"Look: the penalties have been increased recently. (…) I ask myself whether there are potential perpetrators who now think: well, then I won't do it. I don't think so."* [M(1)]

The focus group participants are divided on this topic. While one participant from the S professional group considers the sentences given in the past too low to have a serious deterrent effect, another participant from the M category responds that the sentences given in the Netherlands are among the highest in Europe. The same participant explains that especially the seizing of assets can be highly effective in increasing the deterrence effect. This requires very good preparation before an intervention, as well as direct cooperation with law enforcement authorities in other member states where the assets may have to be seized [FG(M)]:

> *"Nou kijk, wat heel effectief kan zijn ... die ontnemingsacties. Je moet dus in een heel vroeg stadium, je moet overal beslag op leggen, ... ook gelijk in het buitenland beslag leggen op alle goederen op alle auto's ... en gewoon vooraf afspraken maken met de officier van justitie in die landen... dat je gelijk dus op alles beslag legt."*
>
> *"And what is highly effective... are these seizing operations. You need to seize all assets that can be seized at a very early stage… including assets abroad. Including goods, cars, property…And you need to co-ordinate with the public prosecutor in that country before acting... in order to seize all assets simultaneously."* [FG(M)]

Finally, other institutional and legal risk factors which are added by interviewees, include the following:

- The unregulated nature of temporary employment [N(1)];
- The lack of stringent monitoring in the country of origin instead of the focus on prosecution [J(1)]
- European economic integration, which makes it easy for employers to find loopholes in Dutch legislation. This enables employers to establish their businesses elsewhere in Europe, employing so-called foreign employees who are actually just Dutch, thereby not having to abide by Dutch rules and legislation regarding minimum wage. [J(1)]
- The public procurement system of the Dutch government which places a great emphasis on the price of services for example for large infrastructural projects [P(1)], as well as the importance of consumers and especially retailers in determining the price of products and forcing producers to cut costs [E(1); P(1)]
- Strict migration policies which contribute to migrants' vulnerability instead of providing structures of protection [S(1)]

3.1.3 Personal risk factors

We will now move on to the personal risk factors and the assessment provided by interviewees. As mentioned before, the risk factors identified by interviewees without being prompted mainly referred to these personal risk factors. It should therefore not come as a surprise that the selection of specific personal risk factors shows considerable overlap with the previously reported risk factors, as can be seen in the table below.

Personal risk factors pointed out by the interviewees according to the professional group	**M**	**P**	**J**	**L**	**S**	**W**	**R**	**E**	**N**	**Total**

Migrant worker has a low level of education;	3	2	1	2	3	0	1	3	1	**16**
Migrant worker does not know the language of the country of workplace;	4	4	1	2	4	2	1	3	1	**22**
Migrant is not allowed to enter into employment;	1	0	2	1	3	1	1	4	0	**13**
Worker comes from a country the nationals of which are often exploited in the destination country;	0	0	0	0	2	1	0	1	0	**4**
Worker is prone to discrimination on behalf of their race or through their identification as belonging to a national minority (such as Roma, Dalit or sub-Saharan African)	0	0	0	1	1	0	0	0	0	**2**
Worker is prone to discrimination on behalf of their sex	0	0	0	0	1	0	0	0	0	**1**
Worker has experienced extreme poverty at home;	4	4	3	3	4	2	1	1	1	**23**
Other (Fear of failure towards family [J(1)], not knowing the rights and duties of employees in the Netherlands [J(1)], being a minor [S(1)], not having a residential status [N(1)]).	0	0	2	0	1	0	0	0	1	**4**
Don't know	0	1	0	0	0	0	0	0	0	**1**

As could be expected, the experience of extreme poverty in the country of origin is the factor which is specified most frequently, closely followed by the lack of language proficiency and a low level of education, which both contribute to a low level of awareness of workers' rights and legislation [J(2); L(1); P(1)]. Interviewees see a direct and dynamic connection between the level of poverty experienced in the home country and the level of exploitation a migrant will accept in the Netherlands [W(1); R(1)]. Regarding the level of education, illiteracy can also play an important role, as an illiterate person will sign any contract without knowing what it says [L(1)].

Whereas the importance of these factors are equally acknowledged throughout the different target groups, interviewees from the E target group stand out in defining the ability of migrants to enter into legal employment as a risk factor. An interviewee from the N category also identifies 'illegality' as a risk factor in the category 'Other' [N(1)], as well as an interviewee from category M who mentions that the procedure of obtaining a work permit implies some kind of screening of worker and employer which reduces the risk of exploitation [M(1)]. If migrants do not have a work permit, they are automatically already somehow part of the exploitation, since they simply cannot be active in the formal, regulated part of the labour market, according to a respondent from the R professional group [R(1)]. An interviewee from the L category also refers to this dependence of irregular migrants on their informal, and possibly exploitative employers:

> *"Je bent hier illegaal aan het werk, wij helpen jou, want jij wil geld verdienen, maar dan moet je ook niet zeuren."*
>
> *"You are working here illegally, we help you because you want to earn money, but then you must not complain."* [L(1)]

At the same time, an interviewee from the P category points out that the majority of victims do have a work permit [P(1)].

One case study illustrates that the dependence of irregular migrants on their employers is not only caused by their residence status. The Chinese victim in this case, who had to work in two Chinese restaurants as a cook for 7 days a week, did not speak Dutch or English, could not read the Latin alphabet and was unfamiliar with Dutch society and culture. He was dependent on his employers who housed him. His employers kept his passport, residential permit and bank card from him and handed him only a small amount of cash per month which did not allow him to travel back to China or find another place to live.

Discrimination on grounds of race or sex is only pointed out by few interviewees. Victims are often exploited by people from their own cultural background. However, within these groups, elements of caste and being Roma can play a role according to some interviewees [L(2); M(1)]. One interviewee from the S group mentions homosexuality as a risk factor, since a homosexual person may be vulnerable to blackmail, if his or her homosexuality is not openly known and could for example be disclosed to family or others [S(1)].

Overall, it appears that the personal risk factors are easier to assess for interviewees, also signified by the high degree of coherence and overlap in the answers.

3.1.4 Risk factors at the workplace

The table below shows the breakdown of answers provided by interviewees relating to the third category of risk factors, those relating to the situation at the workplace.

Risk factors at the workplace pointed out by the interviewees according to the professional group	**M**	**P**	**J**	**L**	**S**	**W**	**R**	**E**	**N**	**Total**
The migrant works in a sector of the economy that is particularly prone to exploitation;	2	4	3	2	5	2	1	2	1	**22**
The migrant works in relative isolation with few contacts to clients or to people outside the firm;	2	1	1	2	6	0	2	3	0	**17**
The migrant worker is not a member of a trade union;	0	1	0	0	0	0	0	2	0	**3**
The migrant works in a precarious or insecure situation of employment, e.g. formally not employed but self-employed;	2	2	0	1	0	2	0	0	1	**8**
The migrant worker is not directly employed by the business/organisation for which they work, e.g. agency workers, or employees of cleaning or security companies;	2	3	2	1	1	2	0	3	1	**15**
The migrant worker is employed as a posted worker by a foreign company;	0	1	0	0	0	0	0	1	0	**2**
The migrant is a seasonal worker;	2	0	2	1	4	0	1	0	0	**10**
Other (please specify)	0	0	1	1	1	0	0	0	0	**3**
Don't know	1	0	0	0	1	0	0	0	0	**2**

The sectorial aspect which determines the risk of exploitation is not only the most frequently named category, but also most evenly spread amongst the different target groups. Economic sectors have a specific culture, or at least a shared frame of reference, which can lead to one sector being more exploitative than another [R(1); P(1); S(1); E(1)]. This can also refer to the nature of the work, e.g. sectors in which employment is simply not attractive anymore for workers from the Netherlands [S(1)]. Furthermore, some sectors are more difficult to monitor for the authorities, such as domestic work [L(1)], massage parlours (which are close to prostitution), shipping [L(1)], and transport in general [P(1)]. Other categories that are connected to this sectorial aspect, such as the employment situation of the migrant (not directly employed by the business they work for, working as a seasonal worker, working in a precarious or insecure situation) are also frequently named.

At the same time, one interviewee from the R category strongly rejects the risk factor of flexible or indirect employment. According to this interviewee, migrants working for recruitment agencies can work in different places, can exchange a lot of information with each other, are very mobile and therefore more resilient. Migrants who are only working for one employer, and very closely bound to that employer, for example in agriculture, would be more vulnerable to exploitation [R(1)].

> *"Als ik naar alle voorbeelden kijk waarmee ik geconfronteerd ben, dan zijn dat altijd situaties waarbij juist de werknemer of de uitgebuite person zo dicht mogelijk tegen je aan werd gehouden. Terwijl als je ergens anders tewerk wordt gesteld, kun je ook altijd daar nog aankloppen."*
>
> *"If I look at the examples which I have encountered, then these are always situations whereby the employee, or the exploited person, was actually kept as close as possible. Whereas if you are sent out to work somewhere else, you can always turn to someone right there as well."* [R(1)]

Other interviewees however explain that workers in a precarious situation are more willing to accept exploitative conditions, since they do not know whether they will still be earning money the next day, so that longer-term considerations do not come into the equation [L(1); P(1)]. Also, recruitment agencies can easily withhold wages from migrant workers without the migrants noticing [L(1)], and they are often responsible for a lot more than just the work, i.e. also accommodation and other services, which increases the potential for exploitation [S(1)]). An interviewee from the P category backs up this assessment by referring to research carried out by the police which identified employment by recruitment agencies as the most important risk factor [P(1)].

The isolated working position of migrant workers with few contacts to people outside the firm is noted by a majority of interviewees, and especially by interviewees within the S category, but it is generally not explained further [M(1); W(1); S(2)]. An interviewee from the E category states that a lot of the work in the cleaning sector is carried out in isolation out of office hours, but does not recognise this as a risk factor for exploitation [E(1)]. Interestingly, most interviewees do not consider the membership of a trade union as relevant, except for two interviewees from the E category and one from the P category. However, no further explanation of this choice is provided.

Overall, some interviewees do not consider the workplace related risk factors as all too significant. These factors do contribute, but are not the determining influences on situations of exploitation [R(1); M(1); J(1)].

3.1.5 The role of recruitment agencies

The role of recruitment agencies in the creation and prevention of situations of exploitation deserves closer attention. When specifically asked about it, all interviewees were able to discuss this point and to provide an assessment of this role, which implies that it is a relevant issue. However, while interviewees agreed that recruitment agencies play an important role, they disagreed on their assessment of that role. Overall, we can distinguish three views on the topic: the view that recruitment agencies first and foremost create situations of exploitation; the view that recruitment agencies prevent situations of exploitation; and the view that recruitment agencies do create situations of exploitation but also prevent them, and that in their absence some other actor would take over that role.

The majority of interviewees emphasise the negative role of recruitment agencies. This is seen as a result of their powerful position and their close connection with the migrant workers, combined with a perceived low level of regulation. The interviewee from the N category is very critical of the low level of regulation, since it makes it too easy to set up and run a recruitment agency without any oversight. New recruitment agencies have to be registered but there is no mandatory licensing system in place [N(1)]. In the employment relations, recruitment bureaus contribute to a lack of transparency which facilitates exploitation. They constitute an added level between employer and migrant/victim, which makes it easier for the employer to remove him/herself from the exploitation, and which also makes it more difficult to monitor and investigate the exploitation, since the exploitation is then more fragmented and spread out across different entities and levels. The relationship between employer and migrant becomes less clear, the responsibilities between the different actors become blurred [E(2); M(1); J(1)]. As a result, in most cases of exploitation, recruitment agencies are somehow involved [W(1)].

> *"Ik denk dat op het moment dat uitzendbureaus niet meer zouden bestaan, heb je veel minder arbeidsuitbuiting. De [extra] schakel maakt het alleen maar makkelijker om onzichtbaar in het systeem te manoeuvreren."*
>
> *"I think that the moment that recruitment agencies would not exist anymore, you would have much less labour exploitation. The [additional] link only makes it easier to manoeuvre more invisibly within the system."* [M(1)]

Most importantly, recruitment bureaus are the link in the chain that transfers the pricing pressure from the employer to the migrants, by controlling the entire process of recruitment [P(1); W(1)].

> *"Zij zijn de ronselaartjes, zij zijn de mensen die ze wegzetten. Plus een heel belangrijk feit is dat over het algemeen het uitzendbureau bekend is met de migrantengroep die ze wegzetten terwijl het bedrijf in Nederland dat niet is. Dus het uitzendbureau is meteen de bekende thuishaven. Als jij ergens komt en ze spreken je taal, ze snappen jou, dan vertrouw je ze."*
>
> *"They are the recruiters, the people who place them. And a very important fact is that generally the temporary employment agency is familiar with the migrant group that they place while the company in the Netherlands is not. So the temporary employment agency is immediately the interpreter, the home base for the people. If you come somewhere where they speak your language and understand you, then you trust them."* [P(1)]

Because recruitment agencies have such a strong position in the chain, and migrant workers are dependent on them for work and information, they can easily deceive migrants, according to this group of interviewees [L(1); P(1); W(1); M(1)].

One case study gives an example of a case whereby the actual employer uses the services of recruitment agencies to put large groups of migrants to work without paying them a minimum wage. Victims are recruited in their home country through a recruitment agency. The trade union investigated pay slips and labour contracts of scaffolding builders. They found that these workers are underpaid on a large scale by the employment agencies they work for. According to the trade union, the companies who hire the employment agencies to recruit scaffolding builders for them, are aware that the prices they are offering to pay for personnel necessitate employment agencies to underpay their personnel. Companies working with recruitment agencies set very low prices, which make it impossible for employment agencies to pay their workers wages to the standard of the collective employment agreement. On the other hand, the employment agencies should refuse to deliver for prices that are too low, which they do not. The scaffolding building companies and the employment agencies keep each other trapped in the situation.

In the focus group discussion, the negative contribution of recruitment agencies in facilitating situations of exploitation is clearly emphasised by participants, even when the option of a positive assessment is explicitly offered. Participants agree that recruitment agencies often paint a rosy picture of the work for which they recruit migrants and thereby abuse the vulnerable position of these migrants. According to participants there are a large number of dubious, rogue agencies who recruit workers and do not check identity documents or permits. They point to the low requirements in place for starting up a recruitment agency and the generally low level of regulation in the sector. One of the participants however points out that the recruitment agencies as such are not the problem, but that those employers who are looking for cheap labour and do not mind breaking the law for it simply use the route of the recruitment agencies to achieve it. If recruitment agencies were abolished, they would find another way, according to this view [FG(S)].

The representatives of employment agencies emphasise the positive role recruitment agencies can play in the prevention of situations of exploitation. Recruitment agencies are the actors carrying out the selection of workers in the country of origin, so this is also an important point at which information about the rights of workers should be provided. Recruitment agencies could therefore have an important role in increasing the resilience of workers [R(1); L(1)]. This brings us back to the point about the lack of preparation amongst individual migrants as opposed to those brought to the Netherlands in an organised context [R(1)]. Furthermore, recruitment agencies are also the actors most likely to come across situations of exploitation, as they come to a lot of workplaces, so they can potentially have an important role in signalling exploitation to the authorities [R(1); J(1)]. They can assist workers in checking whether the wages paid are in line with the requirements and whether the situation is acceptable [L(1)].

The third group of interviewees principally points to the question of whether we are talking about honest or dishonest recruitment agency. If a recruitment agency is run by a criminal or fraudulent person, it is clearly in a position to contribute to exploitation [E(1); J(1)]. Recruitment agencies are under a lot of pressure to provide cheap labour, and they are the ones who decide how much a worker is paid, where they are to live and when they are paid [E(1)]. In the end, it is therefore down to the decision of the recruitment agency whether exploitation takes place or not, and some agencies abuse this situation [J(1)]. This means that we cannot speak of one category of recruitment agencies that either contributes to

exploitation or prevents it. On the one hand, recruitment agencies exist that exploit their powerful position by mistreating their workers. On the other hand, recruitment agencies prevent situations of exploitation by preparing migrants for the situation in the Netherlands and making sure that their situation in the Netherlands is acceptable [M(1)].

These different views are also reflected in the assessment of interviewees of the monitoring activities carried out with regard to recruitment agencies. The Inspectorate monitors the recruitment sector, but the sector has also set up its own self-regulatory body, the SNCU. While interviewees are positive about the activities of the SNCU and laud the initiative of the sector, they are also realistic about the limits to its activities. For example, an interviewee from the W category confirms that the SNCU and the trade unions are doing their best to monitor the recruitment sector, but that this does not have a deterrent effect on the sector as a whole, since the entire sector is so flexible that even if one agency is caught and punished, it is easy for another agency to carry on [W(1)]. An interviewee from the M category is more positive about the direct effects of the SNCU activities, but also sees the wider problems of tackling the problem in one specific sector:

> *"Als je je voet in een plas water zet, dan spat het water overal naartoe. Je pakt dus de uitzendbranche, de uitzendbureaus aan. Daar zitten criminelen achter, maar je bent een crimineel of niet. Dus een crimineel zoekt de plek op waar die het meeste geld kan verdienen en het minste weerstand ervaart. Of dat nou de uitzendbranche is of een wasmachinefabriek."*
>
> *"If you put your foot into a puddle of water, then the water will splash everywhere. So you tackle the recruitment sector, the recruitment agencies. There are criminals at work there, but you are a criminal or you are not. So a criminal seeks the place where he can make the greatest amount of money, and where he experiences the least amount of resistance. Whether that's the recruitment sector or a washing machine factory."* [M(1)]

To improve the system, interviewees call for stricter regulation to govern the recruitment sector [N(1)] or a licensing system or quality label for recruitment agencies [J(1); L(1)], despite the fact that such labels already exist (see section 4.2). Others want to increase the liability of the businesses that hire workers from a recruitment agency. Although these businesses are already partly responsible for the way the flexible workers are treated and paid, interviewees call for still stronger liability of businesses hiring workers, in order to tackle the lack of transparency that currently exists in the sector whereby the responsibilities between different actors are unclear [W(1); R(1)]. In order to effectively deal with fraudulent recruitment agencies, interventions would have to be aimed at the criminal(s) behind the agency, rather than the legal entities, one interviewee said [W(1)].

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

Prevention measures existing in the Netherlands can be grouped in two categories: firstly the provision of information to different target groups, from migrants to employers and consumers, with the objective of empowering workers and increasing awareness; secondly systems of accreditation and certification, with the objective of increasing transparency of the market and pushing exploitative employers out of the economy.

3.2.1 Information, education and awareness raising

Starting with the provision of information, the interviewees display a certain ambivalence with respect to these measures. Especially in the S target group, interviewees strongly emphasise the importance of information of workers and general awareness raising, but at the same time report that their organisation does not carry out these activities, as it does not belong to their core task [S(3)]. Some organisations organise information events for workers, but not specifically on labour exploitation, or are involved in discussions with other organisations in the field, such as the Ministry of Foreign Affairs [S(2)]. Support organisations do provide information to victims to prevent them from becoming victims again, which can be seen as a preventive effort:

> *"Informeren over rechten is voor ons wel al een bijdrage aan preventie. Ook een soort van schop onder de kont geven van 'hoe kan het nou dat je het accepteert dat je een contract tekent wat je niet kan lezen', die informatie, dus het gaat dan niet alleen om rechten maar ook wat je ook moet doen om te voorkomen, dat zien we echt ook wel als belangrijke taak. Daar willen we in ieder geval mee voorkomen dat ze nog een keer in een situatie komen."*
>
> *"Informing about rights is a contribution to prevention for us. It also serves as a 'kick in the butt', as in: how can you accept a contract you cannot even read?', so it is not just about the rights, but also about what you have to do to prevent this. We see this as an important task. We want to at least prevent them from getting into a similar situation in the future."*[S(1)]

Interviewees from the M group also identify a preventive aspect in their regular activities, such as the reporting and registering of cases and victims, which may lead to greater awareness, better monitoring and risk assessments [M(2)] but only carry out limited additional activities aimed at prevention. The private monitoring organisation in the recruitment sector SNCU does organise information events especially aimed at employers, to inform them about how to prevent 'mistakes' which may lead to a breach of regulation [M(1)]. Another interviewee from the M professional group acknowledges that too little is being done in the area of prevention, although the Ministry of Social Affairs and Employment has developed all kinds of brochures for labour migrants in different languages [M(1)]. The most proactive information project identified is a project started up by support organisation FairWork in cooperation with a trade union which aims at approaching migrant workers at their work place to provide information about their rights. This is supposed to improve the information provision which at the moment is still rather individualized [S(1); W(1)].

During the focus group discussion, the provision of training and education to professionals, to ordinary citizens and the provision of information to migrant workers in their country of origin are discussed. According to one participant, the Ministry of Social Affairs and Employment funds municipal training of staff with an enforcement task, such as parking attendants and people with a supervisory function to recognise signals of human trafficking [FG(M)]. The participants also emphasise the need for broader awareness raising which can encourage the reporting and signalling of labour exploitation by citizens. Looking out for signs of exploitation should be a collective responsibility, as one participant explains:

> *"Misschien moet het iets minder een overheidskwestie zijn. Ik merk bij alles wat heel ver van burger vandaan gaat, dus de verantwoordelijkheid wordt heel erg bij de overheid gelegd, dan ontsaat er een soort afstand.(...) Mensenhandel, het kan om je heen gebeuren, het kan in het*

huis naast je gebeuren, het kan in het bedrijf waar jij altijd je bloemen gaat kopen."

"Maybe these things should be less of a government matter. I've noticed with everything that's taken away from ordinary citizens, and placed in the hands of the government, that it creates a sort of distance. (...) Trafficking, it can happen around you, in the house next to you, at the florist where you buy your flowers." [S(1)]

The government and migrant organisations carry out information activities in the countries of origin, distributing brochures containing information that should prevent exploitation, according to the focus group participants. Though some of these activities already happen, the participants agree that the efforts to provide information in the country of origin could be intensified, especially in the countries of origin [FG(S); (M)]. Apart from these educational aspects of preventative work, the focus group participants also get into a discussion about addressing the underlying causes of exploitation by extending minimum wage agreement across the European Union and intensifying the EU's support for poorer regions. However, the conclusion of this discussion is that these kinds of measures are not likely to solve the problem, as there will always be migrants from other countries, possibly outside of the EU, who will continue coming to the Netherlands from a vulnerable situation.

There are no pre-departure programmes, as far as our interviewees are aware. Interviewees have often not even considered the possibility of the existence of such programmes. They do emphasise the need to inform migrants coming to the Netherlands from other countries in the countries of origin [S(2)], but do not consider this necessary for Dutch workers going abroad.

“Ik zou niet adviseren aan de Nederlandse overheid om daar een grootscheepse campagne voor op te zetten.”

“I would not advise the Dutch government to set up a large scale campaign to tackle that issue.” [N(1)]

3.2.2 Certification and licensing measures

The main prevention measures carried out in the Netherlands focus on certification and licensing. These include firstly the various certification and standardisation measures in the recruitment sector and secondly the quality label Fair Produce in the mushroom sector. To start with the recruitment sector, throughout the years, several standards for recruitment agencies have been developed. The most important are the SNA certificate, the SKIA certificate and the SNF certificate. The SNA certificate stands for *Stichting Normering Arbeid* (Foundation for standardisation of labour). This foundation cooperates with a number of controlling organisations that inspect recruitment bureaus and write a report on the compliance with the basic laws and regulations. The inspections do not include interviews with workers or their representatives. Based on a controlling organisation's report, the SNA decides whether or not the recruitment agency is accredited with an SNA certificate. The certificates SNF and SKIA work in the same way, but focus specifically on the accommodation provided by recruitment agencies. Participation in these schemes is voluntary [E(1)]. The certificates have been developed by the recruitment sector, in cooperation with the trade unions and the government. Importantly, they have also acquired a function in official regulation: if a company chooses a certified recruitment agency for its labour provision, it does no longer hold liability concerning the correct level of wage and benefits of the flexible workers. Conversely, if a company hires a non-certified recruitment

agency, it can be held responsible for any breaches of labour law committed by the recruitment agency [W(1); M(1)].

The effectiveness of the certification schemes are assessed very differently by the interviewees. One interviewee from the R category is very positive about the self-regulation.

> *"Ik denk dat het een behoorlijk zelfreinigend effect heeft. Ten eerste omdat je de goedwillende van de kwaadwillende scheidt. En dat zit 'm alleen maar in het vrijwillige karakter. (…) Ten tweede zie je dat je via dat soort normeringen, dat soort controles, ook een soort eenduidigheid over de uitleg van de wet- en regelgeving organiseert. (…) En je ziet dat het een effect heeft in de markt."*
>
> *"I think that it has quite a serious self-cleaning effect. Firstly, because you can differentiate between the well-meaning and the malicious types. And that's entirely due to the voluntary nature. (…) Secondly you see that with these kinds of standardisation, these kinds of inspections, you also organise a kind of uniformity in the interpretation of the regulation. (…) And you see that it has an effect on the market."* [R(1)]

However, other interviewees are more critical of the effects of the standardisation. Another interviewee from the R category states that the self-regulatory instruments can be used by the large actors in the sector to distort the market, by influencing the way that the self-regulatory institutions use their authorities. The interviewee would therefore still prefer public inspections and monitoring to the self-regulation [R(1)]. A different kind of criticism is expressed by an interviewee from the W professional group: this interviewee refers to the dangers of formalising a self-regulated instrument. According to the interviewee, the private inspections leading to the different certificates are not carried out in a neutral and objective way, which leads to illegitimate certificates being awarded. In the context of the rules concerning liability, this has very undesirable consequences, as it can lead to a kind of white-washing of illegal practices.

> *"Met name in de uitzendwereld kennen we een aantal vormen van certificering. En dat werkt inmiddels precies de verkeerde kant op. (…) Wij hebben in de meeste CAOs geregeld dat je alleen maar gebruik maakt van uitzendbureaus die beschikken over zo'n certificaat. Daar zijn wij zo dom geweest om daar ook een soort vrijwaring aan te koppelen. Maar op het moment dat die certificering niet werkt, heb je daar alleen maar last van."*
>
> *"Especially in the recruitment sector we have a number of forms of certification. And by now that has precisely the wrong effect. (…) In most CBAs we have regulated that you should only make use of recruitment agencies that have such a certificate. And we were so stupid to link that to some kind of indemnity. But when the certification doesn't work, this only leads to problems."* [W(1)]

The Fair Produce certificate in the mushroom sector is less controversial. This certificate was introduced by social partners in the mushroom sector in 2011 and aims to prevent labour exploitation in a sector which is notorious for bad employment practices. It also protects employers against unhealthy pricing pressure, creating a level playing field and promoting the work of honest employers [E(1)]. Fair Produce Foundation has inspections carried out by the controlling organisation VRO to find out whether workers are paid the right amount, whether their accommodation is acceptable and whether their working conditions adhere to the legal standards. The organisation also talks to workers to find out whether the

situation is acceptable. The certificate is visible both to retailers and to consumers at the end of the chain. This has a positive, preventive effect on the entire sector, according to the interviewee involved in the project:

> *"Doordat je eerlijk werkgeverschap zichtbaar maakt in de markt, voeg je daar waarde aan toe. […] Als je iemand wil raken dan kun je hem een boete geven, dat helpt, maar het helpt nog veel meer als hij zijn product niet kan afzetten."*
>
> *"By making honest employment practices visible in the market you provide added value. […] If you want to get at someone you can give them a fine, which helps. But is helps much more if they cannot sell their product anymore."* [E(1)]

Currently 95% of the Dutch mushroom growers, traders and retailers have the Fair Produce Hallmark, and the certificate may also be introduced in the asparagus and strawberry sector. In an article on the website of the trade union FNV, a representative states that the Fair Produce certificate is a guarantee that mushrooms were grown and harvested in a fair way. He considers the certificate a good practice, although he would prefer establishment of a new CBA for the mushroom sector.[24]

In other sectors, employer organisations do not see the need for such a certification system. They do provide information to members of the sectorial federations, for example on regulation concerning illegal employment and on fair competition practices [E(3)]. However, interviewees do not see a need for an added quality label, as the membership of industry federations can already be seen as form of quality label, and companies already have to deal with enough regulation [E(2)]. The interviewee from the N group is positive about the Fair Produce initiative, because it involves the consumer. Yet the responsibility cannot be placed on the consumer alone, since many people can simply not afford to buy more expensive products [N(1)].

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

This section will look at the way in which investigations, raids and the referral of victims are carried out according to interviewees. Instead of looking at the formal responsibilities of the different organisations which was described in section 3 of this report, we will look into specific aspects of the investigation and prosecution process from the perspective of victims: the actions taken by police and Inspectorate to identify victims, to put an end to situations of exploitation and to refer them to victim support organisations. Also, we will present interviewees' assessment of the effectiveness of these activities.

[24] The Netherlands, FNV Bondgenoten (2012), 'FNV Bondgenoten wijst champignonliefhebbers op keurmerk Fair Produce', Web page, 7 November 2012, available at www.fnvbondgenoten.nl/mijnbranche/branches/agrarisch_groen/nieuws/542415-fnv_bondgenoten_wijst_07112012/.

3.3.1 Identification of victims

When the police or the Inspectorate investigate a case of severe labour exploitation, it is likely that they will also come across the victims of the exploitation. It is in this context not self-evident that they will recognise the victims as victims. Especially where third-country migrants with an irregular residence status are concerned, there is a risk that officials will detain them because of their lack of a residence or employment permit, seeing them as perpetrators rather than victims. Even if they do recognise them as victims, they may not be aware of the specific needs of victims of exploitation.

Interviewees provide conflicting assessments of the way in which the police or the Inspectorate treat migrant victims of exploitation in the case of a raid or an investigation. The interviewees from the authorities that are involved in the process, i.e. the police, the Inspectorate and the PPS, are certainly aware that they have an obligation to acknowledge victims and focus their investigation on the perpetrators. They are generally positive about the ability of Inspectorate and police to treat victims as victims in line with their obligations [P(3); M(1); J(2)]. Some do acknowledge that they cannot say for sure what happens in practice [J(2); M(1)]. Conversely, especially interviewees in the L category, and some interviewees in the S category state that during a raid, police will detain migrants instead of treat them as victims [L(2); S(1)]. Most interviewees agree that it is unlikely that the police will ever be able to guarantee that all cases are handled correctly, but that the situation has been improving in recent years [S(3); L(1); M(1); J(1); P(1)].

During the focus group discussion, participants from both support organisations and monitoring organisations comment that the risk of migrant workers being treated primarily as offenders rather than as victims has diminished. This improvement is thought to be partly due to the amendment of the criminal law article on trafficking which now includes labour exploitation (previously only sexual exploitation) [M(1)], and partly a result of training programmes carried out [N(1)].

> *"We doen onderzoek naar verdachten en naar werkgevers. (...) We zijn daar wel heel nadrukkelijk op geprofessionaliseerd de afgelopen drie jaar."*
>
> *"We investigate suspects and employers. (...) We have really purposely become more professional in that regard over the last three years."*[M(1)]
>
> *"Het gebeurt, maar ik moet eerlijk zeggen dat het laatste jaar niet zo heel vaak...het gaat steeds beter. Heel veel politiekorpsen die herkennen ook gewoon slachtofferschap, of in ieder geval dat het vermoedelijk een slachtoffer zou kunnen zijn."*
>
> *"It happens, although much less in recent years, I must say. Things are improving. A majority of police departments are trained to recognise victimhood, that a person may be a potential victim."* [FG(M)]

It is also noted that victims are sometimes still identified in aliens detention [S(1)]; L(1)]. On the one hand this is a confirmation of the fact that victims are not always recognised initially. On the other hand, it shows that there is a possibility that this mistake is corrected at a later stage. This point is also brought up during the focus group discussion whereby one participant from the M group points out that some migrant victims only decide to tell about their experience of exploitation once they are in a detention facility [FG(M)].

One case study sets out a case of long-term exploitation of a child victim in textile shops and a market, is an example of a case whereby the victim was only identified because he was arrested as an illegal alien. At first, the alien police did not believe his story and put him in alien detention. With the help of a lawyer he filed a complaint at the police, and this time the police decided to start an investigation. He received a residence permit on humanitarian grounds and because he was outcast by his family, he was assisted to start a new life in a secret location somewhere else in the Netherlands

Several aspects explain the difficulty of police and Inspectorate to prioritise the victim status. One central aspect is related to the variety of tasks carried out by the Inspectorate. As explained before, the Inspectorate carries out both monitoring activities of labour-law related offences and investigations into criminal forms of labour exploitation. In the monitoring, the identification of irregular migrants or illegally employed migrants is indeed one of the priorities, whereby the migrants are not seen as victims. In the investigations, there is already a clear suspicion of labour exploitation, so accordingly victims will be seen as victims [M(1)]. According to one female interviewee from the S target group, this combination of responsibilities can lead to confusion, as the interests and basic objectives are different [S(1)].

A second aspect is the behaviour of the victims. Thus, one interviewee from the P category explains that it can be difficult for police to treat people as victims, if they do not want to see themselves as victims in the first place. If migrants do not want to be treated as victims, and actually want the situation of exploitation to be sustained, it is not possible for police to treat them as victims, so they will be seen as irregular migrants or, where it concerns EU migrants, no action will be taken [P(1)]. Looking from a different perspective, a respondent from the L group draws attention to the fact that psychological coercion is not always visible, which means that migrant victims have to tell officers that they are being exploited. In many cases, victims are however intimidated and will not report their actual predicament openly to the officers in question.

> *"Mensen zitten voor het eerst in hun leven tegenover een autoriteit in uniform, dus die zeggen meestal niets bij het eerste gesprek over de situatie."*
>
> *"People are facing an authority in a uniform for the first time in their lives, so they usually don't say anything during the first talk about the situation."* [L(1)]

Of course, this means that officers, both of police and of the Inspectorate, have to be trained in not only identifying, but also talking to victims of labour exploitation, which emphasises the need for training referred to above. As a result, we can conclude that it comes down to the individual officer and his or her background and training whether victims will be recognised or not, a point which is made by several interviewees [P(2); J(1); L(1)].

> *"Ik schat in, dat denk ik dan he, dat het gaat over: met wat voor perceptie stap jij ergens naar binnen. Hoe is je awareness van uitbuiting? Dat is het belangrijkste en dat is bepalend wat de insteek daar zal zijn. En dan zullen er mensen zijn die zeggen 'wacht even, wat hebben we hier , we hebben die aspergeboer gehad in Someren'. Iemand die dat heeft meegemaakt die zal de volgende eerder zeggen 'wacht eens, hier worden mensen uitgebuit' dan 'we hebben hier met illegalen te maken'."*

"I estimate, well that's what I think, that it's all about: with what perception do you enter a place? How is your awareness of exploitation? That is the most important thing and that determines your approach. And then there will be people who say, 'wait a minute, what do we have here, we've had that asparagus farmer in Someren'. The next time, someone who has encountered [an exploitation case like] that will rather say 'wait, people are being exploited here' than 'we are dealing with illegal immigrants'."[P(1)]

One case study concerns the exploitation of seasonal workers unlawfully working on an asparagus farm, and is an example of a case where the different institutions who intervened in the situation did not realise that they had responsibilities in the support of the victims. The National Rapporteur stated that although at least six different signals of exploitation were known to the authorities, the workers were not informed about the B9 regulation (now:B8 regulation), no adequate shelter was provided (three large military tents), they were not heard as potential victims or otherwise treated as such, and CoMensha was not notified. No criminal actions were taken towards the employer at that point, but only at a later stage.

3.3.2 Measures to put an end to the situation and to prevent repeated victimisation

When the police or Inspectorate learn about a case of severe labour exploitation, they have to adhere to a so-called 'passing ban' (*doorlaatverbod*). This means that it is not allowed to let the crime continue. This passing ban is mentioned by interviewees throughout most of the target groups (apart from groups L and E), which indicates that it is well-known [N(1); M(2); S(2); J(1); P(1)].

"Bij echt serieuze signalen (...) heb je gewoon te maken met een doorlaatverbod, dus dat betekent dat je op dat moment moet ingrijpen."

"With really serious signals (...) you simply have to do with a passing ban, so that means that you have to intervene that very moment."[M(1)]

Only some interviewees explain that in practice this does not always happen immediately. Thus, in order to increase the effectiveness of an intervention [J(1)], build up the evidence base [S(1); M(1)] or to prepare the victim support in cases where large groups of victims are concerned [N(1)], the investigative services might delay their intervention by a few days.
As a result of intervention, victims are literally taken out of the situation of exploitation by the investigation services. The police or Inspectorate also take on statements of victims and provide them with initial information [M(1); P(1)]. Importantly, in this context they are obliged to inform victims of the possibilities of the B8 regulation, which allows victims to apply for a temporary residence permit as victim-witness of trafficking [S(2); P(1)]. This applies to migrants in an irregular situation and to asylum seekers, as well as to EU, EEA and Swiss nationals in so far as their rights are not covered by EU legislation. The B8 regulation not only offers victims a temporary residential status but also provides them with a right to provisions such as shelter, medical care and makes them eligible to receive a social allowance which is slightly higher than the usual social welfare allowance. For EU-citizens the B8 regulation in some cases is more favourable regarding the support provisions it provides access to. One interviewee from the L category points out that the obligation to inform victims of the B8 regulation is stricter than required by the EU Directive on preventing

and combating trafficking in human beings, since it requires police to do so even "at the slightest suspicion" of trafficking [L(1)].

After the initial contact with victims, the police or Inspectorate refer victims to CoMensha. CoMensha registers victims and arranges assistance and accommodation, through regional or local partner organisations. This referral system is described by almost all interviewees and by the focus group participants, leading to the conclusion that it is a clearly accepted system that is implemented effectively in practice. Some interviewees add that in crisis situations, or at night, the police can also contact local victim support organisations directly, where emergency beds are available [S(2); L(1)]. Challenges identified by interviewees include the referral and initial accommodation of large groups of victims, especially in the case of men [J(2); S(1)]. This is particularly relevant for labour exploitation, as the following quote exemplifies:

> *"Het vervelende bij arbeidsuitbuiting is, zeker in de land- en tuinbouw en uitzendbureaus, dat het vaak hele groepen slachtoffers zijn, en daar is het opvangsysteem eigenlijk nauwelijks op toegerust."*
>
> *"The trouble with labour exploitation, especially in agriculture, horticulture and temporary recruitment agencies, is that it often concerns very large groups of victims, and the support system is hardly prepared for that."* [J(1)]

As this problem has been recognised, interviewees report that specific arrangements have been made for cases where large groups of victims are expected to be identified. Hereby, CoMensha is informed beforehand, so that preparations can be made [J(2)].

Nonetheless, a minority of interviewees state that the referral procedure is not always effective, and that the effectiveness varies between regions [L(2)]. In the focus group, this point is also brought up, as some regions have victim support organisations specialised in victims of trafficking, so-called categorical facilities, whereas in other regions, the general facilities of social welfare organisations and refugee care are used [FG(M)].

Also, for child victims the referral procedure is thought not to work properly; according to one interviewee, this is due to lack of a structure to refer victims by, whereas another underlines the problem that children who are criminally exploited are not always identified as victims and therefore not treated accordingly [S(2)]. To clarify the situation and increase the uniformity and effectiveness of the referral procedure, the Ministry of Social Affairs and Employment is developing a national referral mechanism. This will to be a road map, presented on a website for victims and for professionals, which describes who is supposed to do what for a victim to make sure that all the actors know their own responsibilities and those of the other actors, from assessment of victim status, to trauma screening, psychological assessment, arranging assistance, benefits, employment and housing, with the following objective:

> *"Zodat het allemaal heel snel verloopt. Zodat als je slachtoffer bent je ook niet van het kastje naar de muur gestuurd wordt, dat het versneld wordt en dat men op een goede manier samenwerkt. En dat men de dingen doet die men moet doen."*
>
> *"So that it can all happen fast. So that if you are a victim you don't get sent back and forth, that it becomes more swift, that people cooperate in an efficient manner. And that people do what they are supposed to do."* [FG(M)]

Interviewees expect that this national referral mechanism can support professionals in finding the way to the right organisations in the case of victim referral [S(1); P(1)].

Several interviewees underlined the difficulty of proving labour exploitation [M(2); L(1)]. Unlike cases of sexual exploitation, labour exploitation cases are not so much about violence and heavy forms of coercion but more about dependency, which is more complicated to find evidence for [M(1)]. Another complication concerning evidence arises when recruitment agencies are involved and responsibilities become less clear [L(2)]. With a view to these difficulties it is especially problematic that the police are often not proactive in gathering evidence (for example by interviewing witnesses), particularly in situations where the labour exploitation is not immediately obvious, which means that (opportunities for gathering) evidence may be lost [L(1)].

One respondent from the P category stated that financial punishment of perpetrators is an important part of the investigation and prosecution, referring to the deprivation of illegally obtained profits and the search for damages for victims on the basis of the Terwee Act (the act on the State fund for victims of violent crime) [P(1)].

When asked to assess the effectiveness of the system of investigation and prosecution in the field of labour exploitation, interviewees have difficulties providing an overall judgment. In principle, the prosecution is thought to be effective [J(1); L(1)I P(3)], but a lot of reservations are made. These concern mainly the sanctions imposed on employers. The impression of some interviewees is that the sanctions are not strict enough and often limited to a fine [L(1); P(2); S(1)]. As these fines are not high enough [P(1)], and as for the process of reimbursement, claims and back payments a victim is required to file a complaint with the police or, in case of ex officio prosecution, there needs to be a victim or witness willing to cooperate in the investigation [P(1)], employers can stick to calculated abuse of migrant workers, and even easily take up exploitative practices again after having been fined [S(1)].

A mismatch of opinions exists between those supporting victims and those involved in the process of prosecution, especially in the public prosecution service itself. Thus, especially two interviewees from the L group of interviewees are very negative about the effectiveness of the system, questioning the ability of police to recognise labour exploitation [L(1)] and the priority assigned to the prosecution thereof [L(1)], as the following quote shows:

> *"We zeggen heel hard dat mensenhandel prioriteit heeft, maar het heeft geen prioriteit."*
>
> *"We claim very strongly that human trafficking is a priority, but it isn't a priority."*[L(1)]

Interviewees from support organisations also have their doubts about the effectiveness, including about the way police treats victims [S(2)], and about the low number of convictions [S(1)]. Interviewees from the J professional group on the other hand see improvement in the way exploitation cases are handled, whereby authorities are thought to be increasingly capable of ending situations of labour exploitation [J(2)].

For the investigative and prosecution services, labour exploitation does remain a very complex issue [P(1)], and the capacity of the services puts a limit to the effectiveness and scope of the system [J(1)]. The interviewee describes this dilemma as follows:

> *"Ik denk dat opsporing en vervolging wel eens botst met de belangen van slachtoffers vanuit hun opvang. Bijvoorbeeld als ik een zaak heb met 40 slachtoffers...als ik al die 40 slachtoffers op mijn telastlegging zou zetten en aan de rechter voorleggen dan leg ik hier de tent heel lang plat."*

"I think that investigation and prosecution sometimes clashes with the interests of victims, seen from their support perspective. If I have a case with 40 victims... if I put all of those 40 victims on my indictment and submit it to the court, I would paralyse my organisation for a long time." [J(1)]

One case study, which concerns a high profile case of exploitation of Eastern European migrants by an asparagus farmer in the South-East of the Netherlands, shows that even though the exploitation carried on for several years and involved at least 55 victims, and probably many more, only five victims joined the proceedings as an injured party. After the claim of one of them was declared inadmissible, this victim did not join the appeals court case. The four remaining victims received a compensation of respectively € 2,325.32, € 3,000.00, € 1,504.68 and € 360.00.

It can be questioned whether all interviewees have sufficient knowledge of the practice of investigation and prosecution to provide an assessment of the effectiveness. It is however safe to conclude that the impressions that the different target groups have (regardless of their factual accuracy) differ.

4 Victim support and access to justice:

4.1 Victim support, including available support services

4.1.1 Accessibility of support services

While the previous section of this report already described the referral system in place for victims of labour exploitation, in this section we focus on the actual support provided to victims after the referral has taken place. Questions that need to be addressed are the accessibility of victim support services for different groups of victims, the costs of the services provided, the effectiveness of the support system and its responsiveness to the specific needs of migrant victims.

When it comes to the accessibility of support services for different groups of victims, the interviewees differ in their assessment. On the one hand, interviewees refer to the B8 regulation for victim-witnesses of trafficking which defines that victims have a right to different aspects of support and shelter. In response to the question whether support organisations cater for all groups of migrant victims, including those with an irregular residence status, the interviewee from the N category states:

> *"O ja, dat maakt geen enkel verschil. Zodra een slachtoffer van mensenhandel is geïdentificeerd krijgt 'ie de bedenktijd en daarmee is zijn verblijf regulier."*
>
> *"Oh yes, that makes no difference whatsoever. As soon as a victim of trafficking is identified, he gets the reflection period and that means that his stay is regularised."* [N(1)]

The reflection period is part of the B8 system and refers to the period in which victims of labour exploitation (or other forms of trafficking) can think about whether they want to assist the prosecution of the perpetrators. In fact, other interviewees confirm that the B8 regulation makes the victim support service as accessible as possible to migrants regardless of their residence status [S(1); P(1)].

On the other hand, a larger group of interviewees explains that in practice the situation is more complex. Firstly, the B8 system is designed with the situation of irregular migrants in mind, as it is linked to the possibilities for attaining temporary residence. Even though EU migrants can also use this system for getting access to the support they need, the answers of interviewees suggest that in practice this is not structurally implemented. One interviewee from the S category for example states that for EU migrant victims, the route to support is actually more complicated than for irregular migrants because the B8 regulation is not always automatically applied with victims from the EU [S(1)]. In this context, the B8 system is clearly thought to provide the most direct route to support for victims [S(1)]. An interviewee from the S category therefore expresses criticism of the fact that, by means of the B8, the protection structures are so directly linked to the immigration and asylum structures: the B8 arranges temporary residence for irregular migrant victims and also provides access to victim support [S(1)]. However, an interviewee from the P category claims that in practice the B8 system is used for all groups of migrant victims, also those not in an irregular situation, to prevent problems in the accessibility of services for victims without a B8 status [P(1)]. In fact this is the way the system should work as intended by the legislator but several interviewees seem to have the impression that access to the B8 is limited to irregular migrants.

While on the one hand interviewees see it as beneficial for migrants to fall under the B8 system, the openness of this system is also criticized, since it is so closely tied to the victims' formal recognition as victims. Firstly, this is therefore dependent on victims reporting to or being known by the police. If victims go directly to victim support services and do not want to enter the official victim structures, the support services are then not available to them [S(1); W(1)]. In the focus group, it is also explained that victims may not trust the police enough to tell an officer the entire story of their exploitation:

> *"Vragen bepalen het verhaal. (...) En een heleboel clienten vinden de politie al een beetje eng. Daar komt alleen maar uit wat ze vragen."*
>
> *"The questions make the story. (...) and many clients feel intimidated by the police, so they only tell them what they're asked."* [FG(S)]

Secondly, the B8 status (after the reflection period) is dependent on whether victims are willing to cooperate with the criminal case against the perpetrators, which puts an additional pressure on victims [S(1)]. Finally, these aspects all assume that the victims do see themselves as victims and are prepared to accept their victim status themselves. As has been discussed previously, this is certainly not always the case [P(1)].

This connection between the victim status (and the connected right to support) and the legal procedures is a recurring theme in the focus group, brought forward especially by the participants from the S group. The representatives of support organisations feel strongly that the victims' interests are not served by this link, as it makes the continuity of support contingent upon the decisions of the police and the PPS. If the police find no grounds for a criminal investigation related to human trafficking, then the PPS will recommend dismissal of the case which leads to a withdrawal of the B8 status of the victim in question. This is often the case, since victims do not find it easy to provide a coherent account of what happened to them, to identify perpetrators or to provide other forms of evidence. This means that only a small number of cases ever make it to court, and that a lot of these cases are dismissed within a year's time [FG(S); (M)]. The fact that the criminal investigation does not have a high chance of success does however not mean that the migrant is not a victim, the participants argue [FG (S2); (M)]. Though one participant [FG(M)] warns of the possibility of abuse of a system which makes it easier for migrants to claim victim status (and related residential status), the other participants call for a system whereby a committee of experts establishes whether a person is a victim and has right to support. In this context, there is also disagreement about the question whether an application for asylum on humanitarian grounds offers a way out for victims whose B8 status has been revoked. While this is an option on paper, according to the participants from victim support organisations these applications on humanitarian grounds are practically always turned down.

To sum up, interviewees and the participants in the focus group identify different factors which signify the complexity of the right of victims to continued support. It appears that there is no agreement on the sufficiency of the current system which is mostly based on the B8 procedure, whereby the practical situation also seems to diverge from the reality as defined on paper. Though victim support services are certainly available, the continuity (and thereby the effectiveness) of the support provided to the individual victim is contested.

4.1.2 Costs of support services

Less disagreement exists with regard to the costs of victim support services. As long as migrants have a right to these services, they are provided free of charge to the migrants, as they are paid for by public funds [N(1); S(4); W(1)]. This is clearly confirmed by one interviewee from the W professional group:

> *"Ja, [die ondersteuning is gratis]. Dat kan ook niet anders, want die mensen hebben geen geld."*
>
> *"Yes, [the support is free of charge]. There is no other way, because those people don't have any money."* [W(1)]

Only one interviewee from the S category makes the important distinction that the daily victim support, including shelter, psychosocial support and assistance with social benefits for example is provided free of charge, but that a lawyer for civil law cases is not included in this support, making it difficult for victims to start up civil proceedings regarding back-payments for example [S(1)].

With the important caveat of accessibility in mind, interviewees provide a positive assessment of the overall quality and effectiveness of the support provided. Once a victim is taken into the system, the support works well [S(2); W(1)]. This is illustrated by the following quote:

> *"Goed werkt de begeleiding die ze krijgen als ze in een hulpverleningstraject zitten, dus als er kennis is genomen van het feit dat ze schade hebben opgelopen door hun uitbuitingssituatie. Niet goed werkt dat veel van die slachtoffers niet eens gesignaleerd worden, en zich zelf ook niet melden."*
>
> *"What works well is the support they get when they have an assistance plan, so if it has been acknowledged that they have been damaged through their exploitation situation. What doesn't work well is that many of the victims aren't even identified, and also don't come forward by themselves."*[S(1)]

Especially in the initial support in the first three months after entry into the system, the specific needs of migrant victims are taken into account, as most of them are placed in the specialised categorical shelter facilities (*Humanitas Prostitutie Maatschappelijk Werk, Amsterdams Coördinatiepunt Mensenhandel HVO-Querido* and *Zorggroep Jade*). In addition to these official categorical shelters which provide a total of 70 sheltered places, some other regional support organisations provide specialised support to victims of trafficking, namely *Stichting Hulp en Opvang Prostitutie en Mensenhandel (SHOP)* and *Fier Fryslân* [M(1)]. In regions where no categorical or quasi-categorical support and shelter organisations are present, general support services care for the victims of exploitation.

Nonetheless, also within this system there are some gaps that should still be bridged. Two interviewees state that labour exploitation is in some cases still not taken as seriously as exploitation in the context of prostitution, even though the trauma experienced by victims and the degree of shame involved may be just as strong in both cases [S(2)]. This point is strongly emphasised by one of the participants in the focus group, also from the S group [FG(S)]. Another interviewee in the S group refers to a difficult connection between the support available for minors and the transfer to the regular support structure when the minor reaches the age of 18. Minors receive shelter and legal and residence assistance, but this help lapses once they turn 18. Other support services could jump in, but referrals are not adequate enough yet. [S(1)].

A problem mentioned by another interviewee is that the majority of shelters are aimed at women, making it difficult at times to place male victims [S(1)]. Echoing the point made above about the victims having to see themselves as victims, still another interviewee from the S category clarifies that in the end it is up to the migrant victim in question to make use of the support provided or not [S(1)].

4.1.3 Serving victims' needs

This brings us to the responsiveness of the support system to the specific needs of migrants. Again, the same interviewee [S(1)] explains that the support provided is entirely dependent on the desires of the victim in question, and therefore also attuned to the needs of migrants:

> *"De klant is koning. Het gaat erom wat de klant wil. Dus als een cliënt hier komt en aangemeld wordt dan help ik hem op basis van wat hij van mij vraagt. En dat betekent dat ik hem goed informeer, en dat hij dan de keuze kan maken."*
>
> *"The client is king. It's all about what the client wants. So when a client comes here and is registered then I help him based on what he asks of me. And that means that I will properly inform him, and that he can then make a choice."* [S(1)]

While this individualised approach seems to circumvent the question whether migrants have specific needs, other interviewees do raise doubts about whether in fact migrant victims do have special needs. The interviewee from the N target group clearly acknowledges that there is a lack of knowledge about the variety of needs of the different victim populations, since these populations can vary so strongly from year to year. In this area, more data on the background of victims and the resulting needs concerning support should be collected and analysed [N(1)]. Interviewees from the S target group confirm that they do not exactly know what the different needs of the different groups of victims are [S(2)]. Only one interviewee from the W professional group specifically mentions language barriers as an issue which can hinder effective victim support provision to migrant victims [W(1)].

The focus group discussion evolves not so much around the general quality of support, but rather around several formal obstacles which can hinder support organisations in providing the assistance required by migrants. This not only refers to the recognition of victims in line with the B8 status which has already been covered, but also to other procedures surrounding the provision of financial support (to victims and organisations) and for example passport applications. The slow (passport applications can take up to six weeks) and formalistic procedures (small mistakes can lead to rejection of financial support) do not respond to the needs of the victims who require and expect immediate support from victim support organisations. Victims need money for direct expenses but there is a delay in the allowance they are entitled to. This means that the support organisations have to find ways to reconcile the needs of the victims and the requirements of the bureaucratic system, for example by advancing money to the victims and thereby taking financial risks [FG(S2)].

Support organisations can sometimes be faced with situations where they simply have to abandon victims who are no longer entitled to aid (because police or PPS decide not to prosecute, a case is dismissed or the suspect is acquitted and victims are no longer entitled to a B8 status), even though they know that these victims are likely to end up in the hands of exploiting employers again. This can happen as this is considered inhuman by individual participants of the focus group, organisations sometimes take care of people even though officially they should not take care of them anymore [FG(S)]. Similarly, the same participant explains, clients sometimes stay longer in so-called crisis facilities, meaning facilities for initial shelter, because there is no space left in other facilities. The participant explains that this in fact means that they do not receive the support they need, since victims' needs change after some time. Thus, at some point victims would benefit most from assistance in finding a job and getting offered educational courses, but these kinds of assistance cannot be offered by crisis facilities.

It is difficult to draw clear conclusions relating to the openness and effectiveness of victim support in the area of labour exploitation. The overall system seems to work well and enough organisations exist to provide specific support to victims, including migrants. However, a lot of confusion and disagreement exists amongst professionals on the regulations determining the accessibility of the support, especially the continued accessibility after the initial entry. It is clear that the accessibility to support is partly linked to the residential status of the migrants, and especially to the prosecution and trial of perpetrators. The consequences of this interlinkage for the ability of victims to get the support they need is however contested.

4.2 Access to Justice and other mechanisms to empower victims

In addition to the questions on the available victim support structures, interviewees from the professional groups N, S, J, W and L were also asked about their assessment of the justice system, both civil justice and criminal justice, in the context of victims' rights to compensation and back payments of denied wages. Before presenting the views of interviewees, it is important to note that the knowledge of the different target groups on justice matters was not evenly distributed. While the interviewees from the L group and the J group were able to provide well-founded answers and background information, three of the six interviewees from the S group explained that they did not have sufficient knowledge especially of the civil justice system to provide a relevant assessment [S(3)]. The interviewee from the N professional group also noted that they did not have access to sufficient data on the results of compensation claims.

4.2.1 Civil Justice procedures

The interviewees who do feel comfortable answering questions in this area, are very critical of the effectiveness of the civil justice system in enabling victims to claim compensation and back payments. In principle, victims of exploitation are able to claim compensation and back pay via the civil justice system. In fact, according to the Aliens Employment Act, which was amended as a result of the implementation of the Employers Sanctions Directive, all migrants who are illegally employed can claim back payments by their direct employers, or employers further up the line, regardless of the level of exploitative conditions.[25] However, interviewees are critical of the practical implementation of this route. This is due to several factors. The main factors, mentioned by several interviewees, are the length and complexity of proceedings [L(2); J(1); S(1); W(1)]. Though this is applicable to a lot of cases, and not just to labour exploitation cases, it has specific repercussions in the case of migrant victims. Migrants have a specific interest in short and efficient proceedings, as they are not always willing or able to stay in the country for a long time to await the outcome of civil proceedings [W(1)].

Moreover, the complexity of cases leads to a situation where victims certainly need a good lawyer who can support them in their claims. One interviewee from the L category who is more positive about the civil justice system, links their assessment explicitly to the ability of

[25] Netherlands, Act of 23 March 2012 for the amendment of the Alien Employment Act concerning the implementation of Directive 2009/52/EG of the European Parliament and the Council of 18 June 2009 providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals (Wet van 23 maart 2012 tot wijziging van de Wet arbeid vreemdelingen in verband met de implementatie van de Richtlijn nr. 2009/52/EG van het Europees Parlement en de Raad van 18 juni 2009 tot vaststelling van minimumnormen inzake sancties en maatregelen tegen werkgevers van illegaal verblijvende onderdanen van derde landen), available at: www.eerstekamer.nl/behandeling/20120405/publicatie_wet_2/document3/f=/viyeha6konyn.pdf.

migrants to be represented by a good lawyer [L(1)]. This ability differs according to the status of the victim and the case in question. Thus, a victim falling under the B8 regulation usually can get access to a lawyer, but this is more difficult in cases where it is not clear whether labour exploitation has actually taken place or whether it concerns a case of bad employment practices or an 'employment conflict'. Victims who do not enjoy the protection of the B8 system anymore (as not being recognised as victims), may have to leave the country without being able to follow up on their civil compensation claim [L(1)].

According to interviewees from the S and W group, victims can admittedly get legal aid to pay for a lawyer, but they still have to pay their own contribution and court fees, which considering their situation, is often simply not an option [W(1); S(1)]. Finally, even where civil procedure leads to a successful claim, victims are responsible themselves to collect their rightful compensation or back payment, which means that they often have to make use of a bailiff or debt collection agency. Where the perpetrator or the company is bankrupt, there is little they can do to get their money [L(1); J(1); S(1)].

The Violent Offences Compensation Fund (*Schadefonds Geweldsmisdrijven*) can offer an alternative for paying out compensation to victims who cannot collect their claim money. This is linked to some criteria, but it has been specifically set up to cater for situations where the compensation cannot be claimed from a perpetrator [S(2); N(1)]. The Fund was established in 1975 by the Minister of Justice. It is an independently managed body which falls under the Ministry of Justice. Anyone, irrespective of status, can make a claim.[26] The following criteria are used by the fund to determine whether a victim has a right to compensation: it has to be established that an intentional violent crime has taken place (regardless of the prosecution or conviction of the perpetrator); the victim has suffered severe injury (physical or psychological); the crime was committed in the Netherlands; the application was filed within three years of the crime; the victim was not complicit in the crime; the damage is not compensated in any other way.[27] The situation is different in criminal cases, where the state is responsible for collecting the claim money.

4.2.2 Criminal Justice procedures

Interviewees are generally more positive about compensation claims integrated in criminal cases. Interviewees explain that if a victim is added to the indictment of the PPS, it is possible to integrate civil claims into the criminal case [S(2); L(2); J(1)]. This is called a 'claim of disadvantaged party' (*vordering benadeelde partij*) [L(1)]. These sort of claims can be taken into account as long as they do not disproportionally burden the criminal case and are not too complex [L(1); J(1)]. Not only can victims ask to be added to the indictment and integrate their civil claim, since the introduction of the Act on the Reinforcement of the Position of Victims (*Wet versterking positie slachtoffers*) of 2013, judges can grant compensation claims *ex officio*, i.e. without prosecutor or victim having to put down a claim (NL_L_2). Article 36f of the Penal Code stipulates that the judge can impose a compensation order as part of the penal verdict, whereby the judge obliges the perpetrator to pay the sum of compensation to the state which will pass on the money directly to the victim. This order can be imposed in cases where the perpetrator would be liable for a civil compensation

[26] The Netherlands, Act on the Violent Offences Compensation Fund (*Wet schadefonds geweldsmisdrijven*), 12 July 2012, available at: www.wetten.overheid.nl/BWBR0002979/geldigheidsdatum_27-08-2014/informatie.
[27] The Netherlands, Violent Offences Compensation Fund (*Schadefonds Geweldsmisdrijven*) (2014), Onze critertia, website, available at: www.schadefonds.nl/aanvraag-indienen/ik-ben-slachtoffer/onze-criteria-slachtoffer.

claim.[28] This compensation order can also be imposed by judges in cases where the 'claim of disadvantaged party' is declared inadmissible on formal grounds.[29]
Several interviewees, from different target groups, welcome the use of these options in the criminal procedures (even though they do not distinguish between the possibility of a compensation order and the possibility of a claim of disadvantaged party). Interviewees from support organisations state that these options are increasingly used [S(3)], though judges do not always want to go along with it [S(1)]. Interviewees from the L category also report that they prefer the criminal case route for claiming compensation and back pay to the civil approach, since it requires less legal initiative of the victim and victims are more likely to actually receive the money, because the state will advance the compensation where the perpetrator is unable to pay [L(3)]. In these cases, victims also have to put up with very long proceedings however, as possible appeals also need to be taken into account [L(1)]. One interviewee from the J category notes that the PPS in fact has an active policy aimed at meeting the needs of victims. Accordingly, in every criminal procedure victims are approached and told about the possibilities to file a claim and they offer assistance to victims in filling in the claim form [J(1)]. Another interviewee from the same group notes that this approach has resulted in the award of a number of considerably high compensation claims:

> *"Het is een interessante ontwikkeling dat er relatief hoge schadevergoedingen aan slachtoffers worden uitgekeerd. In dat opzicht proberen we het strafrecht ten dienste te stellen van enige vorm van genoegdoening."*
>
> *"It is an interesting development that some relatively high compensation claims have been paid out to victims. In that sense we are trying to use the criminal law to achieve some kind of redress."* [J(1)]

Importantly, if a claim is awarded, the state is responsible for collecting the compensation money, via the Central Judicial Collection Agency (*Centraal Justitieel Incassobureau*) and, where this does not succeed, advance the money to the victim within eight months of the judgment [L(1); J(1)]. This also explains why interviewees see more potential in this approach than in a civil procedure. However, this only has a chance of success where it concerns a relatively simple claim [L(1)]. It has to be noted that interviewees nonetheless clarify that the winning of compensation for claims, even via this preferable route, is still a complex undertaking and has no guarantee of success [S(2); N(1); L(1)]. The interviewee from the N category finally refers to a new advance payment system which is supposed to make the award of civil claims in criminal cases even easier [N(1)].

In one case study, a man was brought to the Netherlands as a boy of 14 years of age and exploited for 10 years, providing an example of a case whereby a high compensation payment was awarded. The uncles of the man who exploited him, were given prison sentences. The compensation they had to pay to the victim was €50,828 (€ 30,828 for material damage and € 20,000 for immaterial damage).

The same applies to another case study in which a Chinese man had to work in three Chinese restaurants in the Netherlands for seven days a week. The victim was granted

[28] The Netherlands, Penal Code (*Wetboek van strafrecht*) (2013), art. 36f, 26 June 2014, available at: www.wetten.overheid.nl/BWBR0001854/EersteBoek/TitelIIA/Eersteafdeling/Artikel36f/geldigheidsdatum_27-08-2014.
[29] Victim Support the Netherlands (*Slachtofferhulp Nederland*) (2011), Extensive explanation of the Act on the Reinforcement of the Position of Victims (*Uitgebreide toelichting Wet versterking positie slachtoffers*), Utrecht, Victim Support the Netherlands, available at: www.slachtofferhulp.nl/Documents/Corporate/Kennis/Positie%20slachtoffer%203.pdf.

compensation and back pay of wages: €12,892.81 (€ 9,892.00 material damage; € 3,000.00 immaterial damage), regarding his work in a restaurant in Arnhem and € 24,553.81 (€ 17,553.81 material damage; € 7,000.00 immaterial damage), regarding his work in two restaurants in Amsterdam. In this case, a civil procedure had already been completed which made it easy to incorporate the claims into the criminal case.

As has already been explained, victims of labour exploitation are not always able to access their rights independently and without help from organisations or lawyers. Also, they often do not report their situation to the authorities.

This brings us to the question whether complaints can be lodged through third parties. Interviewees provide conflicting information on this point which can probably be explained by their different interpretations of the status of the complaint. A number of interviewees mention that every citizen can always lodge a complaint with the police, or report a case of exploitation via the anonymous reporting hotline and website (*Meld Misdaad Anoniem*) [N(1); S(5); L(1); J(3)]. This is in fact true: the Criminal Procedure Code (*Wetboek van Strafvordering*) stipulates that anyone who knows of a committed crime can lodge a complaint with the police.[30]

Two interviewees from the L category explain that third parties cannot lodge a formal complaint, but they can of course provide information or signals to the police, or act as witness [L(2)]. According to the third interviewee in the L group, it can in fact help a lot if third parties start the proceedings instead of the victims, since this makes it easier for victims to stand up as victims, as the initiative, and therefore the responsibility for the case, is not in their hands [L(1)]. However, this is rather a hypothetical possibility, according to this interviewee, since they have only encountered it rarely in practice. An interviewee from the W group, working for the trade union, explains that their organisation can start proceedings on behalf of the victims, and regularly does so, but that it becomes more difficult when it comes to the question of compensation claims and back pay of wages. In these issues, victims have to become involved as well [W(1)].

In one case study, the trade union has recently started civil procedures against three scaffolding building companies to hold them responsible for the underpayment of around 200 employees in the Eemshaven from 2010-2012. This way the trade union wishes to hold the companies that are working with recruitment bureaus liable as well (*'inleneraansprakelijkheid'*), since these companies (e.g. large construction companies) are less flexible and are more worried about reputational issues.

4.2.3 Possible improvements

To improve victims' access to justice, interviewees emphasise measures to inform potential victims of their rights and the possibilities to take legal action. The provision of information in different languages, the development of specific telephone hotlines or mobile telephone applications and the distribution of this information in work places through the Inspectorate and trade unions are ideas provided in this context [N(1); S(6); L(1); J(3)]. Some interviewees state that the legal proceedings have to cater more to migrant victims' needs,

[30] The Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), 15 January 1921, Art. 161, available. at: www.wetten.overheid.nl/BWBR0001903/TweedeBoek/TitelI/Vierdeafdeeling/Artikel161/geldigheidsdatum_02-09-2014.

pointing out that it is necessary that victims achieve individual results (instead of 'only' collective action by trade unions) [S(1)], making sure that they can make use of support to find another job and have easier access to a lawyer in cases where they report to the police [W(1); J(1)], and clarifying that irregular migrants should not have to fear deportation if they decide to come forward [L(1)].

A respondent from the J category notes that victims of labour exploitation have often left the country by the time their case goes to trial. A solution would be if they could claim compensation after they have left the country or if it were easier for them to stay in the Netherlands to await the outcome of the criminal procedure [J(1)]. In this context, one interviewee from the W category also suggests setting up a system which can compensate victims right away to a certain extent, without having to wait for the outcome of the legal proceedings [W(1)]. As a result of the difficult position of migrant victims, a number of interviewees ([L(2); J(1)] stresses the importance of trade unions in motivating victims to take action:

> *"Werknemers zitten vast, die willen hun geld zien, en durven daarom geen klacht in te dienen,. Dus je moet ze het vertrouwen geven dat jij hun belangen zal behartigen."*
>
> *"Employees are stuck, they want to have their money and are therefore afraid to lodge a complaint. So you have to gain their trust and convince them that you will stand up for them."*[L(1)]

This point is confirmed by an interviewee from the W category working for a trade union. According to this interviewee, their organisation is trying to get more adept at using the different legal means available, through experimenting with different approaches and evaluating their success [W(1)]. An interviewee from the M category [M(1)] reports that the private monitoring organisation in the recruitment sector SNCU has recently introduced a measure by which the individual migrant who reports a case of exploitation which leads to an investigation can actually be awarded additional financial assistance to pay for a lawyer to support him or her in the efforts to claim compensation or back payments. This measure has been introduced to strengthen the individual incentives for migrants to report cases of exploitation [M(1)].

Despite these encouraging aspects, it can be concluded that interviewees are not only critical of the current ways to claim compensation or back payments for victims, but that they are also not very aware of how exactly the system works. This may suggest that an information campaign regarding these issues should not only be aimed at victims, but also at organisations supporting victims. More generally, it seems that the legal complexity of cases of labour exploitation also feeds through to the processes governing compensation claims and back payments of denied wages.

5 Attitudes

5.1.1 Interests of migrant workers

It is not self-evident that interventions into situations of exploitation automatically serve the interests of the victims. Almost all interviewees recognise this point and most of the interviewees have clearly thought about the relationship between the direct interests of victims and the results of interventions before. The focus group discussion about this point also reveals that participants are well aware of the dilemmas inherent in their work to support victims and tackle exploitation. The majority of interviewees does defend the use of interventions in the interest of migrants, but they bring forward different arguments to support their case.

One group of interviewees clearly states that interventions are always in the interest of the victims, because they are taken out of the situation of exploitation [N(1); M(3); S(3); L(2); J(1); P(1); E(2)]. This does not mean that the victims themselves also see it as their interest, according to these interviewees. They might want to stay in their job and keep on earning money, even if it is not enough or the conditions are very bad. Regardless of the personal opinion of victims, interviewees feel that they can objectively state that interventions help their interests. An interviewee from the J category puts it like this:

> *"[De slachtoffers] zullen het misschien zelf niet meteen zo ervaren omdat ze vaak ook verstoken zijn van werk, maar macro gezien, dan betekent het dat je een eind maakt aan ongewenste omstandigheden. Uitbuiting is in strijd met de elementaire mensenrechten, dus per definitie ga je er dan op vooruit."*
>
> *"[The victims] might not immediately experience is like that, because they are deprived of their work, but from a macro perspective it means that you put an end to undesirable circumstances. Exploitation is in breach of fundamental human rights, so by definition you are then better off."*[J(1)]

A second group of interviewees is less sure about the direct interests of the migrants. These interviewees refer to a moral dilemma, a question of conscience or a double-edged sword [M(1); S(2); J(1); P(3); R(1); W(1)]. According to these interviewees, the most direct interest of victims is to earn money [S(1); P(1)]. Intervention often leads to victims losing their job and therefore losing their income [S(1); P(1)].

> *"Mensen komen hier om te werken, en hier zitten ze in een situatie die volgens onze normen en waarden en wetten niet kan. Maar soms is dat beter dan waar ze vandaan komen. Dus om die situatie - het is heel duidelijk in Nederland mag dat niet - maar of door de situatie te stoppen, of ze daar beter van worden,dat is de vraag. Dat is een dilemma."*
>
> *"People come here to work, and they are in a situation which according to our norms and values and laws is not acceptable. But sometimes that is better then where they came from. So to stop that situation - of which it is clear that in the Netherlands it is not permitted - whether they benefit from it, that's the question. That is a dilemma."* [M(1)]

It therefore depends on the severity of the case, whereby in very severe cases victims' direct interest is definitely served by intervention [J(1); S(1)]. It also depends on the follow-up that is provided to victims, which can include finding them a new job, in which case their interest is served, but can also include deportation to their country of origin, in which case they lose

out [P(1); W(1); L(1)]. In general, this group of interviewees states, or at least expresses the hope, that the long-term interest of victims is served, while the short-term interest is not served.

A third group of interviewees acknowledges the fact that the direct interests of victims may not be served by intervention, but they justify interventions with an appeal to more general values [N(1); M(2); L(1); W(1)]. Even if intervention does not benefit the victims, it is necessary to uphold the normative framework [M(1)], the values of equal standards [M(1); W(1)]. The fact that exploitation is unacceptable leads to the absolute necessity to intervene, as the following quote illustrates:

> *"Arbeidsuitbuiting, in de zin van mensenhandel, ondermijnt de maatschappij. Dus dat is altijd een belang dat ook meegewogen moet worden."*
>
> *"Labour exploitation, in the sense of trafficking, undermines society. And that is an interest that we also always have to take into consideration."* [N(1)]

Therefore, even where intervention does not benefit the victim, it has to be carried out on behalf of others [L(1)].

Of course, these different viewpoints are not mutually exclusive. On the contrary, there is a strong overlap, and some interviewees mention different aspects of the discussion. In fact, it is notable that the arguments presented display a great degree of coherence and consistency, suggesting that this issue is frequently discussed by interviewees. This is also reflected in the focus group discussion. Participants agree that interventions do not always serve the interests of the victims and they can provide examples of victims who were not happy that an intervention had taken place. While this leads one participant to question the justification of intervention [FG(S)], two other participants reject this consequence, arguing that the legal standards have to be upheld, also to defend the interests of other workers [FG(S); (M)]. Overall, this discussion does not divide participants, but rather shows that they are struggling with the same issues.

There is only one interviewee who clearly states that intervention is never in the interest of victims, since they are supposedly only seen as relevant actors as long as they play a role in the prosecution, but not as an actor in itself [S(1)]. Another interviewee, from the J category, does think that the interest of victims is served, but this does not solve the problem. The problem has to be solved in the countries of origin according to this interviewee, because otherwise people will still be forced to do things they do not want to do [J(1)].

5.1.2 Reasons for underreporting

The reasons identified by interviewees for migrants not coming forward and reporting their situation to the police are closely aligned to their view of the interests of the victims. Thus, a large group of interviewees argue that victims do not report to the police or other institutions, because they do not see themselves as victims [M(1); P(2)], are content with their situation in terms of salary and treatment [M(1); S(1); L(1); P(1); R(1)] and see the alternative of being unemployed or returning to their home country as even worse than being exploited [S(1); W(1); E(1)].

> *"Ik denk dat ze sowieso bang zijn dat ze dat kleine beetje inkomen wat ze hebben, dat ze dat dan verliezen. Dat ze het land moeten verlaten, dus ook hun geldgenererende activiteiten ophouden."*

"I think that either way they are scared that they will lose that little bit of income they have, that they lose that. That they have to leave the country, so that their money generating activities will have to stop." [S(1)]

The participants in the focus group also agree that a lot of the migrant victims do not see themselves as victims. However, in the discussion one participant mentions that providing victims with information about what they actually deserve in terms of rights and salary can change the perception of the victims [FG(S)].

In addition to this consensual part of the exploitation which restrains people from reporting, interviewees identify a clear lack of confidence in public authorities such as the police amongst victims of exploitation [M(1); S(1); P(1)]. The trust in the legal system and in support organisations is also low [M(1); S(1)]. The interviewees attribute this lack of trust to the migrants' experience in their countries of origin where the police and public authorities are seen as corrupt, or at least as part of the problem [S(1); M(1)]. This implies that the lack of trust in the authorities in the Netherlands is not objectively justified, but that it certainly forms an obstacle for victims. Related to the lack of trust is also the lack of knowledge and awareness amongst victims of their rights and the possibilities to report their situation and get help [S(2); J(1); W(1)]. A lack of language proficiency in Dutch also plays a role in this context [W(1)].

One case study shows exploitation in a diplomatic household, and shows that victims project their experiences with public authorities in their home country onto the authorities in the Netherlands. The victim stated that she was afraid of the police, embassies and other authorities, which in African countries are known for their corruption and their abuse of power. She feared that something would happen to her family if she reported her position to the police.

Finally, victims of labour exploitation are also hindered by fear in taking steps to find a way out of their situation. This can be due to threats of violence on behalf of their employer [S(1); P(1)], fear of revenge or reprisals [M(1); E(1)] or psychological pressure {L(1)]. Irregular migrants are also scared that the irregular migrant status may be exposed, and that they will be sent back to their home country as a result [S(1); L(1)]. In addition to the fear, interviewees also point to the dependency of migrants towards their employers, especially in financial terms. They might still be bound to employers through a debt clause, meaning that they feel that they cannot leave the employment [L(1)], they are scared of losing their livelihood and possibly that of their family ([M(1); E(1)], or they are simply still waiting to get paid for the work they have done [R(1)], just as their colleagues towards whom they might feel some loyalty [FG(M)]. Reporting their situation to the authorities is then not in their interest according to interviewees. Focus group participants explain that it is not only concern for the situation of family back home, but also pressure exerted by the family on the migrants. Family members can thereby play a negative role in facilitating the continuation of the exploitation, as the following quote illustrates:

"De familie thuis is vaak de grootste pooier. Er komt geen geld meer binnen."

"The family in the home country is often the biggest pimp. There is no more money coming in." [FG(S)]

One case study is an extreme example of how the family of a victim can even be implicated directly and actively in the exploitation. The victim in question was exploited by his uncles, working in the shop and the market stand of one of them. He was alternately housed with his uncle and his grandparents. He worked six to seven days a week from 8:00 AM to 17:30 PM and sometimes at night. In addition, two or three evenings a week he had to work at the market stand of the other uncle. He did not receive a salary, besides from a few euros every now and then. His uncles told him that the money was saved up for his future wedding, which would give him a chance to get a residence permit. The work included heavy physical work, such as constructing and deconstructing of the stand and carrying heavy rolls of fabric.

While these were the factors interviewees identified themselves, they were also asked to rank a number of possible factors which stand in the way of victims to come forward and report the police. The answers of interviewees are recorded in the table below.

Most relevant factors for migrant workers not to come forward, seek support or report to the police	**M**	**P**	**J**	**L**	**S**	**W**	**R**	**E**	**N**	**Total**
Lack of effective monitoring of relevant areas of economy	0	0	1	-	3	0	0	-	0	**4**
Lack of targeted support service provision available to victims	1	1	0	-	0	1	0	-	0	**3**
Victims are not aware of their rights and of support available to them	3	3	2		4	0	0	-	1	**13**
Victims fear retaliation from the side of offenders against them or against family members	3	1	1	-	2	0	0	-	0	**7**
Victims suffer from feelings of shame	1	2	0	-	0	0	0	-	0	**3**
Victims believe that speaking to authorities is not worthwhile or they would not benefit from subsequent proceedings	3	1	2	-	2	1	0	-	0	**9**
Victims believe that proceedings are too bureaucratic and costly	1	0	0	-	0	0	0	-	0	**1**
Victims fear that if their situation became known to the authorities, they would have to leave the country	4	1	1	-	4	0	0	-	1	**11**
Victims do not trust that the police in particular would treat them in a sympathetic manner	1	1	0	-	2	0	0	-	0	**4**
Victims perceive being jobless as worse than working in exploitative conditions	2	2	2	-	1	1	0	-	1	**9**
Other-please specify	0	0	0	-	0	0	0	-	0	**0**
Don't know	0	0	0	-	0	0	0	-	0	**0**

Since the main reason identified by interviewees of their own accord, namely the fact that victims do not see themselves as victims, is not represented in the table, it is not surprising that the aspects which closely resemble that factor score the highest. The table shows that almost half of the interviewees select the fact that victims are not aware of their rights and the support available as an important factor in explaining victims' restraint in reporting.

The other factors specified frequently refer to the expected results of reporting to the police, which victims do not perceive as positive: according to interviewees, victims may be scared that they would have to leave the country in the case of reporting, that they would not benefit from the proceedings, and they prefer working under exploitative conditions rather than being jobless. Institutional factors, such as the lack of monitoring or a lack of targeted victim support, receive less attention from interviewees, suggesting that the perception of victims is seen as the most crucial aspect influencing the reporting behaviour of interviewees. This reflects the answers presented previously.

5.1.3 Needs and priorities of victims

Clearly, this suggests that a lot of victims do not see the approach taken to tackling labour exploitation as directly serving their interest. This begs the question what their priorities are in the way labour exploitation is approached. The table below presents the answers given by respondents to the question what the most important factors of migrant victims of labour exploitation are in the way that authorities try to tackle labour exploitation.

Most important factors to migrant workers who are victims	**M**	**P**	**J**	**L**	**S**	**W**	**R**	**E**	**N**	**Total**
To be safe and to be protected against further victimisation	1	0	1	2	4	0	0	-	0	**8**
For their family to be safe	0	0	0	0	0	0	0	-	0	**0**
To be able to stay and to make a living in an EU country	2	2	2	3	3	1	0	-	1	**14**
To see that offenders are held accountable and that justice is done	2	0	0	1	3	1	0	-	0	**7**
To be respected and to see that their rights are taken seriously	0	0	0	1	3	2	0	-	0	**6**
To be in a position to economically support other family members	1	3	1	0	2	0	0	-	0	**7**
To receive compensation and back pay from employers	1	0	2	1	1	1	0	-	1	**7**
To be able to return home safely	1	2	0	1	0	0	0	-	1	**5**
Other (please specify)	0	0	0	0	0	0	0	-	0	**0**
Don't know	1	2	2	0	1	0	0	-	0	**6**

The most important priority for victims according to interviewees is to be able to stay and to make a living in an EU country, or specifically in the Netherlands. This answer reflects a lot of the points raised by interviewees in relation to other questions, especially the underlying factor of poverty experienced in the home country. If migrants come to the Netherlands due to the extreme levels of poverty experienced in the country of origin, with the clear objective of making a living for themselves and possibly for their family back home, this will remain their central concern. Most of the other factors are assigned equal priority by interviewees, suggesting that it is not easy to give an overall assessment of victim's priorities. In fact, this is explicitly pointed out by an interviewee from the M category:

"Ik denk dat dat per slachtoffer kan verschillen. Als je echt een getraumatiseerd slachtoffer hebt (…) dan zal het eerder 'veilig zijn en beschermd worden'. Maar als het gaat om een slachtoffer wat zich zelf niet eens ziet als slachtoffer, dan zal het eerder gaan om of financiële compensatie (…) of ander werk."

"I think that this can vary from victim to victim. If you have a really traumatized victim, then [the priority] will be rather 'to be safe and protected'. But if it's about a victim who doesn't even see themselves as victim, then it's more likely to be either about financial compensation (…) or finding other work." [M(1)]

It is interesting to note that not a single interviewee chooses the factor of family safety, even though in previous answers considerations about the well-being of family did come up [M(1); E(1)]. However, it seems that considerations about family in the case of labour exploitation mainly concern economic well-being, rather than actual threats to their safety, which might explain the low score on this factor. According to one interviewee in the L category, this factor is more important for victims of sexual exploitation, whose families are more often threatened than those of victims of labour exploitation [L(1)].

5.1.4 Effectiveness of approach

This brings us to the interviewees' overall assessment of the effectiveness of the efforts to tackle and prevent labour exploitation, bring perpetrators to justice and to support victims. As in previous questions, the interviewees can be divided into three groups:

- those who are positive about the way the system works and acknowledge the efforts made, even though they recognise some aspects for improvement (mainly professional groups M and some J, R, N and E);
- those who clearly state that the system is not effective, identifying a variety of problems which have to be solved (mainly professional groups S, P and W);
- and those who do not wish to pass a general judgment, since the situation and the problem are too complex (different target groups).

Those interviewees providing a positive assessment focus on the activities that are already undertaken by the various authorities, both on the investigation and prosecution side of things and regarding victim support. Interviewees see a positive development in recent years, where the level of priority assigned to labour exploitation is clearly increasing, also in relation to the situation as perceived in other countries [N(1); M(4); L(1)]. Even though interventions should be more focused [R(1)], the prosecution should be made more dynamic and effective [N(1)], and the real extent of labour exploitation is only slowly becoming visible [M(1)], the general trend perceived by these interviewees is positive, as the following quote exemplifies:

"Gezien het feit dat we nog steeds niet uitontwikkeld zijn en er steeds weer nieuwe initiatieven ontstaan, daaruit zie je wel dat Nederland heel erg zijn best doet om het te voorkomen en om ook nieuwe sectoren te ontdekken en te kijken hoe je daar weer betere controles in kunt uitvoeren."

"Considering that we are still not done developing, and that new initiatives are constantly developing, you see that the Netherlands is really doing its best to prevent it [labour exploitation] and also to identify new sectors and to look how you can improve the checks there." [L(1)]

These developments are certainly acknowledged by other interviewees as well. However, focusing on the size of the problem, the second group of interviewees come to a different conclusion regarding the overall assessment. Especially the interviewees from the S professional group explain that not enough is being done [S(2)] and that all the efforts of monitoring and investigation authorities do not weigh up against the high risk of exploitation created by free movement of labour within the EU [S(2)] and other policies of economic liberalization [S(1)]. One interviewee specifically mentions the low level of regulation imposed on recruitment agencies as an example:

> *"Ik krab me op het hoofd op het moment dat wij een mensenhandelartikel bedenken waarmee andere economische uitbuiting strafbaar wordt gesteld in de zin van mensenhandel, en met dezelfde pennenstreek en in hetzelfde jaar de regulering van uitzendbureaus wordt vrijgegeven. Het is totaal ongecoordineerd, je zet dingen in het strafrecht en vervolgens verwijder je de beschermingsstructuren die waarborg moeten leveren voor werknemers."*
>
> *"I start getting strong doubts when we draw up a human trafficking article criminalising other forms of economic exploitation [as opposed to sexual exploitation] and with the same stroke of the pen and in the same year we liberalise the regulation of recruitment agencies. It is totally uncoordinated, you put things under criminal law and then you remove the protection structures that have to safeguard employees."* [S(1)]

The legislation criminalising labour exploitation itself is also seen as complicated and ineffective [S(1); L(1); J(1)], as the burden of proof is too high and the relevant criminal law article has been revised and extended too many times to still be coherent. Regarding the overall effectiveness of the monitoring and investigation system, interviewees do not blame the professionals working in the responsible authorities themselves, but rather the political decision makers who do not provide enough capacity and resources for an intensification of checks and investigations [S(1); P(1); W(2)].

Finally, the last group of interviewees is at a loss when trying to come to an overall assessment of the effectiveness of the measures. It is clear that despite all the efforts, a lot of exploitation is still taking place, which makes it difficult to call the system effective [S(1); L(1); P(1); J(1)].

One interviewee from the P category explains that the main problem is the clash of the Dutch "normative framework" with that of both migrant victims and perpetrators, making it difficult to develop a really effective system:

> *"In Nederland gaan we uit van het goede van de mens, en dat is een heel goed streven, alleen, wij vergeten dat in heel veel andere landen op een heel andere manier daarmee omgegaan wordt. Bij ons is de overheid een deel van onze samenleving. In heel veel andere landen is de overheid iets waar je als samenleving tegen vecht."*
>
> *"In the Netherlands, we presume the best of people, and that is a very good aspiration. Except, we forget that in many other countries it is dealt with in a very different way. Here the government is part of our society, in very many other countries the government is something for society to fight against."* [P(1)]

This again suggests a specific kind of value clash between the Dutch system of investigation, monitoring and prosecution, and the motivation underlying labour exploitation.

The result of this supposed clash is an inability to assess the effectiveness in objective terms.

The participants in the focus group discussion can be grouped into the first or the third category, suggesting that at least in a group context they do not want to be overly critical. They collectively confirm the general impression that things have been set in motion, that the authorities assign high priority to the issue and that especially the judiciary branch, including the PPS is taking steps to improve the ways in which exploitation is tackled. Nonetheless, the participants still identify several points of improvement, which mostly concern the formal framework of victim support. The linking of the victim status to the outcomes of the legal procedure is criticised, as has already been discussed extensively, the bureaucratic burden on victim support organisations should be decreased and the situation of those migrants who are not legally recognised as victims should be improved, according to participants [FG (S2); (M)]. One participant suggests defining labour exploitation as a public order issue, which would force municipalities to take on more responsibility in this area [FG(M)].

5.1.5 Measures for improvement

Regardless of the overall assessment, individual interviewees also identify several points for improvement which also overlap to a certain degree. One central point concerns information provision and awareness raising. Firstly, as previously noted, interviewees emphasise that migrants have to be better informed about their rights and duties, preferably before they come to the Netherlands, i.e. in the country of origin [S(1); M(1)]. Awareness raising however should be focused not just on migrants, but even more on wider society, on employers and on consumers. This point is brought forward by interviewees from several target groups, arguing that consumers should be educated about the existence of labour exploitation and ways to tackle it from a consumer perspective [S(1); L(1); J(1); P(1)]. According to this reasoning, if consumers realise that some products are simply too cheap to be produced according to acceptable standards, this should push exploitative practices out of the economy.

In addition, the question of legislation is raised by several interviewees, with specific reference to the trafficking article in criminal law, Article 273f. Several interviewees struggle with the distinction between criminal forms of labour exploitation and bad employment practices and find that the legislation does not help in clarifying this distinction [J(1); M(1); P(1)]. This means that the criminal law article, covering all forms of human trafficking, is thought to be too broad and too heavy to cover aspects of bad employment conditions which can currently only be tackled under administrative law [M(1)]. Ideas to improve this situation include cutting the article into pieces and thereby creating a lower threshold for criminal prosecution of labour exploitation [P(1)], or criminalising some forms of bad employment practices to increase the flexibility of the Criminal Code, as suggested by the following quote:

> *"Wat ik zou willen is een soort strafbaarstelling van slecht werkgeverschap. Dat betekent dat je niet het hele zware artikel van stal hoeft te halen, met minimale strafdreiging van 12 jaar, dat is echt heel veel. Maar dat je ook een soort fraudevariant krijgt voor de mensen die echt in zware onderbetaling [zitten], dat je daar dan ook iets voor zou kunnen betekenen. Het grijze gebied zou dan duidelijk worden."*
>
> "What I would like is a kind of criminalisation of poor employment practices. That means you do not have to use that very heavy article, with minimum custodial sentence of 12 years that really is quite something. But so that you also get a sort of fraud version, for the people who are

really victim of heavy underpayment, you could do something for them as well. The grey area would then become clear." *[J(1)]*

One case study shows that for a criminal conviction of trafficking, the threshold is certainly high. Even though the victims stated that they had to work very long hours, had to stay in bad housing, were underpaid and were subject to arbitrary sanctions of the employers, all three defendants were acquitted of human trafficking in this context. The court was critical about the housing conditions and condemned the fact that the suspects did not pay taxes and social benefits. However the court found no evidence that the suspects had the intention to exploit the workers.

The same applies to another case study whereby a young woman can to the Netherlands as an au pair, but was required to work at least 45-50 hours a week, much more than her contract stated and despite regulation regarding au pairs in the Netherlands that only allows them to do light work (housekeeping or child care) for a maximum of 30 hours per week. The man and woman the victim worked for required her to be available 24/7 and do many household tasks. She was not paid for 6 months and not given the opportunity to learn Dutch. The victim was intimidated by her employers who threatened to send her home and demand the 5,000 US dollars from her parents if she refused to do as they said. Nonetheless, the PPS and an appeal court judged that the victim may have been subject to bad employment practices, but not to labour exploitation pursuant to Article 273f of the Criminal Code.

However, this criticism of the legislation is not shared by all interviewees, as some explicitly mention that the legislation in place is fine and should not be changed, but that the implementation thereof has to be improved [P(1)]. In fact, when this issue is explicitly presented to the focus group participants, only one of the four participants even recognises the point made, however does not agree with the idea to include less severe aspects of exploitation in the Criminal Code:

> *"Er zitten wat gevaren aan denk ik, want als je het gaat oprekken is straks alles mensenhandel. De publieke opinie krijg je ook tegen je. (...) Dan gaat dat begrip dat mensen dan zwaar vonden, daar valt dan tegenwoordig alles onder, zeggen mensen."*
>
> *"That might be tricky, I think. I mean, if you expand it, soon everything might qualify as human trafficking. The public opinion would also turn against you. (...) That definition, previously thought to carry some weight, would then encompass almost everything, people say."* [FG(M)]

In addition to these aspects brought forward by interviewees themselves, the table below presents the measures selected by interviewees as most important in improving the way labour exploitation is addressed in the Netherlands.

Measures which would mostly improve the way labour exploitation is addressed	**M**	**P**	**J**	**L**	**S**	**W**	**R**	**E**	**N**	**Total**
Improve legislation against labour exploitation and its implementation	0	2	0	1	2	0	1	3	0	**9**

Improve legislation to allow better access to justice and compensation	0	1	0	1	0	1	1	1	0	**5**
More effective monitoring of the situation of workers in the areas of economy particular prone to labour exploitation	2	1	2	3	4	2	1	3	1	**19**
Measures to ensure that all workers know their rights	3	0	1	0	4	1	0	1	1	**11**
Measures to ensure that all workers have access to labour unions	1	0	0	0	0	0	1	0	1	**3**
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	1	2	2	1	3	1	2	2	0	**14**
Setting up of specialised police units to monitor and investigate labour exploitation	0	1	1	0	1	0	0	0	0	**3**
Regularising the situation of certain groups of migrant workers with an irregular status	1	0	0	2	0	0	0	1	0	**4**
Regularising the situation of migrant workers once they have become victims of severe labour exploitation	0	0	0	0	1	1	0	1	0	**3**
Measures addressing corruption in the administration	0	0	0	0	0	0	0	0	0	**0**
More training of police, labour inspectors and other authorities	3	1	2	0	3	0	1	0	0	**10**
Police and courts taking labour exploitation more seriously	0	1	0	1	0	0	0	0	0	**2**
Don't know	2	2	1	0	2	0	0	0	0	**7**

It is interesting to see that unlike in the overall assessment of the effectiveness of present measures, in the selection of the measures for improvement there are no clear differences between the professional groups interviewed.

Nearly two thirds of interviewees identify the monitoring of the situation of workers in specific sectors as one of the most important factors. In explaining this choice, interviewees especially emphasise the focus of monitoring, i.e. the selection of specific sectors, which should be utilised more pro-actively [S(2); M(1); L(2); E(1)]. One interviewee from the M category refers to the role of private monitoring bodies, which should be extended to other sectors than just the recruitment sector [M(1)].

The coordination and cooperation between the different authorities involved in investigation, monitoring and victim support is also a clear priority area, which is of course closely connected to the improvement of the monitoring system.

Furthermore, the information measures mentioned previously, both aimed at workers to know their rights and regarding the training for police, inspectors and other authorities, receive a lot of attention by interviewees. Regarding this training, it is noted that this should not only cover specialised police officers, but also regular officers and professionals working in other organisations, such as youth services which can improve the signalling of exploitation [M(2)].

Ways to improve the legislation against labour exploitation and to allow better access to justice and compensation for victims are also mentioned by several groups of interviewees. This refers partly to the discussion about the criminal law article presented above, and partly to the requirement for victims to cooperate in a criminal procedure against their exploiter in order to be recognised as victims and receive a B8 status. This is an unnecessarily high barrier for victims to get access to justice, according to a couple of interviewees [P(1); E(1)].

Other categories of measures are only selected by few interviewees. There is some disagreement on whether regularising the situation of migrant victims of exploitation can help the effectiveness of the approach. While this is seen as helpful for individual groups, it is not thought to be a long-term solution [M(1)]. Regarding the specialisation of police forces, interviewees emphasise the 'social' aspect of dealing with victims of exploitation, implying that professionals, both in policing and in prosecution and justice, need specialised skills to acknowledge victims' needs and approach them in the right way [M(1); J(1)].

Finally one interviewee from the M category calls for a societal reorientation from economic to social values, looking for ways to reorganise the (access to) the economy on moral principles rather than profit-maximisation [M(1)].

In a nutshell, interviewees have some ideas which may contribute to a more effective approach to labour exploitation, emphasising especially an increasing focus on monitoring, but there is no single measure which can be identified to solve existing problems such as a lack of capacity or monitoring. The overall impression seems to be that the organisations involved in tackling labour exploitation are doing their best within the present context, which is however not enough to tackle the sources of labour exploitation. Interviewees call for an intensification of current measures but do not appear to disagree with the present approach taken. Effectiveness, it seems, is seen as a question of capacity and resources rather than a question of direction.

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

Based on the information collected in the interviews and the focus group, and also taking into account the general level of knowledge and awareness of interviewees, we can conclude that labour exploitation is certainly taken seriously in the Netherlands. Interviewees confirm that the last years have seen a continuing increase in priority given to labour exploitation, starting with the amendment of the Criminal Code to include labour exploitation in the article on trafficking in 2005. The main focus of organisations, policies and instruments is still on trafficking for sexual exploitation, i.e. forced prostitution, which is also epitomised by the prevailing use of the terms 'other forms of exploitation' (*overige uitbuiting*) or 'exploitation outside of the sex industry' (*uitbuiting buiten de seksindustrie*). Nonetheless, within these structures created to target human trafficking for sexual exploitation, labour exploitation has been integrated as an independent priority and is specifically targeted by a number of organisations and individuals.

Leaving the general impression aside, we can draw several conclusions on the different aspects of the fight against labour exploitation in the Netherlands. To start with, it can be questioned whether the monitoring activities carried out by several organisations (especially the Labour Inspectorate, but also CoMensha, trade unions and sectorial organisations) are aligned properly with the investigation activities carried out by especially the Inspectorate, the police and the PPS. The main issue being that labour exploitation only really comes into play once a criminal investigation is started, whereas the monitoring activities have different, sometimes even conflicting, priorities. While interviewees of all sorts emphasise the need for better signalling and more awareness throughout society at large, the lack of targeted monitoring activities seems to contradict this objective. Of course, the Inspectorate makes use of the signals collected by its own monitoring department to inform its investigation department, and in general there does not seem to be a lack of signals collected by the authorities. Nonetheless, this open and wide approach to monitoring creates a situation where interviewees rightly point to the almost accidental way in which situations of labour exploitation are discovered, thereby implying that a lot of situations simply go on unnoticed.

In the legal approach, i.e. the prosecution of perpetrators, increasing the effectiveness of the activities of the PPS appears to be partly a question of capacity, whereby more cases could be handled if the capacity to do so was increased. In addition, there are some intrinsic problems which are hard to solve. To some degree, this refers to the difficulty in collecting sufficient evidence to prove cases of exploitation, especially concerning statements of witnesses. There is also a discussion on the adequacy of the key criminal law article (273f) which criminalises trafficking in human beings, including labour exploitation. Some experts are of the opinion that this article is too heavy to tackle labour exploitation, since a lot of cases of exploitation, though still severe, fall within the grey area between bad employment practices and actual human trafficking. For this grey area, there are currently no criminal law provisions, meaning that it can only be tackled from the perspective of labour law. Widening the scope of criminal law however brings with it the risk of diluting the term of exploitation and trafficking, which might therefore only add to the lack of clarity regarding the grey area.

This grey area is not only relevant for the legal framework, but also for several other aspects surrounding labour exploitation, because it defines the way in which professionals approach the topic and where they look for solutions. A good example of the consequences of this ambiguity is the discussion concerning the role of recruitment agencies. Whereas some interviewees equate recruitment agencies with exploitative employers, others see the dubious activities as a separate issue from labour exploitation, since it concerns mainly labour law related offences. In the view of the latter, labour exploitation is a crime committed

by criminals, who cannot claim to be recruitment agencies. In public discussions on the other hand, regular cases of underpayment are categorised as labour exploitation, a definition which would not hold in view of the legal framework. This may explain why some interviewees think that a stronger focus on consumer awareness and trade unions can change things, whereas others focus on the repressive actions of police and Inspectorate.

When it comes to the support system for victims of labour exploitation, the picture is also mixed. On the positive side, an effective centralised referral system is in place whereby victims are registered by CoMensha and matched with the respective local support organisation. The cooperation between investigative authorities, CoMensha and support organisations is productive and is still being improved, with interviewees looking forward to the introduction of the national referral mechanism which is currently being developed. Even though some specific issues remain unsolved, such as a shortage of support place for male victims of exploitation as well as large degrees of regional variation in the quality of support provided, these do not taint the overall picture of the system in place.

On the more negative side, the interviewees and the focus group participants however reveal clear differences of opinion between those professionals who take on the perspective of the victims (especially the support organisations and the lawyers) and those who take a more systemic perspective (especially the representatives of monitoring, investigation and judicial organisations). These differences are expressed most clearly in the context of the definition of victims, the related rights concerning support and especially residential status, and the extent to which these aspects should be linked to the prosecution of perpetrators.

From a pure victim perspective, it should not matter whether the perpetrators can be prosecuted, whether the victim is part of the indictment or whether the case qualifies as a criminal form of exploitation. From this perspective, all that matters are the needs of the victim, which are defined by his or her experience of exploitation and include the ability to stay in the Netherlands and earn money. From the systemic perspective adopted for example by the PPS, the main priority is the prosecution of perpetrators, and the support provided to victims follows this objective. Constraints defined by capacity, legal possibilities and the possibility of abuse of the system govern the decision making. This can mean for example that cases are dismissed, victims are not included in the indictments, and the residential status of victims remains tied to their cooperation in the prosecution case, with all the consequences for the individual victim taken for granted.

In this discussion, as in other discussions, it is not the case that interviewees from the different target groups do not understand the respective arguments and considerations. On the contrary, interviewees are very aware of the dilemmas inherent in their work and tied to the specific nature of labour exploitation. This awareness is most clearly expressed in the views on the consensual attitude of victims of labour exploitation. Dealing with victims who consent to their own exploitation, who do not see themselves as victims and who also may not accept support, forces professionals to constantly question the justification of their own activities and think about the root causes of the exploitation. There is broad agreement amongst interviewees about these root causes which are to be found in the poverty experienced by migrants in their country of origin and their general lack of alternatives. The difficult consequence of this widely shared analysis is that the efforts to tackle labour exploitation in the Netherlands are little more than symptomatic treatment which is not expected to change the basic situation. The dilemmas of labour exploitation and the fight against it are, in the perspective of interviewees, not to be solved but rather have to be taken as a given.

This analysis then may also explain the fact that the interviewees generally do not call for very concrete or innovative changes to the current system. Though some specific points such as the formulation of the human trafficking article in the Criminal Code and the linkage

of victim status to the prosecution system, are points of discussion, the main calls for improvement concern an intensification or broadening of existing activities. To put it bluntly: interviewees call for more of the same. This can be interpreted as a double-edged sword: on the one hand, professionals seem to be content about the direction of change and they generally believe in the effectiveness of the approach taken by the different organisations; on the other hand, they appear to have no concrete alternatives to the current approach, are not able to identify good practices which can make a change, and accept that they can only have little impact on the underlying causes of the problem.

In the comparison of the different professional target groups, the level of agreement rather than the level of conflict dominates the picture. It is notable that in the definition of the problem, in the identification of risk factors and underlying motivations, as well as in the general perspective about what needs to be done and what direction the development should take, it is not easy to link the views of the interviewees to their professional background, apart from the different perspectives as already explained. Understandably, interviewees differ in their area of expertise and knowledge, whereby representatives of victim organisations generally have a lower level of knowledge of formal regulations and investigation practices, and interviewees from the recruitment agency and the employer group are generally more removed from the subject. Still, when it comes to the cooperation between different organisations, we can state that the people involved in the fight against exploitation have come to a functional division of labour, productive working agreements and a common language to address the problem. Even though they may disagree on important details, these disagreements do not stand in the way of their cooperation, as the collectively try to keep labour exploitation on the agenda of their organisations, of the authorities, and in society at large.