

A photograph of a construction site showing a dense grid of rebar (steel reinforcement) laid out on a wooden formwork. Three construction workers wearing hard hats and safety gear are visible. One worker in the foreground is wearing a blue plaid shirt and green overalls, another in a red shirt and green overalls, and a third in a white shirt and green overalls. The background shows a concrete wall and a fence.

ACCESS
TO JUSTICE
FOR MIGRANT
WORKERS AND
VICTIMS OF
TRAFFICKING
FOR LABOUR
EXPLOITATION

A toolkit for practitioners
and policymakers in the
European Union, Iceland,
Norway, Switzerland and
the United Kingdom

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IOM is committed to the principle that humane and orderly migration benefits migrants and society. As an intergovernmental organization, IOM acts with its partners in the international community to assist in meeting the operational challenges of migration; advance understanding of migration issues; encourage social and economic development through migration; and uphold the human dignity and well-being of migrants.

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Cover photo: Some Polish workers in a construction site in Norway. Part of the objectives of the IOM project, Empowering Polish construction workers, is to disseminate information about the rights and responsibilities of the Polish construction workers among a wider target group. © IOM 2007

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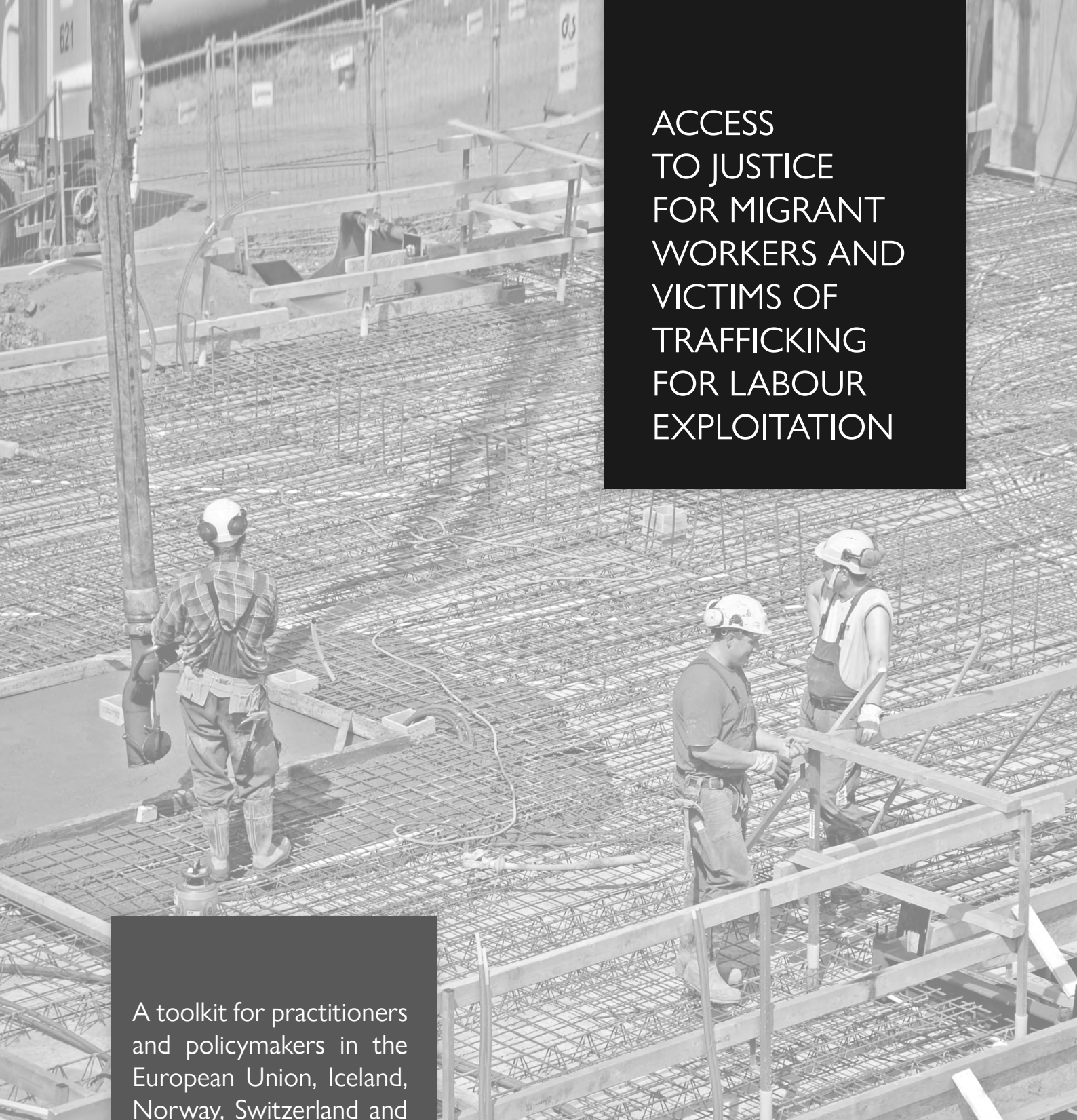
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FOREWORD

Human mobility can expose individuals and groups to protection risks and situations of vulnerability. While anyone can be susceptible to labour exploitation or trafficking for the purpose of labour exploitation, migrants (as compared to non-migrants) face a heightened risk.¹ During 2019/2020, for example, trafficking for the purpose of labour exploitation was the second-most-prevalent form of trafficking in human beings in the European Union.² In 2022, the percentage of victims of trafficking for the purpose of labour trafficking (41.1%) registered in the European Union was almost equal to the percentage of victims of trafficking for sexual exploitation (41.4%).³ Similarly, a report from ILO, Walk Free Foundation and IOM states that there are 4.1 million people subject to forced labour in Europe and Central Asia.⁴ Moreover, even as the European Union has made significant progress in developing a comprehensive policy framework to protect the rights of migrants, the transposition and implementation of this framework into national laws and policies remains a challenge for many Member States.⁵ Although the current low levels of prosecutions and convictions may be attributed to numerous factors,⁶ enhancing victims' access to justice could help improve this situation.

Against this backdrop, the project “Enhancing IOM’s protection capacity in the EEA+ region to protect the rights of migrants subject to labour exploitation” was developed to contribute to IOM efforts to ensure the protection of migrant workers and victims of trafficking from labour exploitation, and their empowerment in resisting such exploitation, across Europe.⁷

As part of this project, the present toolkit aims to assist policymakers and practitioners in improving and facilitating access to justice for migrant workers and victims of trafficking subject to labour exploitation by bringing to their attention several useful resources, good practices and recommendations.

¹ European Commission, 2022a; ILO et al., 2022.

² European Commission, 2022a. The figure was 28 per cent.

³ Eurostat, n.d.

⁴ ILO et al. 2022.

⁵ FRA, 2021.

⁶ UNODC, 2017; GRETA, 2021a; FRA, 2021.

⁷ IOM, n.d.b.



The Michalovce hotspot includes an IOM tent where IOM provides DTM data, toys for children and information advising refugees and third-country nationals on the potential risks of trafficking that can occur for those planning to continue their migration journey onwards.

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ACRONYMS

ASI	Anti-Slavery International
ATC	Anti-trafficking Coordinator
ATD	Anti-trafficking Directive
CBSS	Council of the Baltic Sea States
CCEM	Committee Against Modern Slavery
CFR	Charter of Fundamental Rights of the European Union
CoE	Council of Europe
CSDD	corporate sustainability due diligence
CSO	civil society organization
CSRD	Corporate Sustainability Reporting Directive
ECHR	European Convention on Human Rights
EEA+	States of the European Economic Area plus the United Kingdom and Switzerland
ELA	European Labour Authority
EMN	European Migration Network
ETUC	European Trade Union Confederation
FRA	European Union Agency for Fundamental Rights
GLAA	Gangmasters and Labour Abuse Authority

HEUNI	European Institute for Crime Prevention and Control
IHRB	Institute for Human Rights and Business
ILO	International Labour Organization
IOM	International Organization for Migration
LSI	La Strada International
MiRAC	Migration Resource Allocation Committee
MRC	migrant resource centre
NAP	national action plan
NGO	non-governmental organization
NRM	national referral mechanism
PICUM	Platform for International Cooperation on Undocumented Migrants
OGM	operational grievance mechanism
OHCHR	Office of the United Nations High Commissioner for Human Rights
OSCE	Organization for Security and Cooperation in Europe
RJP	restorative justice process
RJS	restorative justice service
SDG	Sustainable Development Goal
SOP	standard operating procedure
TCN	third-country national

TRM	transnational referral mechanism
UDHR	Universal Declaration of Human Rights
UTEH	Municipal Unit Against Trafficking in Human Beings
VSE	Victim Support Europe



An IOM staff member provides information and counselling to a migrant worker to reduce the prevalence of labour exploitation and trafficking in Slovakia.

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Welcome and thank you for using this Toolkit!

This toolkit aims to equip policymakers and practitioners with foundational tools and resources to improve access to justice for migrant workers and victims of human trafficking for labour exploitation in the EEA+ region. To this end, it compiles several good practices, recommendations and resources in the fields of labour exploitation, access to justice, and trafficking for the purpose of labour exploitation.

The toolkit is the result of an effort that encompasses the entire EEA+ region, encompassing an extensive review of available sources in these countries and including the good practices, recommendations and insights gathered during two international exchanges on access to justice and a round of internal consultations with several IOM missions. The toolkit consists of two parts, together with a conclusion, a list of additional resources and a reference list. **Part I** contains the first two modules:

- **Module 1** offers a clarification of some important concepts that will be used throughout the toolkit, such as policymaker, practitioner, migrant worker, trafficking in persons and access to justice, as well as other key terms.
- **Module 2** offers a general overview of the relevant conventions, protocols, directives, strategies and other instruments that form the bedrock of the principles governing the rights of migrant workers and victims of trafficking for labour exploitation.

Part II is subdivided into three modules focusing on prevention, protection and prosecution in relation to migrant workers, access to justice and labour exploitation. Each module includes information on obstacles that migrant workers, policymakers and practitioners face with regard to access to justice, and recommendations for improving such access. There are also separate text boxes highlighting good practices that may be replicated, information on useful resources with weblinks, delving deeper into certain topics and self-reflection activities.

- **Module 3** focuses on prevention; specifically, on access to justice mechanisms, recommendations and good practices that may be duplicated to aid in the prevention of labour exploitation of migrant workers including trafficking in human beings.
- **Module 4** covers protection; specifically, access to justice mechanisms, recommendations and good practices that may be duplicated to aid in the protection of migrant workers and victims of trafficking for labour exploitation.
- **Module 5** provides information on prosecution; specifically, it covers access to justice mechanisms, recommendations and good practices that may be duplicated to aid in the prosecution of criminal cases involving migrant workers who are victims of trafficking in persons or other criminal labour violations. The module also includes information on civil remedies and operational grievance complaints mechanisms.



IOM cultural mediator in an Italian agricultural field in the framework of the project ALT Caporalato DUE.

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PART I

CONTEXT: SETTING THE SCENE

1. KEY TERMS

1.1 ARE YOU A POLICYMAKER?

“Policymaker” is a general term that covers a range of people who are engaged in the processes of formulating policy and designing ways to implement it. For the purpose of this toolkit, however, the term policymaker is used to describe the non-political level government officials with migration-related policy functions working at the local, national, regional or international level.⁸

1.2 ARE YOU A PRACTITIONER?

For the purpose of this toolkit, a practitioner is defined as a person who is directly involved in the execution, enforcement or implementation of policies. In this toolkit, the term will be used to refer to a wide array of stakeholders such as:

- Social workers and case workers
- Legal experts and counsellors
- Police and other law enforcement professionals
- Judges, prosecutors and other justice system professionals
- Staff from CSOs, NGOs and migrant associations
- Social partners, trade unions
- Business associations and private sector professionals
- Labour inspectors
- Any other professionals that work to safeguard the right to access to justice for migrant workers and victims of trafficking

⁸ IOM, n.d.a.

1.3 OTHER KEY TERMS

Within the framework of this toolkit, the following terms should be understood as outlined below. These working definitions have been produced after consulting several references, including the IOM Glossary on Migration and the European Commission's EMN asylum and migration glossary, as well as relevant international treaties.

1.3.1 Migrant

The IOM Glossary on Migration provides the following technical definition of a migrant:

An umbrella term, not defined under international law, reflecting the common lay understanding of a person who moves away from his or her place of usual residence, whether within a country or across an international border, temporarily or permanently, and for a variety of reasons. The term includes a number of well-defined legal categories of people, such as migrant workers; persons whose particular types of movements are legally defined, such as smuggled migrants; as well as those whose status or means of movement are not specifically defined under international law, such as international students.⁹

1.3.2 Migrant worker

The IOM Glossary on Migration provides the following technical definitions of a migrant worker, documented migrant worker, and undocumented migrant worker:

-
- **Migrant worker:** a person who is to be engaged, is engaged or has been engaged in a remunerated activity in a State of which he or she is not a national.¹⁰
 - **Documented migrant worker:** a migrant worker or members of his or her family authorized to enter, to stay and to engage in a remunerated activity in the State of employment pursuant to the law of that State.¹¹
 - **Undocumented migrant worker:** international migrant who is not authorized to enter, to stay and to engage in a remunerated activity in the State of employment pursuant to the law of that State and to international agreements to which that State is a party.¹²
-

⁹ At the international level, no universally accepted definition for "migrant" exists. The present definition was developed by IOM for its own purposes, and it is not meant to imply or create any new legal category (IOM, 2019a).

¹⁰ Ibid. The IOM definition is drawn from the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, article 2(1). The Glossary on Migration also notes that "the Convention expressly provides protection to migrant workers and their family members not only when the migrants are actually working in the country of destination, but 'during the entire migration process of migrant workers and members of their families, which comprises preparation for migration, departure, transit and the entire period of stay and remunerated activity in the State of employment as well as return to the State of origin or the State of habitual residence' (Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, General Comment No. 1 on Migrant Domestic Workers (23 February 2011) United Nations Doc. CMW/C/GC/1, 1, quoting the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (adopted 18 December 1990, entered into force 1 July 2003) 2220 UNTS 3, article 1)". Note as well that the authors recognize the inadequate inclusivity of the phrase "he or she", and wish it noted that the definitions used in this toolkit should be understood to include workers and migrants of all genders, not merely male or female.

¹¹ Ibid. Adapted from the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, article 5(a).

¹² Ibid. Adapted from the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, article 5(b).

Throughout the toolkit, the term “migrant worker” has been used to refer to both documented and undocumented migrant workers. Where a distinction is necessary, the terms “documented migrant worker” and “undocumented migrant worker” have been used.

1.3.3 Exploitation

The IOM Glossary on Migration provides the following technical definition of exploitation:

The act of taking advantage of something or someone, in particular the act of taking unjust advantage of another for one’s own benefit.¹³

1.3.4 Forced or compulsory labour

The IOM Glossary on Migration provides the following technical definition of forced/compulsory labour:

All work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself/herself voluntarily.¹⁴

1.3.5 Trafficking in persons or trafficking in human beings

The United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children (2000) provides the following technical definition of trafficking in persons:

The recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.¹⁵

The term “trafficking in human beings”, predominantly used in the European Union context in different policies and legislation, will be used interchangeably with “human trafficking” and “trafficking in persons” throughout this toolkit.

¹³ Ibid. The Glossary on Migration also notes that “the term ‘benefit’, as it is used in the definition, may encompass not only material, but also any other types of benefit. Article 3(a) of the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Girls refers to the following forms of exploitation: prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs and other forms of exploitation defined in national law. This list should not be considered exhaustive”.

¹⁴ Ibid. The IOM definition is drawn from ILO Forced Labour Convention (No. 29), article 2(1). Forced labour is explicitly recognized as a form of exploitation in the definition of trafficking in persons (Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the UNTOC, article 3(a)).

¹⁵ United Nations, 2000, article 3. See also European Parliament and the Council of the European Union, 2011a, article 2, and European Commission, n.d.a.

1.3.6 Victim of trafficking in human beings

The IOM Glossary on Migration provides the following technical definition of victim of trafficking in human beings:

Any natural person subject to trafficking in human beings, regardless of whether the perpetrator is identified, apprehended, prosecuted or convicted. All work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself/herself voluntarily.¹⁶

1.3.7 Access to justice

A definition of effective access to justice was provided in the 2018 Report of the Special Rapporteur on the human rights of migrants, stipulating the following:

Effective access to justice means that everyone, without discrimination, has the right to access the system provided for conflict resolution and the restoration of rights. Access to justice has a dual role, as a fundamental right inherent to every person and as a principle that establishes obligations for States, particularly to ensure that anyone can approach the courts to seek protection of their rights. States, under international human rights law, have an obligation to guarantee the human rights of all individuals under their jurisdiction, regardless of their nationality or migration status, including the right to access to justice and due process.¹⁷

In 2022, IOM, in a paper on migrants' access to justice, further noted:

“Access to justice” means that individuals have access to and can make effective use of existing judicial or quasi-judicial mechanisms to protect their rights and obtain redress in response to violations. This can include access to informal institutions, such as customary frameworks, and quasi-judicial alternative dispute mechanisms. The access to justice should not be hindered by anything, and certainly not by the irregular status in which some migrants find themselves. The total and complete access to the existing legal and judicial mechanisms should be ensured, to guarantee that right. Access to justice is therefore a crucial tool to address impunity and ensure the rule of law.¹⁸

¹⁶ IOM, 2019a. Adapted from Council of Europe Convention on Action Against Trafficking in Human Beings (adopted 16 May 2005, entered into force 1 February 2008) CETS No. 197, article 4(e).

¹⁷ United Nations, 2018.

¹⁸ IOM, 2022a.



USEFUL RESOURCES

- For an extensive list of migration-relevant terms and concepts, refer to the [IOM Glossary on Migration \(2019\)](#) and the European Commission [EMN asylum and migration glossary \(n.d.\)](#).
- To expand your understanding regarding the key European legal principles in the area of access to justice, please see FRA, ECtHR, and CoE, [Handbook on European Law Relating to Access to Justice \(2016\)](#).
- To learn more on access to justice and international standards linked to migrants, including the Global Compact for Safe, Orderly and Regular Migration, refer to IOM, [Migrants' access to justice: International standards and how the Global Compact for Safe, Orderly and Regular Migration helps paving the way \(2022\)](#).

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A migrant worker cleans the exit of
an Eastern European metro station.

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2. THE LEGAL FRAMEWORK

This module will offer a general overview of the relevant legally binding international conventions, protocols and other international instruments that collectively form the bedrock of the principles governing the rights of migrant workers and victims of trafficking for labour exploitation. Other key instruments from the European context, such as the ECHR, the CoE Convention on Action against Trafficking in Human Beings and other key directives will also be covered. Information will also be provided on soft law (non-legally binding) instruments, such as international and regional guidelines, principles and recommendations.

Before beginning, though, we would like to ask you to take some time to reflect on these questions.



SELF-REFLECTION EXERCISE

- Are you aware of which international human rights instruments have been ratified by your country? You may research this information using the [OHCHR dashboard](#).¹⁹
- Do you know which are the main legislative instruments and key policy documents adopted by the European Union regarding the rights of migrant workers and victims of human trafficking for labour exploitation?
- What is the primary national legislation in your country guiding the protection of migrant workers and victims of human trafficking for labour exploitation?
- Are you aware of any recent discussions to amend laws or policies in your country to improve the protection of migrants subject to labour exploitation?
- Are you aware of the [United Nations Guiding Principles on Business and Human Rights](#)? What do you think are the main responsibilities of States and businesses to ensure they are adequately respecting the rights of workers including migrant workers?



USEFUL RESOURCES

- For information on the status of the ratification of relevant international human rights instruments and additional protocols, as well as their respective monitoring bodies, please visit this [OHCHR](#) website.
- Information on the ratification of CoE treaties can be found on this [CoE website](#).

¹⁹ OHCHR, n.d.a.

2.1 INTERNATIONAL LEGAL FRAMEWORK

At the international level, a solid legal framework has been established to respect and protect the rights of migrant workers and victims of human trafficking for labour exploitation. The treaties outlined below are legally binding once they have been ratified by States.

The first key document, for us, is the [International Bill of Human Rights](#).²⁰ The following key articles should be highlighted: article 4 of the [Universal Declaration on Human Rights \(UDHR\)](#), which states that no one shall be held in slavery or servitude, and that slavery and the slave trade shall be prohibited in all their forms;²¹ articles 6, 7 and 8 of the [International Covenant on Economic Social and Cultural Rights](#), which provide the right to work and just and favourable conditions of work;²² and article 8 of the [International Covenant on Civil and Political Rights](#), which prohibits a number of practices directly related to trafficking in persons, including slavery, the slave trade, servitude and forced labour.²³ Similarly, article 11 of the [International Convention on the Protection of the Rights of all Migrant Workers and Members of Their Families](#) establishes the prohibition of slavery, servitude and forced or compulsory labour, and article 68 of the same convention states that States of employment may sanction employers that employ migrant workers in an irregular situation.²⁴ However, the most important international instrument to combat trafficking in persons is the [United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Girls](#),²⁵ supplemental to the [United Nations Convention Against Transnational Organized Crime](#).²⁶ Article 5 of the Protocol requires States to criminalize trafficking in persons, attempted trafficking in persons, and any other intentional participation or organization in a trafficking in persons scheme.²⁷ Articles 6–8 relate to the protection of victims of trafficking in persons, and article 10 deals with the prevention of this offence.²⁸

To monitor the implementation of the core international human rights treaties, a total of 10 human rights treaty bodies, composed of independent experts of recognized competence in human rights, have been established.²⁹ The special procedures of the Human Rights Council (made up of independent human rights experts) also promote the full realization of the rights enshrined in these treaties, by reporting and advising on human rights from a [thematic](#) or [country-specific](#) perspective.³⁰

There are also a number of ILO conventions focused on labour rights that cover workers, including migrant workers (and in most cases regardless of immigration status). Notably, there are 11 fundamental ILO conventions (see table below)³¹ focused on the following subjects: freedom of association and the effective recognition of the right to collective bargaining; the elimination of all forms of forced or compulsory labour; the elimination of discrimination with respect to

²⁰ Comprising the Universal Declaration of Human Rights (UDHR), the International Covenant on Economic, Social and Cultural Rights, and the International Covenant on Civil and Political Rights.

²¹ UNGA, 1948.

²² UNGA, 1966a.

²³ UNGA, 1966b.

²⁴ UNGA, 1990.

²⁵ Formally known as the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Human Beings, Especially Women and Children (UNGA, 2000).

²⁶ UNGA, 2001.

²⁷ UNGA, 2000.

²⁸ Ibid.

²⁹ Namely, the Committee on the Elimination of Racial Discrimination, the Committee on Economic, Social and Cultural Rights, the Human Rights Committee, the Committee on the Elimination of Discrimination against Women, the Committee against Torture, the Committee on the Rights of the Child, the Committee on the Protection of the Rights of All Migrant Workers and Members of their Families, the Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, the Committee on the Rights of Persons with Disabilities and the Committee on Enforced Disappearances (OHCHR, n.d.a).

³⁰ OHCHR, n.d.b.

³¹ ILO, n.d.a.

employment and occupation; and occupational safety and health. Under the [ILO Declaration on Fundamental Principles and Rights at Work](#), adopted in 1998 and amended in 2022, all ILO member States are obligated to adhere to the stipulated principles and rights within the fundamental conventions, even if they have not directly ratified them.³²

Table 1. Overview of ILO conventions on labour rights

1	C87. Freedom of Association and Protection of the Right to Organise Convention, 1948
2	C98. Right to Organise and Collective Bargaining Convention, 1949
3	C029. Forced Labour Convention, 1930
4	P029. Protocol of 2014 to the Forced Labour Convention, 1930
5	C105. Abolition of Forced Labour Convention, 1957
6	C138. Minimum Age Convention, 1973
7	C182. Worst Forms of Child Labour Convention, 1999
8	C100. Equal Remuneration Convention, 1951
9	C111. Discrimination (Employment and Occupation) Convention, 1958
10	C155. Occupational Safety and Health Convention, 1981
11	C187. Promotional Framework for Occupational Safety and Health Convention, 2006

These fundamental conventions include a focus on forced labour or services: the [ILO Forced Labour Convention](#) (Convention No. 29 of 1930)³³ and its newly adopted [Protocol of 2014](#),³⁴ which defines forced or compulsory labour, and the [ILO Abolition of Forced Labour Convention](#) (Convention No. 105 of 1957).³⁵

In addition to these fundamental conventions, there are other notable ILO conventions relevant to protecting labour rights. These include:

- [Violence and Harassment Convention, 2019](#) (No. 190),³⁶ related to the elimination of violence and harassment in the world of work; and
- [Labour Inspection Convention, 1947](#) (No. 81),³⁷ which requires ratifying States to maintain a system of labour inspection for workplaces, and sets out principles regarding the functions and organization of the system of inspection, recruitment criteria, the status and terms and conditions of service of labour inspectors and their powers and obligations.

³² ILO, 2022.

³³ ILO, 1930.

³⁴ ILO, 2014.

³⁵ ILO, 1957.

³⁶ ILO, 2019.

³⁷ ILO, 1947.

Additionally, ILO conventions have been adopted specifically to address the situation of migrant workers: the [Migration for Employment Convention \(Revised\)](#) (No. 97)³⁸ and the [Migrant Workers \(Supplementary Provisions\) Convention](#) (No. 143).³⁹ The Migration for Employment Convention requires ratifying States to facilitate international migration for employment through:

- Establishing and maintaining a free assistance and information service for migrant workers (article 2).
- Taking measures against misleading propaganda related to emigration and immigration (article 3).
- Facilitating the departure, journey and reception of migrants for employment (article 4).
- Providing appropriate medical services for migrant workers (article 5).
- Applying treatment to immigrants lawfully within their territory that is no less favourable than that which applies to their own nationals in respect to matters including conditions of employment, freedom of association, accommodation and social security (article 6).⁴⁰

Measures are also provided for States that have ratified the ILO Migrant Workers (Supplementary Provisions) Convention, including requirements to:

- Respect the basic human rights of all migrant workers (article 1).
- Determine whether migrant workers have been subjected to conditions contravening relevant international instruments or agreements, or national laws or regulations (article 3).
- Extend the scope of equality between legally resident migrant workers and national workers beyond the provisions of the 1949 Convention to ensure equality of opportunity and treatment with regard to employment and occupation, social security, trade union membership, cultural rights, and individual and collective freedoms for persons who, as migrant workers or as members of their families, are lawfully within a ratifying State's territory (article 10).
- Facilitate the reunification of families of migrant workers legally residing in their territory (article 13).⁴¹

There are also two ILO recommendations connected to these conventions: the [Migration for Employment Recommendation \(Revised\)](#), 1949 (No. 86),⁴² and the [Migrant Workers Recommendation](#), 1975 (No. 151).⁴³ In 2011, the [Domestic Workers Convention](#) (No. 189),⁴⁴ a convention setting labour standards for domestic workers, was also adopted by the ILO. The convention extends basic labour rights to domestic workers worldwide, including migrant domestic workers.

2.1.1 International guidelines and commitments

Despite States having the primary responsibility to secure the above-mentioned rights and freedoms,⁴⁵ businesses also have a legal obligation to guarantee labour rights and to protect their employees against exploitative practices. They furthermore have a responsibility under the [United Nations Guiding Principles on Business and Human Rights](#) to act with due diligence and to take measures against such practices by assuring trafficking for labour exploitation does not

³⁸ ILO, 1949a. Ratified by 54 countries including the United Kingdom and EEA countries: Belgium, Cyprus, France, Germany, Italy, the Kingdom of the Netherlands, Norway, Spain, Portugal. See ILO, n.d.c.

³⁹ ILO, 1975a. Ratified by 30 countries including six EEA countries: Cyprus, Italy, Norway, Portugal, Slovenia and Sweden. See ILO, n.d.d.

⁴⁰ ILO, 1949a.

⁴¹ ILO, 1975a.

⁴² ILO, 1949b.

⁴³ ILO, 1975b.

⁴⁴ ILO, 2011.

⁴⁵ CoE, 1950.

take place within their business, in their supply chain nor in their business partners, including private recruitment and employment agencies.⁴⁶ Businesses also have a responsibility to proactively check and assess terms of employment and compliance, including in their supply chains. The 17 Sustainable Development Goals adopted by the United Nations in 2015 are also relevant here. United Nations Member States have committed to work towards achieving the goals and their related targets by 2030. Notably, targets related to decent work and migration fall under SDGs 8 and 10, respectively, while the targets related to trafficking in persons are addressed in SDGs 5 and 16, as outlined in more detail in the text box below.



GO DEEPER: SUSTAINABLE DEVELOPMENT GOALS

The following goals and targets of the SDGs relate to decent work, migration and trafficking in persons:

- **SDG 5:** Achieve gender equality and empower all women and girls.
 - Target 5.2: Eliminate all forms of violence against women and girls in the public and private spheres, including trafficking and sexual and other types of exploitation.
- **SDG 8:** Promote inclusive and sustainable economic growth, employment and decent work for all.
 - Target 8.7: Eradicate forced labour, end modern slavery and human trafficking and secure the prohibition and elimination of the worst forms of child labour.
 - Target 8.8: Protect labour rights and promote safe and secure working environments of all workers, including migrant workers, particularly women migrants, and those in precarious employment.
- **SDG 10:** Reduce inequality within and among countries.
 - Target 10.7: facilitate orderly, safe, regular and responsible migration and mobility of people, including through the implementation of planned and well-managed migration policies.
- **SDG 16:** Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels.
 - Target 16.2: End abuse, exploitation, trafficking and all forms of violence against and torture of children.

⁴⁶ OHCHR, 2011.

Another notable document in this regard is the 2018 [Global Compact for Safe, Orderly and Regular Migration](#). Although not a legally binding agreement, the Global Compact for Migration is the first United Nations global agreement on a common approach to international migration in all its dimensions. Among other main objectives, the Compact intends to reduce the risks and vulnerabilities migrants face at different stages of migration by respecting, protecting and fulfilling their human rights and providing them with care and assistance.⁴⁷ The most relevant objectives are the following: objective 6, “Facilitate fair and ethical recruitment and safeguard conditions that ensure decent work”; objective 7, “Address and reduce vulnerabilities in migration”; and objective 10, “Prevent, combat and eradicate trafficking in persons in the context of international migration”.⁴⁸

In summary, since 1948, a strong international framework to respect and protect the rights of migrant workers and victims of human trafficking for labour exploitation has been established.

2.2 EUROPEAN FRAMEWORK

This subsection will cover the main instruments that have been adopted by the European Union and CoE member States. It is crucial for every European policymaker and practitioner to have a basic understanding of these key texts, conventions and legal instruments, regardless of the European country where one is based, as such knowledge can improve one’s ability to protect migrant workers and victims of human trafficking for labour exploitation.

2.2.1 European Union

Trafficking in human beings is a serious crime that has a detrimental human, social and economic impact on society.⁴⁹ It is a gross violation of fundamental rights, and it is explicitly prohibited by the [Charter of Fundamental Rights of the European Union](#) (CFR).⁵⁰ Consequently, preventing and combating trafficking in human beings is a priority for the European Union and its member States. The main legislative instrument to combat trafficking in human beings at the European Union level is [Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims](#) (also known as the Anti-trafficking Directive, ATD).⁵¹ Articles 2–6 of the ATD establish minimum rules concerning the definition of criminal offences and sanctions; articles 8, 9 and 11–17 introduce common provisions to strengthen victims’ protection and support;⁵² and article 18 sets down several provisions to foster prevention.⁵³ Additionally, recitals 27 and 29, as well as article 20 of the ATD, outline the tasks of the European Union Anti-trafficking Coordinator (ATC).⁵⁴ Among other responsibilities, the ATC is tasked with improving coordination and coherence among European Union institutions, European Union agencies, member States and international actors, and with developing existing and new European Union policies to address trafficking in human beings. Moreover, the ATD is complemented by other important policy documents, such as the new [European Union Strategy on combatting Trafficking in Human Beings 2021–2025](#) and the [European Union Strategy to Tackle Organised Crime 2021–2025](#).⁵⁵

⁴⁷ UNGA, 2019.

⁴⁸ Ibid.

⁴⁹ European Commission, 2020a.

⁵⁰ European Parliament, Council of the European Union, and European Commission, 2000. See especially article 5.

⁵¹ European Parliament and the Council of the European Union, 2011a.

⁵² Ibid.

⁵³ Ibid.

⁵⁴ Ibid.

⁵⁵ European Commission, 2021a; European Commission, 2021b.

The European Union Strategy on combatting Trafficking in Human Beings 2021–2025 is of special importance, as with this strategy, the European Commission sets out a renewed commitment and a strong policy framework to protect vulnerable individuals from being trafficked, to empower victims, to bring perpetrators to justice and to safeguard our communities. The strategy focuses on:

- Reducing demand that fosters trafficking;
- Breaking the business model of traffickers through effective operational means against the criminal business model, tackling the culture of impunity by building capacity for a robust criminal justice response, as well as the digital business model of traffickers;
- Protecting, supporting and empowering the victims with a specific focus on women and children;
- Promoting international cooperation.⁵⁶

The protection of (migrant) workers' rights is also a European Union priority. Article 5 of the CFR, for example, establishes that no one shall be required to perform forced or compulsory labour.⁵⁷ Article 15(1) stipulates that everyone has the right to engage in work and to pursue a freely chosen or accepted occupation, and article 15(3) states that authorized third-country nationals (TCNs) are entitled to working conditions equivalent to those of their European Union counterparts.⁵⁸ Finally, article 31 of the Charter states that every worker has the right to fair and just working conditions.⁵⁹

As well, over the years, the European Union has adopted several directives and key policy initiatives to fulfil this objective and protect the rights of migrant workers. These include:

- The [Long-term Residents Directive](#), that sets out the conditions under which TCNs can obtain the status of long-term residents, which grant them a set of uniform rights, similar to those enjoyed by European Union citizens.⁶⁰
- The [Employers Sanctions Directive](#), which establishes the need for sanctions against employers that employ and exploit irregular migrant workers and stipulates some provisions establishing certain rights for migrant workers in irregular situation, such as the right to back payment and the ability to lodge complaints against the employer.⁶¹
- The [Single Permit Directive](#), that establishes a single application procedure for a single permit for TCNs to reside and work in the territory of a member State and a common set of rights for third-country workers legally residing in a member State.⁶²
- The [Seasonal Workers Directive](#), which sets out the conditions of entry and stay of TCNs for the purpose of employment as seasonal workers (circular migration).⁶³
- The [Posted Workers Directive](#), which seeks to prevent the exploitation of intra-European Union migrant workers who are sent by their employer to work temporarily in another European Union member State.⁶⁴
- The [Residence Permits Directive](#), which sets out conditions for granting residence permits of limited duration, linked to the length of national proceedings, to TCNs who are victims of trafficking in human beings who cooperate with competent authorities.⁶⁵

⁵⁶ European Commission, 2021a.

⁵⁷ European Parliament, Council of the European Union, and European Commission, 2000.

⁵⁸ Ibid.

⁵⁹ Ibid.

⁶⁰ Council of the European Union, 2003. Particularly relevant are articles 3, 8, 9, 11 and 12.

⁶¹ European Parliament and the Council of the European Union, 2009. Particularly relevant are articles 3, 5, 6, 8, 9 and 14.

⁶² European Parliament and the Council of the European Union, 2011b. Particularly relevant are articles 3, 9, 10, 11 and 12.

⁶³ European Parliament and the Council of the European Union, 2014. Particularly relevant are articles 2, 11, 12, 15, 17, 19, 20, 22, 23 and 25.

⁶⁴ European Parliament and the Council of the European Union, 2018. Particularly relevant are articles 1, 3 and 5.

⁶⁵ Council of the European Union, 2004.

Recently, other legislative proposals have focused on corporate due diligence on human rights and environmental impacts such as the [Corporate Sustainability Reporting Directive \(CSRD\)](#)⁶⁶ and the proposal for a directive on [corporate sustainability due diligence \(CSDD\)](#).⁶⁷ Under the CSRD, businesses are required to report on the social and environmental impact of their activities, including respect of human rights in accordance with European Union law and international conventions such as the fundamental ILO conventions.⁶⁸ If adopted, the directive on CSDD would require businesses to identify, bring to an end, prevent, mitigate and account for negative human rights and environmental impacts in their own operations, their subsidiaries and value chains.⁶⁹

In further support of its commitment to combating forced labour, the European Commission has also proposed a regulation to ban products made using forced labour.⁷⁰ It covers all products made available on the European Union market, whether made in the European Union for domestic consumption, for export, or imported.⁷¹ IOM has welcomed such proposals, while advocating for them to consider the importance of migration in supply chains in the European Union and beyond, as well as the importance of enabling environments for businesses, including small and medium-sized enterprises, to engage in international ethical recruitment, support the sustainable labour market integration of TCNs and contribute to a just transition.⁷²

Another important European Union directive regarding victims' rights is the [Victims' Rights Directive](#), which establishes minimum standards on the rights, support and protection of victims of crime.⁷³ Articles 3–9 of the Directive establish victims' rights to the provision of information and support.⁷⁴ Articles 10–17 detail the rights of victims during their participation in criminal proceedings.⁷⁵ And articles 18–24 cover the protection of victims and the recognition of victims with specific protection needs.⁷⁶

Finally, it is also important to highlight the important role of the [European Labour Authority \(ELA\)](#). The ELA was established in 2019 to help member States and the European Commission with effective implementation of European Union rules on intra-European Union labour mobility and social security coordination.⁷⁷ Among other tasks, ELA coordinates joint labour inspections, supports European Union member States in tackling undeclared work and provides information and employment support services to workers and employers, through the coordination of European employment services.

2.2.2 Council of Europe⁷⁸

As a policymaker or practitioner, it is also relevant for you to be aware of the legal and policy framework established by the CoE regarding the rights of migrant workers and victims of human trafficking for labour exploitation.

⁶⁶ European Commission, 2022b.

⁶⁷ European Commission, 2022c.

⁶⁸ European Commission, 2022b.

⁶⁹ European Commission, n.d.b.

⁷⁰ European Parliament, 2023.

⁷¹ *Ibid.*

⁷² IOM, 2024.

⁷³ European Parliament and the Council of the European Union, 2012.

⁷⁴ *Ibid.*

⁷⁵ *Ibid.*

⁷⁶ *Ibid.*

⁷⁷ ELA, n.d.

⁷⁸ It is important to distinguish between, on the one hand, the Council of Europe (an international organization, based in Strasbourg, created in 1949 and now including 46 European countries, set up to promote democracy, human rights and the rule of law), and on the other hand, the European Council, an institution of the 27-member European Union, composed of representatives of the 27 European Union member States, which defines the general political direction and priorities of the European Union.

The first point to be aware of is that all CoE member States are party to the [ECHR](#),⁷⁹ the first instrument to give effect to rights stated in the UDHR and make them binding. Article 4 of the Convention establishes the prohibition of slavery, servitude and of forced labour or compulsory labour, and articles 6 and 13 relate to the right to access to justice.⁸⁰

Also of note is the [European Convention on the Legal Status of Migrant Workers](#), adopted by the CoE.⁸¹ Its main purpose is to guarantee that migrant workers and their families within CoE member States are treated no less favourably than their nationals. The Convention covers a wide range of issues such as migrant worker recruitment (article 2); right of exit, readmission and administrative formalities (article 4); work contracts (article 5); types of information to be provided by contracting party (article 6); family reunification (article 12); housing (article 13); conditions of work (article 16); social and medical assistance (article 19); inspection of working conditions (article 21); and the right of access to the courts and administrative authorities in the receiving State (article 26). Due to the direct connection to access to justice for migrant workers, worth highlighting here that article 26 specifically stipulates that:

1. Each Contracting party shall secure to migrant workers treatment not less favourable than that of its own nationals in respect of legal proceedings. Migrant workers shall be entitled, under the same conditions as nationals, to full legal and judicial protection of their persons and property and of their rights and interests; in particular, they shall have, in the same manner as nationals, the right of access to the competent courts and administrative authorities, in accordance with the law of the receiving State, and the right to obtain the assistance of any person of their choice who is qualified by the law of that State, for instance in disputes with employers, members of their families or third parties. The rules of private international law of the receiving State shall not be affected by this article.
2. Each Contracting party shall provide migrant workers with legal assistance on the same conditions as for their own nationals and, in the case of civil or criminal proceedings, the possibility of obtaining the assistance of an interpreter where they cannot understand or speak the language used in court.⁸²

Policymakers and practitioners should also become acquainted with the [CoE's Convention on Action against Trafficking in Human Beings](#).⁸³ This Convention provides a comprehensive framework for combating human trafficking and follows a human rights-based and victim-centred approach. Chapter 2 focuses on prevention, cooperation and other measures (articles 5–9); Chapter 3 outlines measures to protect and promote the rights of victims, guaranteeing gender equality (articles 10–17); Chapter 4 deals with substantive criminal law (articles 18–26); Chapter 5 focuses on investigation, prosecution and procedural law (articles 27–31); Chapter 6 deals with international cooperation and cooperation with civil society (articles 32–35); Chapter 7 sets out the Convention's monitoring mechanism (articles 36–38); and chapters 8–10 describe the relationship between the Convention and other international instruments, amendments to the Convention and final clauses.⁸⁴

⁷⁹ CoE, 1950.

⁸⁰ *Ibid.*

⁸¹ CoE, 1977.

⁸² *Ibid.*

⁸³ CoE, 2005.

⁸⁴ *Ibid.*

Another important instrument is [Recommendation CM/Rec\(2022\)21 of the Committee of Ministers to member States on preventing and combating trafficking in human beings for the purpose of labour exploitation](#).⁸⁵ This text recommends that the governments of member States adopt national laws, policies and strategies for combating trafficking in human beings that address trafficking for the purpose of labour exploitation, and that they take a human rights-based and victim-centred approach.⁸⁶

The CoE also adopted an [Action Plan on Protecting Vulnerable Persons in the Context of Migration and Asylum in Europe 2021–2025](#).⁸⁷ It proposes targeted actions to enhance the capacity of member States to identify and address vulnerabilities throughout asylum and migration procedures. There are four pillars to the Action Plan, with Pillar 2 specifically focused on ensuring access to law and justice. The proposed outcome is that “member states improve access to law and justice, including legal aid and procedures adapted to vulnerable persons in the context of migration and asylum without discrimination and with the appropriate procedural safeguards, in line with relevant Council of Europe standards”.⁸⁸

This subsection has provided an overview of relevant international and European instruments that aim to protect migrant workers and victims of trafficking for labour exploitation.⁸⁹



SELF-REFLECTION EXERCISE

- What are the possible gaps (if any) in the legal framework at the international, regional and national level concerning the rights of migrant workers subject to labour exploitation and their access to justice?
- How does your country incorporate obligations under the above-mentioned international and European instruments into its national legislation and policies?
- What measures does your country have in place to ensure that the labour rights of all workers are ensured, regardless of their immigration status?
- Does your work influence directly or indirectly the realization of rights of migrant workers and victims of human trafficking for labour exploitation under international and European law?

⁸⁵ CoE, 2022.

⁸⁶ Ibid.

⁸⁷ CoE, 2021.

⁸⁸ Ibid.

⁸⁹ Unless stated otherwise, “European instruments” encompass instruments related to both the European Union and the CoE. Similarly, references to “European treaties” or “European laws” should be interpreted as referring to treaties or laws of both the European Union and the CoE.



USEFUL RESOURCES

To deepen your understanding of the legal framework safeguarding the rights of migrant workers and victims of trafficking for labour exploitation, please consider enrolling in the following (and other equally relevant) online courses:

- HELP online platform, CoE. [Combating trafficking in human beings](#).
- HELP online platform, CoE. [Interplay between the ECHR and the European Union Charter of Fundamental Rights](#).
- HELP online platform, CoE. [Judicial reasoning and human rights](#).
- HELP online platform, CoE. [International cooperation in criminal matters](#).
- HELP online platform, CoE. [Labour rights as human rights](#).
- HELP online platform, CoE. [Procedural safeguards in criminal proceedings and victims' rights](#).
- e-Campus, IOM. [Trafficking in persons: Protection and assistance to victims](#).
- UNODC. [A human rights-based approach to trafficking in persons](#).

Other useful resources on the legal framework include the following:

- IOM (2023). [Promoting the human and labour rights of migrant workers in Europe](#).
- ICAT (2012). [The international legal frameworks concerning trafficking in persons](#).
- OSCE (2015). [Annex 2. List of selected universal and regional instruments; "soft law" recommendations and guidelines; model laws](#).
- Ktistakis (2016). [Protecting migrants under the European Convention on Human Rights and the European Social Charter: A handbook for legal practitioners](#). Second edition.
- PICUM (2022). [Guide to undocumented workers rights at work under international and EU law](#).
- ILO (2006). [ILO Multilateral Framework on Labour Migration: Non-binding Principles and Guidelines for a Rights-based Approach to Labour Migration](#).



GO DEEPER: RELEVANT CASE LAW

- Regarding domestic slavery:
 - [Siliadin v. France](#) (2005).
 - [C.N. and V. v. France](#) (application No. 67724/09) (2012).
 - [C.N. v. the United Kingdom](#) (No. 4239/08) (2012).
- Regarding forced labour:
 - [Chowdury and Others v. Greece](#) (2017).
 - [T.I. and Others v. Greece](#) (No. 40311/10) (2019).
- Regarding human trafficking:
 - [Rantsev v. Cyprus and Russia](#) (2010).



GO DEEPER: GROUP OF EXPERTS ON ACTION AGAINST TRAFFICKING IN HUMAN BEINGS (GRETA)

[GRETA](#) is responsible for monitoring the implementation of the [Council of Europe Convention on Action against Trafficking in Human Beings](#) by the States party to the Convention. Among other activities, GRETA carries out visits and draws up and publishes country reports evaluating legislative and other measures taken by State parties to give effect to the provisions of the Convention. In addition, GRETA regularly publishes general reports on its activities.

Although you are encouraged to visit their entire website, the following GRETA resources may be of particular interest:

- [Guidance note on preventing and combating human trafficking for the purpose of labour exploitation](#) (2021). Sets out key indicators to support States in ensuring, for example, properly functioning labour inspectorates, reporting requirements, effective victim identification and assistance, and appropriate criminal justice responses.
- [Compendium of good practices in addressing trafficking in human beings for the purpose of labour exploitation](#) (2020). Highlights several measures taken by State parties to the Convention to prevent and combat trafficking for the purpose of labour exploitation and provides food for thought and direction in their future efforts.



- [Human trafficking for the purpose of labour exploitation \(2019\)](#). Thematic chapter of the seventh general report on GRETA's activities.
- [Assistance to victims of human trafficking \(2019\)](#). Thematic chapter of the eighth general report on GRETA's activities.
- CoE (n.d.). [Country reports and evaluation rounds – Action against Trafficking in Human Beings](#). The monitoring procedure of the implementation of the Convention is divided into evaluation rounds. Each State party is periodically monitored every 4–5 years. The third round focused on access to justice and effective remedies for victims of trafficking in human beings.



Migrant workers enrolled in Spain's GECCO circular labour migration programme head to the compound.

PART II

TO ACT

Part II of this toolkit focuses on how policymakers and practitioners can act to better support the access to justice of migrant workers and victims of human trafficking for the purposes of labour exploitation. Part II builds upon prevention, protection, prosecution and partnerships (4Ps) approach to address trafficking in persons, as well as on the IOM determinants of migrant vulnerability model.⁹⁰ Each “P” has its own dedicated module, except for the last one, “partnerships”, which has been mainstreamed under each respective module due to its cross-cutting nature. It should be noted that a multi-stakeholder approach – including partnership and cooperation between different entities from government, civil society, social partners and the private sector – is a crucial aspect required in the prevention, protection and prosecution response.

This second part has been structured following a rights-based approach, for pedagogical purposes. As such, instead of organizing it around the actions that policymakers and practitioners could take under each “P”, it has been structured around the rights that victims are entitled to.⁹¹

The modules of Part II focus respectively on prevention, protection and prosecution:

- **Module 3** focuses on prevention; specifically, on access to justice mechanisms, recommendations and good practices to facilitate the prevention of labour exploitation of migrant workers including trafficking in human beings.
- **Module 4** covers protection; specifically, access to justice mechanisms, recommendations and good practices concerning the protection of migrant workers and victims of trafficking for labour exploitation.
- **Module 5** provides information on prosecution; specifically, it covers access to justice mechanisms, recommendations and good practices in terms of the prosecution of criminal cases involving migrant workers who are victims of trafficking in persons or other criminal labour violations. The module also includes information on civil remedies and operational grievance complaints mechanisms.

⁹⁰ IOM, 2019b.

⁹¹ The terms “victims” or “vulnerable migrants” will be used throughout the toolkit to refer to “migrant workers and victims of trafficking for labour exploitation”.

3. PREVENTION

3.1 INTRODUCTION

Prevention is one of the most important aspects of an effective response to labour exploitation and to combatting human trafficking. One of the main objectives of a prevention programme is to minimize the risk of labour exploitation and address both the supply and demand sides of trafficking. The following is a non-exhaustive list of preventive actions that can be taken in responding to the supply side of trafficking in relation to migrant workers:

- Understanding and addressing the risk factors and root causes that make people vulnerable;
- Establishing and supporting mechanisms to identify, protect and assist migrants vulnerable to exploitation;
- Ensuring potential migrants vulnerable to exploitation, especially women and girls, are properly informed of the risks of migration;
- Designing counter-trafficking measures that do not negatively interfere with promoting safe, orderly and regular migration;
- Establishing, expanding and enhancing safe and legal migration pathways;
- Providing full and reliable information to migrants about legal channels of migration and the terms and condition of work.⁹²

Several measures can also be taken to address the demand side of trafficking. These include demand-side campaigns (such as ethical consumer campaigns); using market-based incentives to promote law compliance (such as tax breaks, subsidies or easier hiring processes); promoting policy and practice on ethical recruitment; building the capacity of relevant stakeholders; and introducing legal obligations (such as the introduction of legal obligations on measures against the risk of trafficking in human beings in companies' supply chains). The aim of demand-side actions is to reduce the number of people who buy or use such services, thereby reducing profits for traffickers and thus the number of people trafficked.

However, tackling prevention – including using the above-mentioned approaches – generally requires broader resources than those focusing exclusively on counter-trafficking.⁹³ Counter-trafficking initiatives are most effective when embedded in broader existing programmes.⁹⁴ Additionally, robust labour migration management systems also aid in the prevention of labour exploitation of migrant workers. Such systems should include appropriate migrant worker recruitment regulations and labour standards for businesses to incorporate into their operations, in line with international conventions, European Union law and the United Nations Guiding Principles on Business and Human Rights. Such systems have the potential to minimize the risks migrant workers face throughout all stages of labour migration.

⁹² Recommendations from IOM, n.d.c.

⁹³ IOM, 2022b.

⁹⁴ Ibid.

3.2 OBSTACLES

Despite the robust legal frameworks established at the international, regional and national levels to respect and protect the rights of migrant workers and victims of human trafficking for labour exploitation, migrants remain more susceptible than non-migrants to infringements of their rights.⁹⁵ Undocumented migrants in particular often face conditions that fall outside of minimum labour standards; violations of their rights frequently go unreported, owing to several factors including fear of the risk of deportation.⁹⁶ Third country (non-European Union) migrant workers whose residence and work permits are tied to one specific employer are also more vulnerable to labour exploitation, as they often fear losing their job and hence their work permit if they make a complaint against an exploitative employer.⁹⁷

The increasing precariousness of work, unregulated and unethical recruitment practices, coupled with a lack of awareness regarding labour rights and available complaint mechanisms, as well as migrants' fears of potential repercussions and retaliation (such as job loss, detection, detention, deportation and unfair treatment from police authorities and labour inspectors) are some of the factors that explain migrant workers' higher susceptibility to rights infringement.⁹⁸ Labour rights infringements faced by migrant workers may also be caused by their precarious economic standing, inadequacies in existing grievance mechanisms (for example, in terms of accessibility), complexities of legal systems and limited resources available to labour inspectorates (and their somewhat narrow mandate). Additional factors include limited or no access to protection under national legislation related to labour standards and social security, due to irregular migration status and working in the informal economy, oftentimes being engaged in employment without a contract (including in the unregulated sphere of private domestic and care work), further compounding their risk to labour rights violations and challenges in accessing justice.

Policymakers may encounter a series of challenges in their attempts to adequately respond to the prevention needs of migrants. These challenges include: a lack of sufficient financial resources; the absence of comprehensive data disaggregated by age, gender, nationality, ethnicity, ability, or form of exploitation; the need for additional targeted and qualitative research; the need for information and awareness-raising programmes for different policymakers; limited capacity to analyse and develop national policies and strategies; and the need for mechanisms to monitor and evaluate the human rights impact of anti-trafficking laws, programmes and interventions.

Despite these formidable obstacles, practitioners and policymakers can take measures to prevent and combat both labour exploitation and trafficking for labour exploitation. By implementing actions to respond to the obstacles encountered, the rights of migrant workers and victims of trafficking for labour exploitation can be protected.

⁹⁵ The term "migrant" is used here as shorthand for "migrant workers and victims for trafficking for labour exploitation". ILO, Walk Free Foundation, IOM, 2022. European Commission, 2022a.

⁹⁶ PICUM, 2022.

⁹⁷ FRA, 2019:19.

⁹⁸ FRA, 2021; Council of Europe, 2018.

3.3 RIGHTS

While it has been ascertained that a somewhat solid legal framework has been established both at the regional and international levels to safeguard the rights of migrant workers and victims of human trafficking for labour exploitation, the mere approval, accession, and ratification of these laws are not sufficient to ensure their effective implementation and impact on the ground. The prevention of the infringement of migrants' rights requires a whole-of-government approach, involving policymakers and practitioners in partnership with non-State actors (such as CSOs or the private sector). Various actions can be taken to minimize or overcome the prevalence of the aforementioned obstacles.



USEFUL RESOURCES

- ILO (2010). [International Labour Migration: A Rights-based Approach](#).
- IOM (n.d.). [Prevention of trafficking in persons](#).
- IOM (2019). [IOM handbook on protection and assistance for migrants vulnerable to violence, exploitation, and abuse](#).
- IOM (2023). [The IOM counter-trafficking theory of change](#).

3.3.1 Right to fair and just working conditions

As set out under articles 2, 3 and 4 of the European Social Charter,⁹⁹ every worker has the right to just, safe and healthy working conditions, and to receive a fair remuneration. Migrant workers may face exploitative labour practices due to a lack of appropriate recruitment processes prior to migrating or once they have arrived in the destination country. In fact, a 2019 European Union Agency for Fundamental Rights (FRA) report noted that almost two thirds of the migrant workers surveyed who were recruited via employment agencies eventually fell victim to trafficking for labour exploitation.¹⁰⁰ It is vital for mechanisms to be put in place so that migrant workers are able to access justice throughout the recruitment and employment process.

During the recruitment process, migrant workers face risks and vulnerabilities linked to the following: recruitment fees and medical fees, contract substitution, predatory lending, restrictions on movement, debt bondage, possession of wrong or no visa, deception, unauthorized or unlicensed labour recruiters, inadequate or no employment contract, privacy breaches, inadequate information about the destination country or job, unsafe transportation or lodging (accommodation), passport retention and discrimination.¹⁰¹

⁹⁹ Not all EEA+ countries have ratified this Charter. See CoE, n.d.b.

¹⁰⁰ CoE, 2024.

¹⁰¹ IOM, 2023d.

To mitigate these risks, policymakers can strengthen the regulatory framework at the national level for recruitment agencies and employers. The focus should be on ensuring that the right to fair and just working conditions for migrant workers is upheld, reducing the risks migrants face during recruitment, and preventing human rights and labour standard violations. This should also include taking steps to encourage entities to establish mechanisms to prevent labour exploitation during their procurement processes, especially in sectors more at risk, such as the cleaning, construction and hospitality sectors.¹⁰² Protecting the right to fair and just working conditions should also include exploring the possibility of extending social protection to migrant workers in the informal economy.¹⁰³ European Union States could also work in partnership to establish a licensing system for recruiters and businesses at the level of the European Union.

Labour inspections are also a critical component in ensure that working conditions are fair and just for migrant workers. While inspections seek to enforce labour regulations, they also act as a deterrent to employers breaching labour and anti-trafficking laws. Labour inspectors can also use the opportunity provided by an inspection visit to inform migrant workers of their rights and steps they can take to access justice mechanisms, if necessary.

Additionally, employers and recruitment agencies can further promote and commit to the [United Nations Guiding Principles on Business and Human Rights](#) and ethical recruitment initiatives. This can be achieved through adherence to internationally recognized guidelines and principles such as the IOM IRIS standard on ethical recruitment, the [IOM migrant worker guidelines for employers](#), and the [Dhaka principles for migration with dignity](#). A key component of fair and ethical recruitment is the implementation of human rights due diligence by the employer and recruiter. The [IOM fair and ethical recruitment due diligence toolkit](#) is a useful tool that can be utilized to carry out such due diligence.

¹⁰² Lietonen and Ollus, 2021.

¹⁰³ For further information on the benefits of extending social protection to migrant workers in the informal economy and practical guidance on how this can be implemented, see ILO, 2023.



GO DEEPER: IOM IRIS STANDARDS

IRIS: Ethical Recruitment is an IOM global multi-stakeholder initiative to promote the ethical recruitment of migrant workers. It supports governments, civil society, the private sector and recruiters to establish ethical recruitment as a norm in cross-border labour migration.

IRIS is referred to under objective 6 of the Global Compact for Migration and several other intergovernmental frameworks. The overall goal of IRIS is to make international recruitment fair for everyone involved: migrant workers, employers, recruiters and countries of origin and destination.

Implementation of IRIS principles (see Figure 1, below) helps to minimize the risk of migrant workers being trafficked for labour exploitation. This includes upholding the rights of migrant workers to access justice by adhering to principle 5 of IRIS, “respect for access to remedy”. Under this principle, “labour recruiters must ensure that migrant workers have effective access to remedy, without fear of recrimination, reprisal, or dismissal, such as internal grievance procedures of the labour recruiter and/or the employer and to those remedies provided by law in the country of origin and destination, in relation to their recruitment activities”. There are three criteria that labour recruiters should meet to be in adherence with principle 5:

- The labour recruiter has or participates in effective operational-level grievance mechanisms.
- The labour recruiter ensures that migrant workers are informed about and have an open and direct access to a grievance mechanism related to the recruitment process.
- The labour recruiter provides migrant workers with information about available State-, employer- and industry-provided grievance mechanisms related to the employment in both origin and destination countries.

Figure 1.
IRIS principles
(2019).



Source: IOM, 2019.



GO DEEPER: DHAKA PRINCIPLES

The **Dhaka principles for migration with dignity** are a set of human rights-based principles (see Figure 2, below) to enhance respect for the rights of migrant workers from recruitment, during employment and through to safe return. They are intended for use by all industry sectors and in any country of origin and destination for migrant workers. Adherence to the principles aid in the prevention of labour exploitation and human rights breaches. The Dhaka principles are in international human rights standards, including relevant United Nations and ILO conventions. They aim to apply the United Nations Protect, Respect and Remedy Framework to concerns relating to migrant workers.

Figure 2.
Dhaka principles for migration with dignity.



Source: IHRB, n.d.



GOOD PRACTICES

- Spain's [GECCO programme](#) offers a four-year, multiple-entry work authorization that allows migrant workers to stay and work in Spain for up to nine months each year. Under the programme, some protective safeguards have been established that prohibit the charging of recruitment fees; establish that employers will bear the cost of one-way transportation expenses; and oblige employers to provide migrants with suitable housing facilities (reviewed by IOM Spain and usually provided free of charge or at a discounted rate to seasonal workers).
- In Italy, the [National Labour Inspectorate collaborates with IOM cultural mediators](#) to assist migrant workers. Mediators aid in inspections, mitigating language barriers and fostering trust, while also conducting outreach sessions to raise awareness among migrant workers on their rights. As mediators have expertise in Italian labour and immigration law, they can provide accurate information to migrant workers, promptly detect suspected cases of labour exploitation, and refer victims to the appropriate mechanisms. Between February 2020 and March 2022, this partnership has supported 410 victims of labour exploitation.
- In France, the Labour Code specifically incorporates the rights of migrant workers who are engaged in irregular employment. It explicitly states that they should be treated equally with regards to various labour provisions such as payment of wages, health and safety at work and hours of work, rest and paid holidays ([PICUM, 2020](#)).
- In Finland, HEUNI has published a guide entitled [Labour Exploitation and Public Procurement, Guide for Risk Management in National Supply Chains](#). The guide provides information on the exploitation of migrant workers and trafficking in human beings in Finland, guidelines on recommended responses to suspected cases of exploitation and measures to prevent labour exploitation during every stage of procurement.



USEFUL RESOURCES

- The CoE's adoption of the [Recommendation CM/Rec\(2022\)21, on preventing and combating trafficking in human beings for the purpose of labour exploitation](#), recommends that member States take a human rights-based and victim-centred approach to their national laws, policies and strategies for combating trafficking in human beings for the purpose of labour exploitation. An explanatory memorandum within the document specifically sets out measures and principles that member States should ensure are implemented and followed in national law and practice.
- The IOM [Fair and ethical due diligence toolkit](#) was developed to support businesses in fulfilling their obligation to uphold human rights when undertaking international recruitment of migrant workers. The toolkit includes guidelines and practical recommendations on how the due diligence processes described in the United Nations [Guiding Principles on Business and Human Rights](#) and in the IOM [Migrant Worker Guidelines for Employers](#) can be operationalized; a risk assessment tool and self-assessment checklist to aid in identifying and assessing adverse human and labour rights impacts on migrant workers; a corrective action plan template (included in the self-assessment checklist); a training management tool; a pre-departure orientation checklist and post-arrival orientation template to assist in preventing and mitigating adverse human and labour rights impacts on migrant workers; and tools for tracking implementation and results, including a fair and ethical recruitment due diligence monitoring tool.
- [The Montreal Recommendations on Recruitment \(2020\)](#) provide diverse and practical guidance to governments to enable more effective regulation of international recruitment and protection of migrant workers. Major areas of focus include: protecting migrant workers through recruitment regulation; inspections and enforcement; access to grievance mechanisms and dispute resolution; bilateral and multilateral mechanisms; and migrant welfare and assistance.

Policymakers can also enact legislation to address the obstacles faced by migrant workers and victims of trafficking for labour exploitation. They can adopt or amend legislation to protect the rights of migrants directly or indirectly (such as by regulating recruitment agencies hiring processes, by removing restrictions that tie work permits to a specific employer, or by obliging companies to disclose their anti-trafficking policies and efforts), to offer incentives to elicit positive and desired outcomes (such as tax breaks or subsidies) or to develop ad hoc solutions, such as voucher systems to fight the prevalence of informality in the domestic work care sector. Notably, prevention of trafficking in human beings for the purpose of labour exploitation should involve the provision of a social rights compliant environment, reducing victim vulnerability and mitigating risks.



GOOD PRACTICES

- The voucher system created in [Belgium](#) and the Universal Service Employment Voucher in [France](#) both tackle undeclared work in the domestic work sector by setting positive incentives for employers to register the employment of domestic workers. These incentives include easy-to-use hiring and registration processes, tax deductions and government contributions.
- The introduction of [Slavery and Trafficking Risk Orders](#) and [Slavery and Trafficking Prevention Orders](#) in the United Kingdom are intended as a preventative measure to deter unlawful and harmful activity. They can be applied to those who pose a risk of harm from committing modern slavery offences in future. Slavery and Trafficking Risk Orders are issued to prevent slavery and trafficking offences being committed by someone who has already committed such offences. Slavery and Trafficking Prevention Orders are aimed at individuals who have not been convicted of a slavery or human trafficking offence.



USEFUL RESOURCES

- OHCHR (2011). [United Nations Guiding Principles on Business and Human Rights](#).
- ILO (2019). [General principles and operational guidelines for fair recruitment and definition of recruitment fees and related costs](#).
- IOM (2022). [IRIS Handbook for Governments on Ethical Recruitment and Migrant Worker Protection](#).
- IHRB (n.d.). [Responsible recruitment resource bank](#).
- ILO (2022). [Fair Recruitment and Access to Justice for Migrant Workers](#).
- ILO (2023). [Intervention Model: For extending social protection to migrant workers in the informal economy](#).

3.3.2 Right of access to information

In accordance with Principle 3 of the IOM Migrant Worker Guidelines for Employers, migrant workers should have access to accurate information about all terms and conditions of migration and employment.

Access to information is an important right that is relevant not only to prevention, but also protection and prosecution. In this regard, information about their rights to victim support services, access to remedy, rights during prosecution including court proceedings and legal aid are especially important to migrant workers and victims of trafficking in persons for labour exploitation. One challenge some migrant workers (including victims of trafficking) face is limitations to their ability to access information due the means of distribution, such as the languages used and digital formats. It is important for information to be accessible in various formats and languages so it can be accessed by people who do not have mobile communication devices and by those who do not speak the local language.

Public information and targeted awareness campaigns should be conducted to inform both the general public – including migrant workers and those more at risk of labour exploitation – of the indicators of labour exploitation, how to take steps to protect themselves from labour exploitation including trafficking, and how to report suspected cases. In addition, the analyses of reported case data are also important both at the national and regional level, as they can help in prevention efforts through providing information on the industries involved and the demographics and risk factors for migrant vulnerability. This type of information is also beneficial for developing targeted campaigns. However, it is important to note that providing information is not on its own, sufficient to prevent trafficking or labour exploitation. For that, it must also be accompanied by other preventive interventions. Even when migrants are aware of their rights, they often face challenges to enjoy those rights, due to unequal power relations with recruiters, employers and authorities.¹⁰⁴

Prevention actions linked specifically to access to justice include the development of and dissemination of communication materials for people at risk of trafficking in a language they can understand (and mindful of cross-cultural differences), including information on labour laws, employers' legal obligations to workers, legal support that can be accessed in case of abuse and exploitation, as well as contacts of trade unions, support and community organizations, labour inspection authorities and other reporting channels. Migrant workers should also be aware of safe reporting (see subsection 3.2.4 of this toolkit on the non-punishment principle) options, and possible implications for anonymous reporting (for instance, in some jurisdictions, victims are not entitled to compensation on the basis of an anonymous report and statement).¹⁰⁵

Governments should focus on providing information for migrant worker empowerment, so that workers can know and access their human and labour rights in case of rights violations. Policymakers, in partnership with practitioners including CSOs, should develop and distribute accessible information to migrant workers and victims of trafficking for the purpose of labour exploitation. This information should be written in a language that they can understand and should include key indicators for labour exploitation and for human trafficking for labour exploitation, outline the applicable labour laws as well as collective agreements and protections that apply in different high-risk labour sectors, detail employers' legal obligations towards workers and available legal support in cases of abuse and exploitation. Additionally, this information should also highlight

¹⁰⁴ IOM, 2023a.

¹⁰⁵ Van den Durpel, 2019.

contacts for trade unions, health-care providers, NGOs that specialize in addressing trafficking in human beings, support and community organizations, as well as labour inspection authorities and other reporting channels. The information should be disseminated at workplaces, consulates and embassies for migrant worker countries of origin, in places where vulnerable workers gather outside of the workplace (for example, social clubs, places of worship and community centres), and as part of immigration procedures. Policymakers and practitioners should also consider setting up counselling centres for migrant workers or MRCs, mobile drop-in centres, as well as other initiatives to ensure that this information is delivered both online and offline.¹⁰⁶

Awareness-raising campaigns are an important tool for sharing key information on labour rights with migrant workers, employers, recruiters and migrant support service providers. They should be targeted and data driven, focusing on key demographics such as nationality, race, age groups, gender and profession of migrant workers most vulnerable to and at risk of labour exploitation. Awareness and communication campaigns should be developed based on baseline assessments and knowledge, attitudes and practice studies. These should be specifically related to migrant worker vulnerability, risks, knowledge of labour rights and access to justice. Where necessary, campaigns should target specific sectors such as agriculture, domestic work, construction or hospitality.

IOM established useful overarching principles to guide governments' migrant-facing information strategies development, implementation, monitoring and evaluation. These principles have been laid out in Figure 3, below.

Figure 3. Principles to guide migrant-facing information strategies



Source: IOM, 2022b.

¹⁰⁶ CoE, 2022.



GOOD PRACTICES. AWARENESS-RAISING CAMPAIGNS

- The [Danish Centre against Trafficking in Human Beings](#) has developed a compilation of reader friendly materials on [employees' rights](#) and a [list of indicators](#) to determine if migrant workers are being exploited by their employers. This has been translated into eight languages.
- The Norwegian Labour Inspection Authority has developed a user-friendly section on its website with a compilation of [employees' rights and obligations](#) in Norway, focusing on minimum wage entitlements, working hours, procedures when employer has not paid salary, employment contracts and health and safety. This web page and information is available in 13 languages. The Labour Inspection Authority also implemented the [Know Your Rights](#) campaign, targeting migrant workers. It sought to provide migrant workers with information on wages and labour rights in Norway and was developed in partnership with labour inspection authorities in Romania, Bulgaria, Lithuania and Estonia. Information created for the campaign was translated into seven languages.
- In France, the [Comité Contre l'Esclavage Moderne \(CCEM\)](#) has developed tools to prevent human trafficking for labour exploitation amongst vulnerable populations. These tools are available in seven languages and use infographics as well as pictures to inform people of their rights.
- Other good examples of communication materials that are applicable to migrant workers and victims of trafficking for labour exploitation include pamphlets developed by the [Municipal Unit Against Human Trafficking \(UTEH\)](#) in Barcelona, Spain, as well as a variety of information materials created by the Gangmasters and Labour Abuse Authority ([GLAA](#)) in the United Kingdom on labour rights and exploitation.
- IOM Spain has developed an 80-minute video tailored for seasonal workers in Wolof, Arabic, French and Spanish. The video is divided into two distinct parts: pre-employment orientation and pre-departure orientation. This video was developed based on the understanding that not every worker might be literate, and the video can be accessed with a QR code.
- In Austria, a coalition of PRO-GE trade union and agricultural worker activists have created an [information portal for seasonal workers](#) with information in 10 different languages.
- In Finland, a mobile application called [Work Help](#) is available to migrant workers who plan to move to Finland or currently reside there. The application is accessible in 26 languages and provides information on migrant workers' rights as employees. It also provides information on who to contact if their rights have been violated.



GOOD PRACTICE. MIGRANT WORKER OUTREACH

In Austria, the organization Sezonieri undertakes mobile outreach work to seasonal agricultural workers and has a [website](#) providing information on their rights. The website is accessible in various languages. Sezonieri is a joint initiative of the [Production Trade Union](#) (which covers agricultural workers), the [Drop in Centre for Undocumented Workers \(UNDOK\)](#) and various NGOs including [LEFÖ-IBF](#) and [MEN VIA](#).



GOOD PRACTICES. MIGRANT WORKER RIGHTS COURSES AND MOBILE APPLICATIONS

- In the United Kingdom, the Skills and Education Group in partnership with GLAA developed a [Level 1 award in workers' rights and labour exploitation](#) qualification that enables learners to spot the signs of labour exploitation, understand their rights in the workplace, and know where to seek help if they or others are at risk. The qualification also covers job adverts, pay slips and contract types, arming learners with the knowledge they need to keep themselves safe at work.
- [Quizrr](#) provides an inclusive and accessible digital education platform that aims to empower workers and job seekers globally by enabling them to exercise their rights and engage in constructive dialogue with their employers to improve their workplace conditions. It does this through a series of modules that equip workers with the knowledge and skills necessary to understand their rights and responsibilities.
- The mobile application [SAFE](#) aims to reduce the prevalence of human trafficking by providing key information about human trafficking, safe travelling principles, tips for working abroad and useful contacts in case of emergency. In addition to providing this key information, the application also has an interactive game to help put this knowledge into practice. Furthermore, IOM Slovakia developed a brief [manual](#) for professionals on how to use the application for educational purposes in various types of schools.



SELF-REFLECTION EXERCISE

Reflect on your role as a policymaker or practitioner in relation to the right of access to information and to migrant workers and victims of labour exploitation. Based on your country context, how could you support providing access to information?



USEFUL RESOURCES

- ILO (n.d.). [ILO indicators of forced labour](#).
- ILO (n.d.). [Details of indicators for labour exploitation](#).
- IOM (2020). [IOM Public Communication Campaign Toolkit](#).
- IOM (2016). [IOM X C4D toolkit: A step-by-step guide to applying Communication for Development \(C4D\) to counter-trafficking activities](#).
- IOM (2022). [Migrant-facing information initiatives](#).

3.3.3 Right to an effective remedy

The right to an effective remedy is set out under article 47 of the CFR,¹⁰⁷ and in article 13 of the ECHR.¹⁰⁸ Additionally, one of the three guiding principles of the United Nations Guiding Principles on Business and Human Rights stipulates that States must take steps to ensure effective access to remedy for those affected by business-related human rights abuses.¹⁰⁹ Governments and businesses have a responsibility to implement mechanisms to remedy human rights abuses experienced by all workers, including migrant workers. If appropriate steps are not taken to investigate, punish and redress business-related human rights abuses when they occur, the State's duty to protect can be deemed weak or even meaningless.¹¹⁰ As a result, migrant workers may be deterred from seeking remedy for labour and human rights violations if they believe the remedy will not be beneficial or effective. Additionally, businesses and employers will not be discouraged from engaging in exploitative labour practices. It is therefore important to establish robust and accessible grievance mechanisms, and to enact and enforce relevant legislation that may serve as a deterrent to trafficking in human beings,¹¹¹ as well as to other forms of labour exploitation.

Grievance mechanisms may be State-based judicial, State-based non-judicial or non-State based (for more, see the text box below). Raising public awareness about any such mechanisms is critical to ensuring that they are accessible to migrant workers. It is important to note that migrant workers in particular are often reluctant to raise grievances through established business mechanisms,¹¹² as well as through State-based judicial and non-judicial grievance mechanisms. There are various reasons for this, including the lack of inclusion of the needs of migrant workers in grievance mechanisms and fear of reprisals, as well as the risks of losing their job, termination of their work permit (if tied to a specific employer), and deportation for undocumented migrants.

The strengthening of civil society support organizations and trade unions may also improve migrant workers access to remedy. These organizations are able to build trust with migrant workers in ways unavailable to State agencies. Effective grievance mechanisms and remediation programmes for migrant workers are often conducted in partnership with non-State-based organizations. However, some migrant workers may face difficulties joining trade unions due to membership fees. Hence, consideration should be given to waiving or subsidizing these fees for migrant workers, ensuring equitable access to support, regardless of their economic circumstances.

¹⁰⁷ European Parliament, Council of the European Union and European Commission, 2000.

¹⁰⁸ CoE, 1950.

¹⁰⁹ OHCHR, 2011.

¹¹⁰ *Ibid.*

¹¹¹ UNODC, 2009a.

¹¹² IOM, 2023b.



GO DEEPER: TYPES OF GRIEVANCE MECHANISMS

- State-based judicial: these are judicial mechanisms involving courts and tribunals responsible for reviewing and remedying labour rights abuses. States should ensure legal or procedural barriers are not in place that would prevent legitimate cases from being brought before the courts.
- State-based non-judicial: these are mechanisms operated by State institutions that are not part of a judicial process. Mechanisms of this nature may include government-run complaints offices such as labour departments or inspectorates, national human rights institutions, national contact points under the Organisation for Economic Co-operation and Development guidelines for multinational enterprises, ombudsperson offices and mediation. These mechanisms supplement and complement judicial processes, especially in cases where a judicial process is not required or is not the favoured approach of the claimants.
- Non-State based: these mechanisms do not involve the State and are led by private or other non-governmental actors. These can include a variety of measures, including grievance mechanisms established by businesses; mechanisms set up by international organizations, and other initiatives by multi-stakeholder bodies, industries, or certification bodies. Such mechanisms may be beneficial due to more timely resolution of complaints and reduced costs.

Source: Adapted from ILO (2022). [Fair Recruitment and Access to Justice for Migrant Workers](#), and OHCHR (2011). [Guiding Principles on Business and Human Rights](#).



GOOD PRACTICES

- IOM has developed useful tools on remediation and grievance mechanisms for businesses. These include [Operational guidelines for businesses on remediation of migration worker grievances](#) and [Access to remedy and grievance mechanisms](#) for the hospitality industry. The operational guidelines provide businesses with a framework for designing and implementing an effective remediation programme that engages with all workers including migrant workers. The access to remedy and grievance mechanism for the hotel industry provides guidance to the hotel industry

on facilitating access to remedy for migrant workers. It can be utilized by policymakers at the hotel brand level, as well as individual hotels and corporate offices that employ migrant worker. The tool provides guidelines on establishing effective grievance mechanisms and recommendations on remediation. It also includes a grievance mechanism checklist.

- [UnionMigrantNet](#) is a European trade union network of assistance for migrants. It promotes the rights of migrant workers through a one-stop-shop structure. UnionMigrantNet facilitates migrants' access to information and assistance and seeks to strengthen trade union activities to protect the rights of migrants. UnionMigrantNet provides assistance to migrants irrespective of their nationality or residence status.
- [Fairwork Belgium](#) provides information via its website to migrant workers without legal residency in Belgium or with restricted residency rights. It includes information on employment rights and what migrant workers can do if they need to file a complaint about labour rights violations. A helpdesk also offers direct support to migrant workers, guiding them on their employment rights as well as putting them in contact with the labour inspectorate and helping with filing a complaint.



USEFUL RESOURCES

- ICAT (2016). [A toolkit for guidance in designing and evaluating counter-trafficking programmes.](#)
- ASI (2021). [Migrant workers access to remedy.](#)
- PICUM (2020). [A worker is a worker: How to ensure that undocumented migrant workers can access justice.](#)
- ILO (2023). [Migrant Workers Rights' to Freedom of Association and Collective Bargaining.](#)



GO DEEPER: OPERATIONAL GUIDELINES FOR BUSINESSES ON REMEDIATION OF MIGRANT WORKER GRIEVANCES

Under the IOM [Operational guidelines](#), companies are given a clear framework for designing and implementing effective voluntary remediation programmes for worker grievances, especially in relation to addressing the human rights of migrant workers. These guidelines do not invalidate State-based legal mechanisms that migrant workers should also be able to access. The recommended steps of an effective remediation programme are highlighted in Figure 4 below. These guidelines were developed under the CREST project.

Figure 4. Remediation programme steps



Source: IOM, 2021.



GO DEEPER: MIGRANT RESOURCE CENTRES

Migrant resource centres (MRCs) offer one-stop-shop services to migrants, both in countries of origin and in countries of destination. The services provided are normally based on the national context but, generally, MRCs in countries of origin offer information on legal migration procedures and documentation required, the risks of irregular migration, safe migration practices, the migration process and the rights and responsibilities that migrants have throughout the migration process. In countries of destination, MRCs usually provide guidance on migrants' rights and offer assistance with

accessing services such as legal support, housing, medical care, education and training. Migrant workers, in particular, may also be supported in accessing grievance mechanisms, referral to legal services, and advice on organizing and collective action counselling. To better support the needs of migrant workers, in some countries [trade unions](#) have established MRCs to provide them with legal advice and assistance.



USEFUL RESOURCES

- IOM (n.d.). [IOM migrant centres toolkit](#).
- Pillinger (2015). [Running an effective migrant resource centre: A guide for practitioners](#)
- Villar and Ahn (2022). [Trade Union-led Migrant Resource Centres in ASEAN and Jordan: Case Studies for Protecting and Organizing Migrant Workers](#).



GOOD PRACTICES

- IOM has established an [MRC in Georgia](#) and provides guidance to potential migrants on legal migration opportunities to European Union member States, other destination countries and on risks that accompany irregular migration, such as trafficking in human beings and labour exploitation. IOM also operates a [migrant information centre in Slovakia](#) that offers a variety of services to migrants who are not European Union nationals. These services include legal, labour and social counselling as well as other services. Migrant information centres have also been established in [Romania](#) and Poland.
- In Germany, [Faire Mobilität \(Fair Mobility\)](#) assists in the enforcement of fair wages and working conditions for migrant workers from Central and Eastern Europe. It is sponsored by the German Federal Ministry of Labour, and also operates local advisory centres that provide migrant workers with information on labour and social law.

3.3.4 Non-punishment principle

The principle of non-punishment is a critical issue that States should address and adopt into national legislation and policies. The CoE [Recommendation CM/Rec\(2022\)21](#), on preventing and combating trafficking in human beings for the purpose of labour exploitation, proposes that States should consider not proposing penalties on victims for unlawful activities they were compelled to commit.¹¹³ This principle seeks to protect the rights of victims, encourages them to report crime and participate as witnesses in trials against traffickers.

Notably, the 2020–2025 European Union Strategy on Victims’ Rights incorporates the need to “assess tools at the EU level to allow for the reporting of crime for migrant victims independent of their resident status”.¹¹⁴ This is an important step to establishing firewall and safe reporting policies within European Union member States. Government practitioners often require the collection of data regarding the immigration status of migrants who seek access to justice, either through criminal or civil means, which may deter undocumented migrant workers from making reports about the human rights violations they may experience. To reduce this barrier and safeguard the fundamental rights of migrants in irregular situations, some countries have established policies to separate the provision of public services from immigration authorities. These policies include prohibiting sharing information on the immigration status of those involved with immigration authorities, when providing essential services.¹¹⁵ The establishment of firewalls are an important protection mechanism that aids in ensuring undocumented migrant workers are not discouraged from accessing justice due to the possibility of being arrested, removed, or deported. States within the EEA+ region could also facilitate complaints from irregular migrant workers to labour inspectors by designing clearer protocols on non-reporting to immigration authorities and confidentiality.



GO DEEPER: FIREWALL PROTECTIONS

The three components of firewalls

Firewall protection policies may include one or more of the following components:

- “Don’t ask”, preventing government employees from inquiring about the person’s immigration status;
- “Don’t tell”, preventing government employees from sharing information about a person’s immigration status with immigration authorities; and
- “Don’t enforce”, preventing government employees from arresting or detaining someone on account of their immigration status.

¹¹³ CoE, 2022.

¹¹⁴ European Commission, 2020b. See also Delvino, 2020.

¹¹⁵ Crépeau and Hastie, 2015; Timmerman et al., 2020.

Council of Europe Recommendation

The [European Commission Against Race and Intolerance General Policy Recommendation No. 16 on Safeguarding Irregularly Present Migrants from Discrimination](#) seeks to ensure that irregularly present migrants within member States have access to the human rights to which they are entitled under international law. In relation to “firewalls”, it calls for the creation of effective measures to prohibit social service providers from sharing the personal data of suspected irregular migrants with immigration authorities.



GOOD PRACTICES

- The [Free in, Free out](#) policy in the Kingdom of the Netherlands introduced in 2015 is currently the only national firewall protection policy in the European Union that applies to the reporting of all criminal offenses. It allows migrants with irregular status to enter a police station to report a crime and to leave freely, without being arrested or detained because of their irregular status.
- A review of firewall measures was a key component of the Safe Reporting Project implemented in 2018–2019 by the Centre on Migration, Policy and Society (COMPAS). The project focused on national and local firewall measures that enable “safe reporting” for victims or witnesses of crime with irregular migration status in the United States and four European Union countries. Under the project, reports were produced exploring the legal and political replicability of so-called “sanctuary city” and firewall practices from the United States and in Belgium, Italy, Spain and the Kingdom of the Netherlands. The reports can be accessed on the [COMPAS website](#).
- Other [good practices](#) have been noted in Belgium, where undocumented migrant workers are also protected from possible immigration sanctions as they can file complaints to the labour inspectorate without being reported to immigration authorities.



USEFUL RESOURCES

- LSI (2023). [The non-punishment principle: Explanatory brief](#).
- LSI (2023). [The non-punishment principle: Advocacy document](#).



4. PROTECTION

4.1 INTRODUCTION

Although there is no universally accepted definition of “protection”, the term can be used to describe “all activities aimed at obtaining full respect for the rights of the individual in accordance with the letter and the spirit of the relevant bodies of law”.¹¹⁶ As the primary duty bearer for upholding the rights of all persons, including migrants, the State has a particularly important role to play in upholding rights and reducing vulnerability to rights violations in all spheres and at all levels. However, other actors also have a role to play in supporting States to fulfil their obligations. This module focuses primarily on protection mechanisms for migrant workers who are victims of criminal offenses related to labour exploitation, including trafficking in persons.

Several measures can be taken to protect the rights of migrant workers and victims of trafficking for labour exploitation. These include strengthening the capacity of relevant stakeholders likely to encounter and identify vulnerable migrant workers, ensuring victim-centred and trauma-informed approaches are utilized, taking measures to ensure the non-penalization of identified victims of trafficking for labour exploitation, providing specialized services, establishing a reflection and recovery time, and adopting measures to ensure victims can seek compensation.

¹¹⁶ IOM, 2019a.

4.2 OBSTACLES

This subsection includes a non-exhaustive overview of some of the obstacles hindering the protection of migrant workers' rights. First, there are structural factors, including the lack of evidence-based policies and legislation responding to the modus operandi of organized criminal groups, as well as challenges with operationalizing policies to adequately protect the rights of migrant workers. Additionally, migrant workers subjected to labour exploitation may fear authorities (for instance, they may have engaged in illegal activities, or they may fear being detained or deported), reprisals from their "employer", or the possibility of their work permits being revoked, if those permits are tied to their employer. They may also be reluctant or unable to seek support, including being reluctant to lodge a complaint or being unwilling to continue with a complaint (for instance, they may be too traumatized to testify), lacking knowledge of their legal rights, and being unable to self-identify as victims. At the State level, the available services may be insufficient to meet the needs of vulnerable migrant workers, the capacity to identify and protect victims may be inadequate, and national policies and legislation to enhance victim protection may need to be strengthened.

Practitioners and policymakers can take several measures aimed at protecting migrant workers and victims of human trafficking for labour exploitation. These include passing laws that set out specific protection measures for victims, building shelters to cater for the specific needs of victims, designing national referral mechanisms (NRMs), developing standard operating procedures (SOPs), training practitioners and developing communication materials on victims' rights for migrant workers and victims of trafficking in persons for labour exploitation.

4.3 RIGHTS

Under international and regional legislation, migrant workers and victims of trafficking for labour exploitation in the EEA+ region have a right to protection and support services. For victims of trafficking in persons, specifically, this right is established under articles 6–8 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, article 3 of the ILO Protocol of 2014 to the Forced Labour Convention, 1930, and articles 8, 9 and 11–17 of the European Union ATD.¹¹⁷ Migrant workers who are subjected to other forms of labour exploitation are also entitled to protection under the relevant fundamental ILO conventions (see Table 1) and European Union directives (see subsection 2.2.1), depending on the nature of the violation.

Policymakers and practitioners have an important role to play in ensuring that appropriate protection measures are in place and implemented. Recommended actions have been provided below concerning victim identification, access to victim support services and protection measures during investigation and court proceedings.

¹¹⁷ European Parliament and the Council of the European Union, 2011a.

4.3.1 Victim identification

Identifying victims of labour exploitation is crucial for States to fulfil their duty in protecting trafficking victims and migrant workers subjected to labour exploitation. Without proper identification, victims may face continued abuse and continued violation of their rights. This subsection provides some recommendations on how to improve victim identification to support migrant workers in accessing justice.

General recommendations to improve victim identification in connection with migrant worker access to justice include capacity-building such as training – including training of trainers – to enable replication and accessibility of information to more stakeholders; development of victim identification tools; and creation of SOPs. Actors involved in migration management, front-line workers and other key professionals (such as labour inspectors) should be trained to identify victims of trafficking and other forms of labour exploitation. Identification can be facilitated through providing checklists and other identification tools to screen potential victims and training on how to appropriately use these tools. These actors should be aware of how their own attitudes, including cultural differences, may pose a barrier to victims to self-identify. It is critically important for policymakers and practitioners to have an understanding of cultural sensitivities and appropriate communication tools.

The trauma experienced by victims of trafficking impacts them in various ways. Therefore, it is also important for trauma-informed approaches to be established and implemented by relevant stakeholders during the victim identification process. A trauma-informed approach means taking actions to reduce the risk of retraumatizing victims as well as promoting their healing and recovery. The creation of multidisciplinary teams to enhance the success of victims' identification should also be supported.¹¹⁸ Policymakers should design measures to encourage the self-identification of victims. These should include creating safe reporting and effective complaint mechanisms, establishing clear pathways to regularize victims' residence status, and providing specialized support services, including information about their rights and the possibility of receiving compensation and back pay.¹¹⁹ Additionally, policymakers are also encouraged to set up joint investigative teams when conducting transnational criminal investigations.

Moreover, individuals should receive assistance and support as soon as there are reasonable grounds to believe they have been trafficked. This support should not be conditional upon their willingness to act as a witness or to cooperate in the criminal investigation, prosecution or trial.¹²⁰

¹¹⁸ IOM, n.d.a.

¹¹⁹ CoE, 2022.

¹²⁰ European Parliament and the Council of the European Union, 2011a.

Note

Although joint operations between labour inspectors and other relevant actors (such as specialized police units or financial authorities), are in principle a good practice, several factors could hamper cooperation; for example, differences between their organizational cultures and principles, their different views on (or lack of awareness of) labour exploitation and trafficking for labour exploitation, the many procedural hurdles (for instance, regarding data exchanges), the lack of information channels, and the different obligations about notification and official secrecy. It is necessary to ensure that relevant actors are aligned and work towards a common objective that does not further contravene migrant workers' rights (for example, ensuring non-punishment by officials for migrants with irregular status or for crimes committed as a result of labour exploitation). Developing SOPs and signing memorandums of understanding could help minimize such risks. SOPs are operational documents that should describe specific procedures of the national referral mechanism process, such as screening procedures, transportation of vulnerable migrants and sharing of information in line with data protection principles. SOPs can be developed following these steps:

- Identify the procedure to be described
- Define the purpose of the SOPs
- Decide how the procedure will be presented
- Capture all steps in the procedure from start to finish
- Test the process to ensure it is effective
- Obtain approval from or endorsement by senior officials
- Finalize and implement the SOPs

Source: IOM, 2019.



GOOD PRACTICES. SCREENING TOOLS

- The HEUNI [Investigation Tool for Law Enforcement and Checklist for Labour Inspectors](#) is a tool developed to aid in the investigation and identification of labour trafficking. The publication includes a checklist for labour inspectors to assess whether workers they encounter during their duties may be victims of labour exploitation or trafficking.
- UNODC provides a number of victim identification checklists and screening tools within its [Toolkit to Combat Trafficking in Persons](#). The tools provided can be adapted to specific contexts.
- IOM has developed a comprehensive [screening interview form](#). It includes sections to obtain migrant personal data and on establishing the elements of trafficking in human beings: the activity, means and purpose for exploitation. This form can also be adapted by practitioners for more specific contexts.



GOOD PRACTICE. JOINT INVESTIGATION TEAM (EUROJUST, UNITED KINGDOM AND ROMANIA)

Supported by Eurojust and Europol, judicial and law enforcement authorities in the [United Kingdom and Romania dismantled a criminal network involved in human trafficking](#), labour exploitation and money laundering. During an action day, five suspects were arrested and 25 locations searched across the two countries.

Believed to be active since at least 2018, the organized crime group lured vulnerable people in unstable financial situations in Romania by offering them jobs in the United Kingdom. The victims were transported to the United Kingdom where they had their identity documents and phones removed. They were forced to work 16 hours a day, seven days a week without sufficient food or basic health care.

The suspects established a wide network for the recruitment, transportation, accommodation and exploitation of victims. They formed links with local companies, such as factories and commercial car valeting sites, that forced the victims to work in return for little or no remuneration.

All salary payments made to the victims were withdrawn by members of the organized crime group. The families of the victims, back in Romania, were threatened with violence to prevent them from speaking up.

The members of the organized crime group spent the proceeds from this activity on luxury items, cars and real estate.

Investigations into the network began in 2020, with Eurojust supporting the authorities in both countries involved with the setting up and funding of a joint investigation team into the case in November 2021. A coordination meeting was also hosted by Eurojust to facilitate judicial cooperation and provide support for the coordinated investigative efforts.

Europol provided analytical support, assisted with the exchange of information and deployed an expert to the United Kingdom during the action day.

During the action day, on 27 April, three suspects were arrested and twelve locations searched in the United Kingdom. In Romania, thirteen locations were searched, seven suspects were placed under judicial control and two are currently under house arrest. Approximately EUR 230,000 in various currencies, two luxury cars, two guns, mobile phones and documents were seized.

National case law. Precedent from case in Norway

A case ruling in Norway established that determining whether forced labour has occurred must be based on the overall assessment of the situation in accordance with national and international sources. The ruling also stipulated that forced labour may occur even if the person in question was able to exit it, if the situation, from a realistic point of view, gave little choice. Additionally, it was noted that the working and salary conditions, the accommodation, sanitary conditions, level of freedom of movement and isolation, abuse of power, and various forms of subordination or dependency relationships are relevant. It is also of relevance whether the aggrieved party is a minor or an adult. The court also established that the means of coercion may be physical or psychological, express or implicit, and they may have the characteristics of extortion, for instance by the aggrieved party having to sustain miserable working and salary conditions to avoid the employer notifying the police or the immigration authorities of illegal residency or other conditions that will cause problems for the worker. In addition, the ruling found that the retaining of salary may also place the worker in a deadlock situation, as the worker would not be able to buy a ticket home or leave the workplace without risking losing salary already earned.

Source: Supreme Court of Norway, 2017: para 35.



USEFUL RESOURCES

- ILO (2022). [Guidelines on General Principles of Labour Inspection](#).
- OSCE (2019). [Uniform Guidelines for the Identification and Referral of Victims of Human Trafficking within the Migrant and Reception Framework in the OSCE Region](#).

4.3.2 Right to access victim support services

Once identified, victims of labour exploitation, including migrant victims with irregular status, should be referred to organizations responsible for providing protection and assistance services. Identified victims should be entitled to, among other rights, information and assistance, access to consular services from their country of origin, police protection, medical and psychosocial care and accommodation. Depending on the destination country's protection framework, victims may also be eligible for temporary or permanent residency. Any victim support service and assistance provided to adult victims should be given with their informed consent. In cases involving children, what support should be offered is determined based on the best interests of the child principle.¹²¹ It is also important to provide support services to migrant workers based on their needs when they have experienced labour exploitation that does not meet the legal definition of trafficking in persons.

¹²¹ This principle is a provision established under article 3 of the United Nations Convention on the Rights of the Child (UNGA, 1989). IOM has also developed guidance on implementing the best interests of the child principle in the context of migration for migrants who are vulnerable to violence, exploitation or abuse (IOM, 2019b:Part 6).



PROMISING PRACTICES. RESIDENCE PERMITS

- In Finland, migrant workers subjected to significant negligence and exploitation by their employer who are already in possession of a residence permit can apply for an [extended permit or certificate of expanded right to work and change employer](#). If granted, the permit or certificate allows them to have an unrestricted right to work in any field.

There is also the opportunity for migrant workers who are victims of trafficking, including undocumented migrant workers, to apply for a [resident permit for a victim of human trafficking](#). Eligibility for the permit is generally conditional on cooperation with authorities for investigation and prosecution of the case. However, a migrant in a particularly vulnerable position may access a continuous residence permit, which does not require cooperation.

- In Ireland, migrant workers who are not European Union citizens previously in possession of a work permit may apply for a [Reactivation Employment Permit](#) if their initial permit became invalid through no fault of their own. The Reactivation Employment Permit allow migrants to work legally again. Eligibility for the permit includes cases where a migrant worker has been exploited by their employer.

Policymakers and practitioners should be trained in victim-centred and trauma-informed approaches in relation to migrant workers who have been subjected to trafficking in human beings for labour exploitation. In tandem with these approaches, policymakers and practitioners should also be or become knowledgeable of gender sensitive, child sensitive (for circumstances involving children), disability sensitive (for circumstances involving persons with disabilities), and culturally sensitive practices. Importantly, policymakers and practitioners should also adhere to the “do no harm” principle in relation to trafficking victims. This principle means that the victim and their family must not encounter harm during the provision of assistance and throughout the investigation, prosecution and return and reintegration phase. With such considerations in mind, policymakers and practitioners will be better equipped to put in place mechanisms to provide effective support services. This is critical to creating an enabling environment that encourages and facilitates access to justice.

Practitioners are encouraged to prepare and distribute to victims lists of service providers in areas such as housing, legal procedures, health and psychological support. Moreover, both policymakers and practitioners should review the existing national services available to victims and strengthen them where needed.¹²² Policies should also be in place for a relevant practitioner to be assigned as a case manager for exploited migrant workers. This role ideally should be established under an NRM (see next module).

¹²² IOM, n.d.a.



GO DEEPER: ASSISTANCE TO VICTIMS, OBLIGATIONS UNDER EUROPEAN UNION LAW

Article 12 of the [Convention on Action Against Trafficking in Human Beings](#) sets out assistance to be provided to victims of trafficking. Such assistance includes:

- Standards of living capable of ensuring their subsistence, through such measures as: appropriate and secure accommodation, psychological and material assistance;
- Access to emergency medical treatment;
- Translation and interpretation services, when appropriate;
- Counselling and information, in particular as regards their legal rights and the services available to them, in a language that they can understand;
- Assistance to enable their rights and interests to be presented and considered at appropriate stages of criminal proceedings against offenders;
- Access to education for children;
- State provision for safety and protection needs.

Articles 8 and 9 of the [Victims' Rights Directive](#) establish victims' rights to victim support services in accordance with their needs, and includes access to:

- Confidential victim support services, free of charge;
- Victim support services for family members in accordance with their needs and the degree of harm suffered as a result of the criminal offence committed against the victim;
- Information, advice and support relevant to the rights of victims, including on accessing national compensation schemes for criminal injuries, and on their role in criminal proceedings including preparation for attendance at the trial;
- Information about or direct referral to any relevant specialist support services in place;

- Emotional and, where available, psychological support;
- Advice relating to financial and practical issues arising from the crime;
- Advice relating to the risk and prevention of secondary and repeat victimization, of intimidation and of retaliation.



GO DEEPER: CONSULAR ASSISTANCE

Embassies and diplomatic missions play an important role in supporting their nationals abroad when those nationals encounter human rights and labour violations, including trafficking in human beings. In cases involving migrant workers whose rights have been violated, consular officers can offer support with translation, interpretation, travel and identity documents, and can refer migrant workers to specialized service providers such as social services including shelter, legal services, psychological and medical assistance and psychologists. Consular officers can also support vulnerable migrant workers and victims of trafficking with safe voluntary return and repatriation to their country of origin. This support is often provided in coordination with the country of destination, CSOs and international organizations such as IOM. Through offering a variety of support services, consular officers aid in enabling migrant workers and victims of trafficking for labour exploitation to assert their rights and access justice.

The Council of the Baltic Sea States (CBSS) has developed a [Handbook for embassies and diplomatic missions on how to assist and protect victims of human trafficking](#). This useful tool provides information on human trafficking, victim identification, and the role of consular, diplomatic and migration personnel in assisting victims.



GOOD PRACTICES

- In the United Kingdom, the Justice and Care [Victim Navigator Programme](#) deploys specialist workers termed “navigators” to work with the police force. They not only provide law enforcement with specialist knowledge on conducting investigations into trafficking in human beings, but also support victims during the rescue stage and beyond. Support offered to victims includes assisting with access to counselling, legal advice, medical treatment and coordinating international reparations. Navigators also act as an advocacy intermediary between victims and police, which aids in victim engagement and securing convictions.
- The private sector can also support victims through reintegration initiatives similar to the [Bright Future programme](#) in the United Kingdom, established by CO-OP in partnership with City Heart. Under this initiative, victims rescued from modern slavery are given the opportunity to access a paid work placement and a job.
- In Austria, the [Drop-in Centre for Undocumented Workers \(UNDOK\)](#) provides support services to undocumented migrant workers who have been exploited. It offers free multilingual counselling on labour and social rights as well as assistance with obtaining remedy for entitlement breaches by their employer (for example, wages, holiday pay, overtime allowances or sickness benefits).
- In Romania, IOM implemented the [Leading a United Pathway to Anti-trafficking Action \(LUPTA\)](#) project under which the role of victim protection coordinator (VPC) was established. VPCs offer individualized needs-based assistance to victims of trafficking through a multidisciplinary victim-centred approach.
- [IOM Finland](#) and [IOM Portugal](#), for example, facilitate assisted voluntary return and reintegration for victims of trafficking wishing to return to their countries of origin. Assisted voluntary return and reintegration entails providing administrative, logistical, or financial support, including reintegration assistance, to migrants unable or unwilling to remain in the receiving country or country of transit and who decide to return to their country of origin.

Policymakers should acknowledge and give special consideration to groups of migrant workers who are often more vulnerable to abuse and exploitation, including seasonal workers and domestic workers. In some instances, policymakers should establish specific policies to ensure adequate protection for these groups.¹²³ Bilateral labour agreements with other States provide a framework to regulate labour mobility; embedding a rights-based approach and specific provisions to protect migrant workers – such as facilitating transnational cooperation to ensure access to justice – ensures that such agreements also protect the rights of migrant workers.¹²⁴



GO DEEPER: MIGRANT SEASONAL AND DOMESTIC WORKERS

Migrant seasonal and domestic workers may face greater limitations with accessing justice due to the precarious nature of their work and possibly their administrative status, as well. They are especially vulnerable to human rights violations and labour exploitation due to the temporary nature of seasonal employment contracts, extremely limited access to social rights, linguistic barriers, the absence of work permits or contracts, isolation and many other factors. A variety of root causes have led to a high level of precariousness and irregular working conditions among migrant workers, including female workers, especially in the domestic work sector. In December 2023, the Parliamentary Assembly, Committee on Migration, Refugees and Displaced Persons of the CoE adopted a [draft resolution](#) to address these concerns. It notes the importance of protecting migrant seasonal and domestic workers through the provision of access to justice and appropriate sanctions, including:

- Granting a temporary residence permit in the context of legal pursuits.
- The rights to a remedy before an independent body, to obtain adequate compensation, and not to be subject to retaliation.
- Enabling third parties to file complaints against exploitative employers and in situations of modern slavery, including about the right to unionize.
- Establishing corporate liability through effective sanctions against employers or intermediaries.
- Monitoring authorities to prevent and sanction illegal recruitment practices, such as recruitment fees.
- Establishing provisions to make back payments to migrant workers and to freeze the assets of exploitative employers, and establishing a State compensation fund.

Source: Adapted from [CoE, 2024](#).

¹²³ CMW, 2010; CoE, 2024.

¹²⁴ CMW, 2010.

Once victims have come forward and denounced their situation, a written acknowledgment of the formal complaint made by them should also be issued. Policymakers should ensure that all law enforcement actors have a duty to refer victims to the relevant support services, as well. Victims must also have a reflection and recovery period of at least 30 days to allow the presumed victims to recover and escape the influence of traffickers, so as to be able to take an informed decision on cooperating with the competent authorities.¹²⁵



GOOD PRACTICES

- The [Safe Reporting project](#) aims to improve the conditions for safe reporting of crime at the local level in four European cities (Barcelona, Ghent, Utrecht and Milan). It promotes mechanisms to guarantee access to justice for irregular migrants in these European Union countries.
- The [Civil Guard](#), one of Spain's two national police forces, has created a distinct team (called "equipo de atención al inmigrante"), whose mission is to inform migrants of their rights, act as a link with other key institutions, and ensure compliance with the regulations that govern the hiring of migrants, among others.
- In [Switzerland](#), a policy has been established requiring migrant domestic workers seeking to work in diplomatic households to sign their employment contracts before arriving in Switzerland. Consular officials review the contract terms as part of the required visa interview. During the interview, domestic workers are informed about their rights, obligations and working conditions. Once they arrive in Switzerland, they meet officials from the Federal Department of Foreign Affairs and can access the Office of the Mediator that has been set up in Geneva to resolve conflicts involving persons benefiting from diplomatic privileges and immunities.

Policymakers should also design "firewalls" (as described in subsection 3.3.4) between labour inspectors and migration control actors to ensure that victims without legal residency are not expelled from the country, and still are able to access victim support measures. Furthermore, policymakers should enact specific legal provisions that exempt victims from penalties related to their involvement in unlawful activities, provided they were compelled to do so, and should develop specific guidance on how the non-punishment principle should be applied in practice. Additionally, practitioners – including labour inspectors, judges, prosecutors, police officers and other essential professionals – should receive specialized training to enhance their understanding and application of this provision.

¹²⁵ IOM, n.d.a. Note that the 30-day period should not be conditional on the cooperation of the victims with the investigative or prosecutorial authorities.



GOOD PRACTICES. NON-PUNISHMENT PRINCIPLE

- In [Cyprus](#), national legislation incorporates a non-punishment provision for victims of trafficking compelled to commit criminal activities as a direct consequence to being trafficked. In these circumstances, legislation stipulates that victims of human trafficking are not to be prosecuted and are not subject to penalties for their involvement in criminal activities resulting from them being trafficked. Victims of trafficking who are TCNs are also not prosecuted for the offences of unlawful entry, unlawful residence, unlawful employment, or employment contrary to the terms of employment.
- In the Kingdom of the Netherlands, a firewall policy (known as the [Free in, Free out](#) policy) has been adopted that allows irregularly present migrants to enter a police station to denounce a crime and exit it freely without being detained.
- The ICAT brief on the [Non-punishment of victims of trafficking](#) explores the non-punishment of victims principle and identifies key considerations and recommendations for improved implementation of the principle.

Once victims of trafficking for labour exploitation have been identified, they should be referred to relevant entities responsible for providing protection and assistance services. A case manager trained to support migrant victims of trafficking should then be assigned to assess their needs, identify goals, develop an assistance plan, organize delivery of the plan and monitor and follow up on the effectiveness of the plan in meeting the identified goals.¹²⁶ Support should be specifically tailored in accordance with those needs and provided following established referral mechanisms (discussed below) and SOPs.

¹²⁶ IOM, 2019b:31.



SELF-REFLECTION EXERCISE

Which national and local actors are involved in your work as a practitioner? How do they work together? Are there any specific mechanisms of collaboration already defined (such as referral mechanisms)? Write down your answers in the box below.

Policymakers should ensure that access to these services is not dependent on the victim's administrative status or their cooperation in criminal proceedings. Policymakers should also consider designing and strengthening NRMs or equivalent mechanisms for the identification of victims and their referral to assistance. These mechanisms should define the roles and responsibilities of all relevant actors, including labour inspectors, trade unions and other civil society actors. Although its components may vary in each country, NRMs generally include: identification of vulnerable migrants; status or case type determination; case management; and the provision of protection and assistance services. Policymakers should evaluate and adapt these mechanisms at regular intervals.¹²⁷

¹²⁷ IOM, 2019b.



GO DEEPER: GUIDANCE TO ENHANCE NATIONAL REFERRAL MECHANISMS

NRMs are tools that provide stakeholders with information on referral pathways between entities. In relation to migrants and victims of trafficking specifically, NRMs help to ensure that their protection and assistance needs are met. The following guides and publications include relevant information on how NRMs can be enhanced to ensure they meet the highest standards in both design and implementation.

Source: IOM, 2019:28.

See also:

- OSCE (2022). [National Referral Mechanisms: Joining Efforts to Protect the Rights of Trafficked Persons](#).
- IOM (2019). [Guidance on referral mechanisms for the protection and assistance of migrants vulnerable to violence, exploitation and abuse and victims of trafficking](#).
- Liu, G. (2017). [National referral mechanisms for victims of human trafficking: Deficiencies and future development](#).

Given the transnational nature of labour exploitation, policymakers should also consider setting up transnational referral mechanisms (TRMs). TRMs are established through cooperative agreements between countries to facilitate cross-border assistance to victims of trafficking. Similar to NRMs, they set out the referral pathway for victims across various phases including initial screening, identification, assistance, assisted voluntary return, reintegration and prosecution.¹²⁸

Note. Examples of NRMs and TRMs

Here are a few examples of NRMs from countries in the EEA+ region:

- [National Mechanism for Referral and Support of Trafficked Persons in Bulgaria](#).
- [Sign Post Human Trafficking, the Kingdom of the Netherlands](#).
- [National referral mechanism guidance \(England and Wales\)](#).

Here are some examples of functioning TRMs and models that could help design them:

- [The TRM of the Baltic Sea Region, Bulgaria, Romania and Ukraine](#).
- [Swedish TRM](#) (implemented with the of IOM Finland).
- [How to design TRMs: Transnational Action \(TACT\) project – Transnational referral mechanism model](#).

¹²⁸ DEO and ICMPD, 2010.



USEFUL RESOURCES

- IOM (2007). *The IOM Handbook on Direct Assistance for Victims of Trafficking*.
- IOM (2019). *IOM handbook on protection and assistance for migrants vulnerable to violence, exploitation and abuse*.
- Corbanese and Rosas (2020). *Protection and Assistance of Victims of Labour Exploitation: A Comparative Analysis*.
- European Commission (2020). *Study on Reviewing the Functioning of Member State's National and Transnational Referral Mechanisms*.
- FRA (2019). *Children Deprived of Parental Care Found in an EU Member State Other Than their Own*.
- IOM (2015). *Caring for Trafficked Persons: Guidance for Health Providers*.

4.3.3 Right to protection during investigations and court proceedings

Migrant workers choosing or required to participate in criminal cases as victim witnesses should be afforded all protection necessary to ensure their safety and security, and to protect them from intimidation, retaliation and retribution. Protection should be extended to their family members, as they may also be at risk of retribution.¹²⁹ Risk assessments should be carried out and support provided to migrant workers as they decide whether and how to participate in investigations and court proceedings. The risk assessment should focus on risks that may be faced by the victim, their family, law enforcement officers involved in the investigation, and service providers such as shelter staff.¹³⁰ Relevant practitioners, depending on their roles and responsibilities, must also conduct individualized assessments, taking into account:

The personal characteristics of the victim such as his or her age, gender and gender identity or expression, ethnicity, race, religion, sexual orientation, health, disability, residence status, communication difficulties, relationship to or dependence on the offender and previous experience of crime.¹³¹

¹²⁹ European Parliament and the Council of the European Union, 2012:articles 8, 18, 19 and 21.

¹³⁰ UNODC, 2009b.

¹³¹ European Parliament and the Council of the European Union, 2012.

Once completed, a risk management plan should be developed, identifying ways to mitigate the risks. This document should be continuously updated as risk levels change or as new risks emerge.



GO DEEPER: RISK ASSESSMENTS

IOM has established the following set of generic risk indicators for cases involving trafficking in human beings that practitioners can utilize and adapt:

- The extent and impact of trafficking in the country.
- Is the country concerned one of origin, of transit or of destination, or any combination thereof?
- How many trafficking victims may be expected to seek the service delivery organization assistance?
- The extent to which trafficking is controlled by organized criminal groups.
- Their known or estimated capacity to plan and implement reprisals against the victims and service delivery organization staff.
- The capacity of the local law enforcement agencies.
- The extent of endemic corruption and how it adds to the level of risk.
- The level of governmental commitment and support to combat trafficking in human beings.

The identity and identifying information of migrant workers choosing to participate in investigations or criminal proceedings against an individual or group should be kept confidential and not disclosed to those outside the criminal justice system, including the media or members of the public. Where permissible under law, efforts should be made to protect their identities in criminal proceedings, for example by enabling them to testify via video, with their faces obscured or with a privacy screen.¹³²

¹³² IOM, 2019b.

Additional efforts should be taken to protect victims from suffering undue psychological harm and experiencing revictimization. To this end, the number of interviews with victims should be kept to a minimum (including those conducted by stakeholders providing support), unnecessary questions or prejudicial assumptions and judgemental remarks should be avoided, alternative evidence besides victims' testimonies should be encouraged, and third parties (such as case workers, NGO staff members or guardians) should be involved during the proceedings and investigations. Evidence-based investigative techniques should also be utilized, allowing victims of trafficking to give their accounts in a free narrative form, as much as possible.¹³³ All actors engaged in trafficking in persons investigations and assistance need to consider ways to avoid revictimization by:

- Understanding the victim's trauma and needs (that is, employing a trauma-informed approach);
- Providing victims with as much predictability, choice and control as possible throughout each stage;
- Ensuring specialized psychological support, avoiding any further contact between the victim and traffickers (or their associates);
- Working with the victims to identify basic and specific needs to be covered in order to reassure them and provide a sense of protection;
- Supporting their well-being, including shelter, medical, psychosocial and financial support.
- Discussing any special measures necessary to reduce trauma, and putting such measures into place. These may include separate waiting areas, giving remote evidence, closed court rooms, and other safety measures or relevant protocols.¹³⁴

The rights of individuals who face additional protection risks, such as children and persons with disabilities, should be also carefully observed.

It is important to ensure that children have access to age-appropriate information, and enjoy specialized support services (including counselling, medical care and legal representation).¹³⁵ Additional measures to be put in place, to secure safe and fair access to justice for children, include:¹³⁶

- Child-friendly environments. Police and justice facilities should be child friendly and accessible to children with disabilities.
- Child-friendly communication. Communication with children should be age appropriate, clear and respectful.
- Child-sensitive police and judicial officials. Investigators and prosecutors should be trained in child development and trauma-informed interviewing techniques.
- Non-confrontational procedures. Alternatives to in situ testimonies should be used, such as video testimony allowing children to participate in the procedures without being in the courtroom and without confronting their possible perpetrators.
- Limited number of times children need to testify. Minimize the times a child must testify, to reduce the risk of trauma and revictimization.
- Rehabilitation and reintegration. Children involved in justice proceedings should be followed up to ensure their needs are met, and they receive support for rehabilitation and reintegration.

¹³³ Korkman, 2023:3.

¹³⁴ IOM, 2023c.

¹³⁵ ECOSOC, 2005.

¹³⁶ CoE, 2010.

Moreover, the best interests of the child should be a primary consideration in all actions concerning trafficked children, or children who have been subjected to labour exploitation. In cases of unaccompanied or separated children, a qualified legal guardian should be appointed who is able to support them in all relevant procedures when accessing protection and through prosecution.

In the case of persons with disabilities, it is equally important to ensure that they enjoy specialized support services and to minimize the risk of trauma and revictimization, through the deployment of well-trained professionals. In addition, other measures that should be taken include:¹³⁷

- Accessible facilities and accommodations. Police and justice facilities should be accessible to persons with disabilities.
- Accessible communication aids and assistive technologies. Ensure the availability of interpreters, sign language interpreters and screen readers, along with assistive technology such as augmentative and alternative communication devices, as well as text-to-speech software, as needed.
- Use of alternative and flexible procedures. Justice systems should provide adaptable and flexible alternatives, such as video or closed-circuit television testimony, for individuals with disabilities who are unable to engage in standard legal proceedings.

It is important to ensure that a victim's protection does not end if criminal proceedings do not result in a successful prosecution, as it can increase the vulnerability of the presumed victim and their likelihood of being re-exploited. As such, when possible, more sustainable forms of assistance should be provided, including integration, return and reintegration, or third country relocation.¹³⁸ The granting of humanitarian residence permits should also be considered.



GO DEEPER: PROTECTION UNDER THE EUROPEAN UNION VICTIMS' RIGHTS DIRECTIVE AND COUNCIL OF EUROPE CONVENTION ON ACTION AGAINST TRAFFICKING IN HUMAN BEINGS

In the European Union context, the [Victims' Rights Directive](#) stipulates the protection rights to be afforded to all victims of crime. These include:

- Protection from secondary and repeat victimization (articles 12 and 18);
- Protection from intimidation and retaliation (articles 12 and 18);
- Protection of the dignity of victims during questioning and testifying (article 18);
- Physical protection of victims and their families, when necessary, based on established procedures under national law.

¹³⁷ OCHCR, 2020.

¹³⁸ IOM, n.d.a.

The [Convention on Action Against Trafficking in Human Beings](#) stipulates protection rights for all victims of trafficking in human beings, including States' responsibilities on:

- Mechanisms to be implemented for the identification of victims (article 10);
- Protection of the victims' private life and identity (article 11);
- Assistance to victims to aid in their physical, psychological, and social recovery (article 12);
- Taking due account for victims' safety and protection needs (article 12);
- Ensuring victim assistance is not conditional on their willingness to act as a witness (article 12);
- Ensuring assistance is provided on a consensual and informed basis (article 12);
- Providing a recovery and reflection period of at least 30 days to victims to enable them to make informed decision on whether they wish to cooperate with competent authorities (article 13);
- Providing renewable resident permits under certain circumstances (article 14);
- Providing compensation and legal redress (article 15);
- Repatriation and return of victims (article 16);
- Ensuring gender equality and gender mainstreaming in implementation and assessment of measures related to protection and promotion of victims' rights (article 17).



SELF-REFLECTION EXERCISE

- What types of protection mechanisms are in place in your country, for victims of trafficking for labour exploitation, during investigations and court proceedings?

- What are some of the challenges encountered, and how could these be overcome to facilitate access to justice for migrant workers and victims of trafficking for labour exploitation?



GOOD PRACTICE

- In Finland, [Victim Support Finland \(RIKU\)](#) provides victims of trafficking with specialized support services. Support is provided to all victims of exploitation, including those who choose not to contact government authorities and decide to make direct contact with the service or have been referred by NGOs.

Another tool States can use to support the protection of the rights of migrant workers and victims of human trafficking for labour exploitation are national action plans (NAPs). NAPs are often used to support the implementation of policies and laws and can be useful tools for implementing whole-of-government and whole-of-society approaches to addressing migrant vulnerability to violence, exploitation and abuse.

The NAP should contain: goals or objectives; a set of expected results; benchmarks or indicators for assessing progress towards intended results; specific activities to be implemented and a timeline for that implementation; and clear specification of which entity is responsible for which activities and the resources needed for the implementation of each activity. Countries wishing to undertake a comprehensive approach to addressing migrant vulnerabilities can divide the NAP into the different levels of intervention (individual, household or family, community and structural).¹³⁹



GO DEEPER: NATIONAL ACTION PLANS

According to some proposed amendments to article 11, paragraph 4 of the European Union ATD, the adoption and regular updates to NAPs will become mandatory for European Union countries.* The resources listed here provide guidelines and templates for the elaboration of NAPs, and monitoring and evaluation tools:

- ILO (2020). [Developing National Action Plans on Forced Labour: Guidance Manual](#).
- OSCE (2023). [Modernizing national action plans to strengthen States' anti-trafficking efforts](#).
- ICMPD (2021). [Developing and Monitoring National Anti-Trafficking Response: A Practitioners Guide](#).

¹³⁹ IOM, 2019b.

- [CMPD \(2010\). Monitoring and Evaluation Handbook for National Action Plans Against Trafficking in Human Beings.](#)

Here are some examples of NAPs adopted by specific countries in the EEA+ region:

- [Government of Ireland \(2023\). National Action Plan to Prevent and Combat Human Trafficking 2023–2027.](#)
 - [Government of Slovakia, National Programme of Fight against Trafficking in Human Beings for 2019–2023.](#) The 2024–2028 plan has also been published but has not been translated into English yet.
 - [Austrian Federal Government, National Action Plan for Combatting Human Trafficking, 2021–2023.](#) (The 2024–2026 plan is currently under development).
- * On 22 January 2024, the European Parliament and Council reached a political agreement on updating and revising the European Union ATD of 2011. This will now lead the way for the European Union ATD to be revised once it has been formally adopted by the European Parliament and the Council. See [European Commission, 2024](#). The proposed amendments can be reviewed in [European Commission, 2022](#).



5. PROSECUTION

5.1 INTRODUCTION

Prosecution is another critical aspect of an effective response to labour exploitation and human trafficking. To improve prosecution efforts, policymakers and practitioners can implement several measures. These include developing or strengthening national legal frameworks to align with the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, enhancing the capacity of criminal justice practitioners, and establishing relevant institutions such as specialized police units and judicial structures. Additionally, adopting safeguards to guarantee victims' protection and safety during criminal proceedings, ensuring their right to legal aid and to be heard, so they can express themselves, or encoding their right to restoration (in the form of access to restorative justice services or economic compensation) can also improve prosecution efforts.

5.2 OBSTACLES

Some of the challenges to an effective criminal justice response for migrant workers and victims of trafficking for labour exploitation include the absence of effective workplace investigations, the transnational nature of trafficking in persons, limitations to international cooperation, and the lack of sufficient training, resources and experience of law enforcement officials, prosecutors and judges.¹⁴⁰ Additionally, victims' reluctance to testify, the typical weakness of victims' testimonies coupled with the vagueness of some legal frameworks, and the prevalence of other psychosocial and cultural factors also add to the difficulty of pursuing prosecution.¹⁴¹ There has also been concern raised by some European countries in relation to sufficiency of evidence to prove that coercion took place in trafficking for labour exploitation cases, as well as the there being a thin line between trafficking in persons and labour legislation violations.¹⁴² As a result, victims of trafficking for labour exploitation are sometimes not considered as such, and are instead determined to have experienced other forms of labour exploitation. In such instances, perpetrators may be prosecuted for offences other than trafficking in persons. A study published in 2015 by the European Commission highlighted various reasons for the limited number of successful prosecution of cases in the European Union.¹⁴³ These included:

- Differences in understanding of trafficking for forced labour and restrictive interpretations by the courts, leading to acquittals or cases being prosecuted under alternative offence provisions.
- Length of court proceedings, which may take years, having an impact on victim and witness testimonies due to their inability to remember facts and data over time.
- Defendants obstructing proceedings and intimidating witnesses.
- Lack of sufficient protection measures for victims, resulting in their unwillingness to cooperate with prosecutorial efforts.
- The requirement in some countries to testify in court in person.
- Challenges with identifying appropriate interpreters.¹⁴⁴



SELF-REFLECTION EXERCISE

Reflect on your role as a policymaker or practitioner in relation to the prosecutorial response for migrant workers and victims of labour exploitation. What other obstacles are you aware of that may limit access to justice in relation to successful prosecution of cases?

¹⁴⁰ GRETA, 2021a; UNODC, 2017.

¹⁴¹ GRETA, 2021a; UNODC, 2017; IOM, 2007.

¹⁴² GRETA, 2018a:42.

¹⁴³ European Commission, 2015.

¹⁴⁴ Ibid.

5.3 RIGHTS

Throughout the prosecution process of criminal cases involving labour exploitation, migrant workers who are victims of such offences should be afforded the same rights as nationals. This includes the right to be heard, rights when a decision is made not to prosecute, the right to safeguards in the context of restorative justice, the right to legal aid and the right to effective remedy. Further details are provided below on each of these rights and how they can be upheld for migrant workers.

5.3.1 Right to be heard

Article 10 of the European Union Victims' Rights Directive stipulates that European Union member States should ensure that victims may be heard during criminal proceedings and may provide evidence. While recital 41 of the same directive indicates that "the right of victims to be heard should be considered to have been fulfilled where victims are permitted to make statements or explanations in writing", the scope of this right remains somewhat ambiguous.¹⁴⁵ Additionally, the extent to which victims can be heard and provide evidence is significantly influenced by the role granted to them through procedural rules and may also be impeded if they were forced to leave the country due to lack of immigration residency status. In jurisdictions where victims are recognized as parties to proceedings, their capacity to be heard and offer evidence tends to be more comprehensive, accompanied by supportive measures to facilitate the exercise of this right.¹⁴⁶ For some, article 10 obliges the police, prosecutors and judges to give due consideration to what the victim has to say;¹⁴⁷ for others, who take a much narrower understanding of this article, it does not oblige those authorities to record or take the testimony into account.¹⁴⁸ Regardless of the interpretation taken, at a minimum, victims should be able to submit an impact statement.¹⁴⁹

In order to respect the child's right to be heard (article 12 of the Convention on the Rights of the Child), those involved in a best interest determination need to:

- Inform the child about the process, the options being considered and the relevant considerations and consequences.
- Obtain the child's views, wishes and feelings about each of the above factors (in the past, present and for the future, regarding all possible sustainable solutions).
- Assess the child's understanding and maturity, that is, the child's ability to comprehend and assess the implications of the options.
- Actively consider and determine what weight to place on the child's views (in light of the above understanding).¹⁵⁰

Effective implementation of the right to be heard involves creating an environment where victims feel safe and empowered to share their experiences, should they wish to proceed. Policymakers and practitioners play a pivotal role in establishing mechanisms that facilitate victim participation, while addressing potential retribution or fear of reprisals. These mechanisms should be guided by a victim-centred approach that acknowledges the power dynamics inherent in trafficking in persons situations. To operationalize the right to be heard, policymakers must develop comprehensive

¹⁴⁵ European Parliament and the Council of the European Union, 2012.

¹⁴⁶ VSE, 2023.

¹⁴⁷ FRA, 2019.

¹⁴⁸ VSE, 2023.

¹⁴⁹ Ibid.

¹⁵⁰ IOM, 2019b.

support services and legal frameworks that prioritize victim participation. This entails offering legal assistance, counselling, provision of residence permits for migrant workers without residency status, and ensuring interpreters are available, when needed. As already noted (see Module 4: Protection), the provision of such support should be unconditional and not dependent upon the victim's willingness to act as a witness or to cooperate in the criminal investigation, prosecution or trial.¹⁵¹



SELF-REFLECTION EXERCISE

- What is your understanding of the right to be heard within your country?

- How is this right upheld in relation to migrant workers and victims of trafficking for labour exploitation?

- As policymaker or practitioner, do you currently play a role in supporting migrant workers and victims of labour exploitation in accessing this right? If so, what are your responsibilities?

¹⁵¹ European Parliament and the Council of the European Union, 2011b:article 12.

Additional information

Some recommendations said to elicit the creation of a safe environment that favours victims' participation include the following:

- Build a trustful relationship between the victim, law enforcement officers, judges, lawyers and prosecutors.
- Minimize the burden of proof placed on the victims.
- Provide (or ensure the provision of) specialized trainings to prosecutors and judges, so they can have a better understanding of trafficking in human beings and why victims' testimonies may be changing or contradictory.
- Involve expert witnesses in trafficking in persons cases, such as psychologists, social workers, victim assistance specialists, or survivor leaders.
- Provide residency status for undocumented migrant workers subjected to trafficking for labour exploitation.



USEFUL RESOURCES

- UNODC (2017). [Evidential issues in trafficking in persons cases: Case digest](#). Section 2.2.1 victim testimony, for example, provides an overview of the many challenges linked to victim testimonies in trafficking cases.
- APT (2021). [Principles on effective interviewing for investigations and information gathering](#). These principles aim to modify police practices by replacing coercive interrogations with rapport-based interviews.



GOOD PRACTICES

- Justice and Care's [Victim Navigator Programme](#). The navigators are given unparalleled access to cases, with the highest security clearance, to provide specialist knowledge from the very start of investigations and provide support to survivors.
- The LUPTA [victim protection coordinators](#). VPCs ensure that victims of trafficking in human beings receive holistic support through all stages of investigation and prosecution. VPCs can also increase trust amongst victims and law enforcement, which can result in an increase in the intelligence collected and more successful prosecutions.

- Another project aimed at reducing the risk of secondary victimization for victims during criminal proceedings is the Victim Support Europe FYDO project. Data from the [project](#) suggest that facility dogs had a calming effect on victims during criminal proceedings, which in turn assisted victims in expressing themselves more freely.

5.3.2 Rights in the event of a decision not to prosecute

As we have seen, crime victims have the right to actively participate in criminal proceedings. Victims have the right to be heard, have access to legal aid, be protected from intimidation, retaliation and secondary and repeat victimization, among others. Additionally, victims also have the right to be informed about the different steps of the criminal proceedings, including being notified if the offender will not be prosecuted. Moreover, victims may also have the right to review decisions made by prosecutors, investigative judges, or law enforcement authorities, such as police authorities, regarding the decision not to prosecute. However, this right largely depends on the victim's role in the criminal justice system and, in some other instances, on the seriousness of the crimes experienced.

The right is founded on the recognition that, regardless of the authorities' professionalism and training, mistakes and abuse can happen. Information or evidence can be overlooked, missed, or ignored; personal biases can negatively affect decisions; and corruption can deny victims' justice. While such instances where the system falters may be infrequent, this right aims to minimize these risks, ensuring a fair and just legal process for all involved parties.¹⁵² Despite the origin of this right, it is important to note that it also covers victims' right to appeal such decisions. Given the importance of this right, policymakers should ensure that it is available to all victims. Moreover, they should ensure that:

- No strict time limits exist as to when the review request must be submitted. After receiving the decision not to prosecute, victims must understand its contents, consider its validity and reflect on whether there is a legal basis to pursue a review. Moreover, they may also wish to seek legal guidance and assistance, which may further delay the process.
- It is possible to grant an extension to the deadline for submitting a request to review a decision not to prosecute. Provided the request is duly justified, deadline extensions should also be incorporated in legislation. Victims may not be based abroad, may require translation and interpretation services, or their counsel may need more time to reach a decision or to draft the submission form.
- Sufficient information is given explaining why a decision not to prosecute was reached. Communication should include sufficient information on the reasons for the decision to enable victims to determine whether they should seek a review and on what grounds. In other words, it should not be enough to write that there was "insufficient evidence for a successful prosecution", for example. Additionally, communications should be written in simple and understandable language, avoiding as far as possible legal jargon.
- Victims have access to legal aid. As the right to review places the victim against professional government lawyers and its prosecution service, it is essential to ensure that all victims have access to legal support services.¹⁵³

¹⁵² VSE, 2023.

¹⁵³ Ibid.

Note

- Ireland has developed two guidelines for victims that includes information on how victims could ask the Director of Public Prosecutions or the Garda Síochána to review their decision not to prosecute. These can be found [here](#) and [here](#).
- According to Section 10(1) of the Criminal Justice (Victims of Crime) Act 2017, all victims have a right to review a decision not to prosecute, and have 28 days from the date on which they first heard of this decision to request a review. This period may be extended where the Garda Síochána or the Director of Public Prosecutions, as the case may be, is satisfied that circumstances exist that warrant the extension.

5.3.3 Right to safeguards in the context of restorative justice services

Article 12(1) of the European Union Victims' Rights Directive states that, where restorative justice services (RJSs) are available, several measures should be taken to safeguard victims from secondary and repeat victimization, intimidation and retaliation.¹⁵⁴ The directive describes "restorative justice" as any process by which the victim and the offender are enabled, if they freely consent, to participate actively in the resolution of matters arising from the criminal offence through the help of an impartial third party.¹⁵⁵ Among others, RJSs includes family group conferencing, victim–offender mediation, and sentencing circles.¹⁵⁶ Unlike criminal justice processes, which are adversarial in nature, restorative justice processes (RJPs) bring together offenders and victims to focus on repairing the harm that resulted from the offence, with a forward-looking perspective.¹⁵⁷

Important considerations in involving victims of serious offences in RJPs:

- Trauma. Serious offences have a traumatic impact on victims. RJPs may compound victims' experienced trauma and revictimize them.
- Safety of victims. Restorative justice must be supported by other forms of interventions and special measures to ensure the victims' safety before, during and after RJPs.
- Victim assessment. Victims must be assessed to ensure they are psychologically ready to participate in RJPs.
- Victim support. Victims need support before, during and after participating in an RJP. Lack of victim assistance services for follow-up support is a concern.
- Offender compliance. Several effective measures must be set up in place to ensure ongoing compliance by the offender.
- Power imbalance. Restorative justice may expose victims to further risk of harm due to power imbalances that tend to be present in relationships involving ongoing violence and abuse. Power imbalances, as well as cultural differences among parties, must be taken into consideration when referring a case to, and in conducting, an RJP.
- Pressure on the victim. Victims may feel constrained by others, intimidated by the offender, or restrained from disagreeing or asserting their voice for fear of reprisal.¹⁵⁸

¹⁵⁴ European Parliament and the Council of the European Union, 2012:article 12.

¹⁵⁵ European Parliament and the Council of the European Union, 2012:article 2.

¹⁵⁶ European Parliament and the Council of the European Union, 2012:recital 46.
¹⁵⁷ EFRJ, 2021.

¹⁵⁸ UNODC, 2020.

Because of these considerations, policymakers and practitioners must ensure that several safeguards are in place to protect crime victims from further victimization, intimidation and retaliation. These measures must ensure: that access to RJs are in the interest of victims; that victims have been provided with full and unbiased information about the RJP and its potential outcomes; that their free and informed consent has been secured; and that the offender has acknowledged the basic facts of the case. Moreover, RJs should also be confidential unless the parties have agreed otherwise, or unless there is an “overriding public interest” to make it public.

To ensure victims’ wellbeing, a risk mitigation plan should be drafted before the outset of the process. Such a plan must identify potential sources of harm to the participants; assess the likelihood that something will happen; consider the negative consequences should it occur; and determine specifically what will be done to mitigate these risks.¹⁵⁹ However, to protect victims from further harm during RJs, continuous risk assessments should also be conducted.¹⁶⁰

Policymakers are thus encouraged to set up RJs, to not limit access to these services to certain crimes,¹⁶¹ to allow for self-referrals, and to ensure that several measures are included to guarantee victims’ safety throughout the process. Moreover, they should also guarantee the complementarity of victim support services and RJs, facilitated through effective cooperation, coordination and referral mechanisms.¹⁶² Practitioners, on the other hand, should inform victims of the possibility of accessing RJs; provide them with full and unbiased information about the process; produce guidelines and recommendations; and create trainings on RJs for police and court staff.



USEFUL RESOURCES

- UNODC (2020). [Handbook on restorative justice programmes](#). Chapter 7, for example, reviews the aspects crucial to the effective implementation of sustainable restorative justice programmes.
- EFRJ (2021). [Manual on restorative justice: Values and standards for practice](#). Establishes a set of standards to ensure that restorative justice services incorporate essential safeguards for victims.
- CoE (2018). [Recommendation CM/Rec\(2018\)8 of the Committee of Ministers to member States concerning restorative justice in criminal matters](#).

¹⁵⁹ Ibid.

¹⁶⁰ Ibid.

¹⁶¹ Some States limit the availability of RJs depending on the nature of the crime, citing concerns that certain offenses may impede a safe and successful process and could further traumatize victims. However, other proponents within the restorative justice field argue against such restrictions, asserting that, with adequate empowerment of victims to make informed decisions and reinforced safeguards, these concerns can be effectively mitigated.

¹⁶² VSE, 2023.

5.3.4 Right to legal aid

Several international and regional instruments establish the right to legal aid. For example, article 15.2 of the CoE Convention on Action Against Trafficking in Human Beings provides the right to legal assistance and legal aid for victims of trafficking. It is important to uphold this right to ensure migrant workers who have experienced labour rights violations can access remedies such as compensation and payment of unpaid wages. However, in cases involving victims of trafficking in human beings their ability to claim these rights is often impeded by the complexity of court and administrative procedures.¹⁶³ In this regard, the CoE recommends that its member States provide legal assistance to all trafficked persons when they are claiming compensation.¹⁶⁴ For legal aid to be deemed comprehensive, it must be accessible, effective, sustainable and credible.¹⁶⁵ In many countries, the cost of filing a complaint in civil cases and non-judicial cases can be quite high and burdensome for migrant workers. There is also often a need for migrant workers to obtain legal aid and assistance in relation to criminal cases in which they were a victim of the crime committed. This is to ensure that they have legal representation to advocate on their behalf and make requests for temporary or permanent residency permits, restitution and compensation.



GOOD PRACTICES. LEGAL AID

- In Belarus, the NGO Gender Perspectives programme (LSI) assists migrant workers who require support in claiming unpaid wages from their employer. The organization's lawyers help migrant workers to prepare appeals to labour inspectorates and law enforcement agencies in Poland and the Russian Federation.
- The CoE has created a list of members of the [Network of Anti-Trafficking Lawyers and NGOs](#). Information is provided on the type of proceedings and the subject matter that these lawyers specialize in. It also includes email addresses where they can be reached.
- In Austria, victims of crimes have the [right to legal aid](#) (Prozessbegleitung). For victims of trafficking, legal aid is also provided by the specialized protection organizations for trafficked persons ([LEFO Intervention Centre for Trafficked Women and Girls](#) and [MEN VIA](#)).
- In Austria, there is also a Chamber of Labour that represents the interests of all employees, including migrant workers. Membership is mandatory for all employees, and contributions are part of social security payments. Employees can seek assistance from the Chamber of Labour in relation to advice or assistance in legal procedures in cases of labour disputes.

Sources: [GRETA, 2020](#); [PICUM, 2020](#).

¹⁶³ CoE, 2022.

¹⁶⁴ Ibid.

¹⁶⁵ UNODC, 2013.



USEFUL RESOURCES

- UNODC (2013). *United Nations principles and guidelines on access to legal aid in criminal justice systems*.
- FRA (2015). *Severe Labour Exploitation: Workers Moving within or into the European Union – States’ Obligations and Victims’ Rights*. See Chapter 5: Victims’ access to justice.

5.3.5 Right to an effective remedy and right to compensation

Right to effective remedy

Policymakers and practitioners should be aware of migrant workers’ right to an effective remedy and right to compensation when they have experienced labour rights violations. These rights have been enshrined internationally, regionally and nationally. For example, the ILO Forced Labour Protocol and Recommendation adopted in 2014 supplementing the 1930 ILO Forced Labour Convention requires States to ensure victims of forced labour have access to justice and effective remedies, including compensation. Recommendation No. 203 on Forced Labour includes provisions recommending that States:

- Ensure that victims have effective access to courts and tribunals, either by themselves or through representatives (paragraph 12(a)).
- Ensure that victims have access to existing compensation schemes and that they can pursue compensation and damages from perpetrators, including unpaid wages (paragraphs 12(b) and (c)).
- Provide accessible information regarding the legal rights of and services available to victims, as well as access to legal assistance (paragraph 12(d)).
- Enable all victims of forced labour the ability to pursue appropriate remedies, including administrative, civil and criminal remedies, under simplified procedural requirements when appropriate (paragraph 12(e)).¹⁶⁶

In the European region, migrant workers who are victims of trafficking may be entitled to access to remedies and compensation based on provisions established within the following documents:

- CFR of the European Union. Article 47 grants rights to an effective remedy and to a fair trial.
- European Union ATD and the Convention on Actions Against Trafficking in Human Beings.
- European Union Victims’ Rights Directive. Confers rights on all victims of crime (which would include migrant workers subjected to criminal labour exploitation).
- Employers Sanctions Directive. Contains provisions enabling access to justice for migrant workers.
- CoE Convention on Action Against Trafficking in Human Beings. Article 15 mandates that victims be granted compensation and legal redress.

¹⁶⁶ ILO, 2016.



GO DEEPER: WAYS TO ENCOURAGE VICTIM MIGRANT WORKERS TO ACCESS JUSTICE

In its 2015 publication *Severe Labour Exploitation: Workers Moving within or into the European Union. States' Obligations and Victims' Rights*, FRA highlighted a number of factors that may be effective in encouraging victims of severe labour exploitation to access justice, including:

- A real possibility of regularization of their residence status and access to the labour market;
- The provision of targeted and tailored support services including information about their rights;
- A realistic chance of receiving compensation and back pay;
- Facilitation of victims' access to and participation in criminal proceedings.

In the questionnaire for the third evaluation round of the implementation of the Convention, GRETA noted that “victims of trafficking ... are entitled to effective remedies under the European Convention on Human Rights”.¹⁶⁷ Moreover, it also highlighted that access to justice and effective remedies “must be guaranteed, in a gender- and age-sensitive manner, to all victims of trafficking subject to the jurisdiction of State parties, irrespective of their immigration status or presence on the national territory and notwithstanding their capacity or willingness to cooperate in any criminal investigation”.¹⁶⁸

There are various types of remedies and several avenues to accessing remedies that migrant workers may seek when they have experienced human rights and labour rights violations. Types of remedies include restitution, compensation, rehabilitation and recovery, satisfaction¹⁶⁹ and guarantees of non-repetition.¹⁷⁰ The venues available depend on the nature of the violation but include civil courts (including labour courts), criminal courts and administrative proceedings. Additionally, for non-criminal labour violations, migrant workers should have access to non-State-based grievance mechanisms, as outlined in the Module 4: Prevention. Despite the remedies available, the ILO notes that exploited workers are deterred from accessing justice and compensation, mainly due to the uncertainties around timeframe and grievance results, as well irregular migrant workers' fear of deportation.¹⁷¹

¹⁶⁷ GRETA, 2018b.

¹⁶⁸ Ibid.

¹⁶⁹ As outlined in ICAT, 2016:10. Satisfaction involves acknowledging violation of the victim's rights and taking steps to prevent continuing violations. According to the Basic Principles and Guidelines on the Right to a Remedy and Reparation providing “satisfaction” involves implementing measures that publicly acknowledge the wrong suffered by the victim (to the extent this does not cause further harm to the victim), sanction those responsible for the violation, and prevent continuing violations.

¹⁷⁰ ICAT, 2016.

¹⁷¹ Corbanese and Rosas, 2021.

The effectiveness of a remedy is based on its accessibility, affordability, adequacy, timeliness and whether it combines preventative, redressive and deterrent elements.¹⁷² To facilitate access to justice for migrant workers, policymakers should ensure that the above-mentioned provisions and recommendations are incorporated into national policies. Practitioners, on the other hand, should aid in their implementation, depending on their specific role and responsibilities. Also worth mentioning is the role labour inspectorates as practitioners can play in providing evidence to courts or labour tribunals regarding labour rights violations including illegal and hazardous working conditions.

According to the United Nations Guiding Principles on Business and Human Rights commentary, remedies provided under established grievance mechanisms may involve:

... apologies, restitution, rehabilitation, financial or non-financial compensation and punitive sanctions (whether criminal or administrative, such as fines), as well as the prevention of harm through, for example, injunctions or guarantees of non-repetition. Procedures for the provision of remedy should be impartial, protected from corruption and free from political or other attempts to influence the outcome.¹⁷³



GO DEEPER: LABOUR COMPLAINT MECHANISMS

Civil courts and labour tribunals

Civil courts, as well as industrial and labour tribunals, should be accessible to migrant workers to submit or file complaints regarding labour rights violations, including trafficking in human beings. Through these mechanisms, employers can be ordered to compensate an employee in relation to unpaid wages, social security, unfair dismissal, industrial accidents or occupational illnesses, and issue administrative fines and sanctions.¹⁷⁴ Further information on the role of civil courts and labour tribunals in relation to undocumented migrant workers can be found in PICUM, [A Worker is a Worker](#). Although the main focus is on undocumented migrant workers, information in the report is also useful regarding documented migrant workers.

Criminal courts

Migrant workers should also have unrestricted access to remedy through the criminal court in cases involving criminal violations, including trafficking in persons. Criminal courts have the responsibility to penalize perpetrators of offences through custodial and noncustodial sentences, but they can also order the payment of restitution and in some cases compensation to victims. Useful information on access to remedy through criminal courts in Europe can be found in:

- Corbanese and Rosas (2021). [Policies to Prevent and Tackle Labour Exploitation and Forced Labour in Europe](#). Chapter 4: Remedies.

¹⁷² UNGA, 2017.

¹⁷³ OHCHR, 2011.

¹⁷⁴ PICUM, 2020.

- FRA (2015). [Severe Labour Exploitation: Workers Moving within or into the European Union](#). Chapter 5: Victims' Access to Justice.

Operational grievance mechanisms

In cases involving non-criminal labour matters and violations, migrant workers should have access to remedy via operational grievance mechanisms (OGMs). There are various types of OGMs that may be implemented solely by the employer, in partnership with another entity, or by a third party. Types of OGMs include: company-led operation grievance mechanisms; industry-led grievance mechanisms; grievance mechanisms through agreements with trade unions; worker-driven grievance mechanisms; and grievance mechanisms led by civil society groups. Further information on OGMs and their effectiveness for migrant workers can be found in the ASI report, [Migrant workers' access to remedy](#).



GO DEEPER: PRECEDENTS FROM EUROPEAN COURT OF HUMAN RIGHTS CASE LAW

- Prior consent to perform the work (such as at the time of recruitment) is not an obstacle for work to qualify as forced labour or trafficking in human beings for the purpose of labour exploitation. When an employer abuses his or her power or profits from the workers' vulnerable situation in order to exploit them, the workers are not offering their labour voluntarily. Similarly, if job offers involve misleading or deception, any consent given by the employee cannot be regarded as informed and voluntary.
- Trafficking in human beings and forced labour can take place even if the freedom to move is not restricted (restriction of freedom to move is not a condition sine qua non).
- Withholding of wages is a strong indicator of coercion to work.
- Being undocumented is relevant to determine a position of vulnerability.
- In a situation in which abusive means are used, the consent of the victim to perform the work becomes irrelevant.

Source: [European Court of Human Rights, 2017](#).

Another more indirect (and non-criminal) avenue for access to remedy is through the submission of complaints in relation to breaches of international and regional legal instruments.

Under the United Nations framework, the following complaints can be submitted:

- Treaty body-based complaint mechanisms. A complaint under one of the nine treaties can be brought only against a State that is a party to the treaty in question, providing for the rights that have allegedly been violated and that has recognized the competence of the Committee monitoring the relevant treaty to receive and consider complaints from individuals.¹⁷⁵
- Charter-based complaint mechanisms. Complainants can consider submitting complaints before the [Human Rights Council Complaint Procedure](#) (previously known as 1503 procedure) or the [mandate holders](#) (special rapporteurs and working groups) of the Human Rights Council.
- Other complaints. Complainants can consider also submitting complaints before the organizations forming part of the wider United Nations family, such as the [ILO](#).¹⁷⁶

At the European regional level, complaints can be submitted to the following bodies:

- CoE. Partners and NGOs can, for example, directly apply to the European Committee of Social Rights for rulings on possible non-implementation of the European Social Charter in States that have accepted its provisions and the complaints procedure.¹⁷⁷ An application can also be made to the [European Court of Human Rights](#) with respect to violations of rights under the ECHR. The application should be made in adherence to Rule 47 of the Rules of Court.
- European Union. Complainants can lodge a complaint with the [European Commission](#) or the [European Ombudsman](#). Additionally, you can also submit a petition to the [European Parliament](#) about the application of European Union law.

¹⁷⁵ The nine treaties are the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of Persons with Disabilities, the International Convention for the Protection of All Persons from Enforced Disappearance, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Rights of the Child and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. However, it is important to note that the individual complaint mechanisms of the Committee on Migrant Workers (regarding the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families) has not yet entered into force (OHCHR, n.d.a; see also OHCHR, n.d.c).

¹⁷⁶ However, it should be noted that under the ILO complaint procedure, only ILO members have the right to file a complaint of non-observance against another. The role of NGOs should, nonetheless, not be underestimated, as NGOs can pass on relevant information to the relevant State authorities. Moreover, NGOs can also send this information to employers or worker organizations so they can make a representation (the mildest form of formal grievance against failure to apply a ratified convention) against any government which, in their view, has not properly applied a convention it has ratified (ILO, n.d.b). See also OHCHR, n.d.c.

¹⁷⁷ CoE, n.d.a.



GO DEEPER: SUBMITTING A COMPLAINT

- [A practical guide to the United Nations Special Procedures](#). Developed by the ISHR to help NGOs engage more strategically with the Special Procedures.
- [Guidance for NGOs to report to GRETA](#). A short guide developed by LSI and ASI for NGOs to assist in reporting about their countries' efforts to implement the CoE Convention on Action Against Trafficking in Human Beings.
- CoE, [Protecting migrants under the European Convention on Human Rights and the European Social Charter: A handbook for legal practitioners \(second edition\)](#). Chapter 7 focuses on applications before the European Court of Human Rights, and Chapter 8 on collective complaints before the European Committee of Social Rights

EXAMPLE OF A SUCCESSFUL COMPLAINT

On 2 June 2020, Women's Link Worldwide presented an [urgent communication](#) with eight other organizations to multiple United Nations bodies detailing human rights violations committed against Moroccan women and other migrants performing seasonal work in the strawberry and other berry fields of Huelva, Spain.

On 26 June, the Special Rapporteur on extreme poverty and human rights [called](#) on the authorities to ensure that migrant workers were guaranteed conditions, including access to adequate health care, that meet international standards. The experts' call was endorsed by other Special Rapporteurs, and resulted in, among others, an investigation of the Defensor del Pueblo, the Spanish national human rights institution, and in the [Real Decreto 983/2022](#), of 22 November, that aimed to eradicate the informal settlements in the municipalities of Lepe and Moguer. Additionally, in July 2023, the regional government of Andalusia adopted its [First Strategic Plan for the Eradication of Informal Settlements and the Social Inclusion of People Living in Agricultural Areas of Andalusia made up of Migrant Population \(EASEN\)](#). Additionally, Women's Link Worldwide confirmed that following this call, several employers introduced various preventive measures, including the establishment of mediation bodies, while grassroots organizations gained increased empowerment. However, despite these actions by both the private sector and the public administration, some civil society [reports](#) suggest that some human rights violations are still prevalent.

Right to compensation

Within the European Union, the right to compensation is generally enshrined in national law. However, research has revealed that the number of victims actually receiving compensation is quite low.¹⁷⁸ With respect to the right to compensation, it is important for policymakers to develop policies that allow migrant workers who make compensation requests to do so even if they leave the country. Where they do not already exist, compensation funds for victims of trafficking should be established in line with the CoE Convention on Action Against Trafficking in Human Beings.¹⁷⁹ Consideration should also be given to establishing a similar type of fund for migrant workers who experience other forms of labour exploitation. These funds could partially or fully be financed by using assets that have been confiscated from individuals who have been convicted for relevant trafficking in human beings or other labour exploitation offenses.¹⁸⁰ Furthermore, steps should also be taken to guarantee payment of compensation to the complainant or victim in situations when it is not forthcoming from the offending party.¹⁸¹ Depending on their exact role, practitioners should aid in advising on and facilitating the compensation process.



GO DEEPER: FACTORS RESULTING IN LOW COMPENSATION

According to the ILO, reasons for the low level of compensation issued to victims of labour exploitation include:

- The low number of convictions and confiscation orders, owing to the difficulty with gathering evidence;
- The limited number of free legal aid and third-party representatives to manage compensation claims on behalf of victims;
- The extremely long, complex and challenging proceedings of civil litigations; and
- The requirements established by national compensation schemes for claims (maximum claim period after the event, collaboration with the authorities, access conditional to the conclusion of criminal proceedings).

For exploited workers, the uncertainties with respect to time and results of grievances (and the fear of being deported in the case of irregular migrant workers) constitute a deterrent with respect to access to justice and other forms of compensation.

Source: [Corbanese and Rosas, 2021](#).

¹⁷⁸ FRA, 2015.

¹⁷⁹ CoE, 2005:article 15.

¹⁸⁰ OSCE, 2015.

¹⁸¹ CoE, 2022.



GOOD PRACTICES. COMPENSATION

- In the [Kingdom of the Netherlands](#), migrant workers who are victims of criminal offences may access an “advance payment option” for compensation imposed on the perpetrator. This means that if the perpetrator has still not paid the compensation within a specified period, the government steps in and advances the compensation to the victim. Migrant workers who experienced a violent crime may also apply for compensation from the [Violent Crimes Compensation Fund](#) if they have not already received compensation from another source such as the perpetrator or an insurance company.
- In [Norway](#), case law established by the Supreme Court (Rt-2012-1773) has determined that the consequences suffered by the victims of trafficking are relevant when deciding the size of the compensation. Compensation can be awarded by the court to victims of trafficking for both pecuniary and non-pecuniary damages based on a concrete assessment in each case. Payment of compensation assumes that a convicted offender has assets that can be confiscated to cover claims. The prosecuting authority can seize assets from the accused during the investigation so they can be used or sold to cover compensation claims that may arise.
- In [Belgium](#), the inspectors from the Social Legislation Inspectorate can use their discretionary powers to issue “on the spot” notices to employers when they encounter infringements such as minimum wage not being paid. This is generally done through issuing a warning to the employer and proposing a deadline to pay the wages due the employee. Proof of payment and payslips are requested to ensure the employer adheres to the notice. The Deposit and Consignment Fund is also an important tool in this regard as it allows workers without a bank account to receive funds and to transfer them to be withdrawn to their country of origin.
- Under Belgian law, migrant workers subject to labour exploitation are also able to claim back their unpaid wages. They can also receive compensation even if their employers have gone bankrupt, as they are entitled to access the [Fund for the Compensation of Workers made Redundant in the Event of Closure of the Enterprises](#).

Note

The ruling of the Court of Justice of the European Union in [Tümer v. Raad van bestuur van het Uitvoeringsinstituut werknemersverzekeringen \(C-311/13, 2014\)](#) suggests that undocumented workers may also have access to back pay in cases of employer insolvency. In this ruling, the European Court of Justice found that excluding undocumented workers from the definition of employees would undermine the purpose of setting minimum standards across the European Union.



PROMISING PRACTICE. GERMANY'S SOCIAL COMPENSATION ACT

In January 2024, a new compensation law in Germany, the [Social Compensation Act SGB XIV](#), came into force. The legislation establishes new compensation provisions for victims affected by violence, including psychological violence. It enables victims who have suffered damage to their health as a result of a harmful act to receive compensation payments directly from the government, and does not require prosecution or conviction of the perpetrator. Victims of trafficking, including those who are migrant workers, would be eligible for compensation under this Act.

Source: [KOK, 2024](#).



SELF-REFLECTION EXERCISE

- Are there any mechanisms in your country for migrant workers who have encountered labour rights violations to access compensation?

- How do these options differ in civil and criminal cases?

- Are you aware of any challenges migrant workers face with accessing compensation within your country? If so, how could policymakers and practitioners address them (take into account the information provided in this subsection)?



USEFUL RESOURCES

- ICAT (2016). *Providing effective remedy for victims of trafficking*.
- FRA (2015). *Severe Labour Exploitation: Workers Moving within or into the European Union. States' Obligations and Victims' Rights*. See Chapter 5: Victims' access to justice.
- FRA (2019). *Protecting Migrant Workers from Exploitation in the EU: Workers' Perspectives*. See Chapter 5: Exploited workers access to justice.
- UNGA (2014). *Basic principles on the right to effective remedy for victims of trafficking in persons*.
- LSI and ASI (2012). *COMP.ACT Toolkit on compensation for trafficked persons*.

Polish migrant workers at a Norwegian construction site.

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6. CONCLUSION

Access to justice is an essential right that often proves challenging for migrant workers and victims of trafficking for labour exploitation to access. However, policymakers and practitioners can play a vital role in reducing the obstacles migrant workers face and aid in improving their access to justice. This can be facilitated through the development, implementation and operationalization of various policies, procedures, tools and mechanisms in line with international and regional legal obligations, recommendations and guidelines, as discussed in Module 2 of this toolkit. The key considerations, guidance and good practices on access to justice provided within Part II of the toolkit should serve as a guide for actions that can be taken by policymakers and practitioners to improve access to justice, including suitable and effective remedies for migrant workers and victims of trafficking for labour exploitation. Overall, policymakers and practitioners can promote systematic actions such as regular gap analysis in relation to access to justice for migrant workers and victims of trafficking for the purpose of labour exploitation, engage in further capacity-building, ensure that national plans and mechanisms on access to justice consider the specificities of these groups, facilitate their access to grievance and effective remedy, consider the transnational dimensions of access to justice and strengthen international multi-stakeholder cooperation.

We hope this toolkit will inspire further good practices and contribute to empowering policymakers and practitioners to further uphold the rights of migrant workers and victims of trafficking for the purpose of labour exploitation.

7. ADDITIONAL RESOURCES

This list gathers together the resources referenced in the text boxes throughout the toolkit.

Andalucía Acoge (2023). [Informe asentamientos 2022. Consecuencias de la discriminación en los asentamientos en la provincia de Huelva.](#)

Andalusia, Government of (2023). [Disposiciones generales: Consejería de Inclusión Social, Juventud, Familias e Igualdad. Boletín Oficial de la Junta de Andalucía – Histórico del BOJA, 145, 31 July.](#)

An Garda Síochána, Ireland (2022). [Victim information.](#) September.

Anti-Slavery International (ASI) (2021). [Migrant workers access to remedy: A briefing paper for business.](#) December.

Arbeidstilsynet (The Norwegian Labour Inspection Authority) (n.d.). [Working in Norway: Your rights and obligations.](#) Web page (accessed 22 March 2024).

Association for the Prevention of Torture (APT) (2021). [Principles on effective interviewing for investigations and information gathering.](#) May.

Austrian Federal Chamber of Labour (n.d.). [About us.](#) Web page (accessed 27 March 2024).

Austrian Justice System (n.d.). [Opferhilfe und Prozessbegleitung.](#) Web page (accessed 27 March 2024).

Belgium, Government of (n.d.). [Meer info over het FSO.](#) Web page (accessed 27 March 2024).

Belgium, Government of (n.d.). [Titres-service.](#) Web page (accessed 2 April 2024).

Bulgaria, Council of Ministers and National Commission for Combatting Trafficking in Human Beings (2010). [National Mechanism for Referral and Support of Trafficked Persons in Bulgaria.](#) N.p., Sofia.

Center mod Menneskehandel (n.d.). [Home page](#) (accessed 2 April 2024).

Center mod Menneskehandel (n.d.). [Are you being exploited by your employer?](#) Web page (accessed 27 March 2024).

Center mod Menneskehandel (n.d.). [Your rights as an employee.](#) Web page (accessed 27 March 2024).

Centre on Migration, Policy and Society (COMPAS) (n.d.). [“Safe reporting” of crime for victims and witnesses with irregular migration status in the USA and Europe.](#) Web page (accessed 27 March 2024).

Comité contre l’Esclavage Moderne (n.d.). [Outils de Prévention.](#) Web page (accessed 27 March 2024).

Co-op (n.d.). [Bright Future programme.](#) Web page (accessed 22 March 2024).

Council of Europe (CoE) (2005). [Council of Europe Convention on Action Against Trafficking in Human Beings](#). Council of Europe Treaty Series No.197, 16 May.

Council of Europe (CoE) (2018). [Recommendation CM/Rec\(2018\)8 of the Committee of Ministers to member States concerning restorative justice in criminal matters](#), adopted on 3 October.

Council of Europe (CoE) (2022). [Recommendation CM/Rec\(2022\)21 of the Committee of Ministers to member States on preventing and combatting trafficking in human beings for the purpose of labour exploitation](#), adopted on 27 September.

Council of Europe (CoE) (2024). [Precarious and irregular work situations of migrant seasonal and domestic workers](#). Report of the Committee on Migration, Refugees and Displaced Persons, 17 January.

Council of Europe (CoE) (n.d.). [Combatting trafficking in human beings](#). HELP Online Learning Platform.

Council of Europe (CoE) (n.d.). [Interplay between the ECHR and the EU Charter of Fundamental Rights](#). HELP Online Learning Platform.

Council of Europe (CoE) (n.d.). [Judicial reasoning and human rights](#). HELP Online Learning Platform.

Council of Europe (CoE) (n.d.). [International cooperation in criminal matters](#). HELP Online Learning Platform.

Council of Europe (CoE) (n.d.). [Labour rights as human rights](#). HELP Online Learning Platform.

Council of Europe (CoE) (n.d.). [Procedural safeguards in criminal proceedings and victim's rights](#). HELP Online Learning Platform.

Council of Europe (CoE) (n.d.). [Signatures and ratifications](#). Web page (accessed 24 March 2024).

Council of Europe (CoE) (n.d.). [Action against trafficking in human beings: Country reports and evaluation rounds](#). Web page (accessed 22 March 2024).

Council of Europe (CoE) (n.d.). [Action against trafficking in human beings: List of members – Network of Anti-trafficking Lawyers and NGOs](#). Web page (accessed 27 March 2024).

Council of the Baltic Sea States (CBSS) (2022). [Handbook for embassies and diplomatic missions on how to assist and protect victims of human trafficking](#).

Council of the Baltic Sea States (CBSS) (n.d.). [Transnational referral mechanism of the Baltic sea region](#). Web page (accessed 22 March 2024).

Corbanese, V., and G. Rosas (2020). [Protection and Assistance of Victims of Labour Exploitation: A Comparative Analysis](#). ILO, Rome.

Corbanese, V., and G. Rosas (2021). [Policies to Prevent and Tackle Labour Exploitation and Forced Labour in Europe](#). International Labour Organization, Rome.

Court of Justice of the European Union (2014). [O. Tümer v Raad van bestuur van het Uitvoeringsinstituut werknemersverzekeringen](#), Case C-311/13. ECLI:EU:C:2014:2337..

Die Produktions Gewerkschaft (n.d.). [Home page](#) (accessed 27 March 2024).

Drop-in Centre for Undocumented Workers (UNDOK) (n.d.). [You have rights – even if you're undocumented!](#) Web page (accessed 25 March 2024).

European Commission (2020). [Study on Reviewing the Functioning of Member States' National and Transnational Referral Mechanisms](#) (HOME/2018/ISFP/PR/THB/0000). Publications Office of the European Union, Luxembourg.

European Commission (2022). [Proposal for a Directive of the European Parliament and of the Council amending Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims](#) (COM(2022) 732 final), 19 December.

European Commission (2024). [Commission welcomes breakthrough political agreement on stronger rules to fight trafficking in human beings](#). Press release, 23 January.

European Commission (n.d.). [EMN asylum and migration glossary](#). Web page (accessed 22 March 2024).

European Commission against Racism and Intolerance (ECRI) (2016). [ECRI General Policy Recommendation No. 16 on Safeguarding Irregularly Present Migrants from Discrimination](#), adopted on 16 March.

European Court of Human Rights (2005). [Siliadin v. France](#), Application No. 73316/01. Judgement, 26 July.

European Court of Human Rights (2010). [Rantsev v. Cyprus and Russia](#), Application No. 25965/04. Judgement, 7 January.

European Court of Human Rights (2012). [C.N. and V. v. France](#), Application No. 67724/09. Judgement, 11 October.

European Court of Human Rights (2012). [C.N. v. the United Kingdom](#), Application No. 4239/08. Judgement, 13 November.

European Court of Human Rights (2017). [Chowdury and Others v. Greece](#), Application No. 21884/15. Judgement, 30 March.

European Court of Human Rights (2019). [T.I and Others v. Greece](#). Application No. 40311/10. Judgement, 18 July.

European Crime Prevention Network (EUCPN) (n.d.). [Finland: Specialized service for victims of human trafficking and related crimes](#). Web page (accessed 27 March 2024).

European Forum for Restorative Justice (EFRJ) (2021). [Manual on restorative justice: Values and standards for practice](#).

European Parliament and the Council of the European Union (2012). [Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA](#).

European Union Agency for Criminal Justice Cooperation (Eurojust) (2022). [Criminal network involved in labour exploitation in the UK and Romania dismantled](#). Press release, 29 April.

European Union Agency for Fundamental Rights (FRA) (2015). [Severe Labour Exploitation: Workers Moving within or into the European Union. States' Obligations and Victims' Rights](#). Publications Office of the European Union, Luxembourg.

European Union Agency for Fundamental Rights (FRA) (2019). [Protecting Migrant Workers from Exploitation in the EU: Workers' Perspectives](#). Publications Office of the European Union, Luxembourg.

European Union Agency for Fundamental Rights (FRA) (2019). [Children Deprived of Parental Care Found in an EU Member State Other Than their Own: A Guide to Enhance Child Protection Focusing on Victims of Trafficking](#). Publications Office of the European Union, Luxembourg.

European Union Agency for Fundamental Rights (FRA), European Court of Human Rights (ECtHR) and Council of Europe (CoE) (2016). [Handbook on European Law Relating to Access to Justice](#). Publications Office of the European Union, Luxembourg.

Faire Mobilität (n.d.). [Key facts](#). Web page (accessed 27 March 2024).

Fairwork Belgium (n.d.). [How can we help you today?](#) Web page (accessed 27 March 2024).

Finnish Immigration Service (n.d.). [Residence permit for a victim of human trafficking](#). Web page (access 22 March 2024).

Finnish Immigration Service (n.d.). [Work Help Finland mobile application](#). Web page (accessed 27 March 2024).

Finnish Immigration Service (n.d.). [Residence permit or certificate due to exploitation by employer](#). Web page (accessed 25 March 2024).

France, Government of (n.d.). [Le chèque emploi-service universel \(CESU\) “déclaratif”](#). Ministry of Labour, Health and Solidarity web page (accessed 27 March 2024).

Gangmasters and Labour Abuse Authority (GLAA) (n.d.). [Resources](#). Web page (accessed 24 March 2024).

Gangmasters and Labour Abuse Authority (GLAA) (n.d.). [Workers' rights qualification: An introduction](#). Web page (accessed 24 March 2024).

Geel–Muyden Kiese and Arbeidstilsynet (The Norwegian Labour Inspection Authority) (n.d.). [Know your rights](#). Web page (accessed 27 March 2024).

Group of Experts on Action against Trafficking in Human Beings (GRETA) (2019). [Human trafficking for the purpose of labour exploitation](#). Thematic chapter of the seventh general report on GRETA's activities. Council of Europe, October.

Group of Experts on Action against Trafficking in Human Beings (GRETA) (2019). [Assistance to victims of human trafficking](#). Thematic chapter of the eighth general report on GRETA's activities. Council of Europe, October.

Group of Experts on Action against Trafficking in Human Beings (GRETA) (2020). [Compendium of good practices in addressing trafficking in human beings for the purpose of labour exploitation](#). September.

Group of Experts on Action Against Trafficking in Human Beings (GRETA) (2020). [Reply from Norway to the questionnaire for the evaluation of the implementation on the Council of Europe Convention on Action Against Trafficking in Human Beings by the Parties: Third evaluation round. Thematic focus: Access to justice and effective remedies for victims of trafficking in human beings](#). 15 September.

Group of Experts Against Trafficking in Human Beings (GRETA) (2021). [Guidance note on preventing and combatting trafficking in human beings for the purpose of labour exploitation](#). September.

Guardia Civil. [Los EDATI de la Guardia Civil asisten a más de 10.700 inmigrantes durante 2012](#). Web page (accessed 2 April 2024).

Heemskerk, M. and E. Willensen (2013). [Compensation for victims of human trafficking in the Netherlands](#). September.

Institute for Human Rights and Business (IHRB) (n.d.). [Responsible recruitment resource bank](#). Web page (accessed 26 March 2024).

Institute for Human Rights and Business (IHRB) (n.d.). [Dhaka principles for migration with dignity](#). Web page (accessed 27 March 2024).

Inter-Agency Coordination Group Against Trafficking in Persons (ICAT) (2012). [The international legal frameworks concerning trafficking in persons](#). October.

Inter-Agency Coordination Group against Trafficking in Persons (ICAT) (2016). [A toolkit for guidance in designing and evaluating counter-trafficking programmes: Harnessing accumulated knowledge to respond to trafficking in persons](#).

Inter-Agency Coordination Group against Trafficking in Persons (ICAT) (2016). [Providing effective remedies for victims of trafficking in persons](#). Issue paper.

Inter-Agency Coordination Group against Trafficking in Persons (ICAT) (2020). [Non-punishment of victims of trafficking](#). Issue brief 8.

International Centre for Migration Policy Development (ICMPD) (2010). [Monitoring and Evaluation Handbook for National Action Plans Against Trafficking in Human Beings](#). ICMPD, Vienna.

International Centre for Migration Policy Development (ICMPD) (2021). [Developing and Monitoring National Anti-Trafficking Response: A Practitioner's Guide](#). ICMPD, Vienna.

International Labour Organization (ILO) (2006). [ILO Multilateral Framework on Labour Migration: Non-binding Principles and Guidelines for a Rights-based Approach to Labour Migration](#). International Labour Office, Geneva.

International Labour Organization (ILO) (2010). [International Labour Migration: A Rights-based Approach](#). International Labour Office, Geneva.

International Labour Organization (ILO) (2019). [General Principles and Operational Guidelines for Fair Recruitment; and Definition of Recruitment Fees and Related Costs](#). International Labour Office, Geneva.

International Labour Organization (ILO) (2020). [Developing National Action Plans on Forced Labour: Guidance Manual](#). ILO, Geneva.

International Labour Organization (ILO) (2022). [Guidelines on General Principles of Labour Inspection](#). International Labour Office, Geneva.

International Labour Organization (ILO) (2021). [Research Brief. Access to protection and remedy for human trafficking victims for the purpose of labour exploitation. The role of labour inspectors in Belgium and the Netherlands.](#) April.

International Labour Organization (ILO) (2022). [Fair Recruitment and Access to Justice for Migrant Workers.](#) ILO, Geneva.

International Labour Organization (ILO) (2023). [Migrant Workers' Rights to Freedom of Association and Collective Bargaining,](#) International Labour Office, Geneva.

International Labour Organization (ILO) (2023). [Intervention model: For extending social protection to migrant workers in the informal economy.](#) ILO brief, February.

International Labour Organization (ILO) (n.d.). [Labour inspection country profile: Belgium.](#) Web page (accessed 26 March 2024).

International Labour Organization (ILO) (n.d.). [ILO indicators of forced labour: Special Action Programme to Combat Forced Labour.](#)

International Labour Organization (ILO) (n.d.). [Details of indicators for labour exploitation.](#)

International Organization for Migration (IOM) (2007). [The IOM Handbook on Direct Assistance for Victims of Trafficking.](#) IOM, Geneva.

International Organization for Migration (IOM) (2012). [IOM's migrant resource centres.](#) Fact sheet.

International Organization for Migration (IOM) (2015). [Caring for Trafficked Persons: Guidance for Health Providers.](#) IOM, Geneva.

International Organization for Migration (IOM) (2016). [IOM X C4D toolkit: A step-by-step guide to applying communication for development \(C4D\) to counter-trafficking activities.](#)

International Organization for Migration (IOM) (2019). [Glossary on Migration.](#) International Migration Law, No. 34. IOM, Geneva.

International Organization for Migration (IOM) (2019). [IOM handbook on protection and assistance for migrants vulnerable to violence, exploitation, and abuse.](#) IOM, Geneva.

International Organization for Migration (IOM) (2019). [IOM guidance on referral mechanisms for the protection and assistance of migrants vulnerable to violence, exploitation and abuse and victims of trafficking.](#) IOM, Geneva.

International Organization for Migration (IOM) (2019). [The IRIS standard.](#) Version 1.2.

International Organization for Migration (IOM) (2020). [The Montreal Recommendations on Recruitment: A road map towards better regulation.](#) IOM, Geneva.

International Organization for Migration (IOM) (2020). [IOM Public Communication Campaign Toolkit.](#) IOM, Geneva.

International Organization for Migration (IOM) (2021). [Operational guidelines for businesses on remediation of migration worker grievances](#). IOM, Geneva.

International Organization for Migration (IOM) (2022). [Migrants' access to justice: International standards and how the Global Compact for Safe, Orderly and Regular Migration helps paving the way](#). International Migration Law Unit paper No. 1, 23 March.

International Organization for Migration (IOM) (2022). [IRIS Handbook for Governments on Ethical Recruitment and Migrant Worker Protection](#). IOM, Geneva.

International Organization for Migration (IOM) (2022). [Chapter 3. Strengthening the effectiveness of inspectorates](#). In: *IRIS Handbook for Governments on Ethical Recruitment and Migrant Worker Protection*. IOM, Geneva.

International Organization for Migration (IOM) (2022). [Chapter 5 – Migrant-facing information initiatives](#). In: *IRIS Handbook for Governments on Ethical Recruitment and Migrant Worker Protection*. IOM, Geneva.

International Organization for Migration (IOM) (2022). [Fair and ethical due diligence toolkit](#). Web page (accessed 26 March 2024).

International Organization for Migration (IOM) (2023). [The IOM counter-trafficking theory of change](#). IOM, Geneva.

International Organization for Migration (IOM) (2023). [Promoting the human and labour rights of migrant workers in Europe](#). Policy brief, Brussels Regional Office and MiRAC.

International Organization for Migration (IOM) (2023). [Access to remedy and business grievance mechanisms](#). Tool 4.

International Organization for Migration (IOM) (n.d.). [Trafficking in persons: Protection and assistance to victims](#). IOM e-Campus web page (accessed 26 March 2024).

International Organization for Migration (IOM) (n.d.). [IOM migrant centres toolkit](#). Web page (accessed 26 March 2024).

International Organization for Migration (IOM) (n.d.). [Prevention of trafficking in persons](#). EMM2.0 handbook. Web page (accessed 27 March 2024).

International Organization for Migration (IOM) (n.d.). [Tips for the use of mobile application: safe travel and work abroad in prevention of human trafficking](#). IOM Slovakia.

International Organization for Migration (IOM) (n.d.). [Migrant resource centres](#). IOM Georgia web page (accessed 23 March 2024).

International Organization for Migration (IOM) (n.d.). [Migration Information Centre](#). IOM Slovakia web page (accessed 23 March 2024).

International Organization for Migration (IOM) (n.d.). [Leading a United Pathway to Anti-trafficking Action \(LUPTA\)](#). IOM Romania web page (accessed 27 March 2024).

International Organization for Migration (IOM) (n.d.). [IOM screening form for victims of trafficking](#).

International Organization for Migration (IOM) (n.d.). [Assistance to victims of trafficking in Portugal](#). IOM Portugal web page (accessed 22 March 2024).

International Organization for Migration (IOM) (n.d.). [Toolkit for victim-centric best practices in investigations and prosecutions in anti-trafficking action](#).

International Organization for Migration (IOM) (n.d.). [SAFE – mobile application to prevent human trafficking](#). IOM Slovakia web page (accessed 22 March 2024).

International Organization for Migration (IOM) (n.d.). [Assisted voluntary return and reintegration from Sweden](#). IOM Finland web page (accessed 27 March 2024).

International Organization for Migration (IOM) (n.d.). [Transnational referral mechanism model](#). IOM France web page (accessed 22 March 2024).

International Service for Human Rights (ISHR) (2019). [A practical guide to the UN Special Procedures](#).

Ireland, Government of (2017). [Criminal Justice \(Victims of Crime\) Act](#). No. 28 of 2017.

Ireland, Government of (2023). [National Action Plan to Prevent and Combat Human Trafficking 2023–2027](#). October.

Ireland, Government (n.d.). [Reactivation Employment Permit](#). Department of Enterprise, Trade and Employment web page (accessed 25 March 2024).

Justice and Care (n.d.). [Modern Slavery Victim Navigator Programme](#).

KOK, 2024. [SGB XIV: The new social compensation law. A practical handout to support those affected by sexualized violence, domestic violence and human trafficking](#). January.

Ktistakis, Y. (2016). [Protecting migrants under the European Convention on Human Rights and the European Social Charter: A handbook for legal practitioners](#). Second edition. Council of Europe, September.

La Strada International (LSI) (2019). [Rights at work: Tackling labour exploitation in Poland, Bulgaria and Romania](#). March.

La Strada International (LSI) (2023). [The non-punishment principle: Explanatory brief](#). November.

La Strada International (LSI) (2023). [The non-punishment principle: Advocacy document](#). November.

La Strada International (LSI) and Anti-Slavery International (ASI) (2012). [COMPACT: Toolkit on compensation for trafficked persons](#).

La Strada International (LSI) and Anti-Slavery International (ASI) (2013). [Guidance for NGOs to report to GRETA](#).

LEFÖ (n.d.). [IBF – Intervention Center for Trafficked Women](#). Web page (accessed 27 March 2024).

Lietonen, A. and N. Ollus (2021). *Labour Exploitation and Public Procurement. Guide for Risk Management in National Supply Chains*. HEUNI, Helsinki.

Liu, G. (2017). *National referral mechanisms for victims of human trafficking: Deficiencies and future development*. In: *Ideas to Inform International Cooperation on Safe, Orderly and Regular Migration* (M. McAuliffe and M. Klein Solomon, convenors). IOM: Geneva.

Männer Väter Burschen (MEN) (n.d.). [MEN VIA](#). Web page (accessed 27 March 2024).

Municipal Unit Against Human Trafficking (UTEH), Barcelona (n.d.). [Municipal Unit Against Human Trafficking \(UTEH\)](#).

Netherlands, Government of the Kingdom of the (n.d.). [Guide to human trafficking](#). Web page (accessed 27 March 2024).

Norway, Supreme Court of (2017). [HR-2017-1124-A](#), Case No. 2017/318. Judgement, 7 June.

Office of the Director of Public Prosecutions, Ireland (2022). [The role of the DPP](#). March.

Office of the United Nations High Commissioner for Human Rights (OHCHR) (2011). [Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework](#). United Nations, New York and Geneva.

Office of the United Nations High Commissioner for Human Rights (OHCHR) (2020). [Spain: Passing the buck on exploited migrant workers must end, says UN expert](#). Press release, 26 June.

Office of the United Nations High Commissioner for Human Rights (OHCHR) (n.d.). [Status of ratification interactive dashboard](#). Web page (accessed 20 March 2024).

Office of the United Nations High Commissioner for Human Rights (OHCHR) (n.d.). [The core international human rights instruments and their monitoring bodies](#). Web page (accessed 22 March 2024).

Organization for Security and Co-operation in Europe (OSCE) (2015). Annex 2. List of selected universal and regional instruments; “soft law” recommendations and guidelines; model laws. In: *Commentary to the OSCE Action Plan to Combat Trafficking in Human Beings (PC.DEC/557), the 2005 Addendum Addressing Special Needs of Child Victims of Trafficking for Protection and Assistance (PC.DEC/557/Rev.1) and the 2013 Addendum to the OSCE Action Plan to Combat Trafficking in Human Beings: One Decade Later (PC.DEC/1107/Corr.1)*. OSCE Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings, Vienna.

Organization for Security and Co-operation in Europe (OSCE) (2019). [Uniform Guidelines for the Identification and Referral of Victims of Human Trafficking within the Migrant and Reception Framework in the OSCE Region](#). OSCE Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings, Vienna.

Organization for Security and Co-operation in Europe (OSCE) (2022). [National Referral Mechanisms: Joining Efforts to Protect the Rights of Trafficked Persons. A Practical Handbook](#). Second edition. OSCE Office for Democratic Institutions and Human Rights, Warsaw.

Organization for Security and Co-operation in Europe (OSCE) (2023). [Modernizing national action plans to strengthen States’ anti-trafficking efforts](#). OSCE Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings, Vienna.

- Pillinger, J. (2015). [Running an effective migrant resource centre: A handbook for practitioners](#). March.
- Platform for International Cooperation on Undocumented Migrants (PICUM) (2020). [A worker is a worker: How to ensure that undocumented migrant workers can access justice](#). PICUM, Brussels.
- Platform for International Cooperation on Undocumented Migrants (PICUM) (2022). [Guide to undocumented workers rights at work under international and EU law](#). PICUM, Brussels.
- Pottler, M., C. Pütz, L. Pham and H. Plumb (2021). [Migrant Worker Guidelines for Employers](#). IOM, Geneva.
- Quizrr (n.d.). [Empowering people worldwide](#). Web page (accessed 27 March 2024).
- Schade Fonds Gewelds Misdrijven (n.d.). [Recognition gives strength](#). Web page (accessed 26 March 2024).
- Safe Reporting (n.d.). [In Europe, many people are afraid of reporting the crimes they suffer](#). Web page (accessed 27 March 2024).
- Sezonieri (n.d.). [Home page](#) (accessed 27 March 2024).
- Sezonieri (n.d.). [Your rights](#). Web page (accessed 27 March 2024).
- Slovakia, Ministry of the Interior (2018). [National Programme of Fight against Trafficking in Human Beings for 2019–2023](#). Government Resolution No. 495 of 6 November.
- Slovakia, Ministry of the Interior (2023). [Národný program boja proti obchodovaniu s ľuďmi na roky 2024–2028](#). Government Resolution No. 522 of 18 October.
- Spain, Government of (2022). [Real Decreto 983/2022, de 22 de noviembre, por el que se regula la concesión directa de subvenciones a los ayuntamientos de Lepe y de Moguer para impulsar la erradicación de asentamientos irregulares de personas trabajadoras temporeras en sus municipios \(BOE-A-2022-19410\)](#). *Boletín Oficial del Estado*, 281, 23 November.
- Spain, Government of (2022). [Orden ISM/1302/2022, de 27 de diciembre, por la que se regula la gestión colectiva de contrataciones en origen para 2023](#). *Boletín Oficial del Estado*, 312, 29 December.
- Task Force Human Trafficking (2021). [National Action Plan for Combatting Human Trafficking 2021–2023](#). Federal Government of Austria, coordinated by the Federal Ministry for European and International Affairs.
- Timmerman, R., A. Leerkes and R. Staring (2019). [Safe reporting of crime for victims and witnesses with irregular migration status in the Netherlands](#). Compas, September.
- UnionMigrantNet (n.d.). [Welcome to the UnionMigrantNet](#). Web page (accessed 27 March 2024).
- United Kingdom, Government of (2023). [National referral mechanism guidance: adult \(England and Wales\)](#). Web page (updated 21 September).
- United Kingdom Home Office (2017). [Guidance on Slavery and Trafficking Prevention Orders and Slavery and Trafficking Risk Orders under Part 2 of the Modern Slavery Act 2015](#). April.

United Nations General Assembly (UNGA) (2014). Basic principles on the right to an effective remedy for victims of trafficking in persons, Annex to: [Report of the Special Rapporteur on trafficking in persons, especially women and children \(A/69/33797\)](#). 28 July.

United Nations Office on Drugs and Crime (UNODC) (2006). [Toolkit to Combat Trafficking in Persons](#). United Nations, New York.

United Nations Office on Drugs and Crime (UNODC) (2013). [United Nations principles and guidelines on access to legal aid in criminal justice systems](#). United Nations, New York.

United Nations Office on Drugs and Crime (UNODC) (2017). [Evidential issues in trafficking in persons cases: Case digest](#).

United Nations Office on Drugs and Crime (UNODC) (2020). [Handbook on restorative justice programmes](#). Second edition. United Nations, Vienna.

United Nations Office on Drugs and Crime (UNODC) (n.d.). [Module 8: A human rights-based approach to trafficking in persons](#). Teaching module series: Trafficking in persons.

Victim Support Europe (2022). [Research report on FYDO: Facility dogs in Europe](#).

Villar, L. B. and P.-S. Ahn (2022). [Trade Union-led Migrant Resource Centres in ASEAN and Jordan: Case Studies for Protecting and Organizing Migrant Workers](#). ILO, Geneva.

Women's Link Worldwide (WLW) (2020). [Women's Link Worldwide urges the UN to investigate human rights violations against migrant women performing seasonal farm work in Spain's strawberry industry](#). Press release, 3 June.

Ylinen, P., A. Jokinen, A.-G. Pekkarinen, N. Ollus and K.-P. Jenu (2020). [Uncovering Labour Trafficking. Investigation Tool for Law Enforcement and Checklist for Labour Inspectors](#). HEUNI, Helsinki.

8. REFERENCES*

The references here listed include those referred to in the main text of this toolkit.

Committee on the Protection of the Rights of All Migrant Workers and Members of their Families (CMW)
2010 [General Comment No. 1 on migrant domestic workers \(CMW/C/GC/1\)](#), 23 February.

Corbanese, V. and G. Rosas
2021 [Policies to Prevent and Tackle Labour Exploitation and Forced Labour in Europe](#). International Labour Organization, Rome.

Council of Europe (CoE)

1950 [European Convention on Human Rights](#), as amended by Protocols Nos. 11 and 14. Council of Europe Treaty Series No. 5, 4 November.

1977 [European Convention on the Legal Status of Migrant Workers](#). 24 November.

2005 [Council of Europe Convention on Action Against Trafficking in Human Beings](#). Council of Europe Treaty Series No.197, 16 May.

2010 [Guidelines of the Committee of Ministers of the Council of Europe on Child-friendly Justice](#). Council of Europe Publishing, Strasbourg.

2018 [Recommendation CM/Rec\(2018\)8 of the Committee of Ministers to member States concerning restorative justice in criminal matters](#), adopted on 3 October.

2021 [Council of Europe Action Plan on Protecting Vulnerable Persons in the Context of Migration and Asylum in Europe 2021–2025](#). August.

2022 [Recommendation CM/Rec\(2022\)21 of the Committee of Ministers to member States on preventing and combatting trafficking in human beings for the purpose of labour exploitation](#), adopted on 27 September.

2024 [Precarious and irregular work situations of migrant seasonal and domestic workers](#). Report of the Committee on Migration, Refugees, and Displaced Persons. 17 January.

n.d.a [Collective complaints](#). Web page (accessed 24 March 2024).

n.d.b [Signatures and ratifications](#). Web page (accessed 27 March 2024).

Council of the European Union

2003 [Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents](#).

2004 [Council Directive 2004/81/EC of 29 April 2004 on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities](#).

Crépeau, F. and B. Hastie

2015 [The case for “firewall” protections for irregular migrants: Safeguarding fundamental rights](#). *European Journal of Migration and Law*, 17:157–183.

*All hyperlinks were working at the time of writing this report.

Delvino, N.

- 2020 [New EU strategy acknowledges need for “safe reporting” measures for all victims regardless of status](#). Blog post, Compas, 24 July.

Department for Equal Opportunities – Presidency of the Council of Ministers, Italy (DEO) and International Centre for Migration Policy Development (ICMPD)

- 2010 [Guidelines for the Development of a Transnational Referral Mechanism for Trafficked Persons in Europe: TRM-EU](#).

European Commission

- 2015 [Study on Case Law Relating to Trafficking in Human Beings for Labour Exploitation](#). European Commission, Brussels.
- 2020a [Third report on the progress made in the fight against trafficking in human beings \(2020\) as required under Article 20 of Directive 2011/36/EU on preventing and combatting trafficking in human beings and protecting its victims \(COM\(2020\) 661 final\)](#). October.
- 2020b [EU Strategy on Victims’ Rights \(2020–2025\) \(COM\(2020\) 258 final\)](#). June.
- 2021a [Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the EU Strategy on Combatting Trafficking in Human Beings 2021–2025 \(COM\(2021\) 171 final\)](#). April.
- 2021b [Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the EU Strategy to Tackle Organised Crime 2021–2025 \(COM \(2021\) 170 final\)](#). April.
- 2022a [Report on the progress made in the fight against trafficking in human beings \(fourth report\) \(COM\(2022\) 736 final\)](#). December.
- 2022b [Directive \(EU\) 2022/2464 of the European Parliament and of the Council of 14 December 2022 amending Regulation \(EU\) No 537/2014, Directive 2004/109/EC, Directive 2006/43/EC and Directive 2013/34/EU, as regards corporate sustainability reporting](#).
- 2022c [Proposal for a Directive of the European Parliament and of the Council on Corporate Sustainability Due Diligence and amending Directive \(EU\) 2019/1937 \(COM\(2022\) 71 final\)](#). February..
- n.d.a [EMN asylum and migration glossary](#). Web page (accessed 22 March 2024).
- n.d.b [Corporate sustainability due diligence: Fostering sustainability in corporate governance and managerial systems](#). Web page (accessed 22 March 2024).
- n.d.c [How to make a complaint at EU level](#). Web page (accessed 23 March 2024).

European Court of Human Rights

- n.d. [Apply to the court](#). Web page (accessed 23 March 2024).

European Forum for Restorative Justice (EFRJ)

- 2021 [Manual on restorative justice: Values and standards for practice](#).

European Labour Authority (ELA)

- n.d. [ELA’s mission](#). Web page (accessed 22 March 2024)..

European Parliament

- 2023 [Proposal for a ban on goods made using forced labour](#). European Parliamentary Research Service briefing, November.
- n.d. [Petitions](#). Web page (accessed 24 March 2024).

European Parliament and the Council of the European Union

- 2009 [Directive 2009/52/EC of the European Parliament and of the Council of 18 June 2009 providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals.](#)
- 2011a [Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combatting trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA.](#)
- 2011b [Directive 2011/98/EU of the European Parliament and of the Council of 13 December 11 on a single application procedure for a single permit for third-country nationals to reside and work in the territory of a Member State and on a common set of rights for third-country workers legally residing in a Member State.](#)
- 2012 [Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA.](#)
- 2014 [Directive 2014/36/EU of the European Parliament and the Council of 26 February 2014 on the conditions of entry and stay of third-country nationals for the purpose of employment of seasonal workers.](#)
- 2018 [Directive \(EU\) 2018/957 of the European Parliament and of the Council of 28 June 2018 amending Directive 96/71/EC concerning the posting of workers in the framework of the provision of services.](#)

European Parliament, Council of the European Union, and European Commission

- 2000 [Charter of Fundamental Rights of the European Union \(2000/C 364/01\).](#) 7 December.

European Ombudsman

- n.d. [Make a complaint to the European Ombudsman.](#) Web page (accessed 24 March 2024).

European Union Agency for Fundamental Rights (FRA)

- 2015 [Severe Labour Exploitation: Workers Moving within or into the European Union. States' Obligations and Victims' Rights.](#) European Union Agency for Fundamental Rights, Vienna.
- 2019 [Protecting Migrant Workers from Exploitation in EU: Workers Perspectives.](#) Publications Office of the European Union, Luxembourg.
- 2021 [Protecting Migrants in an Irregular Situation from Labour Exploitation: Role of the Employers Sanctions Directive.](#) Publications Office of the European Union, Luxembourg.

Eurostat

- n.d. [Trafficking in human beings statistics.](#) Web page (accessed 20 March 2024).

Group of Experts on Action Against Trafficking in Human Beings (GRETA)

- 2018a [Seventh general report on GRETA's activities.](#) March.
- 2018b [Questionnaire for the evaluation of the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Parties.](#) Third evaluation round. Thematic focus: Access to justice and effective remedies for victims of trafficking in human beings (GRETA(2018)26).
- 2021 [Guidance note on preventing and combatting trafficking in human beings for the purpose of labour exploitation.](#) September.

Institute for Human Rights and Business (IHRB)

- n.d. [Dhaka principles for migration with dignity.](#) Web page (accessed 27 March 2024).

- Inter-Agency Coordination Group Against Trafficking in Persons (ICAT)
- 2016 [Providing effective remedies for victims of trafficking in persons](#). Issue paper.
- International Labour Organization (ILO)
- 1930 [Forced Labour Convention \(C29\)](#). 28 June.
- 1947 [Labour Inspection Convention \(C081\)](#). 11 July.
- 1949a [Migration for Employment Convention \(Revised\) \(C086\)](#). 1 July.
- 1949b [Migration for Employment Recommendation \(Revised\) \(R086\)](#). 1 July.
- 1957 [Abolition of Forced Labour Convention \(C105\)](#). 25 June.
- 1975a [Migrant Workers \(Supplementary Provisions\) Convention \(C143\)](#). 24 June.
- 1975b [Migrant Workers Recommendation \(R151\)](#). 24 June.
- 2011 [Domestic Workers Convention \(C189\)](#). 16 June.
- 2014 [Protocol of 2014 to the Forced Labour Convention \(P029\)](#). 11 June.
- 2016 [ILO Standards on Forced Labor: The New Protocol and Recommendation at a Glance](#). International Labour Office, Geneva.
- 2019 [Violence and Harassment Convention \(C190\)](#). 21 June.
- 2022 [ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up](#), adopted 1998, amended 2022. ILO.
- 2023 [Intervention model: For extending social protection to migrant workers in the informal economy](#). ILO brief, February.
- n.d.a [Conventions and recommendations](#). Web page (accessed 20 March 2024).
- n.d.b [ILO Constitution](#).
- n.d.c [Ratifications of C097 – Migration for Employment Convention \(Revised\), 1949](#). Web page (accessed 20 March 2024).
- n.d.d [Ratifications of C143 – Migrant Workers \(Supplementary Provisions\) Convention, 1975](#). Web page (accessed 20 March 2024).
- n.d.e [Complaint procedure](#). Web page (accessed 23 March 2024).
- International Labour Organization (ILO), Walk Free Foundation and International Organization for Migration (IOM)
- 2022 [Global Estimates of Modern Slavery: Forced Labour and Forced Marriage](#). ILO, Walk Free and IOM, Geneva.
- International Organization for Migration (IOM)
- 2007 [The IOM Handbook on Direct Assistance for Victims of Trafficking](#). IOM, Geneva.
- 2019a [Glossary on Migration](#). International Migration Law, No. 34. IOM, Geneva.
- 2019b [IOM handbook on protection and assistance for migrants vulnerable to violence, exploitation and abuse](#).
- 2022a [Migrants' access to justice: International standards and how the Global Compact for Safe, Orderly and Regular Migration helps paving the way](#). International Migration Law Unit paper No. 1, 23 March.
- 2022b [Chapter 5 – Migrant-facing information initiatives](#). In: *IRIS Handbook for Governments on Ethical Recruitment and Migrant Worker Protection*. IOM, Geneva.
- 2022c [Fair and ethical due diligence toolkit](#). Web page (accessed 26 March 2024).
- 2023a [The IOM counter-trafficking theory of change](#).
- 2023b [Access to remedy and business grievance mechanisms](#). Tool 4.
- 2023c [Toolkit for victim-centric best practices on investigations and prosecutions in anti-trafficking action](#). May.
- 2023d [IOM best practice guide for employers of migrant workers in the hospitality sector in Hong Kong SAR, China](#). IOM, Hong Kong SAR, China.

- 2024 [Recommendations to the Belgian and Hungarian presidencies of the Council of the European Union in 2024.](#)
- n.d.a [Trafficking in persons and associated forms of exploitation and abuse. EMM 2.0 handbook. Web page \(accessed 23 March 2024\).](#)
- n.d.b [Enhancing IOM's protection capacity in the EEA+ region to protect the rights of migrants subject to labour exploitation. Web page \(accessed 28 March 2024\).](#)
- n.d.c [Prevention of trafficking in persons. EMM 2.0 handbook. Web page \(accessed 23 March 2024\).](#)
- Korkman, J.
2023 [Trafficking in human beings: Psychological coercion and investigative interviewing. HEUNI policy brief 2/2023.](#)
- Lietonen, A. and N. Ollus
2021 [Labour Exploitation and Public Procurement: Guide for Risk Management in National Supply Chains. HEUNI, Helsinki.](#)
- Office of the United Nations High Commissioner for Human Rights (OHCHR)
2011 [Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework \(HR/PUB/11/04\).](#)
- 2020 [International principles and guidelines on access to justice for persons with disabilities. August.](#)
- n.d.a [Treaty bodies. Web page \(accessed 23 March 2024\).](#)
- n.d.b [Special procedures of the Human Rights Council. Web page \(accessed 23 March 2024\).](#)
- n.d.c [Individual communications, human rights treaty bodies. Web page \(accessed 23 March 2024\).](#)
- n.d.d [Human Rights Council Complaint Procedure. Web page \(accessed 23 March 2024\).](#)
- Organization for Security and Co-operation in Europe (OSCE)
2015 [Commentary to the OSCE Action Plan to Combat Trafficking in Human Beings \(PC.DEC/557\), the 2005 Addendum Addressing Special Needs of Child Victims of Trafficking for Protection and Assistance \(PC.DEC/557/Rev.1\) and the 2013 Addendum to the OSCE Action Plan to Combat Trafficking in Human Beings: One Decade Later \(PC.DEC/1107/Corr.11\). OSCE Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings, Vienna.](#)
- Platform for International Cooperation on Undocumented Workers (PICUM)
2020 [A worker is a worker: How to ensure that undocumented migrant workers can access justice.](#)
- 2022 [Guide to undocumented workers rights at work under international and EU law. Brussels.](#)
- Pottler, M., C. Pütz, L. Pham and H. Plumb.
2021 [Migrant Worker Guidelines for Employers. IOM, Geneva.](#)
- Timmerman, R.I., A. Leerkes, R. Staring and N. Delvino
2020 ["Free in, free out": Exploring Dutch firewall protections for irregular migrant victims of crime. European Journal of Migration and Law, 22:427–455.](#)
- United Nations
2000 [Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, adopted on 15 November.](#)
- 2018 [Human rights of migrants \(A/73/178/Rev.1\). Report of the Special Rapporteur on the human rights of migrants, 25 September.](#)

United Nations Economic and Social Council (ECOSOC)

- 2005 [Guidelines on justice in matters involving child victims and witnesses of crime](#) (resolution 2005/20). 22 July.

United Nations General Assembly (UNGA)

- 1948 [Universal Declaration of Human Rights](#), adopted on 10 December (217 A (III)).
- 1966a [International Covenant on Economic, Social and Cultural Rights](#), adopted on 16 December. United Nations Treaty Series, vol. 993.
- 1966b [International Covenant on Civil and Political Rights](#), adopted on 16 December. United Nations, Treaty Series, vol. 999.
- 1989 [United Nations Convention on the Rights of the Child](#), adopted on 20 November. 1990 [International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families](#), adopted on 18 December (A/RES/45/158).
- 2000 [Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime](#), adopted on 15 November.
- 2001 [United Nations Convention against Transnational Organized Crime](#), adopted on 8 January (A/RES/55/25).
- 2017 [Human rights and transnational corporations and other business enterprises](#) (A/72/162). 18 July.
- 2019 [Global Compact for Safe, Orderly and Regular Migration](#), adopted on 19 December (A/RES/73/195).

United Nations Office on Drugs and Crime (UNODC)

- 2009a [Model Law Against Trafficking in Persons](#). United Nations, Vienna.
- 2009b [Module 5: Risk assessment in trafficking in persons investigations](#). In: *Anti-trafficking manual for criminal justice practitioners*.
- 2013 [United Nations Guidelines on Access to Legal Aid in Criminal Justice Systems](#). June.
- 2017 [Evidential issues in trafficking in persons cases: Case digest](#).
- 2020 [Handbook on restorative justice programmes](#). Second edition.

Van den Durpel, A.

- 2019 [Safe reporting of crime for victims and witnesses with irregular migration status in Belgium](#). Global Exchange on Migration and Diversity, September.

Victim Support Europe (VSE)

- 2023 [Safe justice for victims of crime](#). Discussion paper, February.



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