



TOOLBOX ON

# Work-related crime

**Labour exploitation and work-related crime: a problem analysis and prevention framework**



*Three categories of prevention strategies for work-related crime can be distinguished: victim-oriented prevention, buyer-oriented prevention, and offender-oriented prevention.*

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# Contents

	<b><u>Acknowledgements</u></b>	<b>3</b>
	<b><u>Key takeaways</u></b>	<b>5</b>
<b>01</b>	<b><u>Work-related crime: problem analysis</u></b>	<b>6</b>
	1.1. Definitions .....	7
	Trafficking in human beings for the purpose of labour exploitation .....	7
	Labour exploitation .....	8
	Work-related crime .....	8
	1.2. Labour exploitation and the legal economy .....	12
	1.3. The harmful effects of work-related crime .....	14
	1.4. How does labour exploitation work? .....	15
	How do exploiters recruit victims? .....	15
	How do exploiters make profit? .....	15
	How do offenders control their victims? .....	17
	How do offenders hide from the authorities? .....	18
<b>02</b>	<b><u>Prevention strategies for work-related crime</u></b>	<b>21</b>
<b>03</b>	<b><u>Other resources</u></b>	<b>28</b>
	The FLOW project .....	29
	European Union Agency for Fundamental Rights .....	30
	<b><u>Endnotes</u></b>	<b>34</b>
	<b><u>Bibliography</u></b>	<b>36</b>

# Key takeaways

1. **Work-related crime** refers to all infractions of laws and regulations regarding salary and employment, benefits, taxes and duties. This includes labour exploitation, forced labour, and trafficking in human beings for labour exploitation, as well as all criminal activities that may be related to, or indicative of, these crimes: benefit fraud, tax evasion and money laundering, breaching workplace safety regulations, salary extortion, and so on.
2. **Labour exploitation** is a particularly harmful crime. First, there is the direct harm (physical, psychological and economic) to victims. Second, exploitation creates unfair competition, having a negative effect on the legal economy and labour market. Third, unfair competition in trade and labour markets, and illegally acquired wealth, may erode trust in institutions and European values.
3. **Exploiters** make profit through a series of cost-cutting and revenue-generating actions. They save on wages, a safe work environment, taxes and social benefit contributions. Revenue is generated by asking inflated prices for recruitment and housing, by committing different types of benefit fraud, and by out-competing competitors.
4. **Offenders** use (seemingly) legal business structures and labour mobility options (including posted labour) to create intricate, often international, subcontracting chains that serve to hide illegal activity from plain sight and hamper investigations.
5. There are different **prevention strategies**, each with their own benefits and disadvantages. Victim-oriented approaches include awareness programmes for potential victims, as well as victim identification and assistance. Buyer-oriented strategies target both personal and corporate buyers, and aim to shrink the market for services and goods produced by exploited labour. Offender-oriented approaches have the objective to create an environment that is risky and unrewarding for offenders to operate in. The latter may be achieved by a mix of criminal justice and administrative probes that benefits from increased information sharing between authorities and across borders.

# 01



## **Work-related crime: problem analysis**

**A**ccording to estimations by the International Labour Organization (ILO) and the United Nations Office on Drugs and Crime (UNODC), trafficking for labour exploitation is significantly more common than trafficking for sexual exploitation in the EU,<sup>1</sup> but it remains underreported.<sup>2</sup> The majority of labour trafficking victims in the EU are either migrants or citizens from Central or Eastern European Member States, and the majority of them are men.<sup>3</sup>

Labour exploitation takes place predominantly in low-wage, labour-intensive industries such as agriculture, construction, the hotel and catering business, car washes, beauty salons, transportation, and factory assembly lines, as well as in domestic work. Traffickers usually recruit victims through the promise of well-paid jobs and set up fronts consisting of recruitment agencies and subcontracting firms, which make the operation seem legitimate to victims, clients, and the authorities. More so than victims of other types of trafficking, labour exploitation victims are subjected to physical violence in order to make them comply with the working conditions. Withholding passports, identity cards or travel documents is a way to ensure the workers' compliance. For victims from outside the EU, the threat of returning them to their country of origin is another means of control.<sup>4</sup>

## 1.1. Definitions

### Trafficking in human beings for the purpose of labour exploitation

The United Nations Convention against Transnational Organized Crime (UNTOC) was adopted by the General Assembly in 2000 in Palermo, which is why it is also referred to as the Palermo Convention. It entered into force on 29 September 2003 and now has 147 signatories, among which all EU Member States and the EU.<sup>5</sup>

It is an important international legal instrument in the fight against organised crime, aiming primarily at promoting “cooperation to prevent and combat transnational organized crime more efficiently” (Art. 1). It sets a number of standards such as the criminalisation of participation in Organised Crime Groups (hereinafter OCG; Art. 5), criminalisation of, and measures against, the laundering of proceeds of crime (Art. 6 & 7), joint investigations (Art. 19), witness and victim protection (Art. 24 & 25), etc. The Convention is applicable to trafficking in human beings (THB) insofar as the offences are committed by (members of) an organised crime group. It does not, however, contain any articles that pertain to THB specifically.

UNTOC is supplemented by three optional protocols (the so-called Palermo Protocols), one of which is the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (hereinafter UN TIP Protocol). It entered into force on 25 December 2003 and currently has 117 signatories, including the EU Member States and the EU.<sup>6</sup>

The objective of this Protocol is threefold: to prevent THB, to protect victims of trafficking and to promote international cooperation in the fight against THB. The Protocol's importance lies in the fact that it is the first to provide a comprehensive definition of THB. Art. 3a states: "Trafficking in persons' shall mean 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. Exploitation shall include, at a minimum, the exploitation of the 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." The Convention unambiguously states that the consent of the victim is irrelevant (Art. 3b).

## **Labour exploitation**

Labour exploitation refers to the unethical and often illegal practice of exploiting workers by underpaying them, denying them basic rights, subjecting them to unsafe working conditions, and other forms of mistreatment. It is the violation of labour laws and worker rights for profit, especially with respect to wages, working hours and leave entitlement, and health and safety standards. The Fundamental Rights Agency speaks of "severe labour exploitation" when these violations constitute a criminal offence.

One can also look at labour exploitation and trafficking in human beings for forced labour as being a cumulative continuum, as labour exploitation can exist without labour trafficking, but labour trafficking inherently involves exploitation.

## **Work-related crime**

There are a number of crimes pertaining to irregular employment that often go together with labour exploitation. These crimes are committed to maximise profits, or are simply part of exploitation schemes. The list includes money laundering, bribery (corruption), document fraud, benefit fraud, tax evasion, and workplace safety violations. In Norway and Sweden, this type of crime is referred to as work-related crime, a category which includes also exploitation and trafficking. This term is useful because it underscores that the "smaller" crimes are often connected to, or signs of, some form of labour exploitation.



## **Work-related crime: origins**

The concept of work-related crime originated in Norway, where it is defined as “actions that break Norwegian laws concerning salary and employment, benefits and taxes and duties. The crimes are often organised and exploit employees, distort competition and undermine the social structure.”<sup>7</sup> There is no legal definition of work-related crime, but it is used to refer to violations of different legal frameworks related to labour. Note that there are crimes that can take place in the workplace but do not fit this definition (e.g. theft from the workplace). These crimes should, therefore, not be considered a work-related crime. Other Nordic countries, noticeably Sweden, have also adopted the concept of work-related crime.

## **The complex relationship between benefit fraud and labour exploitation**

Benefit fraud can be linked to labour exploitation in a number of different ways. These three scenarios are the most common:

### **1. The employer avoids taxes and social security contributions**

Individuals who are forced or coerced into working under exploitative conditions, such as long hours, low wages, or unsafe working conditions, are at the same time kept from accruing pension and retirement rights, given that their exploitative employers discourage or prevent them from declaring their true income or employment status to the relevant authorities. This enables the employers to avoid their legal obligations which include paying taxes and contributing to social security.

### **2. The employer and worker falsify employment information and benefit applications**

Employers engaging in labour exploitation collude with workers to falsify employment information in order to fraudulently claim benefits. For example, an employer may provide false records or references to help a worker qualify for government assistance programs or social benefits. This type of benefit fraud enables both the employer and the worker to exploit the system and gain financial advantages.

### **3. Dual Exploitation**

The employer sets up a benefit fraud scheme for their own financial gain without the involvement of the worker or without the worker knowing, e.g. by using the worker's identity and personal documents. Alternatively, they manipulate or coerce workers into fraudulently claiming benefits such as unemployment benefits or welfare payments. This dual exploitation further victimises the workers and perpetuates the cycle of abuse and illegal activities.

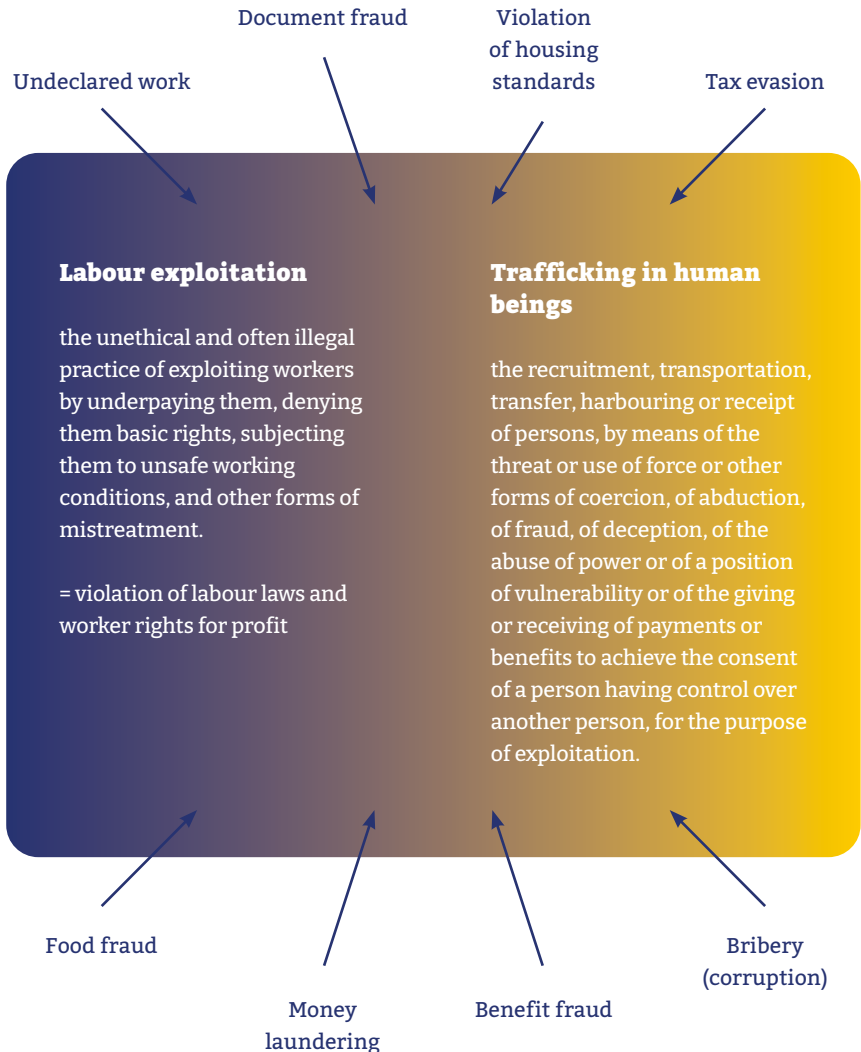


Figure 1. Work-related crime encompasses a series of criminal activities that are not on the exploitation-trafficking continuum, but are often part of an exploitation/trafficking scheme, and thus should be considered potential indicators of labour exploitation and trafficking.

## 1.2. Labour exploitation and the legal economy

**One key characteristic of labour exploitation and labour trafficking is that they depend on the legal infrastructure and the legal economy.** In order to sell products or launder money, offenders may have to set up legal businesses as fronts and open bank accounts. To recruit and control victims, traffickers often depend on malicious recruitment agencies and social media.<sup>8</sup> To transport or house victims, they may have to apply to local authorities or even have to forge documents, which are subject to control by authorities. Benefit fraud and other types of fraud linked to labour exploitation exploit loopholes in legal social services.

Products and services produced by exploited labour are eventually brought to a market. This market may be an illicit market. In such cases, buyers knowingly and willingly buy these goods and services. In such cases, buyer and offender conspire in a scheme that is profitable for both parties. A simple example is undeclared work (moonlighting). The worker, or their employer, generates profit by avoiding labour taxes, while the buyer enjoys a discount. On the other end of the spectrum are cases where services or goods produced by exploited labour are brought to the legal market, and the private or corporate customers are unaware of the labour or tax law violations in the production or supply chain.

Between those two is a grey zone, where buyers turn a blind eye to exploitative practices in the production and supply chain. This occurs with both private and corporate buyers. A well-known example concerning private customers are carwashes offering labour-intensive car detailing services for deflated prices. In such cases, the low price should be a giveaway that something may be wrong, in addition to the fact that workers in such establishments are often migrants who are not wearing protective work clothing.

In the most extreme cases, there may even be signs that workers are actually living in the carwash. Still, customers often choose to ignore the signs because of the price of the services. Businesses may act similarly when they subcontract labour to other firms. They do so because those firms are able to offer the same amount of work for less than they themselves could get it done. This in itself should be a sign that something may be wrong, but they accept the profit and deflect the responsibility to the subcontractor.

It is also important to realise that labour trafficking and exploitation thrive in Europe because of fundamental freedoms and despite attempts to regulate the labour

## Fraudulent employment agencies: complicit in exploitation

Fake recruitment firms or fraudulent employment agencies deceive individuals seeking employment by offering false promises of job opportunities, better wages, or improved living conditions. These firms often operate illegally and exploit vulnerable individuals who are desperate for work.

Characteristics of fake recruitment firms may include:

- a. False job advertisements:** They lure job seekers with attractive offers that may not exist or are misrepresented.
- b. Illegal fees:** They charge exorbitant fees for services such as job placement or processing visa documents, exploiting the desperation of job seekers.
- c. Identity theft:** They may collect personal information, including passports and identification documents, which can be misused for criminal purposes, including benefit fraud.
- d. Lack of transparency:** Fake recruitment firms provide little or no information about the actual job conditions, wages, or employment contracts, leading to situations where workers end up in exploitative conditions.

market and fight against serious and organised crime. Offenders conveniently use the European reality of open borders and free movement of workers on the one hand, and primarily national regulatory frameworks, inspections and investigations on the other. Differences in labour laws, minimum wage standards, and labour inspection practices can create disparities and loopholes that unscrupulous employers may exploit. Additionally, coordination and cooperation among national authorities can be challenging, making it easier for labour exploitation and work-related crime to go undetected or unaddressed. It is crucial to strike a balance between the benefits of open borders and the need to prevent labour exploitation.

### **1.3. The harmful effects of work-related crime**

There are two main reasons why work-related crime should be taken seriously and receive proper attention from those who are in a position to prevent and disrupt it. The first is the direct harm caused to workers. This ranges from the unlawful and unnecessary exposure to risks ensuing from the violation of work safety regulations and labour law violations related to paid leave and salary, to outright inhuman conditions in cases of forced labour and trafficking in human beings. In such cases, victims may be subject to unpaid work, inhumane treatment and living conditions, as well as the inability to move freely.

Besides the obvious harms caused to workers, work-related crime causes damage to the markets and to society at large, through several mechanisms. Tax avoidance and benefit fraud constitute a relative loss for the state, for which law-abiding citizens and companies have to make up. Work-related crimes also lead to unfair competition. Bringing products and services to the market at prices that can only be obtained through illegal practices puts legitimate competitors under pressure. The same is true in the labour market. Lowering the costs and standards of labour by illegal practices, contributes to social dumping and sets in motion a race to the bottom.

Finally, there is the societal cost of an increased risk of reducing trust in institutions and European values. The perception that immigrant workers 'accept' jobs at salaries below what is considered fair, and in doing so compete with domestic workers, combined with the fact that organised crime group members make huge profits and (sometimes) get away with that, is nefarious to public trust in the institutions.

## 1.4. How does labour exploitation work?

### How do exploiters recruit victims?

Exploiters recruit workers via both legitimate and illegitimate ways. Many victims are actively looking for employment and get in touch with their future exploiter through recruitment agencies or labour market intermediaries. These may be legitimate employment agencies who are not aware that their clients are in violation of labour laws. In more serious cases of labour exploitation and trafficking, however, these employment agencies themselves will be illegal or at least involved in deceptive or unethical practices, such as willingly lie about working conditions and remuneration and requiring exorbitant recruitment fees from the worker. Remarkably, it is estimated that half of the labour exploitation victims end up in exploitation through contacts in their **personal network**: family members, friends, former employers.<sup>9</sup>

There are signs, however, that in recent years, especially during the COVID-19 pandemic, internet-based recruitment increased. Before COVID-19, it was estimated that 6% of the labour exploitation cases started with the victim responding to **online job advertisements** or got in touch with their exploiter through **social media**. Offenders typically use one of two methods to reel in victims. Some of them actively recruit victims by publishing ads for attractive job opportunities, often abroad, either on established platforms or on a fake recruitment agency website which they themselves have set up. Others passively recruit victims by responding to people who are looking for job opportunities. In both scenarios, the offender may require a fee for travel arrangements and recruitment before the victim arrives at the destination to find out about the unacceptable labour conditions.<sup>10</sup>

### How do exploiters make profit?

In terms of the way in which profit is generated, labour exploitation and trafficking are among the two main ways to generate profit in work-related crime and labour exploitation: cost reduction and revenue increase.<sup>11</sup>

Costs are typically reduced in the following ways:

**Low wages:** Exploitative employers pay workers significantly below the minimum wage or fail to provide fair compensation for the work performed. By paying workers less, employers can reduce their labour costs and increase their profit margins. A deceitful way to underpay workers is salary extortion, in which the employer pays the correct salary to the workers, but forces them to pay part of it back in cash.<sup>12</sup>

**Excessive working hours:** Employers may force workers to work long hours without proper compensation for overtime. This allows them to extract more labour from employees without incurring additional costs.

**Lack of benefits:** Exploitative employers may deny workers benefits such as paid leave or social security contributions, saving on costs that would otherwise be associated with providing these benefits.

**Substandard working conditions:** Labour exploitation often involves subjecting workers to unsafe or unhealthy working conditions. By neglecting workplace safety standards and failing to provide proper facilities, employers can cut costs but risk the well-being and safety of their employees.

**Withholding wages:** Some employers engage in the practice of withholding wages or making unauthorised deductions from workers' paycheck. This further reduces labour costs and increases profits at the expense of the workers.

**Debt bondage:** In certain cases, workers may be trapped in a cycle of debt owed to their employers, often through exploitative recruitment practices or high-interest loans. This creates a situation where workers are bound to their jobs and unable to leave, resulting in continued exploitation.

Offenders can obtain an increase in revenue in the following ways:

**Upfront fees:** exploiters often demand upfront fees from victims, which supposedly cover administrative or training costs, but in reality are only a way to extort money from people in vulnerable positions looking for a better quality of life.

**Inflated prices:** malicious employers may ask workers to pay for goods that they should not be paying for, such as work equipment, or ask above-market prices for services they offer to workers, including housing, utilities and food.

**Benefit fraud:** benefits are fraudulently obtained by misusing the worker's identity, for example.

**Out-competing competitors:** being able to cut costs also means that goods and services can be offered to the market at lower prices, at the expense of bonafide competitors.



## How do offenders control their victims?

Force is often used to exploit the workers. This can take different forms. **Debt-bondage** is a way to force irregular migrants who enter the EU with the help of migrant smugglers into accepting unpaid work or poor working conditions. In that sense, there is often a fine line between illegal migrant smuggling and trafficking in human beings for labour (or sexual) exploitation, with offenders or offender groups assuming the hybrid role of smuggler-traffickers.<sup>13</sup> Employers facing a disproportionately high job placement fees may be held in debt-bondage until the fee is fully paid. **Holding back travel and identity documents** is another way to perpetuate exploitation, as victims are in need of those.

**Physical violence**, or the threat of violence, is also used by exploiters to get workers to comply with their wishes. Physical violence is often connected with the most severe cases of work-related crime, such as labour trafficking and forced labour. It is assumed to occur more often in cases where the whole criminal operation is hidden (e.g. domestic slavery or forced labour of irregular migrants). Threats of being fired or being turned over to the authorities as an illegal immigrant are also being used.

However, physical violence can also be considered rather ineffective from the perspective of the offender in that it may draw unwanted attention, and exposes the offender to more severe punishment with limited gains in return. Softer strategies avoid physical violence, but play into the victim's inherent weakness and vulnerability. For example, employers may make **false promises** that they are working regularising the employment of their victims, or that the exploitation will be over once a residence permit or asylum has been obtained. The fact that victims are often isolated, away from family, their home country, and in a cultural and linguistic environment that is alien to them, prevents them from seeking help.<sup>14</sup>

In April 2023, a group of Uzbek and Georgian truck drivers organised a strike in Darmstadt, Germany, because their Polish employer had failed to pay their wages. In response, the employer reportedly sent a private militia to Darmstadt in an attempt to force the drivers to resume work.

## **How do offenders hide from the authorities?**

Typically, offenders will try to hide their illegal activities from the authorities. In certain cases, this requires little attention: exploitation in domestic slavery, in and of itself, is barely visible to the outside world. In other cases, criminal networks go to great lengths in trying to camouflage their criminal activity as best they can.

In order to do so, they set up or rely on complex business schemes. This often involves the creation of legal entities (companies) with intricate trade relationships between them. Some of these companies will have no real economic activities or assets, and are therefore referred to as letterbox companies. The goal is to hide the illegal labour exploitation within this intricate, preferably international, web of mostly legal—at first sight—labour mobility and business schemes. The *modi operandi* discussed below all have in common that they serve to impede and complicate detection and investigation.<sup>15</sup>

### **Bogus self-employment**

False self-employment is often used for tax evasion and in labour exploitation schemes. According to the EU, bogus self-employment occurs “when a person is declared to be self-employed while fulfilling the conditions characteristic of an employment relationship, in order to avoid certain legal or fiscal obligations”, and has made it a priority for the European Platform to enhance cooperation in tackling undeclared work.<sup>16</sup>

Bogus self-employment not only allows contractors to avoid taxes and benefit contributions on labour, but also to weaken the position of workers to negotiate salaries (or, in the case of self-employment: prices) and conditions. Rather than risking to get caught paying workers less than the minimum wage, the offenders working with self-employed victims can “negotiate” very low and “tight deadlines” for the work to be done. Additionally, the self-employed worker, now an entrepreneur, will at least partially be responsible for work safety. Thus, bogus self-employment facilitates and perpetuates exploitation. Exploiters may therefore push or force workers into self-employment, or simply prefer to work with self-employed workers.

As indicated in the definition above, a key marker of bogus self-employment, *vis-à-vis* legitimate self-employment, is the fact that the contractor-worker relationship has more features of an employer-employee relationship than a business partner relationship. The contractor will act as boss, ordering the self-employed worker what to do; the worker, in turn, will not be in a position to accept and refuse jobs based on their

own judgement. Additionally, workers in bogus self-employment are often unskilled and low-paid, which matches the profile the labour exploitation victims, but is atypical for self-employment.

### **Posted work**

Posted work is when an employee is sent to a different EU Member State than where they usually work. Posted workers enjoy the basic working rights and conditions from the host country, unless this is to the worker's disadvantage. This includes salaries and benefits, health and safety regulations, accommodation if provided by the employer, and working hours. Social insurance remains in the country where the employee normally works. Since posting is a legal form of labour mobility in the EU, a work permit is not needed, but posted workers are required to register their residence if the duration of posting exceeds three months.<sup>17</sup>

A specific type of posted work and a growing phenomenon is the posting of third-country nationals. This is when non-European citizens obtain a work permit in one Member State and are then posted in another Member State. The same conditions apply as in intra-EU posting, and Members States cannot ban or impose additional conditions on third-country posted workers.

The main receiving countries of third-country national posted workers are Austria, Belgium, Germany and the Netherlands. The main nationalities of third-country national posted workers are Ukrainians and Belarusians (via Poland and Lithuania), Bosnians and Serbians (via Slovenia), and to a lesser extent Moroccans (via Spain) and Brazilians (via Portugal).<sup>18</sup> Compared to EU national posted workers, third country nationals are more vulnerable because they are dependent on their employer for renewal of work and temporary residence permits.

Posted work is used by labour traffickers and exploiters for several reasons. First, it is a legitimate type of labour mobility in the EU and, as such, it is a good way to get workers where they are needed without raising suspicion. Any irregularities will be more difficult to detect and investigate because they involve two legal systems and allow the cooperation of authorities from two Member States. Moving workers around between countries makes it even harder for authorities to detect and investigate it, and makes it harder for victims to get familiar with rules and regulations in the hosting country and exert their rights. Equal pay provisions are, to an extent, easy to circumvent by giving posted workers lower-ranked job descriptions, although in reality, they do the same work.

Third-country national posted work opens up further avenues for fraud and exploitation. Malicious actors can misuse the system of third-country posting by setting up letterbox companies to bring third country nationals in the EU and avoid more restrictive labour migrations laws in the Member State where the workers will actually be employed. Fake posting is when third-country nationals do not reside in the sending country before the posting or do not return to it afterwards, instead moving directly between the country of origin and the receiving country, or when the workers does not in fact have a work or residence permit in the sending country.<sup>19</sup>

### **Subcontracting chains**

Subcontracting allows companies to outsource certain aspects of their production or services to third-party contractors, in the same country or abroad, who then employ workers to carry out the tasks. Cascaded subcontracting is when the main contractor subcontracts another contractor, who in turn uses a temporary employment agency to hire workers, creating a chain of subcontracting.

Subcontracting, and even cascaded subcontracting are not by definition an indicator of malicious intent and do not necessarily involve labour exploitation. Many companies engage in responsible subcontracting practices, ensuring fair wages, decent working conditions, and adherence to labour laws. They may choose to outsource certain jobs for a number of legitimate reasons, including cost-cutting or to hire specialised labour which the company does not have access to in-house.

However, cascaded subcontracting also creates the conditions for the evasion of labour regulations, the suppression of wages and exploitation of vulnerable workers. Worse, it may be used deliberately for that purpose. In that case, subcontracting chains serve two purposes. First, they create a distance between the workers and the company for which the work is actually done (the main contractor). The complexity and opacity of subcontracting relationships may mislead authorities and slow down investigations. The distance between the main contractor and the actual workers creates a lack of accountability, as companies may refuse to take direct responsibility of labour conditions in an attempt to avoid liability for labour exploitation or other work-related crimes occurring in the supply chain. Second, they allow to divert certain labour-intensive activities to countries with poorer labour standards or looser immigration law, or to countries where offenders estimate they have a better chance of getting away with violations, e.g. because of a lack of enforcement.

# 02



## Prevention strategies for work-related crime

Three categories of prevention strategies for work-related crime can be distinguished: victim-oriented prevention, buyer-oriented prevention, and offender-oriented prevention.<sup>20</sup>

One **victim-oriented** prevention strategy is to raise awareness of the risks involved in certain types of (irregular) migration or certain types of employment, especially abroad, in vulnerable communities. Another strategy is to address the root causes by improving living conditions in vulnerable conditions, so that they not seek to migrate or work in high-risk circumstances. Other victim-oriented prevention strategies emphasise the importance of identifying victims of exploitation and trafficking and offering support and assistance, to which they are legally entitled. Traditionally, victim-oriented prevention strategies have been the preferred way to approaching the prevention of labour trafficking in the EU, with little to no attention going to offender-oriented prevention.<sup>21</sup>

There are limits to the effectiveness of some of these victim-oriented strategies, three of which are worth pointing out here. First, apart from the limited effectiveness of awareness campaigns in general,<sup>22</sup> the potential of awareness campaigns for potential exploitation and trafficking victims is overshadowed by the fact that there is a virtually endless “supply” of workers willing to take a chance at working in Europe—or simply getting into Europe.<sup>23</sup>

Second, victim identification, while it is of key importance in dismantling trafficking operations, puts a “significant burden on individual victims who must identify the trafficking, report it, and cooperate [with law enforcement], often while dealing with the risk of retraumatisation by criminal justice actors and the very real threat of retaliation by offenders not yet apprehended.”<sup>24</sup> Victims, like offenders, may also have a stake in avoiding detection, for instance because they fear deportation.

Third, international guidelines for victim identification sometimes do not translate well to the EU context, especially when relying on transit (border-crossing) and victim-initiated encounters with authorities (e.g. when applying for a work permit). The border-free Schengen Area, in combination with the fact that visa, (temporary) residence permits and (temporary) work permits can sometimes be obtained through web applications, makes that the EU has significantly less identification opportunities than many other regions in the world.



Figure 2. Schematic overview of preventive strategies for labour exploitation and work-related crime.

**Buyer-oriented** prevention refers to raising consumer awareness and stimulating both private and business buyers to avoid buying any goods and services produced by exploited labour. Especially consumer awareness is challenging, as there will always be trade-off ethical consumer behaviour and economic consideration (price). An alternative to mere awareness-raising is the criminalisation of buying products of exploitation, which is more easily realised in terms of sexual exploitation than of labour exploitation, as buyers simply may not be aware of the presence of labour exploitation in the supply chain of goods or services.<sup>25</sup>

For businesses and especially public authority buyers, there are additional options. Businesses may invest in, or be stimulated to invest in, normative frameworks, compliance and due diligence, risk-assessments for exploitation down the supply chains, and strategies to mitigate and avoid that. The FLOW project of HEUNI has produced an excellent toolkit for businesses willing to put effort into avoiding exploitative practice in their supply chains.<sup>26</sup>

Public authorities can set strict conditions in public procurement, ranging from the exclusion of companies who have a tax or social contribution debt, who have been found guilty of a work-related crime or are currently under investigation for work-related crimes. Other conditions, stricter than in the general market, may serve to reduce the likelihood of state-funded work-related crime. An example is limiting the number of subcontracting levels for companies trading with state authorities. Measures like this can even be extended to the general market. In Spain, for instance, the law limits the number of subcontracting layers in the construction industry, which was found to be vulnerable to labour exploitation, to three, with additional limits on companies that only provide labour services. This allows both contractors and authorities to better identify illegal practices and is considered a success in the fights against labour exploitation in the industry.<sup>27</sup>

**Offender-oriented** prevention strategies for work-related crime encompass those interventions that make exploitation and trafficking enterprises less attractive for (potential) offenders. In this sense, the term offender-oriented may be a bit confusing, as it corresponds to an extent with the main mechanisms of situational prevention: increasing the effort, increasing the risk (to get caught), reducing the reward (less lucrative), removing excuses, and reducing provocations.<sup>28</sup> We stick with the term offender-oriented prevention strategies as they stand alongside victim and buyer-oriented strategies. The principal aim of these strategies is to create an environment that is inhospitable to criminal networks engaged in labour exploitation.



Despite the fact that the EU and its Member States have some of the world's most advanced anti-exploitation laws and strong support systems for victims, the EU (and more precisely: the border-free Schengen Area) also offers basic conditions that are favourable to labour exploitation and trafficking. Some of these conditions are by design, and are part of the rights to freedom that Europeans enjoy: open borders, free movement, freedom of enterprise. Setting up a company is sometimes as simple as completing an online form; so is applying for a temporary work visa in some EU countries. Once workers have a permit to work in one Member State, they can fairly easily, and with little to no restriction, be posted to another Member State.

Other favourable conditions could be considered historical accidents: the significant irregular migration flows into the EU constitute an endless supply of vulnerable workers, and the fact that Member States have different legal systems and penal codes, allows offenders to relocate activities where they are the least risky. For instance, in comparison with neighbouring countries, Germany has lenient anti-money laundering laws and prosecution, allowing criminal networks to locate money laundering activities there. Similarly, criminal networks will 'use' countries with important legal labour immigration options (e.g. citizens from the Community of Portuguese Language Countries in Portugal) as a point of entry into the EU. The challenge is to create an environment that is hostile to criminal networks, particularly exploiters and traffickers, while safeguarding the fundamental rights and freedom that characterise the EU.

## The Norwegian strategy against work-related crime

Norway is considered a frontrunner when it comes to harbouring social justice and fighting work-related crime. The Norwegian strategy against work-related crime<sup>29</sup> displays an integrated approach to the phenomenon, as it pays attention to awareness, prevention, but also investigation and punishment.

The plan puts forward a range of legislative, regulatory, awareness-raising and preventive actions divided in seven categories:

1. Organised industrial relations and strengthened tripartite cooperation: the plan promotes collective agreements, unionisation and a good dialogue between employees and employers, facilitated by the government.
2. Strengthen employees' rights: part of this is to clarify what is understood under employee and to avoid that short-term contracts and self-employment schemes obstruct workers from exercising their rights.
3. Prevent exploitation of employees: actions in this category include increased labour inspections, victim assistance and awareness-raising, specifically targeting at-risk groups (notably migrant workers).
4. Mobilise the power of consumers and buyers: actions aimed at stimulating and supporting private, corporate, and public-sector buyers in working with bona fide suppliers of goods and services and at avoiding to do business with malicious suppliers.
5. Increase knowledge about social dumping and work-related crime: this includes research programmes on work-related crime, better statistics on temporary work agencies, and policy evaluation.
6. Control and follow-up – interagency cooperation: control and follow-up of cases of work-related crime require multiagency cooperation and information exchange, also with the specific aim to deliver proportionate sanctions swiftly.
7. International cooperation: continued involvement in EU, Nordic and Baltic partnerships.

**Labour inspections** play a crucial role in preventing and disrupting labour exploitation and work-related crimes by ensuring compliance with labour laws, promoting safe working conditions, and protecting the rights of workers. Besides the obvious effect that labour inspections help enforce and ensure compliance with labour laws by detecting transgressions and holding employers accountable, there are other important benefits associated with labour inspections.

Regular labour inspections promote fair employment practices and prevent unfair treatment of workers as they have a deterrent effect. Employers are aware that they may be subject to scrutiny, which encourages them to comply with the law and adopt fair practices, reducing the likelihood of exploitation and work-related crime. Additionally, inspectors provide guidance to well-meaning employers and workers regarding labour laws and workers' rights. Finally, regular labour inspections generate valuable data on work-related crime, allowing to identify new trends and patterns and target high-risk individuals and industries.

In order to have adequate and regular labour inspections, it is important to have enough trained inspectors with the resources and powers necessary to identify and investigate violations, to take administrative sanctions, and to establish mechanisms for cooperation with other relevant authorities such as law enforcement agencies, tax authorities, customs, labour unions, and other inspectorates (e.g. food safety inspections).

This is of key importance to generate a preventive effect. Frequent controls and inspections by all possible authorities, possibly resulting in repeated sanctions (fines, sentences), take away the perception that offenders are untouchable and significantly increase the risk for offenders. Labour exploitation and trafficking networks are remarkably robust and resilient. This is because exploitation and trafficking are economic crimes (performed for profit, not for the sake of harming victims), which also means that economic sanctions can be built into the business model: occasional fines or run-ins with authorities are costs or expenses to these criminal networks rather than a disruption—a reason to stop. The economic incentives for both victims and offenders often persist despite disruption attempts.<sup>30</sup>

Once on the radar of authorities, information on criminal networks should be shared with all relevant authorities to allow for better cooperation between them, repeated inspections and more effective investigation and prosecution. In the case of international crime groups, countries collaborate to share information, intelligence and best practices to prevent and combat human trafficking across borders.

# 03



## Other resources

## The FLOW project

The FLOW project (Flows of illicit funds and victims of human trafficking: uncovering the complexities 2018 – 2020) was an EU-funded project headed by the European Institute for Crime Prevention and Control (HEUNI) in Helsinki. It mapped labour exploitation business models in four EU Member States, i.e. Finland, Estonia, Bulgaria, and Latvia, and produced tools to fight and prevent labour exploitation in the EU. These tools include the following publications:

- **Shady business:** detailed but accessible description of the business model of labour trafficking
- **Uncovering labour trafficking:** an investigation tool for law enforcement and checklist for labour inspectors
- **Navigating through your supply chain:** a toolkit for business to avoid labour exploitation in their subcontracting chains, containing a risk assessment tool, a strategy tool, a screening tool, a contract tool, and a workplace assessment tool.

All publications are available in English, Finnish, Estonian, Bulgarian and Latvian at <https://heuni.fi/-/flow>



Figure 3. Covers of some of the publications produced by the FLOW project.

## European Union Agency for Fundamental Rights

FRA has produced a number of resources on severe labour exploitation of migrants, primarily in the context of irregular migration flows.

- **Severe labour exploitation: workers moving within or into the European Union** (2015): This report, produced at the height of the migration crisis, sheds a light on the illegal exploitation of migrants' labour, the risk factors, victims' access to justice, as well as EU law that can be used to deal with labour exploitation. This includes, besides the obvious Anti-Trafficking Directive and EU Charter of Fundamental Rights, EU Directives on posted work, working time, free movement, temporary agency work, seasonal work, and so on.
- **Protecting migrant workers from exploitation in the EU: workers' perspectives** (2018) canvasses the recruitment and exploitation strategies used by offenders and the working and living conditions of victims based on interviews with 237 victims.

These and other resources on labour exploitation can be found on the website of FRA: <https://fra.europa.eu/en/themes/trafficking-and-labour-exploitation>



Figure 4. Two of FRA's publications on severe labour exploitation within the EU.



TOOLBOX ON

# Work-related crime

LABOUR EXPLOITATION AND WORK-RELATED CRIME: A PROBLEM ANALYSIS AND PREVENTION FRAMEWORK.

Preventing labour exploitation requires a coordinated effort, and should engage all relevant authorities and actors across **three strategies:**

1

**Victim-oriented by reducing recruitment and removing the root causes of labour exploitation:** includes awareness programmes for potential victims, as well as victim identification and assistance.





2

**Buyer-oriented by shrinking the market and the profitability:** target both personal and corporate buyers.

3

**Offender-oriented by raising the risks and reducing the rewards:** may be achieved by a mix of criminal justice and administrative probes that benefits from increased information sharing between authorities and across borders.

**Learn more in our toolbox:**

<https://eucpn.org/toolbox-workrelatedcrime>

# Endnotes

- 1 ILO, Global Estimate of Forced Labour: Regional Factsheet European Union, Geneva: ILO, 2012.
- 2 Cf. Europol, European Migrant Smuggling Centre: 6th Annual Report, Luxembourg: Publications Office of the European Union, 2022, 18-9; Directorate-General for Migration and Home Affairs, Data Collection on Trafficking in Human Beings in the Eu, Luxembourg: Publications Office of the European Union, 2020.
- 3 Cf. Ella Cockbain and Kate Bowers, Human Trafficking for Sex, Labour and Domestic Servitude: How Do Key Trafficking Types Compare and What Are Their Predictors?, *Crime, Law and Social Change* 72:1 (2019), 16-8.
- 4 Europol, European Migrant Smuggling Centre: 6th Annual Report, 21.
- 5 United Nations, UNTOC: Convention against Transnational Organized Crime, New York, 2000.
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- 8 Europol, European Union Serious and Organised Crime Threat Assessment: Crime in the Age of Technology, The Hague: Europol, 2017, 53.
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- 11 Anniina Jokinen and Natalia Ollus, Shady Business: Uncovering the Business Model of Labour Exploitation, Helsinki: HEUNI, 2019, 16-7.
- 12 European Labour Authority, Report on the Cooperation Practices, Possibilities and Challenges between Member States – Specifically in Relation to the Posting of Third-Country Nationals, Bratislava: ELA, 2023, 45.
- 13 OSCE Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings, From Reception to Recognition: Identifying and Protecting Human Trafficking Victims in Mixed Migration Flows, Vienna: OSCE, 2017, 15; Europol, Facilitation of Illegal Immigration, europol.europa.eu.
- 14 OSCE Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings, From Reception to Recognition.
- 15 Jokinen and Ollus, Shady Business, 20-2.
- 16 European Parliament and Council of the European Union, DECISION (EU) 2016/34: Establishing a European Platform to Enhance Cooperation in Tackling Undeclared Work 2016.
- 17 European Union, Posted Workers, Your Europe, n.d.
- 18 European Labour Authority, Report on the Cooperation Practices, Possibilities and Challenges between Member States.
- 19 Ibid.
- 20 Note that, often, a differentiation is made only between “supply-side strategies” on the one hand and “demand-side strategies” on the other, as for instance by the UNODC (Effective Prevention Strategies, sherloc.unodc.org, n.d.). Supply-side, then, refers to the workers, and thus corresponds to victim-oriented prevention. Demand-side, encompassing both consumer awareness and enforcement of labour laws, encompasses both buyer-oriented and offender-oriented prevention. Because of this ambiguity, that categorisation is avoided here.

- 21 This point is illustrated by Art. 18 of the EU anti-trafficking Directive, which mentions buyer and worker awareness, victim identification, as well as the criminalisation of “the use of services which are the object of exploitation”; European Parliament and Council of the European Union, Directive 2011/36/EU: Preventing and Combating Trafficking in Human Beings and Protecting Its Victims, Brussels, 2011.
- 22 European Crime Prevention Network, Awareness-Raising Never Hurt Anyone, Did It?, Mythbuster, Brussels: EUCPN, 2020.
- 23 UNODC, Effective Prevention Strategies.
- 24 Chase Childress et al., Disrupting Labor Trafficking in the Agricultural Sector: Looking at Opportunities Beyond Law Enforcement Interventions, *Victims & Offenders* 18:3 (2023), 473-511.
- 25 Jokinen and Ollus, Shady Business, 10.
- 26 Anni Lietonen, Anniina Jokinen, and Natalia Ollus, Navigating through Your Supply Chain: Toolkit for Prevention of Labour Exploitation and Trafficking, Helsinki: HEUNI, 2020.
- 27 Focus on Labour Exploitation (FLEX), Risky Business: Tackling Exploitation in the Uk Labour Market, 2017, 31-2.
- 28 Cf. Michael Tonry and David P. Farrington, Strategic Approaches to Crime Prevention, *Crime and Justice* 19 (1995), 1-20.
- 29 Norwegian Government, Action Plan to Combat Social Dumping and Work-Related Crime, Oslo: Støre Government, 2022.
- 30 Childress et al., Disrupting Labor Trafficking in the Agricultural Sector.

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