



Study on the concept of trafficking in human beings for the purpose of labour exploitation

on the basis of illustrative national legislation and jurisprudence

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Abbreviations

EU ATC	EU Anti-Trafficking Coordinator
EU ATH	EU Anti-Trafficking Hub
EU	European Union
TCN	Third Country National
THB	Trafficking in Human Beings

Executive summary

This report examines how trafficking in human beings for the purpose of labour exploitation is addressed across selected EU Member States: Italy, Finland, France, Spain and the Netherlands. It highlights the complexity of the legal frameworks and the challenges in distinguishing between trafficking and other forms of labour exploitation. The analysis is structured around three core areas: conceptual clarity, legal interpretation, and gaps and challenges in practical implementation.

Key findings show that proving trafficking for labour exploitation in court requires meeting strict legal criteria, which sets a high threshold for applying the human trafficking framework. The report also notes that accurate identification of trafficking cases has implications for victims' access to rights and support as trafficked persons are entitled to specialised assistance and protection measures. Therefore, ensuring that cases with indicators of trafficking are assessed under the appropriate legal framework is important for protecting the victims and for enabling proportionate legal responses, including the prosecution of perpetrators.

The report follows the 'continuum of exploitation' as an establishment framework for the conceptualisation of human trafficking and related offences. The continuum recognises labour exploitation as a spectrum of harmful practices that may change over time and encompass acts of differing severity. This perspective allows for a more nuanced understanding of exploitation, which can manifest through varying degrees of vulnerability, dependency, and coercion. However, operationalising this approach remains a challenge, particularly within criminal justice systems that are structured to address single offences rather than evolving patterns of exploitation. Depending on national legislation, situations of labour exploitation may be addressed through administrative, labour law, or criminal justice mechanisms. The lack of specific criminalisation of serious labour exploitation in many Member States, combined with limited awareness among practitioners, further complicates efforts to identify and respond effectively to such cases.

The final section offers recommendations for Member States. First and foremost, the findings call for strengthening the use of the human trafficking framework as set up in the EU Anti-Trafficking Directive; secondly, for establishing the use of complementary legal provisions, and thirdly, for enhancing institutional capacity. These recommendations span prevention, protection, and practice, and call for a more coherent and coordinated response to tackle trafficking for labour exploitation across the EU.

Introduction

Trafficking in human beings and labour exploitation are driven by global economic inequalities, geopolitical instability that leads to displacement, and the failure to uphold fundamental economic and social rights. Trafficking for labour exploitation is made possible and legitimised through existing poor labour practices that affect migrant workers in particular, including intra-EU labour migrants.¹ They face exploitative recruitment and employment practices, especially in low-paid, low-skilled jobs.² The **business model of labour exploitation** is based on underpaying the workers, avoiding taxes and other statutory payments, and also charging excessive costs from the employees for recruitment/placement, accommodation, transport and tools.³

Trafficking for labour exploitation is often found in **labour-intensive sectors** such as catering and the food industry, cleaning, agriculture, construction, tourism and hospitality, manufacturing, and the domestic care sector. Victims are exploited in various settings, including restaurants, shops, bars, farms, greenhouses, construction sites, nail salons, car washes, factories, and shipyards, as well as private households. These settings generally rely on a low-skilled and temporary (seasonal) migrant labour force. The risk of exploitation increases where long subcontracting chains and outsourced or seasonal recruitment practices are used to meet fluctuating labour demands.⁴

The absence of effective labour market regulation, including insufficient inspection mechanisms, combined with growing market pressure to reduce costs, contributes to underpayment, excessive working hours, and exploitative practices.⁵ According to the latest statistics, labour exploitation has become nearly as common as sexual exploitation in human trafficking across the EU.⁶ Recent data shows a steady rise in victims, especially in labour exploitation, with regional differences in detection. Western and Southern Europe report the highest rates, while Eastern Europe shows significantly lower figures.⁷

In this report, the term **(trafficking for) labour exploitation** is used as an umbrella concept encompassing various forms, including trafficking for forced labour and services, servitude, slavery and slavery-like practices such as debt bondage. While these categories may differ in legal definitions and severity, they often share overlapping indicators and mechanisms of control. To capture the complexity and dynamic nature of related offences, the paper relies on the conceptual framework of the 'continuum of exploitation.'⁸

Labour exploitation often involves the **abuse of a person's vulnerable status for economic gain and operates at the intersection of labour, migration, and criminal law**. It frequently exploits the gaps that emerge when cases are addressed under one legal framework rather than another. Within this context, the **boundaries between labour law violations and severe forms of exploitation, including trafficking in human beings for the purpose of labour exploitation remain blurred**.

¹ Ollus N. (2016), *From Forced Flexibility to Forced Labour: The Exploitation of Migrant Workers in Finland*, HEUNI, Helsinki.

² FRA (2015). Severe labour exploitation: workers moving within or into the European Union. States' obligations and victims' rights. FRA, Vienna; FRA (2019). Protecting migrant workers from exploitation in the EU: workers' perspectives. European Union Agency for Fundamental Rights. FRA, Vienna.

³ Allain J., Crane A., LeBaron G. & Behbahani, L. (2013). Forced labour's business models and supply chains. Joseph Rowntree Foundation, York.

⁴ IOM - International Organization for Migration (2023a). Mapping Risks to Migrant Workers in Supply Chains in Europe. IOM, Brussels.; FRA 2019; 2015.

⁵ Ollus 2016.

⁶ EUROSTAT (n.d). [Trafficking in Human Beings Statistics](#). The statistics refer to victims of forced labour and services.

⁷ UNODC (2024). [Global report on Trafficking in Persons 2024](#). UNODC, Vienna.

⁸ K. Skrivankova (2010), [Between decent work and forced labour: examining the continuum of exploitation](#), S. Scott (2022), [Labour Exploitation and Work-Based Harm: The labour exploitation continuum](#)

Consequently, this report examines the criminal justice approach in selected Member States, namely Italy, Finland, France, Spain, and the Netherlands, which have taken concrete steps to address trafficking for labour exploitation and present specific case law that helps explain the nuances of the key concepts engaged in the context of labour exploitation. **Through an analysis of national laws, jurisprudence, and practices, informed by guidelines and relevant literature, the report assesses how these approaches align with international and European standards.** While these countries have made some notable efforts to combat labour exploitation, they continue to face significant and persistent challenges that are shared across the EU.

Against this background, the Study focuses on explaining the distinction and potential overlap between the scope and application of the key concepts used in the context of trafficking of human beings for the purpose of labour exploitation. The Study is divided into **four main sections**, each addressing a key aspect of trafficking in human beings for the purpose of labour exploitation. To support readability and accessibility, each chapter begins with a summary of key findings, followed by a more detailed analysis in the substantive parts of the section.

- **Section 1** introduces the concept of trafficking for labour exploitation, presents the continuum of exploitation as a guiding framework, and explains relevant EU and international definitions. It also outlines national legislation in the selected Member States.
- **Section 2** explores how different legal concepts are interpreted and applied in practice, with a focus on national case law examples.
- **Section 3** identifies regulatory and practical gaps and challenges, and highlights national approaches, tools, and promising practices.
- **Section 4** presents concrete recommendations for strengthening legal and institutional responses to trafficking for labour exploitation.

The format of the Study is a so-called ‘*ad hoc* policy paper’ among the products developed under the umbrella of the EU Anti-Trafficking Hub. As such, it is limited to approximately 40 pages in length; the analysis is conducted at a high-level without claiming to be comprehensive; and features illustrative national laws and jurisprudence from five selected Member States on the basis of desk research conducted at national level.⁹

The EU Anti-Trafficking Hub supports the mandate of the EU Anti-Trafficking Coordinator through providing research, analysis and advice in order to contribute to the development of EU policies, implement the EU Strategy on Combatting Trafficking in Human Beings and the EU Anti-Trafficking Directive as well as to exchange best practices and reinforce cooperation. The information and views set out in this document are those of the author(s) and do not necessarily reflect the official opinion of the Commission. The findings and recommendations identified in the research products of the EU Anti-Trafficking Hub are independent and do not bind the European Commission. Neither the Commission nor any person acting on the Commission’s behalf may be held responsible for the accuracy or the use which may be made of the information contained therein.

⁹ The Study acknowledges the relevant work being done by EU bodies and Agencies on labour exploitation. This includes, but is not limited to, the efforts of the Fundamental Rights Agency of the EU that recently published its report on [Six Points for Workplace Inspectors: EU Law Safeguards for Non-EU Workers](#) as well as its [Training Manual on How workplace inspectors can protect third-country workers’ rights](#); or the ongoing work of the European Labour Authority on providing training for labour inspectors on labour exploitation and labour law violations; as well as through convening [analytical meetings on labour exploitation](#) within the EMPACT. The Study draws on the findings of relevant reports, while the work of the engaged EU bodies and agencies *per se* falls outside of its scope.

Section 1. What is THB for labour exploitation?

Key findings

- Conceptualising labour exploitation as a continuum provides a comprehensive framework that allows for capturing the range of situations under this phenomenon. These can range from less severe acts of minor labour condition breaches and situations all the way to very serious acts and severe restrictions on personal freedom and rights, such as forced labour and trafficking in human beings.
- Labour exploitation *per se* is not defined under international and EU law. The concept of labour exploitation in the context of human trafficking and in the EU Anti-Trafficking Directive is thought to cover at a minimum forced labour or services, slavery or practices similar to slavery, and servitude, which are defined further in international law.
- The EU Employer Sanctions Directive elaborates the concept of labour exploitation in the context of particularly exploitative working conditions ‘resulting from gender based or other discrimination, where there is a striking disproportion compared with the terms of employment of legally employed workers which, for example, affects workers’ health and safety, and which offends against human dignity.’ However, this only applies to irregular migrants, while the same problems also occur with intra-EU labour migrants and regular migrants.
- The analysis of national legislation of Italy, Finland, France, Spain and the Netherlands confirms the complexity of defining and regulating against all forms of labour exploitation. In addition to the criminalisation of trafficking in human beings, each of the countries have criminalised certain crimes against workers, which are relevant to the question of labour exploitation. None of the countries specify labour exploitation as a purpose of exploitation in their trafficking legislation. France and Italy have also criminalised forced labour and/or slavery as a separate offence, as outlined in the table below. In addition, some selected cases demonstrate how related conduct is being identified as administrative offences or labour law violations.

Table 1. Outline of national legislation

THB	Forced labour/slavery	Other relevant crimes/administrative offences/labour violations
<ul style="list-style-type: none"> • All five countries have criminalised trafficking in human beings for the purpose of forced labour, whilst labour exploitation is not explicitly listed or defined as a purpose of exploitation. • ‘Labour exploitation’ is thought to cover at a minimum forced labour, practices similar to slavery and servitude in all of the five countries. • France has the most detailed list of relevant exploitative purposes: reduction to slavery, submission to forced labour or services, reduction to servitude, or working or 	<ul style="list-style-type: none"> • Italy and France have criminalised slavery and servitude also as separate stand-alone offences without the trafficking element. • France has also criminalised forced labour as a separate offence. • In Finland, Spain and the Netherlands forced labour is only criminalised as a form of human trafficking and not as a stand-alone offence. 	<ul style="list-style-type: none"> • Italy has criminalised ‘illegal intermediation and labour exploitation.’ • Finland has criminalised extortionate work discrimination, but the provision is suggested to be replaced by usury and aggravated usury in employment in 2026. • Spain has criminalised crimes against workers’ rights. • France has criminalised ‘inadequate or absent remuneration of a person in a situation of vulnerability or dependency’ and ‘submission of a vulnerable person to degrading working or housing conditions.’ • Netherlands is amending legislation introducing a new offence of exploitation of serious disadvantage (<i>ernstige benadeling</i>), which aims to expand protections against exploitation, particularly in cases that do not meet the

THB	Forced labour/slavery	Other relevant crimes/administrative offences/labour violations
housing conditions contrary to human dignity.'		strict legal definition of human trafficking. <ul style="list-style-type: none"> In addition, there are relevant regulations and provisions in administrative, civil and labour law that address (forms of) labour exploitation and violation of labour rights in all five countries.

1.1 Introduction

This section introduces the conceptual framework of the 'continuum of exploitation' for enhancing the understanding of THB for the purposes of exploitation based on academic literature and international guidelines. Next, the key elements of trafficking for labour exploitation are outlined, primarily drawing on the EU Anti-Trafficking Directive, the Employer Sanctions' Directive, as well as the international legal framework, mainly the UN Palermo Protocol (2000), along with relevant European case law. The elements of the definition as applicable to trafficking for labour exploitation are explained to provide a framework of the ensuing analysis of the national definitions and practices.

After the explanation of the relevant concepts in the international and European legal framework are introduced and the elements of exploitation are clarified, the main focus of the analysis is on how the definitions of THB, forced labour, labour exploitation and other key related offences are concretely operationalised in the national legislation and case law in the five selected Member States. Selected case examples will be used to demonstrate the different approaches and aspects.

Key research questions:

- How are trafficking for labour exploitation, forced labour, and (particularly) exploitative working conditions defined in international and European law, as clarified by the corresponding jurisprudence?
- Main focus: how have the selected EU Member States interpreted these concepts in national legislation?

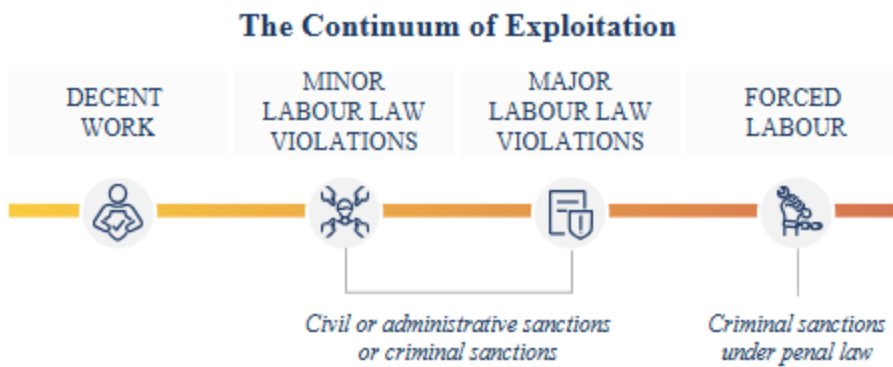
1.2 The 'continuum of exploitation' as a conceptual framework

Labour exploitation is a complex issue that manifests in various forms. It may also extend over long periods of time and may change form and evolve from less serious to more serious forms of exploitation. Because of this, it can be conceptualised as a continuum, ranging from less severe acts of minor labour condition breaches and situations all the way to serious acts and severe restrictions on personal freedom and rights, such as forced labour and human trafficking.¹⁰ The worst forms of labour exploitation may fulfil the elements of human trafficking and/or slavery.¹¹ The concept of the continuum aims to capture the complexity of the experiences of exploitation and reflects their dynamic nature. It also encompasses situations where exploitation turns into various forms of violations over time.

¹⁰ Andrees, B. (2008). Forced Labour and Trafficking in Europe: How People are Trapped in, Live through and come out [online] Geneva: International Labour Office.; David, F. (2010). Labour Trafficking. AIC Reports Research and Public Policy Series 108. Canberra: Australian Institute of Criminology.

¹¹ Jokinen, A., Ollus, N. & Viuhko, M. (2011). [Work on Any Terms: Trafficking for Forced Labour and Exploitation of Migrant Workers in Finland](#). HEUNI Publication Series No. 67. Helsinki: HEUNI.

Figure 1. Visualisation of the continuum of exploitation (based on CoE HELP training module)



According to Skrivankova (2010) 'there is a continuum of experiences ranging from decent work through minor and major labour law violations, to extreme exploitation in the form of forced labour'.¹² The benefit of the concept of the continuum is that it brings attention to the complexity of the persons' experiences at work characterised by combinations of voluntariness and coercion. Within this conceptual framework, decent work is understood as a situation of freedom, where the worker can choose and leave the given work and has security, dignity, protected rights, adequate remuneration and social protections. Minor violations on the continuum may include, for instance, payment under the minimum wage, working hours offences or other less serious breaches of labour rights. However, if excessive or systemic, those violations could constitute forced labour. Similarly, withholding a passport as a single act would not equal forced labour, but if combined with other acts, such as withholding wages and demanding excessive working hours, it could fulfil the definition.

By approaching exploitation as a continuum, each case can be considered on its own merits with attention to the spectrum of regimes, pressures, and constraints under which a person acts, accepts, or reacts to different practices and dynamics of exploitation.¹³ Exploited workers' experiences can be seen to move along the continuum of labour exploitation, of which individuals can experience different degrees, all at once or as separate incidents.¹⁴ Hence, the continuum of labour exploitation is not a static spectrum.¹⁵

Q The continuum also allows for understanding the difference between 'mere' exploitation and **trafficking as a matter of degree and not of kind**. The boundaries between poor working conditions, forced labour, and trafficking are increasingly eroding and blurring.¹⁶ As legal and practical distinctions erode, it becomes more difficult to clearly define and respond to the different forms of exploitation workers may face.

While some violations of workers' rights constitute less severe labour or administrative offences, many entail also criminal liability. Labour exploitation or subjecting the worker to particularly exploitative working conditions can also be qualified as various freestanding offences in national legislation. While trafficking for labour exploitation is widely criminalised across EU Member State laws, forced labour or labour exploitation

¹² Skrivankova, K. (2010). Between decent work and forced labour: Examining the continuum of exploitation. <https://www.jrf.org.uk/report/between-decent-work-and-forced-labour-examining-continuum-exploitation>. York: Joseph Rowntree Foundation, p. 4.

¹³ Palumbo, L. (2024). Labour Exploitation as a Continuum, Human Dignity, and Vulnerability. In: Taking Vulnerabilities to Labour Exploitation Seriously. IMISCOE Research Series. Springer, Cham. https://doi.org/10.1007/978-3-031-55424-7_2, p. 43.

¹⁴ Marconi, V. (2021). Not Slaves Enough: On the Trivialization of Systemic Migrant Labor Exploitation in Tuscany, Italy. *Journal of Immigrant & Refugee Studies*, 20(4), 533–545. <https://doi.org/10.1080/15562948.2021.1954739>, p. 541.

¹⁵ Ibid.

¹⁶ Rittich, K. (2017). Representing, Counting, Valuing: Managing Definitional Uncertainty in the Law of Trafficking,' in Kotiswaran, P., (ed.) *Revisiting the Law and Governance of Trafficking, Forced Labour and Modern Slavery*, Cambridge: Cambridge University Press, p. 239.

as independent criminal offences are also gaining growing recognition.¹⁷ Finally, a variety of other criminal offences are associated with labour exploitation, such as usury, fraud, conspiracy, money laundering, revenue or benefit offences, non-payment or misuse of wages, human smuggling, illegal recruitment, illegal employment or (extortionate) work discrimination.¹⁸

1.3 Explanation of EU and international definitions: Human trafficking, forced labour, trafficking for the purposes of labour exploitation, and particularly exploitative working conditions

The UN Trafficking Protocol (2000) is the principal international legal instrument to prevent, suppress and punish human trafficking.¹⁹ It supplements the United Nations Convention against Transnational Organized Crime, and is currently ratified by 185 states around the world, including all EU Member States.²⁰ As defined in the Protocol, the offence of human trafficking comprises of three elements: the act, the means and the purpose of exploitation, which must all be fulfilled.

'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.

Consent is irrelevant if any of the means of trafficking have been used to get it. Initial consent to work is irrelevant if the victims have been deceived, or if their position of vulnerability has been exploited. However, only when all three elements are proved to be present can a human trafficking offence be established. This often raises different evidentiary and prosecutorial challenges, as for example, it might be difficult to prove the purpose of exploitation.

The EU Anti-Trafficking Directive (2011/36/EU, amended 2024/1712, in short ATD) adopts the definition of trafficking found in the UN Trafficking Protocol, opting for a comprehensive definition of exploitation that includes all forms of trafficking referring to *'the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, including begging, slavery or practices similar to slavery, servitude, or the exploitation of criminal activities, or the removal of organs, or the exploitation of surrogacy, of forced marriage, or of illegal adoption'*.

Labour exploitation itself has no official definition under international and EU law. However, according to the Council of Europe, the concept of 'labour exploitation' in the context of human trafficking covers at a minimum *forced labour or services, slavery or practices similar to slavery, and servitude*, which are acknowledged in international law, including in the case law of the European Court of Human Rights

¹⁷ See e.g. Schoultz, I. & Muhire, H. (2023). Is there any criminal law protection for exploited migrant workers in Sweden? Logics of criminal law and the labour migration regime. *Nordic Journal of Criminology*, 24(2), pp. 1-20; Schoultz, I., Spanger, M., Jokinen, A., Økland Jahnsen, S., Muhire, H., & Pekkarinen, A.-G. (2024). Constructions of migrant victims of labour exploitation in Nordic court cases. *International Review of Victimology*, 30(2), pp. 261-281. <https://doi.org/10.1177/02697580231174912>

¹⁸ Jokinen, A. & Ollus, N. (2019). *Shady business. Uncovering the business model of labour exploitation*. HEUNI Publication Series No.92a. Helsinki: HEUNI.

¹⁹ UNODC. (2021). [Protocol to prevent, suppress and punish trafficking in persons, especially women and children, supplementing the United Nations Convention against Transnational Organized Crime](#). United Nations.

²⁰ United Nations. (2000). [Protocol to prevent, suppress and punish trafficking in persons, especially women and children, supplementing the United Nations Convention against Transnational Organized Crime](#). United Nations.

regarding Article 4 of the European Convention on Human Rights (ECHR).²¹ These concepts are outlined below.



Forced labour or services is included as a form of exploitation in the UN Trafficking Protocol. Forced labour is defined in Article 2(1) of the International Labour Organization (ILO) Convention concerning Forced or Compulsory Labour (No. 29 of 1930) as '*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 voluntarily*'.²² So-called menace of a penalty, according to ILO, refers to any penalty or punishment inflicted by any person or body, and can take many different forms ranging from physical violence or restraint, or even death threats addressed to the victim or relatives to more subtle forms of menace as well as financial penalties which are linked to debts. Employers can also require workers to hand over their identity documents and may use the threat of confiscation of these documents in order to exact forced labour.²³ Moreover, forced labour is determined by the nature of the relationship between two persons, and not by the type of activity performed, however hard or hazardous the conditions of work may be, the legality or illegality of the activity under national law, or its recognition as an 'economic activity'.²⁴

The ILO has provided guidance to clarify the meaning of the definition of forced labour.²⁵ In particular, the ILO has identified key indicators that point to a forced labour situation:

- physical or sexual violence;
- restriction of movement of the worker;
- debt bondage or bonded labour;
- the withholding of wages or refusing to pay the worker at all;
- the retention of passports and identity documents, and the threat of denunciation to the authorities.²⁶

In recent years, the ILO has further defined the indicators for identifying forced labour practices in a handbook for survey designs.²⁷

In 2014, the ILO adopted a new Protocol and Recommendation on forced labour, supplementing the 1930 Convention. The Protocol situates forced labour within a human rights framework and recognises that 'forced or compulsory labour violates the human rights and dignity of millions of women and men, girls and boys, contributes to the perpetuation of poverty and stands in the way of the achievement of decent work for all'.²⁸ The Protocol outlines that trafficking is encompassed by the definition of forced or compulsory labour and that the definition of forced labour covers most forms of trafficking.²⁹

²¹ Council of Europe. (n.d.). [Labour exploitation – Action against trafficking in human beings](#).

²² ILO. (1930). [Forced Labour Convention](#), P029.

²³ ILO (2009a). The cost of coercion. Global report under the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work. Report of the Director-General. International Labour Conference 98th Session 2009, Report I (B). Geneva: ILO, pp. 5–6.

²⁴ ILO. (2005). [A global alliance against forced labour: Global report under the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work](#). International Labour Office, p. 6.

²⁵ ILO 2005; ILO (2007). Eradication of Forced Labour, General Survey Concerning the Forced Labour Convention, 1930 (No. 29), and the Abolition of Forced Labour Convention, 1957 (No. 105). Report of the Committee of Experts on the Application of Conventions and Recommendations, International Labour Conference 96th Session, 2007, Report III (Part 1B). Geneva: International Labour Office; ILO (2009b). [Operational indicators of trafficking in human beings. Results from a Delphi survey implemented by the ILO and the European Commission](#), 3/2009; ILO (2012). [ILO Indicators of Forced Labour](#). Geneva: International Labour Office.

²⁶ Denunciation here refers to informing on the worker to the authorities because of their irregular status, for their illegal work or any number of real or imagined reasons. ILO 2005, pp. 20–21.

²⁷ ILO (2024). Hard to see, harder to count: Handbook on forced labour surveys. Third edition. Geneva: International Labour Office.

²⁸ ILO 1930.

²⁹ Ollus, N. (2015). [Regulating forced labour and combating human trafficking: The relevance of historical definitions in a contemporary perspective](#). Crime, Law and Social Change, 63:3, pp. 221–246. <https://doi.org/10.1007/s10611-015-9566-6>

The ILO definition also informed [EU Regulation 2024/3015](#) that recently introduced the [prohibition of products made with forced labour on the Union market](#). The Regulation adopts the forced or compulsory labour definition of ILO Convention No 29, including forced child labour; and similarly it refers to ILO Convention No 105 for the definition of 'forced labour imposed by state authorities'.³⁰

In addition to the specific ban of the Regulation, the EU sustainability framework also covers issues falling under the continuum exploitation, broadly. Among others, [Directive 2022/2464 on Corporate Sustainability Reporting \(CSRD\)](#) expressly acknowledges the risks arising from child and forced labour (Recital 11), and requires that undertakings disclose information about social and human rights factors. As per Article 29b (2)(ii) of the Directive, those include working conditions, such as secure employment, working time, adequate wages, social dialogue, freedom of association, existence of works councils, collective bargaining, the information, consultation and participation rights of workers, work-life balance, and health and safety. In Recital 49, the Directive further specifies that human rights disclosures should include information about forced labour and child labour in the value chains, where relevant.³¹

The European Court of Human Rights has in the landmark case of *Chowdury and Others v. Greece* under Article 4 clarified that the concept of forced labour in the international legal framework covers various forms of severe working conditions. The case reiterates that the consent of the victims to exploitation is irrelevant; the irregular status is a crucial factor to take into account when assessing cases of exploitation; and, that a person might be held in a situation of forced labour even if they are not subjected to any form of deprivation of freedom of movement.³² At the same time, irregular status is not a pre-condition of forced labour. Indeed, according to latest Eurostat data, a significant percentage of victims of trafficking identified in EU Member States are EU citizens or have a legal right to reside in the EU³³.

The 1926 Slavery Convention defines [slavery](#) as '*the status or condition of a person over whom any or all of the powers attaching to the right of ownership is exercised.*' The 1956 Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery outlined that [debt bondage, serfdom, servile forms of marriage and the exploitation of children constitute practices similar to slavery](#). [Debt bondage](#) is defined as 'the status or condition arising from a pledge by a debtor of his personal services or of those of a person under his control as security for a debt, if the value of those services as reasonably assessed is not applied towards the liquidation of the debt or the length and nature of those services are not respectively limited and defined.'³⁴

According to the UNODC Model Law against Trafficking in Persons³⁵, '[Servitude](#)' shall mean the labour conditions and/or the obligation to work or to render services from which the person in question cannot escape and which he or she cannot change. This definition is derived from the Universal Declaration of Human Rights (1948) and the International Covenant on Civil and Political Rights (1966). However, neither of these instruments provide an explicit definition of servitude, and thus the suggested definition is based on an interpretation of those instruments, for instance, by the UN Working Group on Trafficking in Persons.³⁶ The European Court of Human Rights has used the following criminal law definition of servitude in its 2005

³⁰ [REGULATION \(EU\) 2024/3015](#) OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 27 November 2024 on prohibiting products made with forced labour on the Union market and amending Directive (EU) 2019/1937

³¹ Regulation (EU) 2024/3015 and Directive (EU) 2022/2464 are listed as part of the overview of relevant EU legal instruments; at the same time, these were not analysed further during the national research due to the lack of available jurisprudence specific to these legal instruments at this point.

³² European Court of Human Rights. (n.d.) *Chowdury and Others v. Greece*, Application no. 002-11581. HUDOC. <https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22002-11581%22%5D%7D>

³³ EUROSTAT (n.d).

³⁴ United Nations. (1956). [Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery](#). Geneva: OHCHR.

³⁵ UNODC. (2009c). [Model law against trafficking in persons](#). United Nations.

³⁶ United Nations. (2010). [Analysis of key concepts of the Trafficking in Persons Protocol](#). p. 8.

judgment in the case of *Saladin v. France* (ECHR, 26 July 2005, No. 73316/01): 'An obligation to provide one's services that is imposed by the use of coercion, and is to be linked to the concept of slavery.'

In the context of trafficking, **vulnerability** is typically used to refer to factors that increase the susceptibility of an individual or group to being trafficked.³⁷ The vulnerability factors can be classified in three categories: personal (e.g. age, gender, ethnicity, disability), situational (e.g. destitution, unemployment, legal status) and contextual (e.g. discriminatory laws, policies and social norms, armed conflicts, crises) factors, which interact and may increase the risk of human trafficking for certain individuals, groups and/or communities.³⁸ In the ATD, vulnerability is defined broadly. According to Article 2.2, a person is in **a situation of vulnerability when they have no real or acceptable alternative but to submit to abuse**.³⁹ Also, the GRETA advocates for a broad definition of vulnerability, which can stem from, for example, insecurity or illegality of the victim's administrative status, economic dependence or fragile health or any state of hardship in which the victim is impelled to accept being exploited.⁴⁰

In addition to criminal law, there are also crucial legal instruments in the area of administrative and labour law that govern labour exploitation. **The EU Employer Sanctions Directive** (2009/52, in short ESD), which prohibits the employment of illegally staying third-country nationals in order to fight illegal immigration, elaborates the concept of labour exploitation in the context of **particularly exploitative working conditions**. According to Article 2(i): '*working conditions, including those resulting from gender based or other discrimination, where there is a striking disproportion compared with the terms of employment of legally employed workers which, for example, affects workers' health and safety, and which offends against human dignity*'. The list is open-ended and so conditions that may qualify as particularly exploitative are not restricted to the ones mentioned above but are to be assessed on a case-by-case basis.⁴¹

According to Article 9 of the Employers Sanctions Directive, Member States must criminalise the intentional employment of third-country nationals (TCNs) in an irregular situation, including intentional aiding, inciting, or abetting such employment, when any of the following conditions are met:

- The offence is committed in a continued manner or is repeated persistently;
- It involves the simultaneous employment of a significant number of TCNs in an irregular situation;
- The employment is accompanied by particularly exploitative working conditions;
- The employer knowingly uses work or services exacted from a TCN who is a victim of human trafficking;
- The illegal employment concerns a TCN minor in an irregular situation.⁴²

To prove particularly exploitative working conditions, it is sufficient to establish that there has been an act of exploitation of a certain gravity. There is no need to prove the employer's purpose to exploit the victim. At the same time, it is important to keep in mind that the ESD is only applicable to third-country national workers in an irregular situation.

1.4 National legislation

This section examines how the selected EU Member States have interpreted the concepts outlined in the previous chapter in national legislation. The analysis of national legislation of Spain, Italy, France, Finland and the Netherlands demonstrates the complexity of defining labour exploitation and addressing it through the regulatory framework. In addition to the criminalisation of trafficking in human beings, each of the countries

³⁷ UNODC (2012). [Abuse of a position of vulnerability and other 'means within the definition of trafficking in persons](#), UNODC, Vienna, p. 13.

³⁸ ICAT (2022). [Issue Brief No. 12: Addressing vulnerability to trafficking in persons](#).

³⁹ EU ATD.

⁴⁰ GRETA (2023a). [4th Evaluation Round - Addressing vulnerabilities to human trafficking](#), para. 83.

⁴¹ [Directive 2009/52/EC](#) of the European Parliament and of the Council of 18 June 2009.

⁴² Ibid.

have criminalised additional, freestanding crimes against workers, which are relevant to the question of labour exploitation. France and Italy have also criminalised forced labour and/or slavery as a separate offence. None of the countries has explicitly listed labour exploitation as a purpose of exploitation in their trafficking legislation.

In Spain, there is no definition of labour exploitation in domestic legislation. Labour exploitation cases can be classified as:

- administrative labour offences, falling under the jurisdiction of the Labour Inspectorate;
- crimes against workers' rights, in accordance with Articles 311 and 312 of the Criminal Code (CP);
- human trafficking for the purpose of labour exploitation, in accordance with Article 177 bis of the Criminal Code, if certain substantive requirements are met: recruitment, transfer or reception, use of unlawful means (deception, coercion or abuse of vulnerability) and the purpose of forced labour.

Labour exploitation as such is not defined or expressly included as a purpose of trafficking. Case law and doctrine in Spain understand labour exploitation to include situations such as:

- abusive working hours (without rest, without remuneration or with wages well below the legal minimum);
- absence of a contract or social security contributions;
- threats or coercion to force the worker to accept these conditions;
- and abuse of situations of vulnerability (e.g. foreigners in an irregular situation or in extreme economic need), understood as the absence of a real option to resign from employment or to report it, a criterion assessed by the various Provincial Courts differently and on a case-by-case basis.

The lack of a national definition of forced labour and/or labour exploitation creates a situation, which the Spanish Immigration Prosecutor's Office of the Attorney General's Office has referred to as 'unsustainable.' In practice, this leads to a situation of ambiguity in detecting cases of forced labour, as well as legal uncertainty, which leads to a lack of clarity between trafficking and related crimes, such as 'violation of labour standards' or 'irregular hiring' in the national law. Drawing the line between severe labour exploitation and forced labour is also challenging as both can involve coercion, abuse and vulnerability. However, there is no separate criminalisation of forced labour and, if the elements of trafficking cannot be uncovered, labour exploitation cases can only be classified as a violation of workers' rights (Articles 311 and 312) or as administrative labour offences.⁴³

In Italy, to regulate against labour exploitation, the legal system relies on a combination of provisions from the Criminal Code, the Immigration Act, and other legislative decrees, including those related to the asylum procedure. In addition to criminalisation of trafficking in human beings (Article 601 of the Italian Criminal Code), referring to forced labour as a purpose of exploitation, Italy has criminalised 'Placing or holding a person in conditions of slavery or servitude' under Article 600 Criminal Code. This article punishes those who force or keep a person in a state of 'continual subjugation,' forcing him/her to work. The key elements of the perpetrator's conduct are:

- exercising powers and rights over a person that correspond to ownership;
- reducing or maintaining a person in a state of constant subjection by forcing them to work or to other forms of exploitation;
- using means of coercion and duress.

⁴³ Country fiche Spain, pp. 6–7; see also Rodríguez-López, S. (2020). [The Invisibility of Labour Trafficking in Spain. A Critical Analysis of Cases and Policies](#). *Revista Española de Investigación Criminológica* Article 3,18:2.; Villacampa, C. (2022). Difficulties in prosecuting human trafficking for labour exploitation. *InDret. Revista para el Análisis del Derecho* 2:2022; Villacampa, C. (2023). [Labour trafficking prosecution: what is not working in Spain?](#) *Contemporary Justice Review*, 26(1), pp. 1–27.

Moreover, Italy has also criminalised 'Illegal intermediation and labour exploitation' under Article 603-bis Criminal Code. This article punishes those who hire or recruit workers under exploitative conditions, taking advantage of their state of need. The law provides indicators of exploitation:

- repeatedly paying wages significantly below collective agreements or disproportionate to work quantity/quality;
- repeated violations of regulations concerning working hours, rest periods, weekly rest and paid leave;
- violations of health and safety at work regulations;
- particular degrading working, housing, or supervisory conditions.⁴⁴

When a worker is subjected to violence or threats, these are considered aggravating circumstances. In this case, the conduct can be defined as 'severe exploitation,' entitling the victim to the same assistance measures as those provided to victims of trafficking by Article 18 of the Immigration Law, Legislative Decree 286/98 (which provides for a protection program and a special residence permit for victims).

In France, there is no legal definition of labour exploitation; rather, the Penal Code provides a list of offences presumed to apply to different exploitative situations, without defining the concept in general terms. The trafficking provision is located under Chapter V of the Penal Code relating to **Offences Against Human Dignity**:

- **Section 1 bis: Human Trafficking** (Articles 225-4-1 to 225-4-9) The relevant purposes of exploitation under the article include reduction to slavery, submission to forced labour or services, reduction to servitude, or working or housing conditions contrary to their dignity. Each of the relevant purposes of exploitation also constitutes, when taken independently, a separate offence under the Penal Code.

In 2013, the trafficking legislation was amended by adding new means in addition to the previous formulation of 'in exchange for remuneration or any other benefit or promise of remuneration or benefit'. The new means included were the use of threats, coercion, violence or fraudulent manoeuvres, abuse of authority and abuse of a situation of vulnerability.

The French criminal law system does not provide an autonomous definition of labour exploitation, but rather addresses its various forms through a set of specific offences.⁴⁵ These are based on common elements, mainly **violations of human dignity and personal freedom. The victim's situation of vulnerability and apparent state of dependency** are also recurring elements. Lastly, the notion of **coercion**, whether physical, psychological, or economic, is often decisive in characterising labour exploitation.⁴⁶

In Finland, trafficking in human beings is criminalised under Chapter 25 Section 3 (650/2004) of the Criminal Code and aggravated trafficking in Section 3a.⁴⁷ The law refers to forced labour and other circumstances

⁴⁴ Italian Criminal Code, [art. 630 bis](#); see also Country fiche Italy, pp. 8-9.

⁴⁵ Section 3: Degrading Working and Housing Conditions, Forced Labour and Reduction to Servitude (Articles 225-13 to 225-16) include the following key articles:

- Inadequate or absent remuneration of a person in a situation of vulnerability or dependency, Article 225-13 of the Penal Code, Book II, Title II, Chapter V, Section 3, entitled 'Degrading Working and Housing Conditions, Forced Labour and Reduction to Servitude'
- Submission of a vulnerable person to degrading working or housing conditions, Article 225-14, same section.
- Forced Labour, Article 225-14-1 of the Penal Code, same section.
- Reduction to Servitude, Article 225-14-2, same section.

In Chapter IV, relating to Offences Against Individual Freedoms (Articles 224-1 A to 224-10), there are additional relevant offences, specifically:

- Section 1: Reduction to Slavery and Exploitation of Persons Reduced to Slavery (Articles 224-1 A to 224-1 C)

Key articles include:

- Reduction to Slavery, Article 224-1 A of the Penal Code, Book II, Title II, Chapter IV, Section 1
- Exploitation of Persons Reduced to Slavery, Article 224-1 B of the Penal Code, same section.

⁴⁶ Country fiche France, p. 50.

⁴⁷ Finnish [Criminal Code](#) 39/1889.

contrary to human dignity as purposes of exploitation, which can be seen as relevant to situations of labour exploitation. Circumstances contrary to human dignity include conditions resembling slavery, including debt bondage.⁴⁸ According to the legislative travaux, forced labour is understood as a state in which the employee lacks the usual rights to refuse job duties or to discontinue them. This condition is sustained through credible threats against the victim's life, health, or other serious threats—such as the threat of being reported to the authorities. It may also be maintained by restricting the employee's freedom of movement, through a debt relationship between the employee and employer, or by confiscating the victim's passport or other means of identification.⁴⁹ The definition of forced labour is thus in line with the ILO Convention as well as the ILO indicators.

Forced labour is not criminalised separately, but Finland already in 2004 criminalised under Chapter 47 Section 3a (302/2004) of the Criminal Code **extortionate work discrimination**, which is mainly used in situations of labour exploitation of migrant workers. It was introduced because of the so-called Chinese stonemasons' case, in which a Finnish company failed to pay 12 men with Chinese background a large part of their wages, made them work long hours in poor working conditions, and had them work in the streets and housed them in an industrial hall, all creating immense media attention.⁵⁰

The offence of **extortionate work discrimination** criminalises a situation where the worker is put in **an inferior position by taking advantage of the job applicant's or the employee's financial or other distress, dependent position, lack of understanding, thoughtlessness or ignorance**. Thus, the act must also fulfil the criteria of discrimination, meaning it must be based on a ground of discrimination specified by law, such as nationality or ethnic origin. It has been observed, for instance, in the work of labour inspectors, that proving the causal link between a disadvantaged position and a ground for discrimination can be difficult in certain situations of labour exploitation for example, when all employees of a company are migrants, but only some of them receive salaries that are below the statutory minimum.⁵¹ In addition, offences such as aggravated extortion (Criminal Code 36:7), extortion (Criminal Code 36:6), and unauthorised use of foreign labour (Criminal Code 47:6a) may be used to investigate and prosecute labour exploitation cases.

The current Finnish government has proposed replacing the criminal provision of extortionate work discrimination with **a new provision on usury in employment** in 2026. A provision on a new offence, **aggravated usury in employment**, would also be included in the chapter and corporate criminal liability would be extended to both. Usury refers to demanding or collecting an unreasonably high economic compensation from another person by exploiting their financial or other distress, dependent status, lack of understanding, or thoughtlessness. The proposal argues that the criminal liability regarding labour exploitation should not be linked to a ground of discrimination, but rather to exploitation as such. The proposal emphasises the importance of preventing the financial exploitation of an individual who is in a vulnerable position or otherwise inferior to their contracting party in an employment relationship, regardless of whether the exploitation also constitutes discrimination. A central argument of the new proposed law is that labour exploitation can occur without discrimination and vice versa.⁵²

In the Netherlands, trafficking in human beings is criminalised under Article 273f of the Dutch criminal code. It defines and criminalises human trafficking in a broad sense, covering forced or compulsory labour or services, slavery and practices similar to slavery and servitude. The article lists nine distinct acts that constitute human trafficking. These acts typically fall into three categories: (1) recruiting individuals for the purpose of exploitation, (2) directly exploiting others, and (3) profiting from the exploitation of others

⁴⁸ Government Proposal HE 34/2004. [Hallituksen esitys Eduskunnalle laiksi rikoslain muuttamisesta ja eräiksi siihen liittyviksi laeiksi](#), p. 97.

⁴⁹ Government Proposal HE 103/2014. [Hallituksen esitys eduskunnalle laiksi rikoslain muuttamisesta ja eräiksi siihen liittyviksi laeiksi](#).

⁵⁰ MOT. (2002). [Orjana litalassa: käsikirjoitus](#). Updated: 26.5.2015.

⁵¹ Oikeusministeriö. (2025). [Työperäistä hyväksikäyttöä koskevan sääntelyn muuttaminen – Työryhmämietintö. 2025:35](#). pp. 49–50.

⁵² Ibid.

without directly engaging in the exploitation.⁵³ The current article on human trafficking is considered complex and difficult to use. Furthermore, the number of cases in which prosecutions are made for human trafficking is low, particularly for labour exploitation. This also applies to the number of convictions.⁵⁴

The Netherlands has not criminalised forced labour, slavery or servitude nor labour exploitation or particularly exploitative working conditions as individual crimes. **The distinction between labour law violations and criminal law offences is based on the severity of the conduct, the presence of coercion or exploitation, and the intention behind the behaviour.** Labour law violations fall under administrative or civil law and are enforced primarily by the Netherlands Labour Authority (NLA).⁵⁵

The Dutch government has submitted a legislative proposal 'Modernization and Expansion of the Criminalization of Human Trafficking' which is currently pending.⁵⁶ The aim of the legislative changes is to provide a stronger legal basis to combat human trafficking and severe labour exploitation. It clarifies and simplifies the existing complex legislative text but also adds a new criminal offence, which criminalises the severe exploitation (serious disadvantage/*ernstige benadeling*) of people.⁵⁷ This offence targets severe labour exploitation that falls just below the threshold of exploitation as currently required for human trafficking charges. If adopted the amended law will give the Public Prosecution Service more options to act against serious abuses in the workplace, such as the structural exploitation of migrant workers. However, what the legal position of victims of this crime will be in comparison to victims of human trafficking, is not clearly addressed in the law, and it remains to be seen in practice.⁵⁸

⁵³ Dutch criminal code, [art. 273f](#).

⁵⁴ National Rapporteur Mensenhandel en Seksueel Geweld tegen Kinderen (2024). [Herziening artikel 273f Wetboek van Strafrecht](#); See also Rijken, C. & deVolder, E. (2022). [Arbeidsuitbuiting onder de loep: Een analyse van de uitleg van arbeidsuitbuiting in Nederland](#). CoMensha & FNV.

⁵⁵ Country fiche Netherlands, p. 11.

⁵⁶ The proposal has been accepted by the second chamber, with some amendments, but it still has to pass the first chamber.

⁵⁷ Ministerie van Justitie en Veiligheid (2024). [Memorie van toelichting: Wetsvoorstel modernisering en uitbreiding strafbaarstelling mensenhandel](#). Rijksoverheid.

⁵⁸ Country fiche Netherlands, p. 7.

Section 2. How to differentiate between different concepts

Key findings

- The analysis of national case law reveals that all five countries **face challenges in clearly and consistently distinguishing between different degrees and types of labour exploitation**, as well as in addressing the full continuum of exploitation.
- Case law often refers to various elements such as abuse of vulnerability/situation of need/dependency, deception during recruitment, and forms of coercion as part of the purpose of exploitation, including subjecting workers to conditions contrary to human dignity, degrading living and working conditions and suppression of their decision-making capacity by, for example, means of threat, as well as confiscation of documents and other restriction of freedom of movement including by excessive working hours and isolation. It may be challenging to establish the links between these different elements.
- **Key to the interpretation of exploitation is the concept of abuse of position of vulnerability**, which has been construed in various ways. It includes aspects such as being in an irregular immigration status, being in debt, or not having any other alternatives than succumbing to exploitation. At least the French and the Finnish case law also includes elements of **psychological control**, which pay attention to factors such as isolation, language barriers and lack of social networks. The key indicators of vulnerability and coercion derived from the analysis of the case law from the five countries are included in table 2 below.
- The **threshold for qualifying a labour exploitation case as trafficking in human beings** seems to be quite high in most of the covered countries, while the alternative offences have lower requirements in terms of establishing abuse of vulnerability and/or dependency. For example, in the Italian criminalisation of illegal intermediation and labour exploitation (Article 603bis) the exploiter must take advantage of the worker's 'state of need' defined as a situation of serious difficulty, even temporary, capable of restricting the victim's will, inducing him/her to accept particularly disadvantageous conditions. In the Finnish offence of extortionate work discrimination, the worker must be placed into an inferior position by taking advantage of their financial or other distress, dependent position, lack of understanding, thoughtlessness or ignorance.
- The analysis of more recent case law indicates **an emerging trend where a more expansive approach has been adopted in interpreting aspects of vulnerability and coercion**, which may indicate a more comprehensive understanding of the dynamics of labour exploitation in the five countries, and a recognition of contemporary forms of labour exploitation as amounting to trafficking in human beings.

Table 2. *Key Indicators of Vulnerability and Coercion identified in case law in the five covered countries*

Structural and Legal Vulnerabilities	<ul style="list-style-type: none"> • Irregular immigration status or lack of residence permit • Absence of employment contract • Threat of being reported to authorities
Economic and Social Dependency	<ul style="list-style-type: none"> • Debt or financial desperation • Dependency on employer, landlord, or substance provider for income and/or housing • Homelessness or unstable housing • Lack of alternative employment or livelihood options
Isolation and Lack of Support	<ul style="list-style-type: none"> • Social isolation due to language or cultural barriers • Isolation by employer (e.g., employment in remote location with no means of transport, discouraging contacts outside work) • Limited language skills • Illiteracy or lack of knowledge of rights at work • Absence of family or community support network
Working and Living Conditions	<ul style="list-style-type: none"> • Excessive working hours (no rest, no pay, pay below legal minimum) • Severe and sustained poor working or living conditions • No real option to resign or report abuse

Psychological and Physical Vulnerabilities	<ul style="list-style-type: none"> • Young age, serious illness, pregnancy or disability • Substance dependency (self or close family member) • Psychological distress or trauma history (e.g. prior exploitation)
Coercion and Control Mechanisms	<ul style="list-style-type: none"> • Use of threats, coercion, or duress • Exercising control akin to ownership • Forced labour • Restrictions on freedom of movement or autonomy • Confiscation of identity documents

2.1 Introduction

This section examines the aspects of human trafficking that have been addressed in the analysed illustrative case law from Italy, Finland, France, Spain, and the Netherlands, and explains how trafficking for labour exploitation, forced labour, related crimes, labour law violations, and other similar issues have been distinguished in relevant research. It will take into consideration international and European indicators, policy documents and specific good practices identified during the national research that might be transferable to other Member States. The section aims to pinpoint the relevant factors to provide guidance on their differentiation in practice.

Key research questions:

- What are the key differentiating factors between the analysed concepts in the context of THB for labour exploitation in the applicable international, European and national law, jurisprudence and practice?
- What indicators can be used to guide the differentiation?
- Are there examples in national case law, guidelines or administrative practices that can be transferable to other Member States?

Legal definitions of trafficking and forced labour presuppose a distinction between work that is coerced and work that is freely accepted, as well as work that is degrading and demeaning versus work that is minimally fair or acceptable in its conditions. As shown in the previous section, cases of labour exploitation can be classified and handled in different ways under national law: as administrative offences, labour law violations, criminal offences, trafficking for forced labour or services, or as separate offences such as forced labour and slavery.

Differentiating between these is often not clear-cut for competent national authorities, including law enforcement and labour inspectors. Indeed, the Group of Experts on Action against Trafficking in Human Beings (GRETA) of the Council of Europe has concluded that restrictive interpretations by courts of what constitutes human trafficking for the purpose of labour exploitation may result in acquittals or the cases being considered as labour law violations or exploitation, which does not involve human trafficking.⁵⁹

To overcome problems of operationalisation of complex definitions of trafficking in human beings, forced labour and labour exploitation, international and other organisations have developed various lists of indicators to help 'front-line' criminal law enforcement officials, labour inspectors, trade union officers, NGO workers and others to identify persons who are possibly victims of such crimes.

The ILO has developed indicators of forced labour⁶⁰ and operationalised indicators of human trafficking in a joint European Commission - ILO initiative based on Delphi methodology in 2009. The indicators represent

⁵⁹ GRETA (2017a). [Human Trafficking for the Purpose of Labour Exploitation](#), Council of Europe, p. 11.

⁶⁰ ILO 2012.

the most common signs that point to the possible existence of a trafficking case. They are grouped into seven main categories.⁶¹ The ILO has further developed indicators in relation to survey design in 2024.⁶²

Table 3. Operationalised indicators of trafficking in human beings by ILO

Main groups of Labour Exploitation Indicators ⁶³
Deceptive recruitment (or deception during recruitment, transfer and transportation): 10 indicators
Coercive recruitment (or coercion during recruitment, transfer and transportation): 10 indicators
Recruitment by abuse of vulnerability: 16 indicators
Exploitative conditions of work: 9 indicators
Coercion at destination: 15 indicators
Abuse of vulnerability at destination: 7 indicators

Nevertheless, the challenge lies in interpreting the trafficking indicators and operationalising them in practice, as there are overlaps between the areas they cover. This is discussed in the next chapter.

2.2 Interpretation of trafficking for labour exploitation in national case law

This section outlines how trafficking offences are applied across several Member States to showcase different approaches, learnings and good practices. Spain, Italy, France, Finland and the Netherlands have all criminalised trafficking for the purpose of forced labour. Other relevant purposes of exploitation include slavery, servitude, and working or housing conditions that are contrary to human dignity, which are intended to encompass various aspects of labour exploitation as a phenomenon. However, none of the countries have listed labour exploitation explicitly in their trafficking legislation and have not defined it therein.

In fact, the analysis of national laws/legal frameworks and case law in *Italy, Spain, France, Finland and the Netherlands* demonstrate that despite growing recognition of trafficking for labour exploitation by the criminal justice systems, *Member States continue facing difficulties in qualifying cases of labour exploitation and differentiating between trafficking, different criminal and administrative offences and even violations of the labour law*. The case law demonstrates various approaches to interpretation of the means of trafficking, as well as the acts and the purpose of exploitation.

Spanish courts have adopted a restrictive approach in applying the human trafficking article. Trafficking is prosecuted as an autonomous and aggravated offence only when three essential elements are present:

- Recruitment through deception, coercion or abuse of necessity;
- Actual deprivation of liberty or effective suppression of the victim's decision-making capacity;
- The purpose of sustained labour exploitation, without it being necessary for this to have been consummated (offence of anticipated consummation).⁶⁴

⁶¹ ILO 2009a.

⁶² ILO 2024.

⁶³ ILO. (n.d) [Details of indicators for labour exploitation](#).

⁶⁴ Country Fiche Spain, p. 17, see also Rodríguez-López 2020.

Case example - Spain

The first final conviction for labour trafficking in Spain was issued by the Provincial Court of Seville (Judgment nº 536/2015), upheld by the Supreme Court (Order nº 597/2016). Two Romanian nationals living in Spain recruited three fellow Romanians from extreme poverty in Romania, falsely promising legal employment in agriculture with decent pay and living conditions. Upon arrival, the victims were forced into unpaid, degrading tasks, including stealing fruit, peeling copper wires, and unclogging toilets barehanded. They lived in inhumane conditions: sleeping on barn floors without heating, fed only leftovers, and subjected to threats and beatings. The court found the defendants guilty of human trafficking through deception and coercion, sentencing them to five years in prison.⁶⁵

The analysed **Spanish case law** also requires direct proof of the impossibility of leaving the situation, which may exclude cases that would otherwise be considered trafficking. This is much narrower than the broad definition used in the ATD Article 2.2. which states that the person is in a situation of vulnerability when they have no real or acceptable alternative but to submit to abuse. Distinction between forced labour, severe labour exploitation, and human trafficking is not clearly defined, which complicates legal handling.⁶⁶ The National Action Plan against Forced Labour: Compulsory Labour Relations and Other Forced Human Activities' (2021) points out that challenges in defining forced labour precisely results in problems in regulating against it.

*'The precise legal concept of forced labour is not accompanied by adequate regulation or classification, nor even by well-defined public policies that allow for addressing the multiple forms that forced labour can take [...]. In the labour sphere, forced labour usually occurs in contexts of extreme precariousness that give rise to multiple administrative offences. In the criminal sphere, forced labour may occur in conjunction with situations of trafficking in the labour sphere or with crimes of labour exploitation.'*⁶⁷

In Italy, Trafficking in Human Beings (Article 601) requires taking advantage of a 'position of vulnerability' which has been defined by Courts - in line with the EU ATD - as 'a situation in which the victim has no real or acceptable alternative but to submit to the abuse involved.' Over the past few years, this concept has seen evolving interpretations by the courts. Initially, it was interpreted more strictly, emphasising a far greater deprivation of freedom—a 'total annihilation of the freedom of self-determination.' More recently, a broader approach has been adopted.⁶⁸

Case example – Italy

The case concerned a man who left Bangladesh to improve his living conditions, taking on a very high debt. While in Libya, he was subjected to conditions of servitude and labour exploitation, increasing the debt. He then worked in exploitative conditions in Italy. The Court interpreted the facts that emerged during the proceedings as elements of trafficking, emphasising the need to assess all the elements that emerge from the person's story, including the context in the country of origin and the reasons for leaving, labour exploitation or even forced labour in the country of transit and working conditions in Italy. The Court recognised the applicant as a refugee on the grounds of membership to a particular social group identified as 'victims of trafficking with the purpose of labour exploitation.'⁶⁹

⁶⁵ Rodríguez-López 2020, pp. 16-17.

⁶⁶ ACCEM (2006). [Human Trafficking for Labour Exploitation](#). Dirección General de Integración de los Inmigrantes (DGII), Ministerio de Trabajo y Asuntos Sociales. Industrias Gráficas Afanías.

⁶⁷ Ministerio de Trabajo y Economía Social (2024). [The National Action Plan against Forced Labour: Compulsory Labour Relations and Other Forced Human Activities](#). Ministerio de Trabajo y Economía Social: Madrid.

⁶⁸ Country fiche Italy, p.14. See also case example in the next chapter on stand-alone offences.

⁶⁹ Decision no. 11027/24, 24 April 2024, Court of Cassation of Italy.

In France, nearly all convictions for human trafficking for labour exploitation relate to the offence of subjecting a person to working or housing conditions contrary to human dignity. Yet, these situations often contain all the elements required to support more serious charges of forced labour or servitude, either as the intended purpose of the trafficking or as standalone offences. Based on the analysis of case law, the French courts rely on several criteria to assess vulnerability in the context of labour exploitation, including:

- the victim's administrative insecurity (absence of residence permit, dependence on the perpetrator for obtaining or renewing residence rights);
- illiteracy or lack of knowledge of the applicable rights on the territory;
- social isolation (also due to language barriers);
- lack of personal resources or absence of a supportive family or community network.⁷⁰

However, French law is narrower than the ATD in its scope, as it provides a closed list of situations of vulnerability (vulnerability due to age, illness, infirmity, physical or psychological disability, or pregnancy, whether apparent or known to the perpetrator), whereas the ATD adopts a broader approach. This restriction may exclude other frequently encountered forms of vulnerability, such as economic or social precarity, or the lack of legal residency status, as well as vulnerabilities related to sexual orientation or isolation. Regarding the element of coercion, French jurisprudence interprets it broadly, encompassing both physical and psychological forms.⁷¹

Case example – France

The case of the Paris Court of Appeal dated 8 February 2023 (No. 20/23) concerned three Eritrean nationals who were recruited in Saudi Arabia as domestic workers and transferred to France by the defendant to care for her daughter and handle all household chores in her Paris residence, under working and living conditions that violated their dignity. They worked between 11 and 15 hours a day, without rest or days off, for a meagre wage. They did not have access to adequate food, surviving on the defendant's leftovers and sandwiches secretly brought to them by her drivers. Their passports were confiscated, and they lived in constant fear of being sent to prison or killed, as the defendant insulted them and threatened to have them deported back to Eritrea. The Paris Court of Appeal found the defendant guilty of aggravated human trafficking, employment of foreign nationals without a work permit, and undeclared work.

Interestingly, the Court found that coercion can be psychological when it results from the confiscation of identity documents, isolation, lack of knowledge of the French language, the country, and its laws. 'Coercion in this case was not imprisonment, which was never mentioned by the [victims]. Even if they said they did not feel free to leave, it was a matter of psychological coercion rather than physical coercion. They did not deny being able to leave occasionally without their employer's knowledge. The coercion stemmed from the constant availability that [the accused] demanded from them, leaving them very little respite. They only allowed themselves to go out on rare occasions. The coercion in this case primarily derived from the [victims'] situation, not speaking French, having no education, not knowing France, and having no access to knowledge of their rights. It was also characterised [...] by their status, being placed under the authority of their sponsor and being dependent on her [...] Coercion also resulted from the fact that the accused retained the [victims'] passports.'⁷²

In contrast to Spain and more in line with France, Finland has adopted a broader understanding of what constitutes trafficking for the purpose of forced labour. Following the formulation of the Finnish trafficking legislation, the offender takes control and takes advantage of the dependent status or insecure state of the

⁷⁰ Country fiche France, p. 20.

⁷¹ Country fiche France, p. 15; Judgment of Paris Court of Appeal 8 February 2023 (No. 20/23).

⁷² Judgment of the Paris Court of Appeal 8 February 2023 (No. 20/23).

victim to subject them to forced labour or conditions contrary to human dignity. The *travaux préparatoires* have outlined what is meant by 'dependent status' and 'insecure state', which form the basis of courts' deliberations on the abuse of a position of vulnerability, as analysed in case law.

Table 4. Table of characteristics of dependent status and insecure state in Finnish trafficking legislation

Dependent Status	Insecure State
Family circumstances or personal relationships	Young age, serious illness
Employment relationship	Substance dependency
Being a tenant	Serious illness or substance dependency of a close family member
Debt	Difficult economic situation
Residence in an institution	Homelessness
A substance addict's dependency on the dealer/provider	Psychological state
Threat of denouncing an illegally residing victim to the authorities	Physical or mental disability
Retention of travel documents	Previous traumatic experiences, e.g. previous sexual exploitation or prostitution
Exploiting the dependent status of a close family member	Status of being a foreigner, asylum seeker or refugee

The provision on human trafficking was amended in 2014 to replace the formulation of 'being in control' with 'takes control over another' in the description of the act to make it more comprehensive. The *travaux préparatoires* emphasise that the essential element to be evaluated is whether the victim has lost their possibility to act in the manner they wish as a result of the trafficking offence. The offender employing control over the victim, usually by taking advantage of the dependent status or insecure state of the victim, should qualify as such to a sufficient extent. 'In a situation like this, a victim of human trafficking can, for example, have their own apartment, but they can still be considered to be under the offender's control.'⁷³ Even in situations where the victim does not even realise that they are being subjected to exploitation, a case of human trafficking may be at issue, for example, in situations when the victim is a migrant and unaware of Finnish legislation and workers' rights.⁷⁴

A study that analysed national human trafficking case law found that in order for the elements of forced labour to be met, there must be serious shortcomings in paying wages and the conditions of work, but also restrictions on the victims' freedom of movement e.g., in the form of lack of free time and their life in other respects, and/or exceptionally poor living conditions.⁷⁵ Analysis of Finnish court judgements, however, indicates that forced labour is understood fairly broadly in Finland compared to other Nordic countries, and judgments by district courts and courts of appeal commonly refer to the ILO's definition of forced labour and use the ILO indicators in assessing forced labour.⁷⁶ On the other hand, Koivukari and colleagues (2022) noted that the threshold of sentencing for forced labour still remains high in Finland.

⁷³ Government Proposal 103/2014, p. 24.

⁷⁴ Ibid.

⁷⁵ Koivukari, K., Korkka-Knuts, H., Mahmood, V. & Melander, S. (2022). [Ihmiskauppa ja sen lähirikokset. Säännösten soveltamiskäytäntö](#). Valtioneuvoston selvitys- ja tutkimustoiminnan julkaisusarja 2022:18. Helsinki: Valtioneuvoston kanslia, pp. 310–312.

⁷⁶ Jokinen, A., Ollus, N. & Pekkarinen, A-G. (2023). [Review of Work against labour trafficking in Finland](#). Helsinki: HEUNI; Schoultz et al. 2024.

Case example - Finland

The first conviction for human trafficking for the purpose of forced labour was handed down in 2012, when the District Court of Helsinki gave its ruling in the so-called nail studio case. In this case, a Vietnamese woman, who was pregnant, was exploited in Helsinki, where she was forced to work in a nail studio and do household work without pay. Her husband was also deceived into coming to Finland and had to pay a recruitment fee. Both had poor language skills, and they were found to have a dependent status and to be in an insecure state.⁷⁷

When reviewing the situation, the Helsinki District Court found that '[Victim A] worked for almost one year at a nail studio without pay and at the defendants' home doing household chores seven days a week from early morning until late at night until she gave birth. In addition to not paying her, A had been in a situation of debt bondage, as she was told that she was working without wages for an undetermined period to pay for her entry into Finland.' Due to this, the District Court found that 'A's freedom of movement has been limited de facto, as she has been told to work for practically all her waking hours. Considering the aforementioned factors, A was required to work under menace of penalty pursuant to the principles of interpretation by ILO.' With regard to consent, the District Court noted that even if victim A had arrived in Finland 'voluntarily and continued to work despite not receiving pay, her consent cannot be assigned any significance as she was misled into entering Finland by promising her that she would be paid for work, and further misled while in Finland by promising her that she would be paid later once the defendants' situation improved'.⁷⁸

In the Netherlands, in the legal framework of human trafficking meaning is given to the nature and duration of the employment, the actual limitations for the victim(s), and the economic benefit that is gained by the perpetrator. Case law indicates that a serious violation of physical and/or mental integrity and/or personal freedom should be present in order to prove human trafficking. There must also be an excess, which can also be an accumulation of less serious infringements. Restrictions on the freedom of movement is also evaluated quite literally. If the victims are in chains or locked up, this is a clear sign of restriction of their freedom of movement, but judges find it more difficult to interpret situations where victims feel they have no other choice but to remain as a restriction on their activity.⁷⁹

⁷⁷ District Court of Helsinki 30 March 2012.

⁷⁸ Ibid. pp. 22–23.

⁷⁹ Van Meeteren, M. & Heideman, N. (2021). [Taking stock of labour trafficking in the Netherlands](#), 2021 Archives of Criminology 43(1), pp. 159-163.

Case example – Netherlands

The Arnhem-Leeuwarden Court of Appeal found that the defendant exploited Slovakian seasonal workers at a strawberry farm. The defendant recruited the workers in Slovakia while they were in a weak economic position, had insufficient command of Dutch and English, and were unaware of their rights and obligations. Once in the Netherlands, the housing and sanitary facilities were poor, and the costs charged were excessive. The workers were paid substantially less than the minimum wage and received no sick pay. The court found that the defendant significantly exceeded the limits of mere bad employment practices and obtained a significant financial advantage. The case was appealed by the defendant. The Supreme Court ruled that the grounds for appeal were unsuccessful and upheld the conviction for human trafficking. In its ruling, the Supreme Court indicated that the question of whether exploitation occurred must be assessed based on, among other things, the nature and duration of the work, the limitations it imposes on the person involved, and the economic benefit obtained by the person employing the work. The court found that the employees in question had to endure a serious infringement of their physical and/or mental integrity and/or personal freedom through the use of coercive measures and were therefore exploited.⁸⁰

An example of good practice is the criteria provided by the Dutch Supreme Court to interpret the purpose of exploitation. These include 1) the nature and duration of the work, 2) the actual limitations for the victim(s), and 3) the economic advantage for the employer.⁸¹ Although jurisprudence consistently refers to these three elements, their broad nature has led to varied interpretations across different courts. Moreover, the weight judges assign to each element when determining whether to convict has resulted in inconsistent judgments. This highlights the need for clearer guidance on the criteria applied.⁸² Research has shown that the underlying yardstick against which these elements are measured constitutes a relatively high threshold for human rights violations and infringements of the victim's personal integrity and freedom. Proving that the personal integrity or a victim's freedom is violated is difficult in cases of trafficking for labour exploitation, whilst in cases of trafficking for sexual exploitation, it is more readily assumed.⁸³

Stand-alone criminalisation of forced labour, slavery and servitude

France and Italy have criminalised slavery, servitude and forced labour also as separate offences, while Spain, Finland and the Netherlands have not. In fact, in French law, all the purposes of exploitation listed under the trafficking legislation are also criminalised as stand-alone offences. However, case law relating to forced labour as an autonomous offence in France is almost non-existent, with only one such case identified by the country fiche.⁸⁴

The Italian criminalisation of slavery/forced labour (article 600) requires taking advantage of a 'position of vulnerability' similar to the trafficking offence. In 2025 the Court of Cassation (the National Higher Court) adopted a broader interpretation of the requirements for Article 600. In its decision no. 16136/2025, the Court established that to constitute a 'state of continuous subjugation,' a person does not need to be completely deprived of their personal freedom. Instead, it is sufficient for their capacity for self-determination to be significantly compromised.⁸⁵

⁸⁰ National Court Arnhem-Leeuwarden ECLI:NL:GHARL:2017:2189, and ECLI:NL:PHR:2018:1514 (Parket Hoge Raad, aardbeienkweker).

⁸¹ Dutch Supreme Court (Chinese Horeca arrest, ECLI:NL:HR:2009:BI7097

⁸² Rijken, C. & deVolder, E. (2022). [Arbeidsuitbuiting onder de loep: Een analyse van de uitleg van arbeidsuitbuiting in Nederland](#). CoMensha & FNV.

⁸³ Van Meeteren, M. & Heideman 2021, p. 163.

⁸⁴ Country fiche France, p. 30.

⁸⁵ Decision n. 20595/25 is also consistent with this interpretation.

Case example – Italy

The case concerned the exploitation of migrant workers in the agriculture sector, specifically in the harvesting of tomatoes and watermelons. In recognising the offence under article 600 of the criminal code (Slavery), the Court highlighted relevant elements, such as the irregular immigration status of the workers, their total lack of resources, the absence of alternative employment and livelihood options, their limited language proficiency, and their ignorance of their rights. Based on this reasoning, the Court of Cassation established that to constitute a 'state of continuous subjugation,' it is sufficient for victims' capacity for self-determination to be significantly compromised. This is a significant case because the Court of Cassation applied a broader interpretation of Article 600. The elements of vulnerability were highlighted and assessed as being so serious as to constitute the crime of slavery. These same elements were not previously considered sufficient for this purpose.⁸⁶

Based on the case law, it seems that courts in **Italy and France** have struggled with similar issues with stand-alone offences as with the trafficking offence in terms of qualifying the abuse of vulnerability and the severity of exploitation, but at least Italian case law has seen more broader interpretation of slavery of late.

2.3 Use of complementary offences to regulate against labour exploitation

Italy, France, Finland, and Spain have introduced complementary offences to the trafficking provision, which can be used in cases of labour exploitation to prosecute perpetrators through criminal law when not all elements of trafficking can be clearly established. **The Netherlands** is in a process of amending its human trafficking legislation and introducing a new offence concerning serious disadvantage (*ernstige benadeling*). These criminalisations allow the countries to address acts falling into the continuum of labour exploitation more comprehensively.⁸⁷

Italy has criminalised **illegal intermediation and labour exploitation** (Article 603bis). According to case law⁸⁸ it requires the exploiter to take advantage of the worker's 'state of need,' which has been defined by Courts as 'a situation of serious difficulty, even temporary, capable of restricting the victim's will, inducing him/her to accept particularly disadvantageous conditions.' While severe, the victim does not suffer a total annihilation of self-determination.⁸⁹ Otherwise, in order to recognise slavery/forced labour, the perpetrator must take advantage of the 'position of vulnerability', that is 'a situation in which the victim has no real or acceptable alternative but to submit to the abuse involved' As the case law example demonstrates, the interpretation of these concepts has evolved extensively in recent case law, specifically concerning migrants.

⁸⁶ Decision no. 16136/2025, 16 January 2025, Court of Cassation of Italy.

⁸⁷ In addition, a number of administrative and/or labour law violations may be relevant to labour exploitation cases in all the countries, but for the purposes of this paper the analysis is limited on selected criminal law offences.

⁸⁸ Decisions n. 17095/22, n. 2444/21, n. 45615/21 and 7861/21.

⁸⁹ Country fiche Italy, p.14.

Case example - Italy

The case concerned the exploitation of migrant workers in agriculture. The workers had worked long hours every day without sufficient rest, for wages well below the legal minimum and in unlawful and unsanitary conditions. The judge recognised the offence of labour exploitation (Article 603 bis), with specific reference to the indicators of exploitation. Furthermore, the judge found that the workers were in a state of need due to their precarious economic conditions. This case is significant because the judge clarified that there is no legal definition of labour exploitation in Italy, as not even Article 603 bis provides such a definition, and distinguished the term 'state of need' from the concept of 'vulnerable position'.⁹⁰

France has criminalised various aspects of labour exploitation in separate offences. These labour exploitation crimes are characterised by a threshold of severity. Two offences are not listed among the purposes of human trafficking in the Penal Code. First one is exploitation of a person reduced to slavery (Article 224-1 B of the Penal Code) which constitutes an aggravated form of exploitation. The second one is an offence of providing no remuneration or manifestly insufficient remuneration to a vulnerable or dependent person (Article 225-13 of the Penal Code). The latter offence is not included among the purposes of trafficking but infringes upon human dignity and applies to individuals in situations of particular vulnerability.⁹¹

Case example – France

This case concerned a foreign domestic worker who had been brought to France by Kuwaiti nationals to work as their maid. She spoke no French and held only a one-month visa. The Paris Court of Appeal found that her circumstances clearly indicated a state of vulnerability and dependence, which would have been apparent to anyone who interacted with her. After being abandoned or inadvertently left behind by her employers, the woman agreed to follow individuals she had just met and subsequently stayed in the home of the accused. The accused exploited her economic, social, and administrative dependence, as well as her disorientation, to make her work under degrading conditions. The court handed down convictions for degrading working conditions, insufficient remuneration, undeclared work and employment of a foreign national without a permit. However, the accused was acquitted of the charge of human trafficking.⁹²

Finland has criminalised extortionate work discrimination as a crime resembling human trafficking. According to national research, defining the difference between extortionate work discrimination and trafficking has not always been clear or uncomplicated.⁹³ Human trafficking and extortionate work discrimination are considered to be on different levels of gravity as offences. Whereas extortionate work discrimination is considered a specific form of discrimination, trafficking is an offence against freedom. What causes them to overlap, in particular, is the similarity between the means of 'taking advantage of the dependent status and insecure state' in human trafficking offences and the 'considerably inferior position' in extortionate work discrimination, which is problematic.⁹⁴

⁹⁰ Decision no. 45615/21, 13 November 2021, Court of Cassation of Italy.

⁹¹ Country fiche France, p. 30.

⁹² Judgement of Paris Court of Appeal 18/01044, 18 November 2020.

⁹³ Nuutila, A.-M. & Melander, S. (2008). RL 47 luku. Työrikkokset. In Lappi-Seppälä, Tapio, Hakamies, Kaarlo, Koskinen, Pekka, Majanen, Martti, Melander, Sakari, Nuotio, Kimmo, Nuutila, Ari-Matti, Ojala, Timo ja Rautio, Ilkka (eds.) Rikosoikeus. Oikeuden perusteokset. Helsinki: WSOypro, pp. 1261–1295.; Jokinen et al. 2011; Jokinen, A. & Ollus, N. (2013). [We've Got People Lined Up Behind the Door': Placing the Trafficking and Exploitation of Migrant Workers in Context in Restaurant and Cleaning Sectors in Finland](#) HEUNI Publication Series No. 76. Helsinki: HEUNI; Koskenoja, M., Ollus, N., Roth, V., Viuhko, M. & Turkia, L. (2018). [Tuntematon tulevaisuus: selvitys ihmiskaupan uhrien auttamista koskevan lainsäädännön toimivuudesta](#). Valtioneuvoston selvitys- ja tutkimustoiminnan julkaisusarja 24/2018. Helsinki: Valtioneuvosto.; Ylinen, P., Jokinen, A., Pekkarinen, A.-G., Ollus, N., Jenu, K.-P. & Skur, T. (2020). [Uncovering labour trafficking. Investigation tool for law enforcement and checklist for labour inspectors](#). Publication Series No. 95b. Helsinki: HEUNI.; Koivukari, K. et al. 2022.

⁹⁴ Ylinen et al. 2020.; Kimpimäki, M. (2021). Ulkomaisten työntekijöiden hyväksikäyttö : ihmiskauppaa, kiskonnantapaista työsyrintää vai alipalkkausta? Lakimies 5/2021, pp. 785–811.

Case example – Finland

A restaurant entrepreneur employed an asylum-seeker who worked for over three months as an unpaid intern, despite no legal basis for such an arrangement. He then continued working for 2.5 months, reportedly completing five 13-hour shifts and one 8-hour shift weekly. The perpetrator paid only €1,000 in total, failing to compensate for regular wages, overtime, evening, night, or Sunday work, and holiday allowance. The victim's working conditions were exploitative, with excessive hours and few days off. The victim did not speak Finnish, yet the contract was in Finnish. He initially lived in a reception centre and later moved into the perpetrator's apartment, increasing his dependency. The court found that the victim was placed in a highly disadvantaged position regarding pay, hours, and lack of rest. It noted that a Finnish-speaking person would likely not face such conditions. The victim lacked knowledge of labour rights and relied solely on this job for income, while other employees were paid correctly. The District Court convicted the perpetrator of extortionate work discrimination, working hours offence, violation of working-hour regulations, and neglecting occupational health services. He received a three-month suspended sentence, was ordered to forfeit nearly €10,000 in criminal proceeds, and to pay €21,000 in unpaid wages to the victim.⁹⁵

Extortionate work discrimination is often used as an alternative offence by prosecutors in cases concerning trafficking for forced labour. In her article analysing judgments passed on human trafficking and extortionate work discrimination, Kimpimäki (2021) has pointed out that it is difficult to differentiate between human trafficking and extortionate work discrimination because the criminal justice system emphasises severity in determining the offences. In many cases, charges have been pressed for extortionate work discrimination instead of human trafficking or aggravated extortion.⁹⁶ To overcome the challenge of proving the discriminatory aspect, the Finnish legislator proposed amending the legislation to replace extortionate work discrimination with usury and aggravated usury in employment.⁹⁷ They will be used in cases where the three elements of trafficking definition cannot be established.

Spain has criminalised crimes against workers in Articles 311 and 312 of the Criminal Code. They are compatible with the ESD, but only partially cover its requirements. The Spanish Criminal Code does not define expressly what working conditions constitute 'particularly serious exploitation,' nor does it define its elements as clearly as the ESD does, with explicit references to health, safety or dignity. Furthermore, the judicial interpretation of abuse of necessity has been restrictive.⁹⁸ This is evident in the case of Supreme Court (N^o 3389/2017).

Case example – Spain

Three Moroccan workers were hired as shepherds on a Spanish farm and lived in extremely poor conditions—sleeping in a livestock shed without running water, toilets, or a kitchen. They reported long working hours without weekly rest. Due to their vulnerable status as migrants—lacking language skills, resources, and facing pressure to obtain residence permits—they saw no alternatives than to accept these conditions. While the court recognised serious labour exploitation, it did not classify the case as human trafficking, reasoning that the workers had a real possibility to leave or seek alternatives. This case defined the criminal threshold between severe labour exploitation and trafficking: the abuse was serious, but not extreme enough to constitute trafficking under the national law. Rather, the perpetrator was convicted of crimes against workers (Article 311).⁹⁹

⁹⁵ District court of Southern Savonia R 18/1348, 16.09.2020.

⁹⁶ Kimpimäki 2021.

⁹⁷ Oikeusministeriö 2025.

⁹⁸ Country fiche Spain, pp. 16–18.

⁹⁹ Spanish Supreme Court (N^o 3389/2017).

In the Netherlands, the absence of complementary provisions to prosecute cases of serious labour exploitation has caused problems. With the aim of both simplifying and expanding the criminal provisions around labour exploitation, the Dutch government has proposed a new crime offence: 'serious disadvantage (*ernstige benadeling*).' Situations in which a person recruits others specifically because of their vulnerable position, to subsequently financially exploit them can be prosecuted under this provision. This is accompanied by an explanatory memorandum which outlines key factors such as dependency, limited freedom, working conditions, financial compensation, and the absence of realistic alternative choices.¹⁰⁰ These same factors, however, may also constitute indicators of human trafficking, thereby creating a fine line between situations deemed as 'seriously disadvantaged' and those classified as 'human trafficking for labour exploitation.' The distinction is said to lie in the severity of the conditions.¹⁰¹ Apart from considering the contextual factors mentioned above, to clarify the distinction better, the government introduces a calculation method within the explanatory memorandum. In cases where victims have received less than two-thirds of due wages for at least two months, a situation can be considered 'seriously disadvantaged.' When victims have received less than one-third of owed wages for at least two months, it will generally qualify as 'human trafficking.'¹⁰²

This approach has faced criticism within the field for lacking adequate guidance. Many have commented that the difference between both crimes remains unclear. Therefore, the proposed amendment has been criticised by the Dutch National Rapporteur and the Council of State for 'overlapping with existing human trafficking provisions, particularly due to shared criteria such as abuse of vulnerability' and 'this may lead to legal ambiguity, similar to past difficulties with interpreting 'exploitation.'¹⁰³ Whether the law, once enacted, will offer sufficient clarity for judicial application remains to be seen.¹⁰⁴

Good practice example: Italy – definition of a victim of labour exploitation

Italy has adopted National Guidelines on identification, protection, and assistance of victims of labour exploitation in agriculture, which provide a **definition of a victim of labour exploitation**, which can be translated as follows:

'a person is a victim of labour exploitation when their state of vulnerability is so pronounced as to gravely compromise their freedom of choice, compelling them to accept unfair working conditions as a result of intermediaries and employers exploiting their state of need.'

Although it is not a legally binding definition, it helps in shaping the scope of labour exploitation in the Italian context.¹⁰⁵

2.4 Evaluation of elements of vulnerability and coercion in case law

As outlined in the previous sections, the operationalisation of trafficking for labour exploitation and the continuum of labour exploitation are based on evaluating various aspects of the cases. However, it is clear that the key areas include the evaluation of vulnerability as well as the element of coercion.

Across all five countries, vulnerability is mainly linked to:

¹⁰⁰ Ministerie van Justitie en Veiligheid 2024.

¹⁰¹ Country fiche Netherlands, p. 11; see also Rijken & deVolder, 2022.

¹⁰² Ministerie van Justitie en Veiligheid 2024.

¹⁰³ See Nationaal Rapporteur (2024). [Raad van State: strafbaarstelling mensenhandel](#). Nationaal Rapporteur Mensenhandel en Seksueel Geweld tegen Kinderen.

¹⁰⁴ Country fiche Netherlands, p. 7.

¹⁰⁵ Presidenza del Consiglio dei Ministri & Ministero del Lavoro e delle Politiche Sociali (2021). [Linee-Guida nazionali in materia di identificazione, protezione e assistenza alle vittime di sfruttamento lavorativo in agricoltura](#). Atto Rep. n. 146/CU, 7 ottobre 2021.

- Irregular or insecure immigration status
- Economic hardship or lack of alternatives
- Language barriers and lack of legal knowledge
- Social isolation or dependency

These indicators reflect a structural understanding of how socio-economic and legal precarity can predispose individuals to exploitation. Indicators of coercion, on the other hand, are more focused on active control and exploitation, including:

- Deceptive recruitment
- Restriction of freedom of movement
- Threats or intimidation
- Confiscation of identity documents
- Degrading working/living conditions

The following table summarises the key indicators of vulnerability and coercion mentioned in case law in Spain, Italy, France, Finland and the Netherlands. It is worth noting that these aspects are interpreted and qualified differently in various countries. Some may qualify as human trafficking, while others relate to complementary offences, or they are present in both, but understood more broadly in relation to complementary offences.

Table 5. *Indicators of vulnerability and coercion mentioned in case law*

Country	Key Indicators mentioned in case law concerning trafficking for labour exploitation and complementary offences	
	Vulnerability	Coercion
Spain	<ul style="list-style-type: none"> • Abuse of vulnerability (e.g. irregular migrants, economic desperation) • Lack of real option to resign or report (assessed case-by-case) 	<ul style="list-style-type: none"> • Recruitment through deception, coercion or abuse of necessity • Actual deprivation of liberty or effective suppression of the victim's decision-making capacity • Abusive working hours (no rest, no pay, or below legal minimum) • No contract or social security contributions • Threats or coercion to accept conditions
Italy	<ul style="list-style-type: none"> • State of need, meaning a situation of serious difficulty, even temporary, capable of restricting the victim's will, inducing him/her to accept particularly disadvantageous conditions • Abuse of position of vulnerability, meaning a situation in which the victim has no real or acceptable alternative but to submit to the abuse involved • Irregular immigration status • Total lack of resources • No alternative employment or livelihood options • Limited language proficiency • Ignorance of rights 	<ul style="list-style-type: none"> • Deception • Repeatedly paying wages significantly below collective agreements or disproportionate to work quantity/quality • Repeated violations of regulations concerning working hours, rest periods, weekly rest, and paid leave • Violations of health and safety at work regulations and particularly degrading working, housing, or supervisory conditions
France	<ul style="list-style-type: none"> • Administrative insecurity (e.g. no residence permit, dependency on perpetrator) 	<ul style="list-style-type: none"> • Recruitment through deception • Restriction of freedom of movement

Country	Key Indicators mentioned in case law concerning trafficking for labour exploitation and complementary offences	
	<ul style="list-style-type: none"> • Illiteracy or lack of legal knowledge • Social isolation (language barriers) • Lack of resources or support network 	<ul style="list-style-type: none"> • Threats or intimidation, including threats of reporting to authorities • Confiscation of identity documents • Degrading working and/or housing conditions
Finland	<ul style="list-style-type: none"> • Taking advantage of dependent status: <ul style="list-style-type: none"> ◦ Family or personal relationships or employment or tenancy relationship ◦ Debt • Taking advantage of insecure state: <ul style="list-style-type: none"> ◦ Young age, serious illness, or substance dependency ◦ Economic hardship or homelessness ◦ Psychological or physical disability ◦ Previous trauma (e.g. sexual exploitation) ◦ Status as foreigner, asylum seeker, or refugee 	<ul style="list-style-type: none"> • Deceptive recruitment • The employee does not have the usual rights to refuse job duties or discontinue them • Threats against the victim's life, health or other serious threat (e.g. the threat of reporting the victim to the authorities) • Restricting the employee's freedom of movement, also by excessive hours • Confiscating the victim's passport or similar means of identification
Netherlands	<ul style="list-style-type: none"> • Irregular or insecure legal status • Economic hardship and lack of alternatives • Language barriers and lack of legal knowledge • Isolation • Worker's dependency on employer 	<ul style="list-style-type: none"> • Lack of freedom/autonomy • Severe and sustained poor working conditions • Restrictions on freedom (e.g. passport withholding) • Working/living conditions

Section 3. Where do the gaps and challenges lie?

Key findings

- The complex regulatory frameworks in the five countries do **not fully capture the continuum of labour exploitation**. The analysed countries struggle to **differentiate** between labour law violations, administrative offences and a series of existing criminal offences as the issue **is not always clear-cut**.
- The high threshold for application of the human trafficking offence results in problems in the realisation of victims' rights, as victims of 'mere' labour exploitation (whose cases were not recognised as trafficking in human beings) are not entitled to full protection measures available to trafficked persons.
- **The overlap between elements of coercion in the means used (e.g., abuse of position of vulnerability) and in the purpose of exploitation (e.g., force in forced labour) causes problems** for criminal justice actors to sufficiently prove the elements of trafficking in labour exploitation cases. Similar problems also concern the use of **complementary provisions** to a degree, although the threshold is deemed lower and the interpretation is broader on what these elements constitute.
- A key challenge in prosecuting labour exploitation is the **high evidentiary threshold** required under criminal law, in particular, for the qualification of trafficking in human beings. In contrast, administrative law allows for intervention based on a lower standard of proof. This discrepancy means that **even serious cases of exploitation may not meet the criteria for criminal prosecution, allowing some employers to avoid legal accountability**.
- **The issue of consent can complicate the assessment of coercion in exploitative labour situations**. In some cases, victims may appear to consent to poor working conditions, which can obscure the presence of coercion. However, this consent is often not freely given but rather shaped by circumstances such as economic desperation, misinformation, or lack of viable alternatives.

The lack of corroborating evidence beyond the victim's testimony may significantly hinder the establishment of criminal liability. This is particularly problematic when the evidence presented in court fails to capture the full scope of the victim's experience, including the broader context of exploitation, vulnerability, and control.

Several **good practices** can be identified across the five countries. They include specific National Action Plans and strategic guidelines, which outline concrete actions in the work against labour exploitation and definitions, e.g. on what is meant by a victim of labour exploitation. All countries also highlight the integral role of labour inspectors in uncovering cases of labour exploitation, and in regard to the Netherlands and France, also the investigation of cases. The independent rapporteurs on trafficking set up in the Netherlands, Finland and France also points out the importance of evaluating and monitoring national policies and approaches.

Table 6. *Strengths and weakness of the trafficking offence and use of other labour exploitation crimes*

	THB	Other labour exploitation crimes
Strengths	<ul style="list-style-type: none"> • The human trafficking offence covers the process-like nature of the crime which includes various actions rather than single incidents. • Victims of trafficking are entitled to specialised assistance and support. • Harsher sanctions and opportunities for using coercive methods in investigations as well as prioritisation. 	<ul style="list-style-type: none"> • Allow addressing acts in the continuum which do not amount to trafficking but are criminal and constitute serious forms of exploitation. • Lower threshold for the definition of vulnerability/dependency/situation of need. • May be easier for criminal justice authorities or mandated labour authorities to apply in practice and find evidence of.

	THB	Other labour exploitation crimes
Weaknesses	<ul style="list-style-type: none"> The complex definition of human trafficking with the three elements makes it difficult for criminal justice authorities to apply in practice. Focus on extreme vulnerability and coercion raises the threshold for applying the human trafficking offence. The lack of definition of labour exploitation/related purposes of exploitation or their unclarity in national legislation make it difficult to prove the purpose of exploitation. Definitional challenges hinder differentiation between trafficking and other related crimes and results in acquittals in courts. 	<ul style="list-style-type: none"> The full set of rights is available only to victims of trafficking, including residence permit options and free legal aid. More lenient sanctions and lack of prioritisation in investigations, less opportunities for the use of coercive methods, etc. Such criminalisation may still not cover some aspects of the continuum of labour exploitation and leave gaps. Access to compensation and unpaid wages may be difficult for exploited workers not identified as trafficked persons.
Good practices	<ul style="list-style-type: none"> National action plans, guidelines and approaches addressing trafficking for labour exploitation and clarifying the concepts, such as the definition of victims of labour exploitation in Italy and Supreme Court guidelines in the Netherlands. Specialised police units and prosecutors and assigning of clear responsibilities and coordination of work between different authorities and relevant actors. Independent National rapporteurs in the Netherlands, Finland and France. 	<ul style="list-style-type: none"> Role of labour inspectors in uncovering cases of labour exploitation and informing workers of their rights. National action plans tackling labour exploitation in Spain, Italy, Finland and France. Multidisciplinary and multiauthority cooperation, also between authorities and civil society organisations. Work permit for victims of labour exploitation to find new employment in Finland.

3.1 Introduction

This section focuses on outlining the main gaps and challenges that hinder the regulation of trafficking for labour exploitation and protecting its victims. After outlining the gaps and the challenges, national good practices, guidelines and tools are presented as examples of how Italy, Spain, France, Finland and the Netherlands have solved some of the challenges presented.

Key research questions

- What key gaps hinder identification and protection of victims and qualification of cases of trafficking for labour exploitation?
- Are there national approaches, guidelines, or tools that address these challenges and provide guidance to investigative authorities in determining which cases qualify as trafficking for labour exploitation?

3.2 Gaps/challenges in regulating trafficking for labour exploitation and protecting its victims

3.2.1 Complex regulatory frameworks do not capture the full continuum of labour exploitation

The analysis of case law from the five countries outlines that even **complex regulatory frameworks often do not capture all the features and dynamics of labour exploitation**. Acts of a very similar type can be investigated,

charged, and sentenced under different titles of offences, depending on interpretation of available evidence and understanding of the differences between different legal concepts and elements of trafficking.

It has been outlined previously that *labour exploitation is rarely just a single act but is instead a continuous process, which may escalate over time*. At the same time, when authorities identify a case of exploitation, *often only individual acts of exploitation are detected*. According to research, this may result in a lack of understanding and consequent investigation of evidence, which does not consider the full spectrum and continuum of acts which may constitute everything from minor breaches of labour laws to serious acts which hinder the freedom of the workers and subject them to poor or even dangerous working conditions. Often it would also be beneficial to evaluate the cumulative context in which the acts occur, as in many cases of labour exploitation, the acts may have lasted everything from several days, weeks and months to even years.¹⁰⁶

A key challenge in the identification and qualification of labour exploitation is whether the case should be defined as a crime in the first place. For example, if the case is brought only as a case of underpayment, it may be addressed as a labour dispute or violation or as an administrative offence, rather than as a criminal offence. At the same time, there are often other exploitative elements as well as the abuse of the position of the worker's vulnerability, which are more difficult to detect, but may indicate that, in fact, it is a case of labour exploitation or even trafficking in human beings. For example, Palumbo (2024) has noted that cases that do not straightforwardly amount to a crime and lack strong elements showing that consent of the person concerned has been vitiated, are often not considered as situations of exploitation, severe enough to be criminalised.¹⁰⁷ This results in a sort of 'normalisation' of less serious or evident forms of exploitation and situations where labour exploitation is not considered a crime but instead as a regular occurrence in the labour market, or as mere civil disputes.¹⁰⁸

*All too often, law enforcement officers instantly categorise initial findings as lesser offences and abandon an investigation into possible trafficking crimes from the outset.*¹⁰⁹

The lack of conceptual clarity regarding labour exploitation results in ambiguity, as reflected by the case law analysed. For example, the complexity of the labour exploitation phenomenon makes it difficult to identify the boundaries between the scope of application of the various national instruments and processes *in Italy*.¹¹⁰ Depending on the degree of exploitation and situation at hand, the identification process could lead to a person being identified as a subject of a labour law violation, a victim of labour exploitation, a victim of severe labour exploitation, or a victim of trafficking. In concrete terms, it is often difficult for professionals to distinguish between these crimes and violations of labour law and, therefore, to take the appropriate action.¹¹¹

¹⁰⁶ Ollus, N. (2016). [From Forced Flexibility to Forced Labour: The Exploitation of Migrant Workers in Finland](#). HEUNI Report Series 84. Helsinki: HEUNI.

¹⁰⁷ Palumbo, L. (2024). p. 42.

¹⁰⁸ Ibid.; Marconi 2021; DiMarco, A. (2023). The 'normality' of labour exploitation: The right to fair and just working conditions in the Union's social market economy.; see also Davies, J. (2018). [From Severe to Routine Labour. The Case of Migrant Workers in the UK Food Industry](#). Criminology and Criminal Justice, 18:5.

¹⁰⁹ GRETA (2024, 25) has highlighted that it is recurring challenge that trafficking cases are requalified as other offences which carry lighter penalties, such as facilitation of irregular migration (migrant smuggling) or labour law violations, either due to a lack of evidence or because the alternative offences are easier to prove. While reclassification may happen in the absence of sufficient evidence, in many cases the opening of an investigation or the filing of charges on the basis of less serious offences, with a lower threshold of proof, is intended to facilitate the investigation and the prosecution.

¹¹⁰ Country fiche Italy, p. 17; Palumbo 2024; see also Relazioni Attività NV e Reportistica (2024). [Numero verde contro la tratta degli esseri umani/o il grave sfruttamento](#). Relazione Annuale 2024.

¹¹¹ Paavilainen, M. (2015). Towards a Cohesive and Contextualised Response: When is it necessary to distinguish between forced labour, trafficking in persons and slavery? *Anti-Trafficking Review*, issue 5, 2015, pp. 158–161.

Similarly, the current [Spanish case law](#) establishes that a case of labour exploitation can be considered as a criminal offence only in the presence of deception or coercion that eliminates freedom of choice, and conditions of exploitation maintained in a context of high vulnerability. In all other cases—when these elements are not proven or examined in the first place, the conduct falls under labour offences or the administrative penalty regime. This interpretation sets a stringent national threshold that leaves many cases outside the scope of criminal protection, even though they are exploitative, because they do not meet the requirements of trafficking in human beings.¹¹²

The absence of stand-alone offence of forced labour in the Criminal Code means that cases of forced labour must be classified as trafficking, labour offences or administrative offences in [Spain, Finland and the Netherlands](#), while in [France and Italy](#) they could also be prosecuted without having to prove the elements of trafficking.

For example, in [Spain](#), there is frequent confusion between labour trafficking and other labour or administrative violations, which complicate the classification of cases of labour exploitation as a crime.¹¹³ Often, criminal cases of labour exploitation may end up being dismissed or closed because there is insufficient evidence that the facts exceed the threshold of an administrative offence. This creates a gap in criminal protection in cases of serious labour abuse that do not meet the standard required to be considered trafficking and, in turn, do not clearly fall under Articles 311 or 312 of the Criminal Code either. As a result, victims subjected to excessive working hours, poor conditions, lack of documentation or economic dependence do not receive effective criminal protection, falling halfway between administrative sanctions and criminal prosecution for trafficking.¹¹⁴

Similarly, in [France](#), it has been observed that although the number of convictions for trafficking for labour exploitation is increasing, significant gaps remain in identifying and qualifying situations of trafficking for the purpose of labour exploitation.¹¹⁵ Under French law, the distinction between simple violations of labour law and criminal offences related to labour exploitation is based on several criteria. These include:

- the seriousness of the acts committed (such as coercion, violence, or control exercised by the perpetrator);
- the victim's state of vulnerability or dependence;
- and the degrading nature of living and working conditions.

In the absence of these elements or in the absence of evidence of these elements, cases are often processed as administrative or civil violations, handled by labour courts, or under standalone offences, such as undeclared work or employment of a foreigner without a permit, facilitation of irregular stay, or intentional violence. These, although frequently present in exploitation situations of exploitation, are not sufficient on their own to establish the offence of trafficking in human beings and contribute to downplaying the reality of the phenomenon and rendering the victims invisible.¹¹⁶

Faced with similar problems in [the Netherlands](#), the government has suggested amending the legislation to add the offence of serious disadvantage, which criminalises severe labour abuses where current human

¹¹² Country fiche Spain, p. 18. See also Rodríguez-López 2020.

¹¹³ Pomares Cintas, E. (2011). [The crime of trafficking in human beings for the purpose of labour exploitation](#).

¹¹⁴ Country fiche Spain, p. 17.

¹¹⁵ Country fiche France, p. 9; See also GRETA (2017b). [Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by France](#) p. 67-68.; GRETA (2022). [Access to justice and effective remedies for victims of trafficking in human beings – Third evaluation round](#). Council of Europe, pp. 34–35. ; CNCDH (2020). [Avis sur la traite des êtres humains à des fins d'exploitation économique](#), p. 8.

¹¹⁶ Country fiche France, p. 9; GRETA 2017b, pp. 67–68; GRETA 2022, pp. 34–35; CNCDH 2020, p. 8.

trafficking standards are not met. It serves as an intermediate category between administrative labour law violations and human trafficking, with a lower evidentiary threshold.¹¹⁷

3.2.2 High threshold for human trafficking results in problems in realisation of victims' rights

Analysis of the case law shows that a **high threshold for prosecution and too narrow interpretation of what constitutes trafficking for forced labour**, severe or criminal/severe labour exploitation by the courts may also result in the identification/recognition of only the extreme forms of exploitation, which leaves out cases of labour exploitation which are exploitative but lack the most severe indicators of coercion. Marconi (2021) has argued that the conceptualisation of human trafficking centred on coercion, violence, and forced movement of bodies focuses only on extraordinary cases, dismissing the wide-ranging exploitation of migrants and rendering it invisible.¹¹⁸

This means that cases of serious labour exploitation are not necessarily qualified as trafficking in human beings, but as various labour crimes or even administrative offences or civil wage disputes. **This has a major impact on the situation and realisation of rights of victims of labour exploitation whose experience is not recognized as human trafficking.** This is because victims of trafficking are entitled to special services to which a victim of a mere 'labour exploitation' may not be entitled. Trafficked persons are, by international and EU law entitled to specific support measures, which include, e.g. subsistence, safe accommodation, psychological and material support and urgent medical care. GRETA has pointed out that the legal classification of a case of trafficking as another offence can have negative consequences for the victims, as they often are not entitled for example recovery and reflection period, residence permits and assistance. Furthermore, the requalification of trafficking cases impedes access to compensation from the perpetrator.¹¹⁹

In all five countries, the country research identified problems in the fulfilment of the rights of victims of labour exploitation whose case was not qualified as trafficking. However, victims of less severe labour exploitation, which does not meet the formal or legal definition of trafficking in human beings, should also be entitled to effective remedies, such as compensation and reclaiming unpaid wages.¹²⁰ There are however barriers in accessing different mechanisms, including those outside of the criminal justice system, for migrant workers.¹²¹

The ESD provides opportunities for migrants in irregular situations to claim compensation, but often they are not effective enough, or these are not implemented adequately by the EU Member States.¹²² In fact, victims of labour exploitation often have to rely on an organisation, a support person, or someone else to help them access grievance mechanisms and ultimately remedies.¹²³ While trade unions may help migrant workers with wage disputes and/or civil cases, those services are normally reserved only for members.

Therefore, for example, **in Finland**, it has been highlighted that it is vital for the law enforcement authorities to **start an investigation into cases which have features of trafficking under the trafficking label from the**

¹¹⁷ Ministerie van Justitie en Veiligheid (2024). [Memorie van toelichting: Wetsvoorstel modernisering en uitbreiding strafbaarstelling mensenhandel](#). Rijksoverheid.

¹¹⁸ Marconi 2021.

¹¹⁹ GRETA (2024). [STOCK-TAKING of GRETA's third evaluation round of the implementation of the Convention on Action against Trafficking in Human Beings](#), para. 25. Strasbourg: Council of Europe.

¹²⁰ Haapasaari, S., Davis, T., Lietonen, A., Ollus, N., Jokinen, A., Pekkarinen, A.-G. & Risberg, M. (2024).

[From rights on paper to rights in action – Exploited migrant workers' access to remedy in the Baltic Sea Region](#). HEUNI Report Series N°109. Helsinki: HEUNI, p. 22.

¹²¹ FRA (2020). [Business and human rights – access to remedy](#). Luxembourg: Publications Office of the European Union.

¹²² FRA (2021). [Protecting migrants in an irregular situation from labour exploitation. Role of the employers sanctions directive report](#). Office of the European Union: Luxembourg.

¹²³ FRA 2020; Wintermayr and Weatherburn 2021; Haapasaari et al. 2024.

outset and to refer victims to the national assistance system to ensure they are entitled to the full set of rights trafficked persons are entitled to, including free legal aid.¹²⁴ Similarly in France, in many cases, the offence is not classified as trafficking in human beings, simply because the issue is not raised at the outset of the investigation. When the labour exploitation dimension is eventually considered, investigative judges generally restrict themselves to lesser offences, such as the submission of a vulnerable person to working conditions incompatible with human dignity, or more frequently, to the offence of undeclared work alone.¹²⁵

However, it must be noted that the purpose of the investigation is to examine whether there is sufficient evidence of the commission of certain offences in order to prosecute. A lack of awareness or recognition of the elements of offences related to labour exploitation may lead to investigations for minor offences, or criminal classifications may change during the investigation, which also changes the statute of limitations, and may affect the victim's right to victim assistance and services. This does not necessarily mean that the wrongdoing or crime did not take place, but rather that there is insufficient evidence to prove it.¹²⁶ Nevertheless, if there are no indications of trafficking in human beings, victims of labour exploitation should be referred to assistance provided by civil society organisations such as Victim Support Services, other organisations or trade unions.¹²⁷

3.2.3 Overlap between elements of coercion in means and purpose of exploitation

Another key gap/challenge hindering identification and processing of cases of trafficking for labour exploitation is the question of what constitutes abuse of position of vulnerability/state of need/dependent status and insecure state, which relates to the means element of the human trafficking offence, but is also often a required element in other related criminalisation. Weatherburn (2019) highlights that in situations of labour exploitation, the relationship between the exploiter and the victim is based on the exercise of control over the totality of the situation which leaves the exploited individual in a position of dependence.¹²⁸

As established in the previous section based on the analysis of case law in the five selected countries, proving this element in court is often a question of severity and interpretation of what constitutes vulnerability or exploitation. In fact, many of the indicators of forced labour listed by the ILO overlap with the means of the crime of trafficking. The means by which a person is placed in a situation of trafficking (e.g., threats, force, deception, abuse of a position of vulnerability) and the means by which forced labour is exacted, 'under the menace of penalty' (e.g., threats, coercion, using the person's dependency) overlap.¹²⁹

In fact, it can be said that in many cases, coercion builds upon pre-existing vulnerabilities. For example, a person with irregular immigration status (vulnerability) may be threatened with deportation (coercion). Similarly, someone facing economic desperation may be forced to accept exploitative working conditions under the threat of losing their only source of income. Consequently, vulnerability is not just a background factor, but often the very mechanism that enables coercion to be effective. Moreover, emphasis on force, violence or control raises the threshold to apply the trafficking provision and is, in fact, contradictory to several of the operational ILO indicators.

For example, in France, the trafficking offence refers to the abuse of situation of vulnerability due to age, illness, infirmity, physical or mental disability, or pregnancy, whether apparent or known to the perpetrator.

¹²⁴ Ollus, N., Korkman, J., Pekkarinen, A-G. & Jokinen, A. (2024). [Ihmiskaupparikosten esitutkinta uhrinäkökulmasta - Järjestöjen näkemyksiä ihmiskaupan uhrien auttamiseen ja sen haasteisiin esitutkinnassa](#). Poliisiammattikorkeakoulun raportteja 146.

¹²⁵ See the judgment of the Toulouse Court of Appeal dated 14 November 2024, Joséphine B., Case No. 21/01812.

¹²⁶ Ollus et al. 2024.

¹²⁷ Jokinen et al. 2023.

¹²⁸ Weatherburn, A. (2019). Clarifying the scope of labour exploitation in human trafficking law: Towards a legal conceptualisation of exploitation. Brussels: Intersentia. See also Jokinen et al. 2011.

¹²⁹ Jokinen et al. 2011, pp. 190–191; Ollus 2016.

To apply this criterion, it is necessary to prove not only the victim's vulnerability but also the abuse of that vulnerability and the link between the two. This threefold requirement complicates prosecution and hinders enforcement. In other offences, the mere fact of vulnerability is sufficient to aggravate the sentence. The French National Rapporteur has, therefore, recommended removing the 'abuse' requirement and suggested that verified vulnerability should, in itself, suffice to qualify the offence as trafficking.¹³⁰

In the Netherlands, the legal definition of human trafficking involves a double requirement of coercion: one in the means used (coercive methods) and one in the exploitation itself, which also involves a degree of lack of freedom. In practice, the same evidence used to prove the use of coercion is often also used to prove exploitation. However, a conceptual issue arises because courts often fail to distinguish the different roles of coercive means under subsection 1 in relation to the act of recruitment or transportation, and under subsection 4, in relation to forcing someone to work.¹³¹ Analysis of case files concerning labour trafficking in the Netherlands found that the coercion used in most cases is subtle and generally involves the abuse of these power dynamics. Abusing a vulnerable position can be relatively easily established as one of the means: all it takes is the suspect's awareness of the victim's vulnerable position.¹³² However, the Dutch case law points to a problem in establishing the causality between the means and the purpose of trafficking in cases of trafficking for labour exploitation. Consequently, the judges found evidence for means being used, but none that the means were intentionally used for the purpose of exploitation.¹³³

Similar findings have been made in Finland. In their study on labour exploitation, Jokinen et al. (2011) discussed the definitions and classification of human trafficking and forced labour, putting emphasis on the controlling measures due to which the worker cannot leave. These include, for instance, dependency on the employer due to debt, and their insecure situation resulting from a lack of knowledge and limited alternatives. The means used in taking advantage of the victim's insecure status and dependent position and the coercive measures with which forced labour is exacted 'under the menace of penalty' can overlap, which may result in the standard of proof becoming excessive. Instead, trafficking should be seen as a situation where a person has been recruited or forced to work in conditions they have been deceived about, in which they are subjected to serious exploitation, and from which it is difficult or impossible to leave due to threats, violence or other forms of control being used.¹³⁴

Similarly, an analysis of key rulings shows that in Spain the national threshold focuses on evaluating whether there has been an effective suppression of the victim's decision-making capacity through deception, coercion or abuse of necessity, in a context of continued exploitation. The criminal justice system often requires that for the situation to amount to forced labour, there needs to be coercion from the onset. However, people often freely agree to work, and only once they start working, they discover the deception about the conditions or nature of the work, and the impossibility of leaving without reprisals or negative repercussions. Furthermore, without such proven subjugation, the criminal response shifts towards labour offences or disciplinary law, leaving areas of impunity for serious abusive conduct that does not qualify as trafficking in human beings.

Some of the other relevant offences take the victim's situation of vulnerability or dependency into account in a broader way, for example illegal intermediation and labour exploitation in Italy, extortionate work discrimination in Finland and the complementary offences in France. For example, in related French case law, vulnerability is often associated with a situation of dependency, particularly regarding access to housing,

¹³⁰ Country fiche France, p. 16; CNCDH 2020.

¹³¹ Country fiche Netherlands, p. 16; see also Rijken & deVolder, 2022.

¹³² Van Meeteren & Heideman 2021, pp. 157–159.

¹³³ Ibid., p. 159.

¹³⁴ Jokinen et al. 2011, pp. 190–191; also Ollus 2015; Jokinen et al. 2023.

food, or financial means, which reinforces the victim's vulnerable condition.¹³⁵ Similarly also **Italian** interpretation has become broader recently, in reference to case law on illegal intermediation and labour exploitation.¹³⁶

3.2.4 Issues of evidence

One of the key challenges in securing convictions in cases of labour exploitation is the evidentiary threshold. **Criminal law requires a higher standard of evidence than administrative law**, which makes it easier to act against exploitative employers through administrative measures. As a result, some employers may avoid criminal liability even when their actions are serious.

The lack of recognition of the **use of subtle, also psychological means of control by exploiters** hinders the identification and investigation of relevant cases by investigative authorities in the first place, as well processing of cases later in court. **Research shows that investigations into labour exploitation are complex and often difficult for practitioners, and the attrition rate is high, meaning that very few cases reach from police investigation to prosecution and all the way to a criminal conviction.**¹³⁷

Indeed, the threshold applied in practice to successfully prosecute cases of trafficking for labour exploitation is described as rather high by national and previous research.¹³⁸ This is also an obstacle to victim identification, for example, **in the Netherlands** as frontline actors such as police, labour inspectors and civil society support organisations appear to anticipate this threshold when detecting or advising potential victims.¹³⁹

It may be challenging to gather evidence of labour exploitation without cooperation from the victims and without their testimony to gain a complete picture of the situation to see where it would be placed in the continuum of labour exploitation in the first place. However, **it may be difficult for the exploited workers to disclose their experiences**, for example, due to fear of consequences, lack of information on their rights, threats from their employer, distrust towards authorities and misinformation and deception by the exploiter.¹⁴⁰ Various restrictions may also be employed to prevent victims from reporting their situation in the first place, such as psychological control or even confinement in the workplace or in both the workplace and at home.¹⁴¹

As outlined in the previous chapter, **Spanish case law** also points to the fact that it seems unclear at what stage of exploitation the elimination of freedom of choice is considered, as workers usually freely agree to terms of employment in the beginning, and only after some time find that it is not possible to leave without reprisals or negative repercussions.¹⁴²

Lack of sufficient evidence other than the victim's story has been found to result in acquittals in court, as shown by **Dutch case law**. Even if there has been sufficient proof to establish the purpose of exploitation and that another suspect was responsible for it, **the Dutch courts** have deemed that there has not been enough

¹³⁵ Country fiche France, p. 20.

¹³⁶ Country fiche Italy, p. 14.

¹³⁷ Alvesalo, A., Jokinen, A. & Ollus, N. (2014). The exploitation of migrant labour and the problems of control in Finland.; Johansson, M. (2020). Människohandel och människoexploatering på den svenska arbetsmarknaden – En översikt. Stockholm: Council of the Baltic Sea States; Schoultz et al. 2024.

¹³⁸ Wintermayr, I. & Weatherburn, A. (2021). [Access to protection and remedy for victims of human trafficking for the purpose of labour exploitation in Belgium and the Netherlands](#). Geneva: ILO, p. 59.

¹³⁹ Ibid.

¹⁴⁰ E.g. FRA (2019). [Protecting migrant workers from exploitation in the EU: workers' perspectives](#). Luxembourg: Publications Office of the European Union.

¹⁴¹ Villacampa, C. (2023). [Human trafficking for labour exploitation: The survivors' perspective](#). International Review of Victimology, 30:2, pp. 240–260. <https://doi.org/10.1177/02697580231167907>

¹⁴² Country fiche Spain, p. 8.

evidence to demonstrate that the suspect being charged had the purpose to exploit. In other words, the role of the suspect in the exploitation was not significant or intentional enough to be able to speak to the purpose and intention of exploitation.¹⁴³

GRETA has pointed out that often too much emphasis is put on the victim's testimony during criminal process, and court proceedings should not be built solely upon the victim's testimony, as this puts an exorbitant amount of pressure upon them. Regardless of whether a complaint about reported crime has been submitted or not, special investigation techniques should be used to collect documentary, financial and digital evidence.¹⁴⁴

Indeed the case law, for example from **Spain**, points out that sometimes the problem of quantifying what constitutes as trafficking in human beings and/or labour exploitation is related to the fact that the exploited workers may have 'consented' to exploitation or feel that their exploitative work conditions in the destination country are still better than their situation in the home country, even though according UN Trafficking Protocol consent is irrelevant if any of the means have been used.¹⁴⁵ Niezna (2024) argues that consent should be recognised as 'a necessary but insufficient condition for acceptable work', meaning that while workers can consent to exploitation, they cannot be denied labour law's protection on grounds of consenting to accept conditions that are below the minimum standard.¹⁴⁶

In the Netherlands, the Dutch Supreme Court has confirmed that if coercion is present, it does not matter whether the victim also had other motivations for working. What matters is whether it is plausible that the victim acted under the influence of coercion. **However, in practice, some judges still question the presence of coercion**, especially when victims are seen doing ordinary things (like shopping) or returning to the workplace after leaving. As a result, some courts still consider apparent willingness or consent, even when coercion exists.¹⁴⁷

3.3 National approaches, guidelines and tools and good practices

This section outlines some key national approaches, guidelines and tools which have been adopted by the analysed 5 countries to better tackle trafficking for labour exploitation.

3.3.1 The role of labour inspectors and specialisation of authorities

All of the countries covered in the analysis highlight the role of labour inspectors in uncovering cases of labour exploitation. Indeed, while the core function of labour inspectors is to ensure compliance with labour legislation, they can play a crucial role in the fight against trafficking in human beings for the purpose of labour exploitation. In conducting their functions, labour inspectors are likely to encounter exploitative situations at workplaces. Given their powers and expertise, labour inspectors are well placed to engage in fighting labour exploitation and labour trafficking, by detecting presumed trafficking victims, as well as by contributing to the collection of evidence.

Spanish research highlights that the role of labour inspectors is crucial, as they are on the front lines for identifying illegal working conditions and exploitative situations that may constitute trafficking or forced labour. However, studies show that the Spanish inspection system currently faces limitations both in resources and specific training to address these complex and hidden phenomena, especially in invisible sectors or those with high irregularity. Therefore, strengthening the intervention of inspectors involves not only increasing their operational capacity (personnel, resources, and tools) but also improving their training

¹⁴³ Van Meeteren & Heideman 2021, pp. 159-160.

¹⁴⁴ GRETA 2024, para. 24.

¹⁴⁵ E.g. Weatherburn, A. (2021). Labour Exploitation in Human Trafficking Law. Brussels : Intersentia. ; Palumbo 2024 ; Jokinen et al. 2011.

¹⁴⁶ Niezna, M. (2024). [Consent to Labour Exploitation](#). IMISCOE Research Series, Springer. <https://doi.org/10.1093/indlaw/dwad036>, pp. 32-33.

¹⁴⁷ Rijken & deVolder, 2022.

regarding trafficking and labour exploitation, providing clear protocols for detection and action.¹⁴⁸ Also in Italy, the role of the National Labour Inspectorate (INL) is essential in identifying labour exploitation through inspections and the National Action Plan and National Referral Mechanisms aim to strengthen collaboration between labour inspectors and law enforcement in investigations concerning cases of labour exploitation.

In the Netherlands, the Labour Authority (NLA) has the mandate to investigate cases of trafficking for labour exploitation. The NLA has an administrative branch that deals with violations of labour laws for which fines can be imposed and an investigative branch that deals with labour crimes, including labour trafficking.¹⁴⁹ However, according to research by the Court of Audit, the Inspectorate's approach has not resulted in fewer offenders going unpunished or in more victims being helped. In 4 years, the NLA handled a total of 331 reports of labour exploitation made by municipalities, the police and NLA inspectors, but very few were transferred to the Public Prosecutor's Office for criminal prosecution.¹⁵⁰

In France, the labour inspection possesses a specific competence to identify cases of trafficking for labour exploitation and to trigger criminal investigation. They can identify and act upon the criminal offences of trafficking in human beings, forced labour and reduction to servitude. However, this competence remains incomplete. For example, the national administration in charge of delivering residence permits to victims of trafficking does not accept the official reports from the labour inspection as proof that the victim is cooperating with the authorities. Despite such difficulties, the Labour inspection has rapidly become a major actor in the fight against trafficking. The Labour inspection also coordinates a network of regional focal points on trafficking in human beings (an inspector has been appointed as a focal point for each of France's regions). These focal points also function as resource-persons for their colleagues who may be confronted with a relevant case, and they can also be contacted by civil society organisations with requests for inspections in cases of labour exploitation. Moreover, the Ministry of Labour (Direction General du Travail) has appointed a specific person in charge of overseeing the actions of the Labour Inspection against trafficking.

Finland has had labour inspectors specialised in monitoring the use of migrant labour since 2005. They conduct inspections in high-risk sectors without advance notification to the employer and have the right to interview employees without the employer's presence. The selection of inspected businesses is based on the collection of intelligence from other authorities, trade unions and NGOs and is based on risk profiling. In addition to monitoring the terms of employment, including the wages, working hours and occupational health and safety, the inspectors provide employees with information on their rights in different languages and the contact information of parties that assist victims.¹⁵¹ Occupational health and safety inspections are governed by law (Act 44/2006). According to this Act, labour inspectors are required by law to report certain offences to the police, including extortionate work discrimination. Trafficking in human beings was included in the Act in 2021. Inspectors also have the right to refer potential victims to the National Assistance System for Victims of Trafficking.¹⁵² Their role is mentioned in both the National Action Plan against Trafficking in Human Beings¹⁵³ as well as in the newly adopted National Referral Mechanism, launched in the form of a handbook in 2025.¹⁵⁴

¹⁴⁸ Country fiche Spain, p. 21. See also Government of Spain (2015). [Act 23/2015](#), 21st of July, Regulating the Labour Inspection and Social Security System.; GRETA (2023b). [Evaluation report Spain. Access to justice and effective remedies for victims of trafficking in human beings – Third evaluation round](#). Council of Europe, p. 41-42.

¹⁴⁹ Van Meeteren & Heideman 2021.

¹⁵⁰ The Netherlands Court of Audits (2021). [Perpetrators free, victims not helped](#).

¹⁵¹ Jokinen et al. 2023, pp. 25–26

¹⁵² Ibid.

¹⁵³ Roth, V., & Luhtasaari, M. (2021). [Finland fights human trafficking: Action plan against trafficking in human beings](#). Publications of the Ministry of Justice, Memorandums and statements 2021:24. Ministry of Justice, Finland.

¹⁵⁴ Nuotio, A. (2025). [Ihmiskaupan uhrien tunnistamis- ja ohjausmekanismi \(NRM\): Käsikirja uhrien tunnistamiseen ja auttamiseen](#).

All countries also have specialised police units and prosecutors who are specialised in human trafficking.

3.3.2 National Action Plans/Strategies/National rapporteurs

Spain, Finland, France, and Italy have introduced National Action Plans that specifically address labour exploitation. In Spain, the National Action Plan Against Forced Labour was approved in 2021. The plan recognises the importance of a strong, specialised, and coordinated labour inspection system as one of the key pillars for detecting and combating trafficking and forced labour. In 2024, Finland introduced the National Action Plan Against Labour Exploitation, which is in effect until the end of 2027. The action plan is based on the government resolution on a strategy to prevent and combat labour exploitation, adopted in spring 2023, with focus on safeguarding the operating conditions of authorities involved in preventing and combatting labour exploitation, promoting the identification and detection of labour exploitation, improving the status of exploited workers and preventing re-victimisation, strengthening corporate and public contracting entities' social responsibility in preventing and combatting labour exploitation. The action plan comprises 33 measures that address the objectives outlined in the strategy.¹⁵⁵

In Italy, the Ministry of Labour adopted the Three-Year Plan for Combating Labour Exploitation in Agriculture and Illegal Brokering (2020-2022)¹⁵⁶ and, in order to implement it, the National Guidelines on identification, protection, and assistance of victims of labour exploitation in agriculture in 2021.¹⁵⁷ The Guidelines aim to promote the adoption of a comprehensive approach to the phenomenon of labour exploitation by establishing a system of governance that gives a crucial role to public institutions. In France, the National Plan Against Illegal Work implemented under the responsibility of the Ministry of Labour for the period 2023-2027 includes a specific chapter on trafficking for labour exploitation.¹⁵⁸

The Netherlands, Finland and France have assigned independent National Rapporteurs who play an important role in evaluating and developing national policies and actions against trafficking in human beings. They provide recommendations, statements, and guidance on anti-trafficking efforts and the realisation of victims' rights.

The mandate of the Dutch National Rapporteur was established in 2000 and expanded in 2015 to include sexual violence against children. Based on this mandate, the rapporteur monitors human trafficking and child sexual exploitation in the Netherlands, advises the government and Parliament on improving policy and legislation, reports independently on the nature, extent, and effectiveness of anti-trafficking efforts and raises awareness of trafficking trends and victim protection needs.¹⁵⁹ The Finnish Non-Discrimination Ombudsman has the role of National Rapporteur on Trafficking in Human Beings. The rapporteur is tasked with monitoring trafficking in human beings, meeting international obligations, and the effectiveness of national legislation and has the right to obtain information from other authorities without provisions on confidentiality restricting their right of access. The National Rapporteur has a mandate to regularly report to Parliament, and these Parliamentary reports have resulted in amendments to legislation, training for authorities, and improvements in the process of victim identification.¹⁶⁰

In France, the role of national rapporteur on trafficking in human beings is filled by the National Consultative Commission on Human Rights (CNCDH). The (CNCDH) is the national institution for the promotion and protection of human rights, accredited to the United Nations, and carries out, in complete independence,

¹⁵⁵ Ministry of Economic Affairs and Employment of Finland (2024). [Action plan against labour exploitation](#). Publications of the Ministry of Economic Affairs and Employment 2024:5, Helsinki: MEAE.

¹⁵⁶ Ministero del Lavoro e delle Politiche Sociali (2020). [Piano triennale di contrasto allo sfruttamento lavorativo in agricoltura e al caporalato 2020-2022](#).

¹⁵⁷ Presidenza del Consiglio dei Ministri & Ministero del Lavoro e delle Politiche Sociali (2021).

¹⁵⁸ Ministère du Travail, du Plein emploi et de l'Insertion (2023). [Plan national de lutte contre le travail illégal 2023-2027](#) (PNLTI).

¹⁵⁹ National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children (n.d). [Home page](#). Website.

¹⁶⁰ Jokinen et al. 2023, p. 23-24.

with the Government and Parliament, a mission of advice and proposals in the field of human rights, law and humanitarian action, and a mission to monitor France's compliance with its commitments in this area.¹⁶¹

3.3.2 Asylum guidelines/residence permit options

Labour exploitation in Italy is closely linked to the mixed migration flows that reach the country.¹⁶² This has led to the development of good practices aimed at implementing coordination between the asylum and anti-trafficking systems. In particular, UNHCR and the National Commission for the Right of Asylum have adopted specific Guidelines for asylum authorities to preliminarily identify potential victims of trafficking within the asylum procedure and enable their effective access to protection measures.¹⁶³ The Guidelines set out Standard Operating Procedures to promote the referral of potential victims—identified during the administrative asylum procedure—to the specialised staff of anti-trafficking organisations. They also include a list of specific trafficking indicators within the procedure for recognising international protection, with a distinct set of indicators for labour exploitation. This specific set refers to elements that often recur in the analysis of the situations of asylum seekers who have experienced, are still experiencing, or are at risk of labour exploitation.¹⁶⁴ These indicators are used to preliminarily identify cases and are, therefore, practical tools that contribute to the implementation of the concept of labour exploitation.

In Finland, the National Assistance System for Victims of Trafficking is run under the auspices of the Finnish Immigration Service. Forced labour has been the most commonly identified form of trafficking in Finland for many years, according to the statistics from the NAS.¹⁶⁵ As a good practice, HEUNI has developed a tool for uncovering labour trafficking, which was developed in cooperation with the police and has checklists for identifying relevant cases.¹⁶⁶ The Finnish Police University College has also released a handbook for the investigation of trafficking cases, which collects expert inputs from a large number of experts from different fields.¹⁶⁷

¹⁶¹ CNCDDH (n.d.) [La protection et la promotion des droits de l'Homme](#). Website.

¹⁶² Nicodemi F. & Cirillo, C. (2024). Toward effective protection of victims of human trafficking in mixed migration flows: referral mechanisms shaped on individual need. The Italian experience and the European perspective. *Frontiers in Human Dynamics*, 6, 1436612.

¹⁶³ UNHCR (2020). [The identification of victims of trafficking among applicants for international protection and referral procedures](#). Guidelines for Territorial Commissions for the Recognition of International Protection.

¹⁶⁴ Ibid.

¹⁶⁵ Ihmiskaupan uhrien auttamisjärjestelmä. (2025). [Ihmiskaupan vuosikatsaus 2024](#); Ihmiskaupan uhrien auttamisjärjestelmä. (2024). [Ihmiskaupan vuosikatsaus 2023](#); Ihmiskaupan uhrien auttamisjärjestelmä. (2023). [Ihmiskaupan vuosikatsaus 2022](#).

¹⁶⁶ Ylinen et al. 2020.

¹⁶⁷ Willman-Koistinen, M., Sahramäki, I. & Kankaanranta, T. (2024). [Ihmiskaupparikosten esitutkinnan käsikirja](#). Tampere: Poliisiammattikorkeakoulu.

Good practice example Finland – residence permit for victims of labour exploitation

In 2021, the Finnish Aliens Act was amended to include the possibility of issuing a one-year-residence permit without restrictions regarding their sector of work in cases of labour exploitation (Aliens Act, chapter 4, section 54 b). The permit was introduced to support victims of labour exploitation even when a criminal investigation has not been started or does not proceed. When the worker applies for this permit, the Finnish Immigration Service assesses whether there has been significant negligence or exploitation by employer.

Indicators of significant negligence include requiring the worker to work unreasonably long hours or an unreasonable number of hours; lack of days off and holidays; not paying a salary or considerable underpayment, or taking back salaries already paid; and neglecting occupational safety or working in dangerous conditions. Signs of exploitation include threats over the life or health of the worker or their family or threats to make the authorities cancel the worker's residence permit or remove them from the country; confiscation identity document or controls over the worker's bank account, tax card or other important documents; isolating the worker from other people by requiring that they live in premises chosen by their employer; restricting phone use in the worker's free time; not allowing the worker to choose where they eat their meals and restrictions over worker's social relations in some other way.¹⁶⁸

¹⁶⁸ Finnish Immigration service. (n.d) [Residence permit: Significant negligence or exploitation by employer.](#)

Section 4. Recommendations

The previous sections have outlined that **the legislative framework to combat trafficking for labour exploitation is complex**, and differentiating between various acts and crimes is not always easy. To prove the crime of trafficking in human beings, the three elements must be met: the act, such as recruitment, transfer, or harbouring, the means, such as abuse of position of vulnerability or deception, and the purpose of exploitation, such as forced labour. If the elements of human trafficking cannot be proved, other offences may be used, and depending on the country in question, the options may vary.

Rather than treating labour exploitation as a simple question of whether it qualifies as trafficking or not, the continuum approach recognises it as **a spectrum of harmful practices that can shift – and often escalate - over time**. Depending on national legislation, these situations may be addressed as administrative offences, labour law violations, criminal offences, or as trafficking and slavery-related crimes. **Exploitation often arises from a combination of vulnerability, dependency, and coercive practices**. Recognising this spectrum is crucial for early identification of trafficking cases, ensuring proportionate and effective legal responses, and providing timely protection and protection and support to victims.

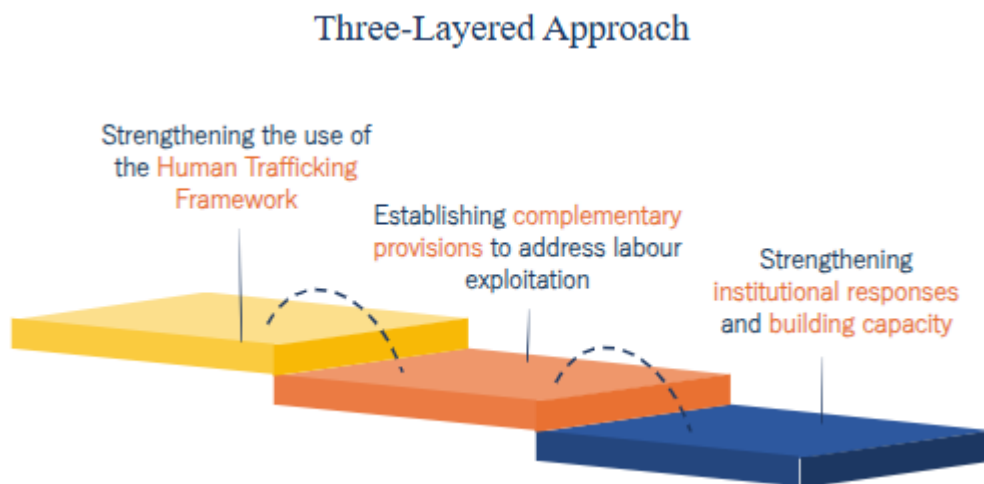
However, from the perspective of criminal justice practitioners, **the continuum is difficult to operationalise in practice**. Criminal law often addresses crimes as single, time-bound acts rather than as processes of exploitation which may change over time.



In many EU Member States, there is **no specific criminalisation or legal definition of 'serious forms of labour exploitation'**, and many European practitioners **lack an understanding of what constitutes labour exploitation in the context of human trafficking** within their country. The concept is not defined clearly by EU or international law either.

The following recommendations, based on the analysis, offer a three-layer approach, which first and foremost recommends 1) Strengthening the use of the human trafficking framework for serious forms of labour exploitation, then 2) Establishing complementary provisions to address less severe forms of labour exploitation, and finally 3) Strengthening institutional responses and building capacity to address trafficking for labour exploitation. While these categories reflect distinct areas of focus, **the recommendations often span across the broader themes of prevention, protection, and practice**. These dimensions **are interrelated, and actions taken under one heading may have implications for the others**. For example, capacity-building can enhance both preventive efforts and victim protection. Recognising these overlaps is essential for developing a coherent and effective response to trafficking for labour exploitation.

Figure 2. Recommendations



Strengthening the use of the human trafficking framework

The analysis of the five countries demonstrates that there are multiple legal and procedural approaches to addressing various aspects of trafficking for labour exploitation. However, case law reveals that law enforcement and investigative authorities continue to face challenges in correctly qualifying cases and gathering sufficient evidence to support prosecutions of trafficking for labour exploitation. This is highly problematic, given that legal classification of a case of trafficking for labour exploitation as another offence can have negative consequences for the victims, as they are not entitled to the same rights, such as to a recovery and reflection periods, residence permits and assistance available for trafficked persons.

Q More clear-cut definitions of the concepts used in national legislation and guidelines are needed to concretely interpret these concepts. Instead of requiring extreme coercion and limitation of freedom of movement, attention should also be paid to more subtle forms of control, manipulation, isolation, poor working and housing conditions and excessive working hours, which, as a whole, can constitute forced labour or other forms of exploitation.

While administrative law often offers a more accessible route for addressing labour exploitation due to its lower evidentiary threshold, relying solely or primarily on this approach risks undermining victims' rights and perpetuating impunity. Criminal law, despite its higher standard of proof, is essential for recognising the severity of exploitation and ensuring accountability. When exploitative employers avoid criminal prosecution, it sends a concerning signal that serious violations can be dealt with through less rigorous means, while also weakening the legal protection afforded to victims.

Key recommendations

- EU Member States are encouraged to adopt and put in place clear national guidelines for the specification of the conduct, acts and violations that constitute trafficking for labour exploitation, forced labour or conditions contrary to human dignity or other relevant exploitative purposes of trafficking in the national, contemporary context. The threshold of meeting the conditions of these violations should be set at a proportionate level that allows for the qualification of cases as trafficking in human beings. This is a precondition for ensuring that the law becomes an enabler of and not an obstacle to the identification of and conviction for trafficking in human beings.
- It is essential that crimes that present features of trafficking in human beings are considered against the elements of human trafficking. To that end, EU Member States are encouraged to develop checklists that

include indicators and train investigators and law enforcement personnel on their use to ensure that trafficking in human beings is expressly considered. In practical terms, this means that in cases where labour exploitation is suspected, authorities should systematically assess if indicators of human trafficking are present. To this end, it is also advised to encourage all relevant stakeholders to use a common list of indicators.

- EU Member States are encouraged to proactively consider initiating investigations under the trafficking framework when cases present indicators of trafficking in human beings. This approach enables the collection of appropriate evidence to assess whether the case constitutes human trafficking or related offences. Recognising a case as human trafficking allows investigative authorities to apply broader coercive measures, benefit from longer statutes of limitations, and engage in more effective cross-border cooperation. It also ensures that potential victims can access the full range of support services available to victims of trafficking.
- EU Member States are also encouraged to ensure that the concept of 'position of vulnerability' is interpreted and applied in line with the comprehensive understanding intended by Article 2.2 of the ATD.
- EU Member States are encouraged to ensure that labour inspectors and other relevant actors who may encounter exploited workers are equipped with both the mandate and the necessary resources to identify and respond to cases of trafficking for labour exploitation. This includes the ability to detect indicators of trafficking during inspections, collaborate effectively with law enforcement and other relevant actors, and refer potential victims to appropriate support services. Strengthening the role of labour inspectors and other relevant actors – while ensuring a firewall is in place for safe reporting –, in this area contributes to early detection, improved victim protection, and more effective enforcement of labour rights.


Establishing complementary provisions to address labour exploitation

Following the formulation proposed by Weatherburn (2019), there are four constituent elements of labour exploitation that are necessary to determine whether or not the provision of work or services has been abused: 1) knowingly taking advantage, 2) position of vulnerability, 3) means of exercise of control showing a lack of human dignity, 4) in order to gain benefit.¹⁶⁹ Depending on the national legislative framework, cases that fulfil these four elements may currently be prosecuted under a variety of crime labels. It is clear that not all cases of labour exploitation amount to trafficking in human beings. In addition to using the trafficking framework, the analysed countries have introduced complementary offences, such as stand-alone offences of forced labour, slavery or servitude, or offences such as extortionate work discrimination or illegal recruitment and labour exploitation or subjecting the person to degrading working and housing conditions.

Establishing complementary provisions is useful to deal with cases where all the three elements of trafficking cannot be proven. Sometimes determining which provision is to be used is a question of lack of evidence and/or how it is interpreted, but sometimes the exploitation is of a less serious nature. From the point of view of criminal liability, it would be important that there are complementary provisions available to use in order to prosecute cases where workers have been subjected to exploitative working conditions that, however, do not amount to trafficking in human beings. Overlaps between complementary provisions and trafficking provision should however be avoided.

¹⁶⁹ Weatherburn 2019.

One solution that has recently been proposed is the new law on usury and aggravated usury in employment, currently being developed in Finland.¹⁷⁰ It is to be used in cases where the three elements of trafficking cannot be established.

 Contrary to many other provisions on labour exploitation, the **Finnish legislative proposal focuses on the financial benefit stemming from the exploitation**, rather than defining the crime in terms of exploitation in forced labour or in work under clearly unreasonable conditions.

Dutch legislative changes also foresee the introduction of a separate offence: profiting from someone else's labour or services, knowing - or having serious reasons to suspect - that those services result from human trafficking, child trafficking, or serious disadvantage. This explicitly targets those who financially benefit from exploitation (e.g., employers, recruiters, intermediaries) without directly perpetrating the trafficking or abusive acts. While it remains to be seen whether these provisions are a more successful route to address exploitation and impunity, they are an attempt to ensure the current criminal law framework is applicable to labour exploitation.

Key recommendations

- EU Member States are encouraged to ensure that their **legislative frameworks address the full continuum of labour exploitation**, ranging from serious criminal offences to administrative offences and/or labour law violations. These frameworks should include proportionate and appropriate sanctions that reflect the severity of the conduct and serve both punitive and preventive purposes. When appropriate, sanctions could also include financial and/or administrative penalties to disrupt the economic incentives behind exploitation and hinder unscrupulous business operations.
- To enhance prosecutorial flexibility, Member States are encouraged to **ensure the availability of complementary offences that allow for the prosecution of exploitative practices in case not all elements of trafficking can be proven**. This could be achieved through the creation of a series of specific offences related to exploitative labour practices, or by including at least one general offence of exploitation in the national Criminal Code. Problematic is, however, the overlap between the offences, which is recommended to be considered carefully when drafting the legislation to ensure that the trafficking provision is considered first, and complementary provisions are used only when it is not possible to establish the elements of trafficking.
- EU Member States are encouraged to ensure that **all victims of labour exploitation, including citizens, intra-EU labour migrants, third-country nationals and irregular migrants, have access to adequate support services, compensation mechanisms, and legal remedies**, regardless of their migration or residence status or the formality of their employment. This includes the ability to safely report and lodge complaints against exploitative employers and claim unpaid wages or compensation.

Strengthening institutional responses and building capacity to address trafficking for labour exploitation

While trafficking for labour exploitation has gained growing recognition in the EU Member States, the attrition rates are high, and many cases do not result in a criminal conviction. A lack of specialisation and capacity may result in situations where each case is dealt with differently, victims are treated unequally, and there is a lack of standardised guidelines or procedures. The lack of coordination between different actors can create administrative hurdles and unnecessary overlaps, which overburden limited resources.

¹⁷⁰ Oikeusministeriö 2025.

Overcoming these challenges requires strategic-level commitments and multidisciplinary approaches that include specialised training and improved inter-institutional cooperation.

Key recommendations

- EU Member States are encouraged to develop **national strategies** to tackle trafficking for labour exploitation, which incorporate clear actions, responsibilities and resources for implementation.
- EU Member States are encouraged to assign **independent national rapporteurs to monitor and make recommendations** to ensure that national policies and practices are fully in line with international and national obligations. In addition, Member States are encouraged to **designate national coordinators to oversee and promote coherence across anti-trafficking actions** at the national level. These coordinators play a crucial role in facilitating inter-agency cooperation, aligning strategic priorities, and ensuring that prevention, protection, and prosecution efforts are effectively integrated and implemented.
- EU Member States are encouraged to ensure the **availability of specialised investigators, prosecutors, and judges** who not only possess a **thorough knowledge of the legal elements** of trafficking for labour exploitation but also **understand the complex dynamics that underpin exploitative labour practices and their impact on victims**. This includes recognising indicators of coercion, vulnerability, and control, as well as understanding how exploitation affects victims and their possibilities to act according to their own will. Such expertise is crucial for the accurate identification, qualification, and prosecution of cases, as well as for ensuring that victims receive appropriate protection, support, and access to justice.
- EU Member States are encouraged to **further formalise their National Referral Mechanisms** and to foster collaboration among all relevant stakeholders, including specialised NGOs, workers' rights organisations and trade unions, to support outreach, awareness raising, and early identification and referral of victims.
- EU Member States are encouraged to ensure that **regular training on trafficking for labour exploitation is provided to all key actors**. This includes labour and other inspectors, law enforcement officers, criminal justice professionals, and other relevant stakeholders, such as labour market parties, who may encounter cases of exploitation in their line of work. Consistent capacity-building is crucial for enhancing the detection, investigation, and protection of victims across various sectors.

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