

From rights on paper to rights in action

Exploited migrant workers' access to remedy in the Baltic Sea Region



Saara Haapasaari,
Tina Davis, Anni Lietonen,
Natalia Ollus, Anniina Jokinen,
Anna-Greta Pekkarinen,
Mia Risberg

AUTHORS:

Saara Haapasaari, Tina Davis, Anni Lietonen, Natalia Ollus,
Anniina Jokinen, Anna-Greta Pekkarinen, Mia Risberg

EDITORIAL DESIGN AND ILLUSTRATIONS:

Lea-Maija Laitinen
www.leamaija.works

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Summary

This report addresses grievance mechanisms and access to remedy for migrant workers who experience labour exploitation in Finland, Norway and Sweden, as well as in the Baltic Sea region at large. In line with the UN Guiding Principles on Business and Human Rights (UNGPs), the report presents a mapping of existing state-based and non-state-based grievance mechanisms in Finland, Norway and Sweden. In addition, it presents a set of examples of migrant workers' access to remedy in the larger Baltic Sea region.

THE REPORT aims to increase awareness of the existing grievance mechanisms as well as the remedy ecosystems in the three focus countries. The research demonstrates the many barriers that migrant workers face when they attempt to access remedies for labour violations, either through the criminal justice process, civil litigation, negotiations by trade unions, or corporate grievance mechanisms, and gives recommendations to improve exploited migrant workers' access to remedy.

In Finland, the criminal process and trade unions function as the main channels for remedy in cases of labour exploitation. Previous research shows that Finland has made more progress in its work against labour exploitation than the other Nordic countries. This systematic work against labour exploitation in Finland is also reflected, at least to some extent, in access to remedy for victims of labour exploitation. Examples include the different residence permit options for victims of labour exploitation, and legislation on improved access to pay security. In addition, legal overseers have handled complaints related to insufficient police investigations of labour exploitation, and this has resulted in improvements in how the police handles such cases. However, problems in investigations remain and e.g., varying practices regarding asset confiscation hinder victims' access to compensation. Local NGOs and trade unions are central in facilitating migrant workers' access to remedy through the different existing grievance mechanisms. The Finnish organizations already engage in systematic

collaboration, but it could be strengthened further, thus potentially improving exploited workers' access to remedy.

In Norway, migrant workers can seek remedy through multiple channels for cases of labour exploitation. However, the trajectory and outcome of the remediation process depends greatly on several factors, such as what status a person has as a victim of exploitation, practical systemic barriers, and lack of resources at agency and victim support level to effectively respond to grievances. For possible victims of human trafficking for forced labour, there are more services available during a remediation process, but there are few investigations and prosecutions, and only a handful of sentences. This results in very few human trafficking survivors being fully remediated through a criminal process. For victims of severe labour exploitation that does not amount to human trafficking, which constitutes a larger group, there are limited services available. NGOs are key in facilitating access to remedy for exploited migrant workers both with support during the remediation process and with the outcome. Trade unions provide some support in certain cases for exploited migrant workers who are non-members. Although Norway has recently introduced a wage theft law, there is currently no criminal provision for labour exploitation, which leaves a grey area when it comes to accessing effective remedy. To actualize access to remedy in cases of labour exploitation in Norway, an overhaul of the system is needed to meet the rights of migrant workers.

In Sweden, exploited migrant workers have limited access to remedy. Labour exploitation has not been a political priority until recently, and it has therefore been inadequately identified, investigated, and prosecuted. As a result, accessing rights and remedies through the criminal justice process has proven to be very difficult for victims of labour exploitation. Access to remedy via trade unions is a more viable option for many, as trade unions oversee the working conditions and wages of their members, but often migrant workers are not union members. This results in a lack of oversight, since government agencies do not have the mandate to monitor migrant workers' terms of employment and wages. There is also a lack of a clear division of responsibilities between the government agencies and social partners, such as the trade unions and employers' associations in combatting labour exploitation. The newly adopted governmental policy approach to combat work-related crime addresses some of these concerns but has not placed the rights of exploited migrant workers at its core.

The report shows first that even though many grievance mechanisms and protections for victims of labour exploitation exist in the Baltic Sea region, in practice, accessing them is notably difficult.

Migrant workers may not know what rights and entitlements they have, nor the mechanisms through which they can raise grievances and access remedy. Very few exploited migrant workers actually pursue any of the existing grievance mechanisms or measures, showing that barriers exist even before they try to access these mechanisms. In addition, there is a lack of sufficient monitoring and enforcement of existing laws and regulations. The mapping shows that migrant workers face several direct barriers when trying to access remedies, raising from fear of the consequences of raising a grievance, losing their jobs or being threatened by their employers or proxies to employers.

One of the key findings of this mapping is that victim support providers, civil society organizations and trade unions play an essential role in facilitating migrant workers' access to remedy. Such organizations not only share information on what avenues for remedy are available, but also assist exploited workers in very concrete ways in accessing remedy. Rights and remedies do not just appear for the exploited migrant workers but are actualized through the support of organizations and individuals committed to eradicating exploitation. Without this very tangible assistance, migrant workers would face great difficulties in knowing where to find remedies and how to go about accessing them. Victim support providers, civil society organizations and trade unions can be seen as providing stepping stones for exploited workers on their way to grievance mechanisms through which they can seek redress. Following this, one key recommendation of this report is therefore that in order to reduce barriers in access to remedy, states must secure sustainable funding for the work of NGOs and local and regional actors which support exploited workers.

Second, this report shows that there is limited awareness and understanding in the region regarding what one can define as the national remedy ecosystem in each of the mapped countries. While each of the countries does have key grievance mechanisms in place, there is a lack of an overview of what is most appropriate and available, and which mechanism to use in different situations. The report indicates that the discussion around measures on access to remedy is currently still at a very early stage in the Nordic countries and the Baltic Sea region at large. It provides little consolation for exploited migrant workers if grievance mechanisms exist on paper but cannot be accessed or do not provide remedy in practice. Even if exploited migrant workers pursue a case for remedy, the mapping indicates that there is little evidence of de facto remediation being provided. There is therefore a need to create a more holistic understanding of the remedy ecosystem, and which mechanism should be used in different cases, as well as offer victims of rights violations a variety of routes so they can

make choices about how to pursue remedy. Moreover, for the remedy ecosystem to work properly for the rightsholder, the different state-based and non-state-based actors need to have good relationships and partnerships in place to facilitate effective access to remedy.

Third, the report shows that the practical role of businesses in providing remedies for exploited workers remains limited. Companies publish very little information about their grievance mechanisms and remediation, which hinders the possibilities of assessing the effectiveness of their measures. This mapping was able to showcase only a limited number of business or sector-specific grievance mechanisms and even fewer examples of actual remedies obtained through these. A number of examples in this report show that companies in the Nordic countries and the Baltic Sea region at large have paid unpaid wages, recruitment and other costs as the key form of remedy provided. However, in most cases this did not happen until they were urged to do so by trade unions and worker representatives. Trade unions have been central in influencing buyer companies to provide remedy, or to put pressure on their suppliers to provide remedy. This, again, shows that the role of intermediaries, such as trade unions, NGOs and other support persons or organisations is essential in facilitating migrant workers' access to remedy through business or sector-specific grievance mechanisms.

Corporate responsibility to respect human rights is becoming more mandatory through national (e.g., Norway and Germany) and EU legislation. The prevention of labour exploitation and human trafficking is increasingly included in corporate human rights policies and processes. However, more attention needs to be paid to ensuring the effectiveness of grievance mechanisms and to the responsibility of companies to provide for or cooperate in remediation when human rights harm, including labour exploitation, is detected in their operations and supply chains. Since judicial mechanisms are slow and burdensome, a key recommendation of this report is that companies should step up and increase both their recognition of responsibility for remedy and take a more active role in ensuring and providing de facto remedies for exploited workers. Companies need to have operational grievance mechanisms in place for workers in their value chains that are clearly understood by them, with easily accessible channels to raise grievances. Companies also need to ensure that grievances are resolved, ideally at an early stage before cases escalate.

The report shows that at present, grievance mechanisms do not necessarily provide redress or punish wrongdoers if the actual and only remedy for unpaid wages is that workers receive their due wages. The most typical example of remediation from businesses throughout this mapping has been claiming back unpaid wages and other

payments that the employer has not made. However, recovering the wages a person should have been paid in the first place does not necessarily constitute effective remediation. Moreover, paying the unpaid wages does not constitute a punishment to the wrongdoer.

Finally, there is a need to increase engagement with the rightsholders. Putting the worker at the core ensures that the needs, expectations and perspectives of rightsholders are included in creating solutions that provide meaningful and effective remedies also for the most vulnerable workers. It should also be borne in mind that different types of remedy in addition to financial compensation may be relevant and needed by exploited workers.

Overall, access to effective remedy should guide the actions of states and companies in the realm of business and human rights. Further awareness-raising is needed in order to ensure the centrality of the rightsholders and the victims, and how to encounter and engage with them in the different processes. While it is crucial to punish wrongdoers, this should not be done at the expense of those victimized. In line with this, effective prevention efforts and due diligence is needed. One key recommendation is that there is still a need to increase awareness among the authorities, companies, and public buyers in the Nordic countries and the Baltic Sea region at large about the risks of labour exploitation.





Key terminology

BALTIC SEA REGION: The following countries in the Baltic Sea region are members of the Council of the Baltic Sea States (CBSS): Denmark, Estonia, Finland, Germany, Iceland, Latvia, Lithuania, Norway, Poland, and Sweden. The CBSS is an inter-governmental political organization that seeks to enhance regional cooperation among its 10 member states and the European Union.

GRIEVANCE MECHANISM: Grievance is defined as any “perceived injustice evoking an individual’s or a group’s entitlement based on law, contract, explicit or implicit promises, customary practice, or general notions of fairness of aggrieved communities” (OHCHR 2011). A grievance mechanism is defined as “any routinized state-based or non-state-based, judicial or non-judicial process through which grievances concerning business-related human rights abuse can be raised and remedy can be sought” (ibid). State-based mechanisms include judicial mechanisms, such as domestic courts, as well as non-judicial mechanisms such as different national ombudsmen, national human rights institutions, national contact points under the OECD Guidelines for Multinational Enterprises, as well as different governmental regulatory bodies (e.g., different inspectorates). Non-state-based grievance mechanisms include mechanisms established by, administered by or associated with companies, multi-stakeholder initiatives, and development finance institutions. In this report, we also address trade unions as a type of a non-state-based grievance mechanism.

HUMAN RIGHTS DUE DILIGENCE (HRDD): Human rights due diligence refers to processes through which businesses identify, prevent, mitigate, and account for their potential and actual negative human rights impacts. For a long time, corporate responsibility to respect human rights and conduct due diligence has been based on voluntary measures, but in recent years binding national legislation has been enacted in different countries, such as Norway and Germany, as well as in the European Union.

LABOUR EXPLOITATION: Labour exploitation refers to cases where the person is subjected to poor terms of employment, is working long hours with wages below the national minimums (underpayment) and in unsafe working conditions and has little choice or ability to change his or her situation. Exploitation can be seen as a continuum of situations and acts, which range from less severe to more severe forms of exploitation. Depending on the severity of these situations, the cases can be defined as different types of labour offences, human trafficking or related offences. For example, underpayment alone is not a criminal offence in Finland, but if in addition to underpayment, a person works in poor working conditions and long hours, and advantage has been taken of the person's economic distress, dependent position, or lack of understanding, thoughtlessness or ignorance, this can be defined as extortionate work discrimination. Wage theft is criminalized in Norway and refers to situations where the employer intentionally and for their own benefit withholds money from the employee's wages, holiday allowance or other statutory payments.

OECD GUIDELINES AND THE NATIONAL CONTACT POINT (NCP): the OECD Guidelines for Multinational Enterprises on Responsible Business Conduct is a comprehensive, non-binding international standard on responsible business conduct, covering topics such as human and labour rights, environment, bribery, consumer interests, information disclosure, science and technology, competition, and taxation. National Contact Points (NCPs) are entities established by governments that promote the OECD Guidelines and that can also handle complaints against companies that do not follow the OECD Guidelines. Any individual or organisation with a legitimate interest can submit a case to an NCP, concerning a company operating in or from the country of the NCP.

OPERATIONAL-LEVEL GRIEVANCE MECHANISM (OGM): An operational-level grievance mechanism "is a formalized means through which individuals or groups can raise concerns about the impact an enterprise has on them ... and can seek remedy". They can be administered by businesses alone or in cooperation with others. (OHCHR 2012, 68.) Typically, large

companies or companies with significant human rights risks establish their own grievance mechanisms. Small and medium-sized enterprises (SMEs) with limited identified risks often develop “simpler” mechanisms, which should nonetheless meet the criteria of effectiveness¹. Organizations can also promote and participate in mechanisms provided by external organizations, for example by providing information on hotlines for aggrieved persons, and remediation through government, business, NGO or multi-stakeholder mechanisms and initiatives (OHCHR 2012, 65).

The primary purpose of OGMs is to provide “an early point of recourse” before issues escalate. The aim is that operational-level grievance mechanisms can receive and address concerns well before they escalate into human rights abuse or other breaches of standards. Such mechanisms can therefore have a lower threshold compared to many state-based mechanisms (OHCHR 2012, 68–69). Effective mechanisms can strengthen due diligence processes by helping to identify impacts early on and by tracking the effectiveness of follow-up actions. Further, they can help to build positive relationships with stakeholders by showing that the company takes human rights issues seriously. (ibid.)

REMEDY/REMEDIATION: Remedy means ending the harm and putting the rightsholder back into the position in which he or she would have been if the harm would never have occurred. This may not always be feasible e.g., in situations of serious health harms, occupational accidents or sexual violence. In these cases, remedy is about compensation and recognition of harm. Remedy and remediation both refer to the process of remediating, as well as to the outcome of the remedy. Remedy is a vital part of human rights, since if violations and harm are not counteracted or “made good”, rights may eventually become meaningless.

¹ UNGPs set effectiveness criteria for non-judicial grievance mechanisms, including state-based and non-state-based mechanisms. In order to consider a non-judicial grievance mechanism effective, it should be legitimate, accessible, predictable, equitable, transparent, rights-compatible, a source of continuous learning. Moreover, operational-level grievance mechanisms should be based on engagement and dialogue.

Remedies can take different forms. The UNGPs list the following:

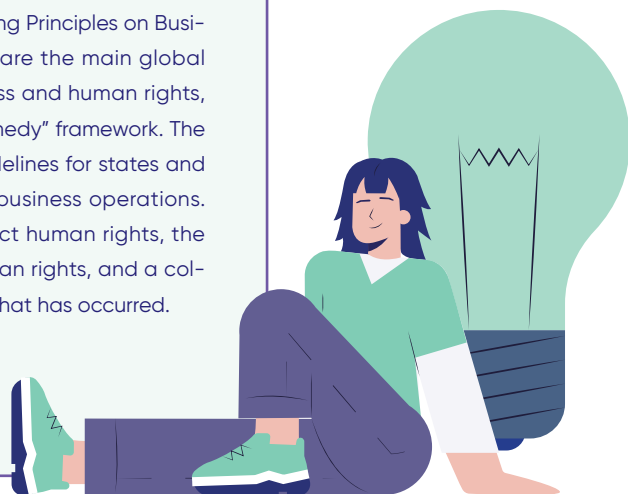
- apologies,
- restitution,
- rehabilitation,
- financial or non-financial compensation,
- punitive sanctions (whether criminal or administrative, such as fines), as well as
- the prevention of harm through, for example, injunctions or guarantees of non-repetition (OHCHR 2011, 27).

REMEDY ECOSYSTEM: refers to the “laws, policies, institutions, mechanisms and actors, and the relationships between them” that affect whether or not people receive remedies for the harm to their human rights that they have experienced (OHCHR 2024, 17).

TRAFFICKING FOR FORCED LABOUR OR LABOUR TRAFFICKING: refers to exploitation of a person for economic gain. If the exploitation of a worker also includes restriction of his or her freedom, use of force, threats, debt bondage, deception, false promises, psychological pressure or violence, it may fulfil the criteria of human trafficking. Human trafficking is criminalised in all European countries, but national definitions of trafficking for the purpose of forced labour often vary slightly.²

UNITED NATIONS GUIDING PRINCIPLES ON BUSINESS AND HUMAN RIGHTS (UNGPS): The UN Guiding Principles on Business and Human Rights (OHCHR 2011) are the main global normative framework regarding business and human rights, based on the “Protect, Respect and Remedy” framework. The UNGPs establish expectations and guidelines for states and companies regarding human rights in business operations. They consist of the state duty to protect human rights, the corporate responsibility to respect human rights, and a collective responsibility to remediate harm that has occurred.

² The first internationally agreed-upon definition of the term trafficking in international law is provided in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, which was adopted by the United Nations in 2000. The Council of Europe Convention on Action against Trafficking in Human Beings of 2005 follows the definition of trafficking of the Trafficking Protocol. So does also the latest EU Directive 2024/1712 of the European Parliament and of the Council of 13 June 2024 amending Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims. Forced labour is defined in the 1930 ILO Forced Labour Convention (No. 29).



1

Introduction

Exploitation of migrant workers is an issue of concern in the Nordic and European labour markets. The differences in wage levels, unemployment, lack of options and discrimination are all having an impact on people who are looking for new job opportunities and possibilities. Some of the workers end up in situations of exploitation and have the right to effective remedy. Previous research has outlined how it remains very challenging for migrant workers in particular to have access to various forms of remedy (e.g. FRA 2020, Wintermayr & Weatherburn 2021), but there has been little research on this particular topic in the Nordic and Baltic Sea region countries.

ACCESS TO remedy has earlier been described as the overlooked pillar of the UNGPs (Anti-Slavery International 2021, Institute for Human Rights and Business 2015), and remedies have been neglected in particular in the case of migrant workers. Many studies point out that in theory, there are possibilities and existing mechanisms for accessing remedies, but in practice, they are extremely difficult to use (Wintermayr & Weatherburn 2021). The possibilities of seeking remedy for grievances are hindered by both structural and situational factors. These include lack of existing mechanisms or difficulties in accessing them, as well as lack of awareness among workers of existing mechanisms, and their lack of trust in these mechanisms.

The purpose of this report is thus to map and gather information on different grievance mechanisms in Finland, Norway, and Sweden that can be used to seek remedy for labour exploitation. In addition, a literature review and expert interviews have been used to explore the practical implications of the mechanisms and whether and how well they actually provide remedy for exploited migrant workers. We have also tried to identify various structural and situational factors as well as gaps which hinder the practical use of these grievance mechanisms.

Furthermore, an overview of the situation in other Baltic Sea region countries has been conducted. The report includes a chapter presenting selected examples of grievance mechanisms and

remediation in other countries in the larger Baltic Sea region, namely Denmark, Estonia, Germany, Iceland, Latvia, Lithuania and Poland.

The report has been written as part of the project “Safety for all? Remedy for exploited migrant workers in the Nordic region”, coordinated by HEUNI in partnership with the Coretta & Martin Luther King Institute for Peace in Norway, and Ethical Trading Initiative Sweden (ETI Sweden) between September 2023 and November 2024. The project was developed by the project partners and funded by the Project Support Facility (PSF) of the Council of the Baltic Sea States (CBSS), as well as through the CBSS Task Force against Trafficking in Human Beings (TF-THB) and its CAPE III project, focusing on labour exploitation and implemented in cooperation with the Swedish Gender Equality Agency (Jämställdhetsmyndigheten).

The research was conducted by HEUNI and the King Institute. ETI Sweden acted as an advisor and the main organizer of a round-table event for businesses and other stakeholders in Stockholm in March 2024. The three focus countries, Finland, Norway and Sweden, were chosen since the project partners are based in these three countries, are therefore familiar with the local contexts and have existing networks among relevant stakeholders. The overview on the other countries in the Baltic Sea region was included at the request of the CBSS and Swedish Gender Equality Agency.

1.1 Background

LABOUR MIGRATION within and into the Baltic Sea region has increased over the past decades. Migrant workers are recruited for both skilled and unskilled work. Research and media reports show that migrant workers can be vulnerable to exploitation and even human trafficking, especially in low-skilled and low-pay jobs in risk sectors such as agriculture, food production, construction, and hospitality. Cases of labour exploitation have been identified all over the region, and the victims include workers originating also from within the Baltic Sea region (see e.g., Schoultz et al. 2023; Mujaj & Mäkelä 2022; Pekkarinen & Jokinen 2023).

Labour exploitation takes various forms and can range from less serious to more serious forms of exploitation. The more serious forms of labour exploitation might amount to human trafficking, which is criminalised nationally in all European countries, albeit the definitions may vary slightly (Jokinen & Ollus 2019). The basic criminalization is derived from the Trafficking Protocol of the UN Convention on Transnational Organized Crime and subsequent EU legislation (Council Framework Decision of 2002 and the Directives of

2011 and 2024) as well as the Council of Europe Convention on Action against Trafficking in Human Beings (2005).

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.³ The Council of Europe Group of Experts on Action against Trafficking in Human Beings (GRETA)⁴ has noted that the absence of a clear definition of exploitation makes it difficult to draw the line between exploitation in terms of violation of labour rights, and more severe exploitation amounting to forced labour (GRETA 2021, para 5-6). Moreover, GRETA has noted that restrictive interpretations by courts of what constitutes human trafficking for the purpose of labour exploitation may result in acquittals or in the cases being considered as labour law violations or exploitation which does not involve human trafficking (GRETA 2019a, 11).

The conviction rate for trafficking for forced labour as well as related labour offences in the Baltic Sea region remains low (Schoultz et al. 2023; Pekkarinen & Jokinen 2023). Labour exploitation is regulated nationally through different provisions, which vary nationally. The less severe forms of exploitation might be dealt with as work discrimination or as offences related to, for example, employment agency offences, unauthorised use of foreign labour, fraud or usury. However, the regulation of exploitation through the criminal justice system is just one dimension in addressing violations against migrant workers and their rights.

The UN Guiding Principles on Business and Human Rights (UNGPs) from 2011 are the main global normative framework regarding business and human rights, based on the “Protect, Respect and Remedy” framework (Human Rights Council 2008). They consist of the state duty to protect human rights, the corporate responsibility to respect human rights, and a collective responsibility to remediate harm that has occurred. As per the UNGPs, corporate grievance mechanisms, used in combination with state-based non-judicial mechanisms, complement the judicial mechanisms. Together they form a comprehensive state-based system, which also includes alternative, less formal processes for the resolution of grievances (OHCHR 2011).

Access to justice is a vital part of the state duty to protect human rights. The UNGPs establish effective judicial mechanisms as the core of ensuring access to remedy (OHCHR 2011). Judicial mechanisms, however, are often deemed inefficient due to the many barriers involved in accessing them, such as slow processes, high costs, and high evidence thresholds (FRA 2020). Migrant workers’ access to justice is furthermore often limited because of, e.g., their fear of authorities and lack of knowledge, delays in investigation and prosecution, and evidentiary problems (IOM 2021).

³ Slavery or practices similar to slavery, and servitude are acknowledged, defined and prohibited in international law, including in the case law of the European Court of Human Rights based on Article 4 of the European Convention on Human Rights (ECHR).

⁴ The Group of Experts on Action against Trafficking in Human Beings (GRETA) is responsible for monitoring the implementation by State Parties to the Council of Europe Convention on Action against Trafficking in Human Beings. GRETA carries out country visits and publishes country reports evaluating legislative and other measures taken by the Parties to give effect to the provisions of the Convention.

Research shows that investigations of exploitation and trafficking 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 (Alvesalo et al. 2014, Johansson 2020, Schoultz et al. 2023), also globally (Schoultz et al. 2023; Eurostat 2024). CBSS (2020) in its 2021-2025 Strategic Plan regarding human trafficking states that criminal prosecutions and convictions are scarce in the Baltic Sea region, when compared to the number of recorded victims.

There remains a grey area within the continuum of labour exploitation where it is not always clear whether the wrongdoing constitutes a criminal offence, even though according to labour law, the worker's rights may have been violated. The purpose of a police investigation is to examine whether there is sufficient evidence of the commission of certain offences in order to prosecute, but lack of awareness or understanding 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 (Ollus et al. 2024). This does not necessarily mean that the wrongdoing or crime did not take place.

However, if the police fail to identify human trafficking or other related crimes early in the investigation, the victim does not receive necessary support services and may not be able to access other specific victim's rights. Victims of human trafficking are by international and EU law and the obligations outlined therein entitled to specific support measures, which include e.g., subsistence, safe accommodation, psychological and material support and urgent medical care. Regardless of the judicial nature of the wrongdoing, also victims of less severe exploitation, which does not meet the formal or legal definition of trafficking, should be entitled to effective remedies, such as compensation and unpaid wages. This is why different means of accessing remedy are crucial. There is, however, a lack of understanding of the different mechanisms, e.g., those outside of the criminal justice system, or they are not effective enough, or they are not implemented adequately (FRA 2020).

The Nordic countries are characterized by the so called "Nordic model" where the labour markets are regulated through collective agreements, trade-union membership is high, and tri-partite dialogue between the so-called social partners is a common feature, i.e. between businesses, worker representatives and government/state actors. In Finland and Iceland, the collective agreements concluded by the social partners have general applicability, meaning that industry-specific agreements apply to all employers and wage-earners in the given industry. In Denmark and Sweden, the trade unions can decide whether they want to conclude agreements with employers outside employer organisations, and trade unions can use industrial conflicts to ensure their claims. Norway applies a combination of the two systems, where trade unions are allowed to use industrial conflict, but collective agreements

are generally applicable with the specific aim of ensuring that migrant workers are entitled to the same wages as Norwegian workers. (Kris-tiansen 2015, 16-18.) In the Nordic countries this model of labour market regulation is often referred to as "the Swedish model", "the Norwegian model" or "the Finnish model", and we also use these terms in this report.

In the Nordic and Baltic Sea region, migrant workers are among those most vulnerable to exploitation, while at the same time they possess limited information about their own rights and their possibilities of seeking redress. Migrant workers may not speak the local language, are usually not members of trade unions, and it is particularly challenging for temporary workers to access remedy due to their temporary stay in the country. Previous research indicates that workers often have to rely on an organization, a support person, or someone else to help them access grievance mechanisms and ultimately remedies (FRA 2020, Wintermayr and Weatherburn 2021). The UNGPs call for special attention to the rights and needs of people in vulnerable positions. However, the same vulnerabilities that facilitate exploitation may also hinder migrant workers' access to remedy (Anti-Slavery International 2021). For example, if a migrant worker's permit is tied to a certain employer, the worker may not want to raise grievances in fear of termination of the employment (ibid.).

Case example: Trafficking for forced labour of Thai berry pickers in Finland and Sweden

IN 2022, major police investigations into suspected trafficking of Thai berry pickers were conducted in Finland and Sweden. In Finland, two large berry companies (investigation of a third company was commenced in 2023) and their Thai recruitment partner were investigated for aggravated human trafficking of altogether hundreds, perhaps even thousands of victims. The victims had been working short term, picking wild berries in Finnish forests for long hours with little pay. The pickers had become indebted for their travel and other costs related to their travel to Finland or Sweden, their living conditions had been substandard, and they had paid inflated costs for, e.g., food and accommodation. The berry pickers are paid based

on the amount of berries they pick, and the berry companies were suspected of having altered the weights that were used to weigh the berries. The pickers' passports had also been retained. Cases against two Finnish berry companies are still proceeding in court at the time of the writing of this report. (Police of Finland 2022, YLE 21.5.2024.)

SIMILAR NEWS was published in Sweden in 2022, as well as in 2023 and 2024. In 2022 there were reports that several hundreds of Thai berry pickers had been exploited for forced labour (DN 21.12.2022). During the summer of 2023, there were again reports of severe exploitation of Thai berry pickers in the forests in Northern Sweden (SVT 29.8.2023). The authorities conducted joint multiagency raids against berry companies and found very long working hours, passports confiscated by the employers, poor accommodation and dangerous cars used for transporting the pickers (ibid.). In July 2024 a couple in charge of a berry company were convicted for human exploitation concerning nine berry pickers from Thailand (SVT 11.7.2024). The couple was also ordered to pay the unpaid salaries as well as 7000 € in damages to each of the pickers (ibid.). The case is currently in process in the court of appeal, and charges also against other berry companies have been raised (SVT 6.9.2024).

THESE CASES are referred to throughout the report especially from the business perspective, since several large buyers such as food producers and retailers have bought berries from some of the companies in question.

1.2 Purpose of the report

THE AIM of this report is to address grievance mechanisms and access to remedy for workers who experience exploitation in Finland, Norway and Sweden, as well as in the Baltic Sea region at large. In all of these countries, some grievance mechanisms and pathways to remedy exist. However, the mechanisms are perceived to be fragmented, there is a lack of a shared understanding of what constitutes such a mechanism, and there is a lack of easily available information about existing mechanisms (OHCHR 2019; Saloranta 2024).

The research questions of the project are:

- What grievance mechanisms exist in Finland, Norway and Sweden that can be used in cases of labour exploitation?
- What barriers exist in exploited migrant workers' access to remedy?
- What examples and promising practices of migrant workers' access to remedy exist in the Baltic Sea region?
- How can migrant workers' access to remedy be improved in the Baltic Sea region?

This report provides a more detailed overview of grievance mechanisms and remedies in the three focus countries, Finland, Norway and Sweden. For each of these three countries, the report first outlines the situation vis-à-vis labour exploitation in the country, followed by a brief overview of existing grievance mechanisms and an analysis of the practical implications of these mechanisms, including state-based judicial and non-judicial mechanisms, as well non-state-based grievance mechanisms. Following the chapters on different types of mechanisms, a brief summary of structural barriers within these mechanisms is provided. The mappings end with country specific conclusions. For the other countries in the larger Baltic Sea region, namely Denmark, Estonia, Germany, Iceland, Latvia, Lithuania and Poland, the report presents a selected set of examples from each country, aimed to showcase operational and functioning mechanisms and ways to access remedy in labour exploitation cases. Finally, the report provides overall conclusions and recommendations for governments, businesses, and other actors to make grievance mechanisms and access to remedy more effective for migrant workers.

This report focuses on national grievance mechanisms and analyses them from a practical standpoint, thus trying to assess whether they work in practice for exploited migrant workers. The report does not elaborate on supra-national grievance mechanisms such as international judicial and investigative bodies that examine human rights complaints. The report also does not elaborate in more detail on recent developments within the European Union, such as the introduction of the European Labour Authority or the forthcoming EU Corporate Sustainability Due Diligence Directive.⁵ These recent developments may in the future strengthen the access to rights and remedies of migrant workers and are therefore a welcome addition to the remedy ecosystem.

⁵ The Directive has entered into force in July 2024, but will have to be adopted by EU Member States in national legislation by July 2026, and will be applied to the first group of companies in 2027, with full application as of July 2029; see [Corporate sustainability due diligence – European Commission \(europa.eu\)](https://european-council.europa.eu/media/en/press-communications/inline-press-communication/Item?id=123456789).

2

Methodology

2.1 Methods and data

THE BROADNESS of the concept of remedy required the use of various sources and data collection methods in order to map out relevant grievance mechanisms in the different countries. Furthermore, the focus area of the project combines two often rather distinct but broad discourses and areas of research: labour exploitation, and business and human rights.

First, a desk review was conducted. This included an overview of relevant existing governmental reports, research, media reports, the web pages of organizations, as well as annual reports of companies. In addition, reports of the Council of Europe Convention on Action against Trafficking in Human Beings (GRETA) were used extensively, especially the third evaluation round reports that focused on access to rights and remedies for victims of trafficking. No court judgments were used, but some decisions by different authorities were reviewed, which are described in greater detail in the country mappings.

Second, new information was collected in Finland, Sweden and Norway via expert interviews (N=28), two additional expert discussions, roundtable meetings with businesses (N=3), as well as with email exchanges with different regulatory bodies and actors. Email correspondence was conducted with organizations operating some of the mapped grievance mechanisms, as well as with experts on the topic. Regarding the overview on existing practices from other Baltic

Sea region countries, additional expert interviews (N=2) and email exchanges were conducted to map and identify relevant grievance mechanisms. More specific information on data collection is included in the country mappings.

The expert interviews were semi-structured interviews, with a joint semi-structured interview framework that was used in all interviews with experts from Finland, Norway, and Sweden. The interviewed experts included authorities, victim support providers, trade unions, and organizations that operate some of the mapped grievance mechanisms. In total, 28 interviews were conducted with 35 interviewees, between November 2023 and April 2024. HEUNI carried out the interviews with Finnish experts, the King Institute carried out the interviews with Norwegian experts, and the Swedish interviews were carried out by HEUNI and the King Institute.

The report uses direct citations from the interviewees. The interviewees represent several different organizations, such as labour inspectorate, Ombudsmen offices, ministries, trade unions, NGOs, victim support providers, businesses, human rights experts, and lawyers. The anonymity of the interviewees is protected throughout the reports. The interviewee's name, or his or her accurate professional title or name of the organization they represent is not disclosed.

In addition, four separate discussions were held with experts from Estonia (victim support provider), Iceland (trade union), Sweden (authority) and Finland (Ombudsman office), to understand better certain grievance mechanisms or organization's work. These discussions are referred to throughout the report.

Finally, the annual reports of 18 companies in Finland (six), Norway (six) and Sweden (six) were assessed based on what they disclose about their grievance mechanisms and remediation. The companies selected were all large companies operating in supply chains in labour exploitation risk sectors, such as construction, retail, and food production.

2.2 Limitations

THE PROJECT was designed to map grievance mechanisms that can be used for cases of labour exploitation in Finland, Norway and Sweden. However, there might still be some organizations or mechanisms that this report has not been able to identify in the selected countries. In addition, not all trade unions or NGOs that work with exploited migrant workers are necessarily mentioned and addressed in this report.

The project budget and schedule had some impact on the number of interviews and the scale of data collection. As the mapping shows, grievance mechanisms and access to remedy relate to a large

number of state-based and non-state-based mechanisms. However, the limited time reserved for the project did not allow for an in-depth analysis of each mechanism. Moreover, no police or prosecutors have been interviewed in this project, although central notions about the criminal justice system are addressed in the report. These are based on earlier literature.

The UNGPs present effectiveness criteria for non-judicial grievance mechanisms. Nonetheless, a full assessment of the effectiveness of the mapped grievance mechanisms has not been possible due to the limited time frame of the project. However, the report does raise important notions on how the mechanisms work and whether they provide remedy to exploited workers. In order to properly determine the accessibility and effectiveness of different grievance mechanisms, the rightsholders in question, in this case the different groups of migrant workers in the focus countries, should be consulted in the future.

The labour laws and their enforcement differ within countries and thus it is challenging to draw a generalised conclusion across the three countries. It also seemed evident that the countries represent different levels of awareness of the topic of labour exploitation and access to remedy, which had some impact on the quality of interviews and stakeholder engagement. For example, some organizations contacted in the larger Baltic Sea region did not reply to our contacts, perhaps due to the challenges in comprehending the theme of access to remedy. Indeed, many of the experts whom we have contacted are experts either in addressing labour exploitation or in business and human rights, but few specialized in both of them. This is a reflection of an overall gap between the two areas of expertise.



3

Finland

3.1 Labour exploitation in Finland

IN FINLAND, the first instances of exploitation of migrant workers came to general attention in the early 2000s, and catalysed changes in criminal law as well as government policies. As a result, labour exploitation has for a long time been identified in government documents and practices as a concern (Jokinen et al. 2023; Ollus & Alvesalo-Kuusi 2012). Finland has also produced more indictments for trafficking for forced labour compared to the other Nordic countries (Schoultz et al. 2023). The Criminal Code of Finland (39/1889, CC) includes also other unique provisions that can be used in cases of labour exploitation of migrant workers, such as extortionate work discrimination. Finland has also produced a wealth of research on labour exploitation and has active and committed oversight institutions focusing on the issue of exploitation of migrant workers (Jokinen et al. 2023). Despite the fact that Finland is a forerunner in combating labour exploitation when it comes to government actions, court convictions and research compared to its Nordic neighbours, criminal liability remains inefficient (Koivukari et al. 2022; Ollus et al. 2024). This severely hampers exploited individuals' access to justice and remedy and creates impunity for perpetrators and wrongdoers.

Finland is a country of destination and transit for victims of labour trafficking. Labour exploitation is the most frequently identified form of trafficking in Finland. In 2023, 63 % of the victims accepted

into the National Assistance System for Victims of Trafficking had been exploited for labour (205 victims out of the total of 326 victims) (National Assistance System for Victims of Human Trafficking 2024). Several successful investigations of large-scale labour trafficking cases have been carried out in Finland, and multiauthority cooperation is being developed. However, problems still occur in the investigation of cases. The high-risk sectors in Finland include cleaning, restaurants, construction, agriculture, and berry-picking, and labour trafficking has also been detected in domestic help (Jokinen et al. 2023).

As is the case in other Nordic countries, the Finnish labour market is characterized by a strong emphasis on collective bargaining, and the unionization rates can generally be considered high. The tradition of tripartite cooperation between trade unions, employers' organizations, and the government (referred to as the 'Nordic model') has also in Finland led to negotiated agreements that set industry-wide standards for wages, working hours, and conditions. Equality and non-discrimination legislation are designed to provide workers with protection, in addition to the labour laws that regulate, for example, employment contracts and working hours. The rise of the gig economy, the weakening of the collective agreement structure, zero-hour contracts and new forms of employment such as light entrepreneurs pose new challenges to the existing labour practices (Ollus 2016). The shares of migrant workers in many of the risk sectors have been increasing.

The employment rate of persons born abroad in Finland (on average, 73.4%) is higher than that of Sweden (72.4%) and the EU average (69%). However, migrant workers are more commonly working in fixed-term or part-time employment and represent a large share of light entrepreneurs. (Sutela 2023.) In the construction sector the share of migrant workers is estimated to be on the average twenty percent. However, the share varies by region; e.g., in the Uusimaa region (which includes for example the Helsinki metropolitan area) the share is almost forty percent (The Confederation of Finnish Construction Industries 2023). Shares of migrant workers have also been steadily increasing in other sectors at risk for exploitation, such as agriculture (Luonnonvarakeskus 2021) and the cleaning sector.

Building on European legislative developments and global trends, there is a growing consensus also in the private sector that in addition to the state's duty to protect human rights, businesses have a responsibility to respect human rights. Due to extensive media attention, research and policy developments, Finnish private and public sector actors have paid more attention to human rights issues in local risk sectors. There are several proactive companies which have linked the combating of the grey economy with human rights due diligence,

which has resulted in policies specifically targeted at preventing labour exploitation in Finnish subcontracting chains, as well as other initiatives related to buying practices, awareness raising and guidance to identify signs of exploitation.

The Finnish national action plan (NAP) on the implementation of the UNGPs was adopted in 2014 and has not been updated since. The NAP provides only limited guidance on matters related to exploitation of migrant workers in Finland, since it has a limited focus on national human rights issues. Regarding access to remedy, the NAP emphasizes that the Finnish constitution provides strong protection of human rights from a legal perspective, that courts are autonomous, that legal expenses are low, and that free legal aid is accessible for persons with insufficient financial means. (Ministry of Economic Affairs and Employment of Finland 2014.)

The NAP emphasizes that victims of business-related abuse should be made aware of their rights and acknowledges the vital role that labour market organizations and NGOs play in disseminating information to workers and providing counselling in situations where it is needed. The NAP also outlines the need to support employees in vulnerable positions and mentions “preventative measures such as early-stage consultation and settlement proceedings” as a way for business enterprises to prevent further harm related to their activities, and encourages companies to use non-binding complaint mechanisms. It further encourages companies to cooperate with NGOs. (ibid.) However, the 10-year-old NAP does not consider the many barriers in access to remedy or grievance mechanisms, nor has implementation of the plan been assessed. The subsequent analysis of existing grievance mechanisms will highlight many of the existing barriers and will also propose some solutions.

In 2024, the Finnish Government adopted a new action plan for prevention of labour exploitation which tackles the phenomenon with legislative reforms and increased cooperation among the authorities. The action plan has five main objectives, which will be promoted with a total of 33 measures. Several measures aim to increase cooperation and the exchange of information among the authorities in order to combat the shadow economy, economic crime and exploitation. Different means will also be used to better identify and detect exploitation and trafficking and to prevent their recurrence. For example, work-based residence permits will be better monitored both before and after they are issued so that discrepancies in pay, for example, can be detected more effectively. Moreover, the line between entrepreneurship and employment relationship will be clarified and the position of victims will be improved. Measures are also to be used in order to improve the dissemination of information in different

languages to migrant workers on their rights and responsibilities and on the Finnish labour market. One further aim of the action plan is to enhance criminal liability for labour exploitation and protect the rights of victims through stronger criminal sanctions, ensuring the resources of law enforcement and labour inspectorate, streamlining the criminal processes, and improving access to legal aid. (Ministry of Economic Affairs and Employment of Finland 2024.)

3.2 Methods and data

THE FINNISH mapping was conducted by HEUNI. Nine semi-structured interviews were conducted with a total of 12 Finnish experts: three with trade unions, two with key authorities, one with a policy-maker, one with a business and human rights expert, one with a victim support provider and one with a lawyer. Some of the interviews involved two interviewees representing the same organization. No police or prosecutors, nor migrant workers themselves, were interviewed. The interviews took place between November 2023 and January 2024. Most of the interviews were carried out face-to-face, and a few online.

As part of the project, an expert meeting was organized in Helsinki in June 2024, together with UN Global Compact Finland. The event was a roundtable that gathered 12 participants from Finnish businesses and six other experts to discuss grievance mechanisms in Finland and exploited migrant workers' access to remedy. The businesses represented both large and smaller Finnish businesses, in the retail, construction, manufacturing and cleaning sectors. The other experts included the organizers of the event, as well as a business and human rights expert and a victim support provider. The purpose of the event was to increase the participants' awareness of grievance mechanisms in Finland and of barriers that exploited migrant workers may experience. Insights from the discussions in the meeting were utilized also in this report as background material.

Several Finnish authorities who operate the mapped grievance mechanisms were contacted about the cases they have handled related to labour exploitation. They include the office of the Non-Discrimination Ombudsman, the Office of the Chancellor of Justice, and the Office of the Parliamentary Ombudsman. These email exchanges are referenced in the Finnish mapping.

3.3 Brief overview of grievance mechanisms

THIS CHAPTER presents an outline of grievance mechanisms in Finland that can be used in cases related to exploitation of migrant workers. In practice, some of the mechanisms to protect workers from harm are useful and efficient, while others exist only in principle, since their actual implementation remains more theoretical. However, they may still have indirect implications for accessing grievance mechanisms as well as remedies, in particular if their use could be strengthened in the future. The actual use of all identified mechanisms in the context of labour exploitation will be investigated in more detail in chapters 3.4, 3.5 and 3.6.

Overall, the state-based judicial mechanisms in Finland are relatively comprehensive when it comes to the legal framework that protects victims of trafficking for forced labour and other crimes related to labour exploitation.

State based judicial mechanisms include:

- **SEVERAL CRIMINAL** provisions that can and are being used to prosecute cases of labour exploitation in criminal justice processes.
- **THE CIVIL PROCESS** can be used in matters related to unpaid wages and other work-related disputes.
- **THE LABOUR COURT** tries legal disputes related to the interpretation of collective agreements. In order to fall within the jurisdiction of the Labour Court, the case must concern the competence, validity, contents or extent of a collective agreement or the correct interpretation of a clause in a collective agreement (Labour Court of Finland 2020). Individual cases of labour exploitation thus do not fall under the competence of the Labour Court.

Although legal aid is not a grievance mechanism per se, it is crucial for complainants in a criminal process. Public legal aid is available in cases where a person has insufficient funds to secure private legal aid. However, public legal aid does not cover possible recovery proceedings/enforcement, or complaints submitted to extra-judicial complaint mechanisms, such as the Chancellor of Justice and the Non-Discrimination Ombudsman (GRETA 2024a, 16). State legal aid is provided to individuals domiciled in Finland or residing in another European Union member state or European Economic Area country.

This project could not determine how well victims of labour exploitation in particular receive legal aid.

The most relevant provisions in the Criminal Code of Finland linked to access to remedy are trafficking in human beings (CC chapter 25, section 3), aggravated trafficking in human beings (CC chapter 25, section 3 a), work discrimination (CC chapter 47, section 3), extortionate work discrimination (CC chapter 47, section 3 a), extortion (CC chapter 36, section 6) and aggravated extortion (CC chapter 36, section 7). In respect of civil law provisions, the basic piece of legislation is the Employment Contracts Act, which defines the general obligations of the employee and the employer. Other relevant legislation includes the Collective Agreements Act, the Working Time Act, the Non-Discrimination Act, the Occupational Safety and Health Act, the Annual Holidays Act, the Aliens Act and the Wage Guarantee Act. Compensation is regulated by the Tort Liability Act, and the Act on Compensation for Crime Damage may also apply in criminal cases.

As of 2021, there is an investigation team specialised in human trafficking offences at the Helsinki Police Department. The team also works at the national level, and it is responsible for large-scale cases that require special expertise. Each regional police department has two human trafficking investigators. In addition, the National Bureau of Investigation (NBI) both investigates complex cases and is tasked with analysing overall trafficking trends. There are also prosecutors specialised in cases of human trafficking, who provide assistance to other prosecutors. (Jokinen et al. 2023.)

State-based non-judicial mechanisms include:

- **THE OFFICE OF THE CHANCELLOR OF JUSTICE**, which is also the institution in charge of the centralized external reporting channel for whistleblower protection.
- **THE PARLIAMENTARY OMBUDSMAN**, who acts as a legal supervisor and is also part of the Finnish National Human Rights Institution, together with the Human Rights Centre and its Human Rights Delegation.
- **THE NATIONAL CONTACT POINT (NCP)** which has been established as a committee on corporate social responsibility operating under the Ministry of Economic Affairs and Employment, and has the main responsibility for promotion of the OECD Guidelines for Multinational Enterprises.
- **THE NON-DISCRIMINATION OMBUDSMAN** who also acts as the National Rapporteur on Trafficking in Human Beings, and functions as an autonomous and independent authority.
- **THE OMBUDSMAN FOR EQUALITY**, who monitors the Equality Act and provides information on discrimination based on gender, gender identity, and gender expression. The Ombudsman for Equality can order compensation for discrimination according to the Equality Act, ranging between 3,740 and 18,690 euros. The victim has to claim such compensation in the district court. (Ombudsman for Equality of Finland.)
- **THE NATIONAL NON-DISCRIMINATION AND EQUALITY TRIBUNAL**, which is an impartial and independent judicial body appointed by the Government. The Tribunal supervises compliance with the Non-Discrimination Act and the Act on Equality between Women and Men (609/1986) both in private activity and in public administrative and commercial activities.

As part of the state-based grievance mechanisms, there are such key administrative bodies as:

- **THE LABOUR INSPECTORATE**, under the Occupational Safety and Health Divisions of the Regional State Administrative Agencies, the task of which is to monitor the working terms of migrant workers in Finland.
- **THE CENTRES FOR ECONOMIC DEVELOPMENT, TRANSPORT AND THE ENVIRONMENT (ELY CENTRES)** which deal with wage guarantee matters (also known as pay security), and which can be used to claim unpaid wages if an employer is insolvent.
- **THE NATIONAL ASSISTANCE SYSTEM FOR VICTIMS OF HUMAN TRAFFICKING** which operates as part of the Finnish Immigration Service and provides help, advice and assistance for trafficking victims, including victims of forced labour. The assistance system provides services to migrants who do not have a municipality residence in Finland, or who are undocumented. The assistance system can also grant a reflection period to a presumed victim of trafficking for one to six months if they do not have a valid residence permit in Finland. If the trafficking victim has a municipality of residence in Finland, the services will be provided by the welfare services administrative districts (hyvinvointialueet in Finnish). In that case, the assistance system will work in cooperation with the administrative district.
- **THE FINNISH IMMIGRATION SERVICE** which can provide residence permits to exploited workers and can sanction exploitative employers. Based on the Employment Contracts Act, the Finnish Immigration Service can impose a financial sanction of from 1,000 to 30,000 euros on an employer who has hired an employee who is staying illegally in the country. Based on the Aliens Act (301/2004), the Immigration Service can issue a residence permit for migrant workers who have an existing right to reside in the country, and who have been exploited at work in Finland.
- **THE STATE TREASURY** is responsible for State compensation to crime victims and can consider paying financial compensation for personal injury and suffering, property damage and financial loss, if this has not been recovered from the offender.

Non-state-based grievance mechanisms:

They include mechanisms administered by businesses alone or together with stakeholders, and by industry associations or multi-stakeholder groups. We are also addressing trade unions and non-governmental organisations (NGOs) under this category, since they can facilitate access to remedy through, e.g., negotiations or other relevant grievance mechanisms in cases of labour exploitation. Their role in supporting exploited workers allows the workers to obtain information and access to state-based grievance mechanisms, and they play an important role in the Finnish ecosystem for ensuring remedy for exploited workers.

- **THE CENTRAL ORGANISATION OF FINNISH TRADE UNIONS (SAK)** has a free helpline for migrant workers (including non-members) which provides information and support for workers on how to claim their rights: SAK employee rights hotline.
- **THE SOCIAL PARTNERS IN THE FINNISH CONSTRUCTION SECTOR** (the Finnish Construction Trade Union Rakennusliitto and the Confederation of Finnish Construction Industries Rakennusteollisuus RT) have been actively participating in the prevention of labour exploitation through, e.g., drafting guidance for companies and workers, organizing training for companies and workers, collaborating closely with authorities and victim support organisations, and establishing liability clauses in the collective agreement. The trade union has also recently established a tipoff function for labour exploitation.
- **OTHER KEY UNIONS** from the perspective of remedies in risk sectors include the Industrial Union (Teollisuusliitto) and the Service Union United (PAM). The Industrial Union is responsible for collective agreements for example in the agriculture sector. The union established a Foreign Labour Unit in Fall 2024, with the goal of attracting and involving members with migrant backgrounds in the union's activities.
- **THE NGO VICTIM SUPPORT FINLAND** provides support and help to exploited workers. Their role is particularly essential in taking the issue forward either to the police, the labour inspectorate or trade unions, and supporting the victim during the process. The organization provides a helpline for seasonal workers during the summer in collaboration with the Industrial union.

- **OTHER NGOS** relevant in the labour exploitation and trafficking context include the Finnish Refugee Advice Centre (Pakolaisneuvonta ry), MONIKA – Multicultural Women’s Association (Monika-Naiset liitto ry), and Pro-tukipiste ry (which works with victims of sexual exploitation in particular). Furthermore, the NGO Finnish Refugee Help (Pakolaisapu ry) has a Fair Labour function that offers advice, guidance and support in matters related to employment relationships.
- **GRIEVANCE MECHANISMS OF INDIVIDUAL COMPANIES**, which typically consist of (anonymous) whistleblower channels and internal reporting procedures. These are described in more detail in chapter 3.6.2.

3.4 State-based judicial mechanisms

THE FOLLOWING chapter explores the role of judicial mechanisms in addressing grievances related to labour exploitation. Courts and other judicial bodies provide a formal, legally binding process through which migrant workers may seek remedies in legal disputes or for crimes that may have been committed against them. The information is based on both existing literature as well as the interviews conducted as part of the project.

3.4.1. Pre-trial investigation of cases

ALTHOUGH FINLAND has more case law related to labour trafficking and labour exploitation than its Nordic neighbours, previous research and the media have identified recurring problems in the criminal process (see, e.g., Jokinen et al. 2023; Kimpimäki 2021; Koivukari et al. 2022; Schoultz et al 2023, Alvesalo et al. 2012; HS 25.4.2021). Underpayment of wages per se is not criminalised in Finland, but it can be subject to punishment under charges of work discrimination, extortionate work discrimination, fraud and extortion. According to studies by Hautala (2020) and Luoto et al. (2023), cases of underpayment of wages rarely result in a criminal procedure in the first place, which is linked for example to insufficient evidence related to discriminatory grounds, lack of understanding of indicators of discrimination and trafficking, or the prosecutor may decide for other reasons not to pursue charges, e.g., if the offence has exceeded the statute of limitations (see also Koivukari et al. 2022, 76-77). Indeed, several resolutions by the Parliamentary Ombudsman show that cases of labour offences often become time-barred at different stages of the criminal process (Hautala 2020, 29).



Several challenges connected to criminal investigation processes and criminal liability have been covered also in the media (HS 25.4.2021; see also HS 4.3.2022). Following the Helsingin Sanomat article in 2021, the Office of the Chancellor of Justice initiated an assessment and issued decision OKV/1233/70/2021 on whether the police acted without delay in cases of trafficking and exploitation and, in particular, whether the constituent elements of human trafficking were fully considered in the criminal investigation, its possible discontinuation and restrictions, as well as in the consideration of charges. This assessment led to improvements in the investigation of cases. (For more details about the role and powers of the Office of the Chancellor of Justice, see chapter 3.5.1.)

The interviewed experts also noted that despite some improvements, the police investigations continue to be overly long. The experts have witnessed cases that either get stuck in a backlog or are investigated in a hurry, or the investigation is closed. Research also shows that the quality of criminal investigations varies, and the outcome is unpredictable (Koivukari et al. 2022; Ollus et al. 2024). The efficiency and success of the process might depend on which police department or investigator is in charge, as pointed out by one interviewed expert.

"I do have very good experiences where the criminal investigation proceeds very rapidly, the investigation team is established quickly and is excited to get the case investigated. Everything is done, all coercive measures are used, and evidence is collected. So there are very good experiences as well. [...] But then there are totally opposite investigations, where the investigation has lasted long, witnesses may be heard only after 4 or 5 years, and then they may not be useful anymore."

– Lawyer

Another challenge related to the criminal investigations is that often exploited migrant workers, e.g., seasonal workers, simply return to their home countries before the investigation is finalized, and sometimes even before it is started. This significantly hinders their access to remedy, as pointed out by one interviewed victim support expert:

"It is an even worse problem with temporary workers and seasonal workers. The police cannot start a pre-investigation if the person has left Finland. Maybe if they are in the EU, but it's very resource-intensive and then that is not done either. But if they are outside the EU, then they wait [with the investigation] if the person would return."

– Victim support provider

Another barrier raised in the expert interviews was related to the way the police encounters and treats possible victims of exploitation. Also, recent research shows that the police sometimes lack sufficient victim-sensitive and trauma-informed methods, which can hinder victims from fully disclosing their experiences (Ollus et al. 2024). It is essential that victims feel that they are genuinely heard and encountered in the criminal process. This facilitates their sense of procedural fairness, no matter the outcome. Understandable, timely and sufficient communication about the criminal justice process, better planning of the process, listening to the victim respectfully and constructively, and good quality interpretation are crucial to ensuring access to justice and ultimately, to remedies for aggrieved workers. (ibid.)

Good practice: anonymous consultations by NGOs with the police

EXPLOITED WORKERS typically fear the possible consequences of reporting to the police, especially regarding its possible impact on their residence permit. One way to tackle this has been anonymous consultations by Victim Support Finland and other NGOs with the police before the client decides whether or not to file a report. In the meetings, arranged at a safe place, the police answers questions and describes the steps of a possible criminal process. If the client wants to file a report after the consultation, they are

informed about the risks that are included in the process, such as long processing times, risk of acquittal, and the possibility of not getting compensation even when there is a conviction.

ACCORDING TO a recent report, the experiences of these anonymous consultations have been very positive. Victims have expressed that they feel safe, and the police has treated them positively. The consultations have also provided valuable information that have led to pre-trial investigations.

Source: Ollus et al. 2024, 47; Halmeenlaakso 2024, 93–98.



3.4.2 Financial investigations, coercive measures and corporate criminal liability

RESEARCH SHOWS that financial crimes related to human trafficking and extortionate work discrimination are not always identified during the pre-trial investigation stage. This is problematic in terms of securing financial compensation for the victims at later stages of the criminal process. There are also different practices between different police units/districts regarding whether property is confiscated for security (*vakuustakavarikko* in Finnish), which ultimately affects the victim's possibility of getting financial remedy from the perpetrator/employer. (Jokinen et al. 2023; GRETA 2024a.)

According to the chapter 6 of the Coercive Measures Act (806/2011), the police may use different coercive measures to confiscate property for security for the payment of a fine, compensation or restitution on the basis of an offence, or of an amount declared forfeited to the State. A prerequisite for confiscation for security is that the property belongs to a person whom there are grounds to suspect in an offence or who may be ordered, as a consequence of an offence, to pay compensation or restitution or to forfeit an amount to the State. Additionally, there must be a risk that this person will attempt to evade payment of the fine, compensation, restitution or forfeiture by hiding or destroying property, fleeing or through other comparable means. While confiscation is traditionally used in cases of financial crime, it is also an extremely important tool in the investigation of cases of human trafficking and extortionate work discrimination, since it facilitates the payment of compensation to the victim after the trial (Ylinen et al. 2020, 47).

According to Chapter 10 of the Criminal Code of Finland, the financial benefit produced by the crime, i.e., the proceeds of crime, is forfeited to the State. An analysis of human trafficking and extortionate work discrimination convictions showed that the prosecutor rarely makes demands for recovery of the proceeds of the crime, even when such demands would be justified and the case concerns financially profitable criminal activity. Moreover, claims concerning proceeds of crime often cover only unpaid wages, but do not take into account the profit and savings that the employer has made through his/her unlawful actions. (Koivukari et al. 2022, 234-237.) Confiscation of assets also takes place very rarely during the pre-trial investigation, since the criminal investigation is often complex to start with, and the parties concerned are unwilling to complicate it more with details connected to the proceeds of the crime (*ibid.*).

According to chapter 9 of the Criminal Code of Finland, criminal liability extends to legal persons in the case of a number of offences relevant to labour exploitation, such as human trafficking (CC

chapter 25, section 3) and extortionate work discrimination (CC chapter 47, section 3 a), which means that also companies can be held accountable for their role and could be ordered to pay compensation to victims, as well as corporate fines. Corporate fines in such cases can range from 8,500 to 850,000 EUR (CC chapter 9, section 5). Research shows that corporate criminal liability is not always applied in cases of human trafficking and extortionate work discrimination, even if there would be grounds to do so (Koivukari et al. 2022, 229-231). The researchers recommended standardizing the approach, so that criminal liability of legal persons would be applied automatically in human trafficking investigations and otherwise when it is relevant (*ibid.*). This would significantly increase the likelihood of obtaining compensation for the victims.

3.4.3 Claims for damages and access to compensation

IN CONNECTION with criminal proceedings, the victim is entitled to claim unpaid wages as well as compensation for the damages according to the Damages Act (412/1974) (so-called compensation for suffering), as well as compensation for discrimination according to the Non-Discrimination Act (1325/2014), ranging between 3,740 and 18,690 euros (Finnish Ombudsman for Equality). The victim must state the damages and express his or her intention to claim compensation for them during the criminal investigation or at the court at the latest. Compensation may be claimed, for instance, for pain and suffering, other temporary or permanent detriment, and for medical costs. The prosecutor may pursue the claim for damages on the victim's behalf. Victims may also be entitled to receive State-funded compensation for the damages suffered. Applications for compensation are submitted to the State Treasury and it is, as a rule, paid for personal injury and suffering (Oikeus.fi 2021). In practice, a couple of thousand euros of compensation is granted in human trafficking cases.

According to Hautala (2020), practices concerning compensation vary in cases of work discrimination and extortionate work discrimination. In his analysis of 18 cases, the court ordered that the victims be compensated for unpaid wages and related delay compensation in a total of 12 legal cases. Compensation on the basis of the Non-Discrimination Act was claimed and ordered in only one of the cases analysed. Damages on the basis of the Damages Act were ordered to be paid in seven different cases; in five of them the defendants reimbursed the unpaid wages. In two cases, the defendants were sentenced to pay only damages (Hautala 2020, 27).

However, access to compensation and financial remedies is not actually guaranteed even if the victim wins the court case. After a guilty verdict, yet another possible stage in the process is enforcement proceedings through the enforcement authority, in order to actually obtain the damages from the offender. There is no mechanism that covers legal aid costs for the victims in the enforcement proceedings after the guilty verdict, which according to an interviewed expert is very problematic. Indeed, a few interviewed experts noted that many exploited workers have been disappointed when a long criminal process has resulted in a situation where the employer is convicted but the unpaid wages cannot be claimed.

“What often is a sort of a disappointment is when you have tens of thousands, over a hundred thousand worth of missing wages, and it turns out that those can’t be claimed from anywhere [...] that you’ve gone through the process over a long time and there might also have been all sorts of pressure and threats [towards the victim] during the process.”

– Lawyer

3.4.4 Civil litigation

CIVIL LITIGATION can also be used in cases of exploitation, for example to claim unpaid wages, also in situations where the wages could not be claimed in criminal proceedings. A civil case refers to a dispute between private individuals or corporations which is decided impartially by a court. The downside of civil litigation, however, is the risk of high costs if the plaintiff loses the case. The losing party typically has to pay their own and the opponent’s legal costs in the proceedings, and compensation for possible witnesses, which in total can amount to tens of thousands of euros.

Civil proceedings were discussed in only a few of the interviews, and it was not seen as a very effective mechanism in cases of labour exploitation. The available remedy in the civil process is the recovery of what the plaintiff claims, i.e., financial compensation and unpaid wages.

In practice, an exploited worker needs legal counsel to initiate civil litigation. Civil processes require an application and a court fee, typically 530 euros (Oikeus.fi 2024). State-paid legal aid is available for plaintiffs with insufficient funds. Trade unions can, however, provide legal aid for their members. For example, the Service Union United PAM provides legal aid in disputes related to employment or terms of employment within their sector, but this requires that the person

has been a member for at least six months before the start of the dispute and the membership fees are paid (PAM 2024). Before entering the civil process, the parties typically try to negotiate and settle the dispute instead of going to court. However, according to an interviewed lawyer, civil disputes regarding unpaid wages are rarely negotiated and more typically end up in court.

One victim support provider was of the opinion that going to civil proceedings without a trade union's back-up is "nearly without exception a bad thing for the worker", due especially to the risks of high costs if the plaintiff loses the case, and to the power imbalance between the worker and the employer.

"I know people who have had to pay tens of thousands since there has not been enough evidence and they have lost. The civil process moves forward faster than a criminal process and has typically shorter expiration periods. Many are often afraid of the employer, and the setting is therefore not equal. Quite horrible for that person [the victim] to sit as a negotiation partner. Nearly without exception they are pressured to sign an agreement, meaning that they get only a fraction of what they are owed. And there is always some sort of commitment to not demand more, even though the criminal process would proceed, and they get nothing. In my opinion, it [the civil process] suits the victims' situations very badly."

– Victim support provider

Interviewed experts also mentioned the burden on the plaintiff and their counsel in gathering evidence, the lack of information or details regarding the case, and the fact that information is shared only at the hearing and not in advance. The interviewees also emphasized the importance of the counsel's expertise in such cases, for example in doing a proper risk assessment about the possible outcomes and the consequences of the process. One interviewed expert was worried that there are very few legal counsels in Finland who are familiar with both criminal and labour law.

Structural barriers for migrant workers

In criminal proceedings:

- Difficulties in detecting, identifying, investigating and prosecuting labour exploitation cases, including long and unpredictable processes and outcomes.
- Lack of victim-sensitive methods when encountering victims.
- Access to compensation from the perpetrator is limited due to insufficient use of coercive measures and insufficient confiscation of the perpetrator's assets.
- Cases of workers who have left Finland may not be investigated.

In civil proceedings:

- Risk of high costs if losing the case.
- Burden of proof.
- In disputes, trade unions provide legal aid only to their members.
- Not enough legal counsels are familiar with both labour and criminal law.

3.5 State-based non-judicial mechanisms

STATE-BASED NON-JUDICIAL MECHANISMS include a range of mechanisms which have different roles to play in the handling of cases of labour exploitation. These mechanisms exist at different levels of government: local, regional and national. In the Finnish case, most such mechanisms exist on the national level and deal with various complaints concerning perceived injustice. Institutions responsible for legal oversight can initiate assessment processes based on individual complaints or take action independently related to the implementation of basic and human rights. These state-based non-judicial mechanisms include the Non-Discrimination Ombudsman, the Parliamentary Ombudsman, the Office of the Chancellor of Justice, and the National Contact Point (NCP). In addition, this chapter covers administrative bodies, such as the labour inspectorate which monitors compliance with relevant laws, and bodies that handle for example wage guarantee and compensation claims.

3.5.1 Ombudsmen offices, the Chancellor of Justice and the National Contact Point

AMONG THE special ombudsmen, the autonomous and independent Non-Discrimination Ombudsman has several mandates related to promoting the rights of foreign nationals and migrants in Finland (Non-Discrimination Ombudsman of Finland). Firstly, the Ombudsman is tasked to advance equality and to prevent and tackle discrimination, including discrimination based on ethnic or national origin and citizenship. In 2023, the Non-Discrimination Ombudsman's mandate was expanded to include cases of discrimination in working life (the Non-Discrimination Ombudsman of Finland 2023). The Ombudsman can be contacted in cases of discrimination at work, and it has the mandate to investigate these cases and seek reconciliation between the parties. Secondly, the Ombudsman has a separate mandate to promote the position and rights of foreign nationals in Finland. Thirdly, the Ombudsman serves as the National Rapporteur on human trafficking and is tasked with monitoring anti-trafficking efforts in Finland. Due to limited resources to carry out all its different mandates, the Ombudsman assesses on a case-by-case basis whether and how they will handle an individual case coming to their attention.

"We can do a lot of strategic prioritization [...] whether it concerns individual cases or more general advancement, so our overall focus is on advancing societal equality. And when we handle individual cases and our resources are not enough to handle all of them, we similarly prioritize based on how an individual case advances equality at large in society."

– The Non-Discrimination Ombudsman's office

The Non-Discrimination Ombudsman receives hundreds of reports a year regarding discrimination in working life. However, only a handful relate to labour exploitation. Once every four years, the Ombudsman submits a report to Parliament on the realisation of non-discrimination. The number of cases of discrimination in working life is steadily increasing. In 2021 there were 226 contacts, in 2022 there were 261, and in 2023 there were 372 contacts (Non-Discrimination Ombudsman of Finland 2023, 14; Non-Discrimination Ombudsman of Finland 2024, 17).

When a case of discrimination is reported to the Ombudsman, it can provide counselling, investigate individual cases, and promote conciliation between the parties. The Ombudsman can also bring individual cases concerning discrimination before the National Non-Discrimination and Equality Tribunal or a court of law to

be resolved (Non-Discrimination Ombudsman of Finland 2022, 12). The Tribunal is an impartial and independent judicial body appointed by the Government. The Tribunal supervises compliance with the Non-Discrimination Act and the Act on Equality between Women and Men (609/1986) both in private activities and in public administrative and commercial activities, but the tribunal does not currently have a mandate to handle cases related to discrimination in working life. One interviewee saw this as a gap in the system.

"The Equality and Non-Discrimination Tribunal should have a mandate to handle working life matters [...] There's a contradiction that the Tribunal can handle matters related to equality in working life, but not related to non-discrimination."

– The Non-Discrimination Ombudsman's office

In its reports to the Parliament, the Non-Discrimination Ombudsman has raised concern over the Tribunal's lack of mandate, and argues that the mandate would strengthen legal protection, including of minorities, in working life (Non-Discrimination Ombudsman of Finland 2022, 16-17). One of the main procedures in discrimination cases related to working life is to promote conciliation. However, this requires that the party responsible for the discrimination admits this and agrees to corrective actions. This procedure may be more relevant for cases related to recruitment. An interviewed expert argued that when the discrimination involves a large amount of unpaid wages, it is not a viable solution, and compensation should instead be sought through judicial mechanisms. This, however, poses several risks for the plaintiff.

"We at the Ombudsman aim to advance reconciliation, but if it's not done then the Tribunal can be a great help [increasing] the willingness to reconcile. Some actors may trust that [due to the risk of high cost], the individual will never take it to court since they cannot afford to take the risk. It would be a large improvement to take working life matters to the Tribunal."

– The Non-Discrimination Ombudsman's office

Another problem with the current system is access to compensation. According to the Non-Discrimination Act, victims of discrimination have the right to receive compensation from an authority, employer or education provider or a provider of goods or services, if the prohibition of discrimination has been violated (Non-Discrimination

Ombudsman of Finland 2022, 15). The Non-Discrimination Ombudsman reports that compensation is very rarely granted in such cases, and claiming compensation is very difficult: victims must themselves summon the guilty party to the district court and claim compensation, even when the Tribunal has already concluded that discrimination has occurred (ibid.). As discussed above, civil proceedings involve the risk of high costs for the plaintiffs. For this reason, the Non-Discrimination Ombudsman recommends that the Tribunal should be given the mandate to order compensation to be paid in cases of discrimination (ibid.).

Regarding the role of the National Rapporteur on human trafficking, the Non-Discrimination Ombudsman receives around 5-10 individual cases related to human trafficking a year, including labour exploitation (email exchange with the office of the Non-Discrimination Ombudsman of Finland, 13 August 2024). The cases that come to the Non-Discrimination Ombudsman's attention often concern problems in the realisation of criminal liability; either no pre-trial investigation has been commenced, the pre-trial investigation takes too long, the victim was not identified, or the prosecutor did not find sufficient evidence (Non-Discrimination Ombudsman of Finland 2022, 77). In such cases the Non-Discrimination Ombudsman has offered counselling, conducted some of its own investigations over the years, made requests to other authorities for information, or given recommendations to the authorities regarding the case. The role of the National Rapporteur is to support access to justice in other mechanisms and thus does not act itself as a direct mechanism to access remedy.

"Related to the mandate of the rapporteur on human trafficking, we have very few individual cases, but we have received them sometimes and investigated them."

– The Non-Discrimination Ombudsman's office

As regards the mandate to promote the position and rights of foreign nationals in Finland, the Non-Discrimination Ombudsman monitors the conditions, position and rights of foreigners and promotes the equality of foreigners, and has the right to be heard in individual cases involving an asylum seeker or the deportation of a foreigner, can access the register of foreign nationals and has the right to be informed of all decisions made by the Finnish Immigration Service and the administrative courts under the Aliens Act (Non-Discrimination Ombudsman of Finland 2022, 91). The Non-Discrimination Ombudsman has, e.g., recommended that undocumented migrants who had arrived in Finland prior to 2017 should be legalized

(Non-Discrimination Ombudsman of Finland 2022, 99), and has criticized current government actions to narrow the rights of vulnerable migrants in Finland (Non-Discrimination Ombudsman of Finland 2024).

Despite the broad mandate and the partly also operational activities of the Non-Discrimination Ombudsman, some of the interviewees wondered whether migrant workers in truly vulnerable positions know about the possibility to submit complaints to the Ombudsman.

The Chancellor of Justice is an independent oversight institution which handles complaints concerning the authorities and public officials who have acted unlawfully or not fulfilled their obligations. With regard to human trafficking, in 2021 the Deputy Chancellor of Justice initiated an assessment of the police, following a large media article in the largest national daily newspaper, *Helsingin Sanomat*, concerning shortcomings in police investigation of trafficking (see chapter 3.4.1; HS 25.4.2021; see also HS 4.3.2022). The Deputy Chancellor of Justice's review found that the police had conducted an unlawful procedure in 12 of 50 cases (OKV/1233/70/2021). The Deputy Chancellor of Justice issued reprimands to the police concerning undue and unlawful delays in pre-trial investigations and requested an update in 2022 on how pending cases were proceeding (Office of the Chancellor of Justice of Finland 2021). The Chancellor's decision included recommendations to the National Police Board of Finland for action, and also resulted in the reopening of the investigation of several cases (email exchange with the office of the Chancellor of Justice of Finland, 19 June 2024).

In 2022, the Deputy Chancellor undertook a review of the extent to which the internal legality supervision conducted by the National Police Board of Finland itself accords with the law (OKV/2030/10/2022). In its annual report for 2023, the Chancellor of Justice presented findings from its review. Despite continuing challenges in investigations, positive development was seen, and the police had started corrective actions in respect of its internal monitoring. In addition, human trafficking investigations had been reorganized and the establishment of a national human trafficking investigation team had improved the quality and length of the investigations. (The Chancellor of Justice of Finland 2024.)

The Deputy Chancellor has also handled individual complaints and has issued two decisions related to extortionate work discrimination (OKV/1576/70/2022 and OKV/2030/10/2022) and to delay in providing residence permits to victims of trafficking (OKV/227/10/2022). In one of the decisions, the Chancellor raised concerns about how the police deals with complaints by foreign victims

of exploitation when they are unable to correctly identify the crime of extortionate work discrimination, even when the victim provides a well-structured request for investigation in Finnish, assisted by Victim Support Finland (OKV/1576/70/2022, 16-17). There is also a pending complaint concerning a migrant worker who filed a report to the police claiming unpaid wages, but the police did not initiate an investigation of extortionate work discrimination, fraud or usury (email exchange with the office of the Chancellor of Justice of Finland, 27 June 2024).

The cases discussed above indicate that in recent years the Chancellor of Justice has paid attention to the question of labour exploitation. Although his decisions do not directly lead to remedies for aggrieved workers, they are significant in structurally improving police practice and investigations.

Since 2023, the Chancellor of Justice has acted as the centralised external reporting channel for whistleblower protection in Finland. The Office of the Chancellor of Justice does not investigate reports but instead forwards them to the relevant competent authority, i.e., authorities or ministries responsible for the expertise area concerned in the reports. However, breaches may be reported only if they meet certain criteria.⁶ When it comes to labour exploitation cases, it seems that the channel is applicable only in cases of public procurement. In theory, such a case could, e.g., involve a situation where a public procurement unit in its procurement intentionally violates labour laws, while an internal whistleblower lacks an internal reporting channel through which he/she could safely report this misconduct. There is, however, no data on whether any of the 66 cases reported to the channel in 2023 have concerned labour exploitation (Chancellor of Justice of Finland).

The Parliamentary Ombudsman has the mandate to handle individual complaints related to authorities not fulfilling their duties. The Ombudsman does this by investigating complaints received, and by investigating on his own initiative potential illegalities or shortcomings. The Ombudsman also conducts on-site investigations, in particular in prisons, psychiatric hospitals, and units of the Defence Forces and Border Guard. The Parliamentary Ombudsman forms part of the National Human Rights Institution of Finland and has specific mandates to oversee international obligations concerning torture and the rights of persons with disabilities (Parliamentary Ombudsman of Finland). The Parliamentary Ombudsman can give an administrative caution and issue advisory or criticizing opinions. The Parliamentary Ombudsman can also give a proposal to rectify a mistake, propose the payment of compensation or propose reconciliation (EOAK/4343/2024).

⁶ See: Whistleblower protection | Chancellor of Justice (oikeuskansleri.fi)

With regard to labour exploitation, the Parliamentary Ombudsman has handled cases related to problems in police investigations after receiving complaints. In one decision the Parliamentary Ombudsman noted that a delay in investigating extortionate work discrimination, discrimination, occupational safety violations and other labour offences had led to the charges being dropped, since the statute of limitations was reached. The Parliamentary Ombudsman requested in his decision that the police henceforth improve its processes regarding investigations. (3 March 2015, 164/4/14.) The question of lengthy and unlawful delays in the investigation of labour crimes and labour violations has been repeatedly raised by the Parliamentary Ombudsman over the past 20 years (7 March 2018, EO-AK/6954/2017). In its decision, the Parliamentary Ombudsman suggested to the Ministry of Justice that the statute of limitations should be prolonged for labour crimes (*ibid.*). However, recent research on how to strengthen criminal liability in cases of underpayment concludes that changing the statute of limitations is not an easy solution and efforts should instead focus on better identification of labour crimes, swifter criminal investigations, and better securing of evidence (Luoto et al. 2023).

The Parliamentary Ombudsman has also dealt with cases of trafficking for the purpose of sexual exploitation. In one complaint by a victim of trafficking, submitted on the victim's behalf by the Non-Discrimination Ombudsman, the Parliamentary Ombudsman found that the victim had received insufficient assistance by the municipality. The decision resulted in the payment of compensation to the individual and further legislative amendments. (28 June 2019, EOAK/3489/2017.)⁷ In another case, the Parliamentary Ombudsman reprimanded the police for an unlawful delay in the investigation and requested that the State Treasury compensate the victim for the delay (6 February 2023, EOAK/388/2022). Both the Chancellor of Justice and the Parliamentary Ombudsman have the possibility to propose the payment of compensation to aggrieved persons in order to rectify a mistake or remediate a grievance, such as in the case EOAK/3489/2017.

⁷ EOA 3489/2017, Ihmiskaupan uhrien oikeuksia ja asemaa vahvistetaan lainsäädäntömuutoksilla (oikeusasiamies.fi)

An interviewed victim support provider outlined the importance of submitting complaints to the non-judicial state-based mechanisms in cases where the police or social services had not proceeded efficiently enough with their clients:

"We unfortunately often help clients submit complaints about inefficient police investigations. And we have received several decisions. Most of the human trafficking complaints handled by the Chancellor of Justice originate from us. If it's about social services, then it's the Parliamentary Ombudsman. We have made individual reports to the Non-Discrimination Ombudsman."

– Victim support provider

As the above analysis shows, existing legal overseers and Ombudsmen in Finland have dealt with cases of labour exploitation. These authorities can offer recommendations, advice and statements, but none of them have the mandate themselves to order compensation or corrective measures or provide direct assistance or legal aid to aggrieved persons. In order for cases to be dealt with by the legal overseers, there needs to be substantiated and detailed information, which can be provided only through formalized complaints (personal communication with the Deputy Chancellor of Justice, 21 May 2024). However, in order to file a complaint to these authorities, aggrieved migrant workers who perhaps lack sufficient language skills and knowledge of the Finnish system most likely need assistance by a victim support provider, NGO, trade union or other organization. Although complaints do not necessarily lead to direct remedies for exploited workers, complaints and the decisions by the legal overseers are important as a recourse in order to initiate improvements in the way that the authorities act and react. Complaints may thus have important ramifications for how authorities deal with future cases of labour exploitation, and for ensuring future remedies for exploited workers.

The National Contact Point (NCP) operating under the Ministry of Economic Affairs and Employment is responsible for overseeing the implementation of the OECD Guidelines for Multinational Enterprises on Responsible Business Conduct. The NCP serves as a non-judicial grievance mechanism, aiming for resolution of issues that arise relating to the implementation of the Guidelines (OECD 2023). The OECD argues that complaints submitted to the NCP are "usually cheaper, faster, and simpler than litigation, and the amount of evidence needed for the complaint to be accepted by the NCP is lower" (OECD Watch). Furthermore, the OECD argues that the process is less adversarial than going to court because the focus is on dialogue

between the complainant and the company in order to reach an agreement. However, the limitations include the fact that the process is voluntary for businesses, and that very few NCP complaint processes have led to an agreement between the parties. According to the OECD, only some 10% of complaints filed by civil society have resulted in an agreement (ibid.). In Finland, the NCP has been used only a few times since 2011 and at the time of the writing of this report only five cases are listed on the NCP's website. All of the cases concern Finnish multinational companies and their activities abroad; none of the cases relate to labour exploitation in Finland.

One interviewee pondered whether the fact that the NCP lacks an enforcement mechanism affects the number of reports received, since this may not motivate complainants to go through a cumbersome process and submit cases to the NCP when seeking remediation, if the only available result is that the NCP gives guidance to the multi-national enterprise (MNE) in question. Earlier research has pointed out that the NCP is inefficient in accessing remedy, especially since the State is not actively advertising it and there is hence a lack of awareness of this recourse (FRA 2020). In theory, the NCP could be used for cases of labour exploitation in Finland, if the complaint concerns a MNE that has not adhered to the OECD Guidelines and fulfils the general criteria for complaints to the NCP. In practice, the lack of enforcement mechanisms may hinder its effectiveness in providing remedy.

National human rights institutions (NHRI) have a special role in the UN Guiding Principles with regard to advancing access to remedy. The Finnish NHRI is comprised of the Finnish Human Rights Centre, its Human Rights Delegation, and the Parliamentary Ombudsman. The Finnish Human Rights Centre has a mandate to advance the UNGPs and business and human rights topics in Finland, provide expertise on the topic, and conduct research and awareness-raising (Human Rights Centre). They do not, however, deal with individual cases or complaints.

3.5.2 Administrative bodies

THE ENFORCEMENT AND MONITORING of individual cases related to employment is the task of the occupational safety and health authorities. The labour inspectors operating under the Occupational Safety and Health Administration under the Regional State Administrative Agencies supervise the right of migrant workers to work and ensure that the minimum labour conditions are met, including the provisions on working hours and pay. By monitoring the working conditions of migrant workers, the inspectors act as an important authority

facilitating migrant workers' access to remedy and guiding potential victims on to other authorities, trade unions, or NGOs. Individuals who identify or experience misconduct can receive advice through the Occupational safety and health authority's telephone counselling service. Inspections can also be conducted on request in the form of general oversight, keeping the requester's identity confidential.

Labour inspectors have the right to interview employees without their employer being present. They are obliged by law to report labour exploitation to the police, including cases of extortionate work discrimination, fraud, usury and human trafficking among other crimes (Act on Occupational Safety and Health Enforcement and Cooperation on Occupational Safety and Health at Workplaces (44/2006), section 50). They can refer victims of trafficking, if the victims consent, to the Assistance System set up to support victims of trafficking (Occupational Safety and Health Administration 2022). Labour inspectors have played a key role since the early 2000s in identifying labour exploitation and trafficking in Finland (Jokinen et al. 2023, 25-26) and have acted as a low threshold authority for identifying possible victims of labour exploitation (Ylinen et al. 2020). Labour inspectors work in close cooperation with the police and are involved in joint inspections and supervision.

"When a tipoff about labour exploitation is received, in southern Finland especially, the labour inspectorate is accustomed to request the police to conduct a joint inspection. This way the police would be able to start their investigation immediately. It saves time so that the labour inspectorate does not have to make a separate report which would end up in a queue."

– Authority

The labour inspectors cannot provide remedy as such for the worker but can act as an important entity in facilitating workers' access to remedy through other mechanisms. The inspectorate does not have a mandate to enforce payment of missing wages, or to fill out forms to claim unpaid wages. They can only give written advice or improvement notices to the employer to correct the issues in the future. The inspectorate is able to give a conditional fine to enforce the obligation, but this will not be enforced if the employer corrects the issue. However, an interviewee from the labour inspectorate recalled several inspections in which employers have paid previously unpaid wages based on the labour inspector's notice and have informed the labour inspectorate about the corrective actions. The amounts in question

have not been large, generally in the range of a few hundred or a thousand euros.

One mechanism that can be applied for compensation for unpaid wages is the wage guarantee or pay security, which applies in situations in which the employer has become insolvent. The application generally has to be filed within 3 months, and it can be filed either by the employee or a trade union on behalf of the workers. The Wage Guarantee Act (866/1998) was renewed in 2023 and now provides a longer application period for victims of labour exploitation. If the victim's employer or his or her representative has been convicted of human trafficking or aggravated human trafficking, usury or aggravated usury, work discrimination or extortionate work discrimination, claims must be submitted within three months of the final criminal conviction. Wage security claims are also paid even if there is no legally binding criminal conviction, but serious work-related abuse against the employee has otherwise prevented submission of the application for employment claims within the deadline. Claims must be submitted within 18 months of the end of the employment relationship. Also undocumented workers now have the possibility of applying for pay security. (Wage Guarantee Act chapter 2, section 5a.)

Despite these welcome changes to the Wage Guarantee Act, several problems remain. It is questionable whether migrant workers are sufficiently aware of pay security and the possibility to file claims (Ollus & Jokinen 2014). Additional problems include that the employer may not initially be insolvent, and the employer's insolvency may arise during the criminal process, when the employer deliberately gets rid of his or her assets. Exploited workers may also fear retaliation or pressure from the employer, if the latter learns that the client has spoken about the abuse to the authorities (Statement by Pia Marttila of Victim Support Finland 12 August 2022). Another issue is that the employer is informed about the content of the pay security application, and it must be indisputable unless there is a court conviction. There have been issues with bogus self-employment, and cases in which pay security has been denied since on paper the exploited worker has been self-employed.⁸ According to the most recent GRETA evaluation report, pay security does not apply to workers sent to work temporarily in Finland by a foreign employer (GRETA 2024a, 21).

From the perspective of remedies, it is important to note that victims of trafficking have access to specialised support and assistance, which victims of related offences lack. The National Assistance System for Victims of Human Trafficking is responsible for coordination of assistance to asylum seekers and undocumented migrants, while the 21 wellbeing services counties established in 2023 across the country are responsible for assisting victims who are legally resident

⁸ Discussed in an expert meeting, Reilu työ network 26 April 2024.

in a municipality. Victims of trafficking also have access to reflection periods and residence permit options. It is therefore of importance from the perspective of victims' rights whether a case of labour exploitation is identified and addressed as trafficking or as something else. In order to combat exploitation and ensure the realisation of criminal liability, the rights of victims of labour exploitation in situations where the case is not defined as human trafficking need to be strengthened (Jokinen et al. 2023). At the time of writing this report, Finland is in the process of preparing a National Referral Mechanism for better identification and referral of victims of human trafficking.

Residence permits are an important mechanism to strengthen the rights of victims of exploitation. In 2021, the Aliens Act of Finland was amended to include the possibility of issuing a residence permit in cases where an employer has engaged in exploitation. With this one-year permit option, a migrant worker with a work permit in Finland who has been exploited at work can switch to another employer without restrictions over their sector of work (Aliens Act, chapter 4, section 54 b). In 2022, a total of 20 such permits were issued, and in 2023 the total was 34 permits (email exchange with a representative of the Finnish Immigration Service, 8 March 2024). Moreover, if a foreigner applies for a permit for work in Finland and there are reasonable grounds to suspect that the employer intends to breach the immigration provisions, the residence permit is not granted. This does not affect the employee's chances of being granted a residence permit with another employer. The aim of these provisions is to support victims of exploitation even when a criminal investigation does not proceed. However, the low number of granted permits indicates that although the Immigration Service has made efforts to inform a significant number of clients about this possibility, the cost of the application may be a hindrance, or victims of exploitation do not recognize their own situation as exploitative (*ibid.*).

The Aliens Act has a special provision in chapter 4, section 52 a, under which a victim of trafficking in human beings may be issued a temporary residence permit if the residence of the victim of trafficking in human beings is justified for his or her participation in criminal proceedings. A residence permit may be issued on a continuous basis



if the victim of trafficking in human beings is in a particularly vulnerable position. A residence permit may also be issued to a victim of trafficking in human beings on a discretionary basis on humanitarian grounds, such as their vulnerable position (Aliens Act, chapter 4, section 52). However, residence permits for victims of trafficking in human beings (Aliens Act, chapter 4, section 52 a) are very seldom granted. According to a study by the Non-Discrimination Ombudsman, it is very difficult for victims of trafficking to receive a continuous residence permit based on their vulnerable position, and the threshold for what is considered a particularly vulnerable position is remarkably high (Kainulainen & Valovirta 2021). The Non-Discrimination Ombudsman therefore has argued that the Aliens Act must be amended so that it is sufficient if the victim is in a vulnerable position, instead of being in a particularly vulnerable position, as is currently required. The conditions for a temporary residence permit must be amended so that the rights of the victim of human trafficking as a party to criminal proceedings are secured during the entire criminal procedure (Non-Discrimination Ombudsman of Finland 2022, 90).

Structural barriers for migrant workers:

- **THE EQUALITY** and Non-Discrimination Tribunal does not have a mandate to handle non-discrimination matters in working life.
- **CLAIMING COMPENSATION** for discrimination is difficult (basically through court) and thus very rarely granted.
- **EXPLOITED MIGRANT** workers lack awareness about the different institutions and mechanisms, their mandates, and the possibilities to submit complaints to them.
- **IN ORDER** to make a complaint to the Chancellor of Justice or Parliamentary Ombudsman, a migrant worker typically needs the assistance of someone. The outcome of the complaint processes does not necessarily provide direct remedy for the complainant.
- **THE PROCESSES** to seek different forms of remedy, such as pay security and residence permits, can be complicated.

3.6 Non-state-based grievance mechanisms

NON-STATE-BASED GRIEVANCE MECHANISMS include mechanisms established by, administered by or associated with companies, such as a company's own (operational-level) grievance mechanisms, as well as multi-stakeholder initiatives. In this report, we also address trade unions as a grievance mechanism. In addition to trade unions, also NGOs provide support for victims of labour exploitation. In this chapter we are not addressing NGOs as a grievance mechanism per se. Instead, their essential role in facilitating access to different grievance mechanisms has been highlighted throughout the mapping.

3.6.1 Trade unions facilitating access to remedy

FINLAND HAS a relatively high level of organization of workers even though trade union membership has decreased during the past years. In 2021, the unionization rate was 55% of the labour force (Ministry of Economic Affairs and Employment of Finland 2023). Trade unions have traditionally served as a way to ensure protection at work in Finland. However, membership levels among migrant workers remain low, since many migrant workers are unaware of the role of trade unions in Finland, and of the advantages of union membership, which include, inter alia, better unemployment benefits and legal aid (Ollus and Jokinen 2014, 121).

Besides the criminal justice system, trade unions are the second main avenue used for seeking remedy in cases of labour exploitation. Assistance from and protection by trade union membership is widespread when dealing with labour disputes in Finland. Many interviewees mentioned their important and relatively efficient role in claiming unpaid wages, especially for their members. The interviewees emphasized that union membership is crucial especially in larger disputes and if the case leads to civil proceedings in court. For non-members, this depends on the trade union in question and on its case-by-case assessment whether to grant help also to non-members, and to what extent. Union interviewees emphasized that they use discretion in providing assistance to non-members or recently joined members.

"All of our help and also legal aid is discretionary, also if the membership hasn't lasted long enough. If we see that the case is so important and should be handled, we can make the decision to handle the case."

– Trade union

Trade unions face a dilemma: why would anyone pay for their membership if non-members receive the same support as members (Alho 2012; Ristikari 2012)? However, some of the unions do see that it is essential to monitor the working conditions of all workers, since the collective agreement is universally binding. Allowing for weaker rights in the case of some workers can lead to the weakening of the rights of union members as well. One trade union interviewee saw the provision of assistance to non-members also as a way to attract new members:

“We might help [non-members] when they first contact us, and many times after assisting them, the word spreads, and suddenly like 80 % [of the company’s employees] become members. It might bring up more cases and disputes for us to handle, but we see that assisting migrant workers here and there is also a way to attract them to become members. But officially of course we don’t help [non-members].”

– Trade union

Unions collaborate with migrant organizations in order to reach out to larger groups of people. According to the interviewees, collaboration with other civil society organizations works both ways: the union has the possibility of recruiting more members, and the workers have the possibility of receiving some level of assistance and advice from the union.

Unions primarily settle labour disputes through negotiation. One interviewed trade union expert noted that non-disclosure agreements were a concern regarding the negotiations and settlements between the trade union and the employer. Such agreements mean that the trade unions are not able to publish information on the number or the types of disputes they are dealing with or have resolved. This also means that some of the exploitation of migrant workers that takes place in Finland, and the ways of remediation provided, remain hidden. One interviewed representative of an authority raised a concern that some cases settled by the trade unions may in fact involve severe forms of exploitation which do not enter the criminal process since the wages are claimed through negotiations.

"I don't know how much trade unions report to police, so there might be quite serious cases and they may not necessarily be taken to the criminal process if they handle the claiming of unpaid wages. That is probably something that should be paid more attention to, because they do not rule out each other."

– Authority

Social partners play a significant role in establishing standards through collective agreements, monitoring of compliance and providing formal and informal grievance mechanisms to address issues related to labour exploitation. One of the trade union interviewees described how large, organized companies can be encouraged more easily to follow general collective agreements, but it is much more challenging to fix problems when it comes to non-organized employers and to migrant workers who are not trade union members.

"Whenever there's a non-organized company doing the exploitation, and foreign workers who are not union members – we have very little leverage and cannot really do anything anymore."

– Trade union

The unions collaborate with various entities, including NGOs such as Victim Support Finland, the authorities and employers' associations. This collaboration involves sharing critical information, e.g., on types of cases or emerging trends in order to enhance their collective efforts. The interviews with union representatives also raised discussions on how they support clients of Victim Support Finland in negotiating unpaid wages, giving tipoffs to the police and the labour inspectorate, as well as supporting the police in criminal investigations by providing estimates of unpaid wages. The active cooperation among these organizations can facilitate access to remedy and can be described as an unofficial multi-stakeholder initiative.

Based on the interviews, negotiations by trade unions with the employers tend to be a faster and a more efficient way to settle disputes, compared to the state-based mechanisms. One union representative said that as far as they can recall, in all cases where the union helped workers claim their unpaid wages, the workers were paid. However, there is no statistical information on how many such cases occur annually.



Good practice: Shop stewards monitoring working conditions in the construction sector

THE CONSTRUCTION TRADE UNION has a wide network of shop stewards⁹ in organized companies, who also monitor the working conditions of the employees of subcontractors. In the construction sector, some of the largest main contractor companies have established a practice according to which, in cases of suspicions of underpayment and non-compliance with the collective agreements, the shop steward raises this issue with the employer of the employee as well as with the main contractor of the site, regardless of whether the employee is a member of the trade union or not.

Workers can themselves contact the shop steward directly, or a proactive shop steward, based on site access control or discussions with workers, may take up a case in which he or she

suspects the employer of, e.g., excessive overtime or underpayment. In case of a suspicion about unpaid wages, the main contractor typically withholds the payments to its subcontractor until the employees are paid what they are due. This places pressure on the subcontractor to pay the wages. According to a trade union interviewee, this practice usually leads to correcting unpaid wages.

Furthermore, the collective agreement in the construction sector has a liability clause regarding the use of external labour (Ulkopuolisen työvoiman käyttöä koskeva sopimus, UTS in Finnish), which can be used under special rules if a subcontractor has not paid its employees. The clause states that the contractor is ultimately liable for ensuring that the employees of a (direct) subcontractor receive their wages and other contractual payments. However, this needs to be claimed by the fourteenth day after the payments should have been made.

(The Finnish Construction Trade Union 2022, 74.)

3.6.2 Corporate grievance mechanisms

BASED ON publicly available information, the most typical grievance mechanisms in Finnish companies are internal processes related to reporting to managers as well as whistleblower channels (Tran-Nguyen et al. 2021; Davis & Haapasaari 2024). There is, however, not much public information regarding the remediation policies and practices of Finnish companies.

For the purposes of this report, the sustainability reports of six Finnish companies for the years 2022 and 2023 were assessed based on what they disclose about their grievance mechanisms and remediation. The information is summarized in Table 1 below.

⁹ Shop stewards are union members elected as the workers' representatives in dealing with the leadership of the company.

Disclosure on grievance mechanisms			Disclosure on remediation	
	2022	2023	2022	2023
S Group (retail)	Whistleblower channel, open to external and internal stakeholders. 47 complaints reported in 2022. Mention of external mechanisms, the Board of Trading Practices in the Food Supply Chain channel; and amfori BSCI channels.	Whistleblower channel, 59 reports received in 2023. Other mechanisms disclosed include the channel provided by the Board of Trading Practices in the Food Supply Chain and amfori BSCI channels.	Two cases of remediation related to repayment of recruitment fees paid by migrant workers in Thailand, in S Group's supply chains.	No cases of remediation, but one report from amfori BSCI's reporting channel that continues to be under investigation in 2024.
Kesko (retail)	Whistleblower channel. 37 complaints in 2022.	Whistleblower channel. 78 reports in 2023.	No disclosure on cases of remediation. In amfori BSCI audits, deficiencies related to working hours and social management systems. 11 contracts terminated with suppliers due to insufficient corrective measures.	No disclosure on cases of remediation. In amfori BSCI audits, deficiencies related to working hours and social management systems. 10 contracts terminated with factories due to insufficient corrective measures.
Valio (dairy and food products)	Whistleblower channel for internal and external stakeholders. Total of 34 reports in 2022, of which 28 through the channel. One suspected case of human rights violation in the supply chain.	Whistleblower channel. 49 reports in 2023. Internal reporting procedures to own supervisor, HR director, legal, or risk management.	No disclosure on cases of remediation. Regarding the berry picking case, a description of what corrective actions Valio has taken, but no mention of remedy to the berry pickers.	No disclosure on cases of remediation. Regarding the berry picking case, further descriptions of Valio's corrective actions, but no mention of remedy to the berry pickers.

	Disclosure on grievance mechanisms		Disclosure on remediation	
	2022	2023	2022	2023
Fazer (food products)	Whistleblower channel for internal and external stakeholders. 36 reports received in 2022. Additionally, Child Labour Monitoring and Remediation System in place.	Whistleblower channel. No disclosure of number of reports. Additionally, Child Labour Monitoring and Remediation system in place.	No disclosure on cases of remediation. The Child Labour Monitoring and Remediation system provides prevention and remediation support.	No disclosure on cases of remediation.
YIT (construction)	Whistleblower channel for internal and external stakeholders. 12 reports received in 2022. In addition, reporting through shop stewards.	Whistleblower channel. 10 reports received in 2023. In addition, reporting through shop stewards.	No disclosure on cases of remediation.	No disclosure on cases of remediation.
SRV (construction)	Whistleblower channel. No information on number of complaints.	Whistleblower channel. 12 reports received in 2023. Additionally, internal procedures to supervisor and legal department.	No disclosure on cases of remediation.	No disclosure on cases of remediation.

TABLE 1: Disclosures in the sustainability reports of six Finnish companies regarding grievance mechanisms and remediation.

As can be seen from the table, most of the companies provide some information on their channels and mechanisms, but very little information on actual cases and possible remedies. The exception is retailer S Group and dairy and food production co-operative Valio. Valio describes a human trafficking case in the Finnish berry picking sector (see page 23–24 of this report) and discloses what corrective actions the company and the supplier have taken. For example, Valio will review their procurement policies and practices, and monitor the corrective actions taken by the suppliers. However, they do not disclose anything about remediating the berry pickers whose human rights

have been violated. (Valio 2023, 60.) In their 2023 sustainability report, Valio further discloses the actions that they have taken regarding the human trafficking case involving berry picking, but do not disclose anything about remediation to the berry pickers (Valio 2024, 64).

The S Group disclosed a case of recruitment fees paid by migrant workers that were observed in audits by the amfori Business Social Compliance Initiative (BSCI) in two factories in Thailand. According to the amfori BSCI process, S Group planned corrective measures together with other procuring companies and amfori BSCI. They report that the factories have started corrective measures; one has drawn up a repayment schedule, and the other has updated its recruitment policy. The S Group will further monitor the measures and a new audit will be carried out. (S Group 2023, 98.) In their 2023 sustainability report, the S Group discloses that they have received a complaint through amfori's Speak for Change mechanism regarding overly long working days, misconduct by employers and bad food quality at a factory in Vietnam. The S group reports that the investigation will continue with amfori and other procuring companies in 2024. (S Group 2024, 103.)



Example of a grievance mechanism: S Group's Whistleblower Channel

THE CHANNEL allows reporting any suspicions of misconduct, or any actions that violate S Group's ethical principles at S Group or its partners. The channel is one way of monitoring compliance and a way to gain information about any possible misconduct and violations and respond to them in a timely manner.

The channel can be accessed online, at <https://report.whistleb.com/en/sgroup>. There, S Group gives guidance on submitting a report. For example, a person does not have to have evidence, but the submission of untruthful reports is prohibited and can lead to consequences. The website refers to the Whistleblower Act regarding protection, but the S Group states that it is committed to similar protection regarding topics that do not fall under the scope of the Whistleblower Act.

In addition, the report can always be made anonymously. A third party is managing the channel, and the S Group has designated personnel who are involved in the processes.

The report can be made in English, Finnish, Swedish, Estonian or Russian. A person submitting a report will receive an ID and a password through which they can follow the case or answer possible additional questions. A person should receive confirmation of the submitted report within 7 days, and additional information about the process within 3 months of submitting the complaint.

The questions in the reporting form include:

- What is your concern?
- When did this happen?
- Where did it happen?
- Detailed information about the incident, such as date, time, place, people involved.
- Optional contact information
- Optional attachment

Source: S Group Whistleblowing or anonymous reporting

Overall, Finnish companies do not actively give public information about their grievance mechanism processes and cases of remediation. The SIHTI-study from 2021, commissioned by the Ministry of Economic Affairs and Employment, analysed the human rights performance of Finnish companies, based on the Corporate Human Rights Benchmark (CHRB) methodology. The study found that 68 out of the 78 assessed companies had some channels for reporting concerns and grievances. However, only 39 of 78 had channels that were open for everyone, i.e. also external stakeholders. The study also found that only one of the companies had disclosed information about their policies and processes regarding remediation. (Tran-Nguyen et al. 2021.) On a global scale, the most recent Corporate Human Rights Benchmark found that 91 % of companies have a grievance mechanism in place, but only 10 % of them have involved rightsholders in their design, and only 5 % aim to build rightsholders' trust towards

their grievance mechanisms. One way for companies to build trust is through providing information and explaining the processes, time-frames and expected outcomes. (World Benchmarking Alliance 2023.)

Similar findings have been found in Finnwatch's recent assessments of the human rights due diligence processes of a few Finnish companies, based on the UN Guiding Principles Reporting Framework created by SHIFT. The assessed companies include the Luhta fashion and apparel company, the Fazer food production company, and the Ahlström manufacturing company. For example, Luhta's grievance mechanism is based on the EU Whistleblower directive, and is available only in Finnish, English, and Swedish. It is open to Luhta's own employees, partners, and suppliers. Luhta does not provide information on how it handles complaints or assesses the effectiveness of their measures, or on its remediation processes. (Finnwatch 2024a.) The findings regarding Fazer are similar, except that regarding child labour, Fazer reports that its remedial plans are created on a case-by-case basis (Finnwatch 2024b). Fazer's reporting is also assessed in table 1. Compared to Luhta and Fazer, Ahlström's complaint channel is available in 14 languages, and in 2024, Ahlström started a campaign to encourage its employees to use the channel, leading to six times the number of complaints received compared to the previous year (Finnwatch 2024c).

There is a great variance in how much information Finnish companies provide about their grievance mechanisms and remediation. However, when compared to older reports, some development can be detected. For example, Oxfam's (Gore 2019) highly publicized report on tomato produce supply chains for S Group underlined a clear lack of access to remedy for the workers in the tomato supply chains, due to the very limited grievance mechanisms at the S Group and its suppliers. Based on the recent disclosures by S-Group (see table 1), the company currently provides a number of grievance mechanisms and has a clear approach to remedy.

One criterion for effective non-judicial grievance mechanisms is transparency, meaning that companies should disclose information about the performance of their grievance mechanisms so that stakeholders can evaluate their effectiveness (OHCHR 2011). According to Harrison et al. (2024, 8), however, companies typically 'provide vague and highly generalized information', which does not allow external stakeholders to properly assess the performance of the mechanisms. They suggest that the disclosure by companies on grievance mechanisms and remediation should cover the number and nature of reports, the processes through which they are handled, and the achieved outcomes for rightsholders.

One issue raised in an interview with a human rights expert was how Finnish companies should be much more active and transparent in reporting about their negative impacts, remediation and related processes. Another concern is the protection of the anonymity of whistleblowers and those who report, as outlined below by an interviewed human rights expert who reflected on corporate practices. Reprisals against those who report is a concern, although little is known about this issue.

"Based on the public reporting of companies it is not clear whether [corporate mechanisms] are inclusive enough for everyone. And regarding vulnerable groups, the accessibility [of the mechanisms] is a big question, and just generally to get information about the channels. It was very unclear how anonymity is protected and reprisals are prevented. It would be good to have something stated about these publicly."

– Human rights expert

There are some publicly reported examples of remediation, especially from the construction sector where larger companies have used their leverage in their supply chain to force subcontractors to pay the wages due to their workers (see, e.g., YLE 7.3.2024). In some cases, contracts have been terminated and additional purchases banned. However, these initiatives are more often based on voluntary participation. It seems that these types of remediating activities are not openly discussed in the sustainability reports of Finnish companies. This can be either due to lack of awareness of the links between labour exploitation and human rights in Finland, or because companies seem to lack a commitment to providing remedies when it comes to exploitation in their supply chain.



Public case of remediation: repayment of recruitment fees, 2023

IN AUGUST 2023, Barona, a large Finnish recruitment company, issued a statement regarding the repayment of recruitment fees to a number of Thai workers whom they had recruited from Thailand earlier in 2023. The company had used a Thai recruitment partner for the first time as a pilot project. The Thai partner had committed to not charging recruitment fees from the workers.

However, in an audit after the workers had arrived in Finland, Barona found that the workers had in fact paid recruitment fees, a violation of the agreement. The company terminated the collaboration agreement with the Thai agency, reimbursed the workers for the fees that they had paid, and reported the case to the police. The workers remained in Finland in their jobs.

The company also issued a statement regarding the case. This is a rare example of transparency and reporting regarding negative human rights impact and remediation in Finland.

(Barona 2023.)

One expert interviewee hoped that the upcoming enforcement authority related to the EU's Corporate Sustainability Due Diligence directive (CSDDD) will have a role in encouraging companies to update their own grievance mechanisms. It is yet to be decided where this national focal point will be placed, and how operational its mandate will be. Similarly, Harrison et al. (2024) highlight the need for legislation to require more transparent reporting on corporate grievance mechanisms.

In an expert meeting with Finnish businesses organized as part of this project, it became evident that workers in vulnerable positions very rarely report unfair treatment through corporate grievance mechanisms. Some companies stated that most suspected labour rights violations are identified through their own audits and in regular discussions with the workers. Building trust and dialogue with the

workers was seen as essential in order to lower the workers' reporting threshold. Some companies had had dialogue with workers during audits on the best ways to inform them about the mechanisms.

A central element of effective grievance mechanisms is involving the rightsholders who might use the mechanisms in their design and operations. Typically, however, stakeholders are not involved enough in operational-level grievance mechanisms (Saloranta 2024). One human rights expert interviewee discussed the challenges regarding vulnerable groups and the accessibility of corporate mechanisms, and the need to include vulnerable groups in the human rights work at companies. According to this interviewee, accessibility can be improved by designing and testing the channels and processes with different stakeholders and asking for their concrete feedback. More inclusive processes could also result in company-specific best practices and guidelines, which can be used to prevent possible violations.

Despite the lack of transparent reporting and the challenges, the grievance mechanisms of buyer companies have a theoretical potential for migrant workers in vulnerable positions who might lack knowledge and resources to navigate complex state-based systems, or who lack trust towards the authorities. Most importantly, the collective bargaining processes of buyer companies with shop stewards and worker representatives are an efficient way to facilitate (subcontractors') exploited workers access to remedy.





Good practice: Employment of victims of exploitation

ANOTHER FORM of remedy that was mentioned in a few interviews was the employment of victims of exploitation in company supply chains, e.g., by the main contractors in construction sites or in shipyards.

There are two public examples of companies which have not caused or contributed to exploitation but have hired victims of trafficking in connection with external projects (see, e.g., Jokinen et al. 2022, 71; Lassila & Tikanoja 2023).

In the first one, Victim Support Finland together with the trade union PAM, the Finnish Hospitality Association MaRa, and a group of Finnish companies (HOK-Elanto, Fazer Food Services, Sodexo Finland) launched a joint project to find work for exploited Nepalese cooks with responsible employers (HS 8 March 2020; National Assistance System's webinar on 13 April 2021). The project's objective was to provide as many of the Nepalese cooks as possible with fair work and the opportunity to get away from exploitative working conditions (Jokinen et al. 2022, 71). Similar cooperation has been implemented by the IKUT-project, Finnish Refugee Aid and Lassila & Tikanoja in the cleaning sector, regarding employment of victims of human trafficking (Lassila & Tikanoja 2023).

This has provided the exploited workers with a source of income and, in the case of long-term employment, a residence permit and fair work, which helps the worker to escape the perpetrator and responds to the fear of losing one's residence permit.

Structural barriers for migrant workers:

Trade unions:

- **STRICT MEMBERSHIP** requirements for receiving legal aid in disputes.
- **THE STANCE** of trade unions on assisting non-members or new members is unclear.
- **NON-DISCLOSURE AGREEMENTS** in settlements hinder transparency and the general awareness of the extent of labour exploitation.
- **CASES FULFILLING** the criteria of crimes may end up settled instead of being referred to the criminal justice process, which might provide certain rights to the victims that they are otherwise not entitled to.
- **TRADE UNION** oversight varies between sectors, and there is limited leverage over non-organized employers.

Corporate grievance mechanisms:

- **MECHANISMS DO** not necessarily fill out the effectiveness criteria, and may not be accessible for migrant workers, starting from what information about the mechanisms is shared and where.
- **POTENTIAL USERS** of the mechanisms, such as migrant workers, have not been involved in the design or operations of the mechanisms.
- **FEAR OF** reprisals for reporting grievances and uncertainty of the outcomes hinders reporting.

3.7 Conclusions

OVERALL, THE Finnish judicial system works well in theory and – on paper – has all the required elements for accessing remedy. In practice, however, significant barriers hinder exploited workers' access to effective remedy across various mechanisms.

The mapping shows that while there exists a comprehensive remedy ecosystem in principle, the potential benefits of the various mechanisms are not fully realised. This is first and foremost because the systems are difficult for migrant workers to navigate, and even more so for exploited workers in vulnerable positions who lack knowledge and means to seek recourse. While actions against labour exploitation have received relative prominence in Finnish government policies and practices compared e.g., to its Nordic neighbours, there is a continued lack of capacity and resources to enable the existing systems to be used to full effect. In addition, the mapping shows that Finnish companies, just like companies in the larger Nordic-Baltic region, are not sufficiently held to account for wrongdoings.

Although there have been major improvements in police investigations and prosecution of labour exploitation and trafficking cases in Finland, the criminal processes are still often unpredictable and slow. To enhance access to effective remedy, the judicial processes should be significantly shortened and access to compensation from the perpetrator ensured. The low likelihood of sanctions contributes to impunity, allowing perpetrators to continue exploiting workers.

Access to remedy is generally easier for those with residence permits and longer-term residence in Finland, compared to temporary residence. This increases the likelihood of reporting wrongful conduct by an employer as it is often linked with increased networks and awareness on rights and how to navigate within systems that make claiming rights possible. Currently, who obtains remedy and who does not is rather coincidental. Exploited migrant workers need to know which organisations - such as trade unions, NGOs or authority representatives – to approach. Often the first contact with the organizations is through a friend or someone from one's own network, who themselves had experiences with getting assistance or even remediation. Inspections by companies, the labour inspectorate and to some extent trade unions can also provide avenues for remedies, either through dissemination of information about workers' rights and available support services, or if leading to a start of an investigation by the union or the company.

Trade unions, NGOs and individuals that assist exploited workers are a vital part of access to remedy. They are central in enabling access to information on rights, which is critical in empowering migrant workers. Close multidisciplinary cooperation among the

key actors facilitates better access to remedy. For example, Victim Support Finland has received clients through trade unions and labour inspectorate in addition to the client's own networks. In other words, access to remedy happens more likely for those working for inspected employers or who have contacts that already know about navigating the system and where to seek support. Unfortunately, support from trade unions is typically accessible for members only, though some unions are increasingly assisting non-members as well. While it is not always clear when trade unions help non-members, evidence shows that in Finland their support is an effective mean to obtain remedies which most typically in this context refers to claiming of unpaid wages.

Comparing the findings of the mapping to the UN Guiding Principles on access to remedy and the Finnish National Action Plan on Business and Human Rights, it is evident that access to effective remedy has not been fully realised in Finland. Finnish companies publish very little information about their grievance mechanisms, processes, and remediation outcomes. Therefore, it is difficult to assess the effectiveness of their measures. Furthermore, potential rightsholders who could use these mechanisms are not able to assess the mechanisms if adequate information is not available regarding them. Large companies have substantial potential to influence their suppliers to address issues such as unpaid wages, as the examples from the construction sector show. The mapping was unable to identify or locate similar concrete business-initiated remedies in other risk sectors in Finland. A key recommendation is therefore that companies operating in risk sectors should strengthen their human rights due diligence processes regarding labour exploitation risks in Finland and provide for or participate in remediation when labour exploitation is detected in their own operations or supply chains.

4

Norway



4.1 Labour exploitation in Norway

MIGRANT WORKERS play an important role in the Norwegian economy and in meeting the need for labour. Norway has been an attractive country to work in, especially since the expansion of the European Union (EU) in 2004 and 2007 (Statistics Norway 2022). The country is known for having high wages compared to other countries in Europe, and it has therefore been a lucrative country for migrant workers to seek work. In 2022, around 170,000 temporary migrants came to Norway to work (Arbeidstilsynet 2024a).

In labour-intensive and lower-skilled sectors in Norway, foreign workers can be vulnerable to exploitation, which is a higher risk for migrant workers in general (Arnegaard & Davis 2019; Lingaas et al. 2020; Jokinen et al. 2023). Certain sectors are considered high-risk due to their precarious nature with short-term contracts, seasonality, and a large turnover of staff, such as construction, agriculture, fishing, cleaning, hospitality and transport (Brunovskis & Ødegård 2019; GRE-TA 2022; Raftostiftelsen 2018).

The labour market in Norway follows the “Norwegian model” and is characterized by tripartite cooperation between the trade unions, the employers’ organization, and the government. The model is based on the State’s universal welfare system, economic policies, and an organised working life, with the aim of securing high employment rates and minimal social differences (Regjeringen 2021). The

high degree of organization and the collective agreements that regulate the labour market have created a strong foundation for the parties in Norwegian working life to exercise their responsibilities and powers while having significant influence on the development of policies (LO 2024).

Although there is a solid framework of laws and regulations to secure decent and safe working conditions, the rules of working life are not always followed and there has been a negative development in recent years that compromises the rights of migrant workers (Davis & Pedersen 2020). Studies on exploitation in Norway have found that several types of violations occur on a continuum of exploitation, from irregular contracts, extreme work hours, wage theft, recruitment fees and exaggerated costs, to bad living conditions, dependent employment relationships, abuse of power, threats, and forced labour (Davis 2023; Brunovskis & Ødegård 2022).

The judicial mechanisms for labour exploitation have primarily been based on the provisions in the criminal code on human trafficking since 2004, until a new Wage Theft Law was introduced in 2022. The initial policy response to human trafficking in Norway was very much developed with the focus on victims of trafficking for sexual exploitation. This is reflected in the number of prosecutions for sexual exploitation, which far supersedes the number of prosecutions related to forced labour and may have resulted in a knowledge gap specifically on human trafficking for forced labour (Brunovskis & Skilbrei 2016; Lingaas 2022). It has also created a systemic distinction between the different forms of trafficking where victims who have been trafficked for prostitution have better access to their rights than persons who have been trafficked for labour, since it can easily be assumed that one is worse off than the other (Brunovskis & Ødegård 2022).

The legal provisions on human trafficking also cover forced labour and forced services. The latter includes begging, war service in a foreign country and organ removal for profit or other benefits (KOM 2024). Only eleven court sentences overall have been imposed in Norway for human trafficking for forced labour and for forced services, and three of these sentences cover forced labour only. Some of the other sentences mention forced labour and forced services together (*ibid.*). The threshold for applying the criminal code provisions on human trafficking in Norway is perceived by experts to be high (Økland Jahnsen 2014; Lingaas 2022; GRETA 2022; Jokinen et al. 2023; Davis & Haapasaari 2024). Moreover, the low number of criminal cases has caused doubt about the efficiency and swiftness of the response of the authorities (Lingaas et al. 2020).

It can be challenging to identify the severity of exploitation in individual cases, and where the demarcation lies between forced labour and severe labour exploitation. Experts often refer to a grey area between the provisions on human trafficking and severe exploitation. Even though the wage theft act has been introduced to lessen the grey area, it does not fully cover remediation for the harm inflicted on victims of severe exploitation. As a result, a significant number of victims do not currently receive proper support in terms of services and compensation (Caritas 2024; Jokinen et al. 2023; Brunovskis & Ødegård 2022; Davis & Pedersen 2020). In order to fill this gap, there has been some discussion for a while to enact a criminal law provision that captures severe exploitation without the element of force, and the Government is conducting a public hearing on this matter in 2024 (Brunovskis & Ødegård 2022; Ministry of Justice and Public Security 2024; Arbeidstilsynet 2024a; Fair Play Bygg 2024; Caritas 2024).

Since Norway does not have a National Referral Mechanism (NRM), a framework to coordinate support for victims of trafficking that has been recommended to be established in each country, and the authorities have not published official data on the number of presumed victims since 2016, it is difficult to give a good estimate of the true numbers of victims of human trafficking (GRETA 2022). However, there are indications that trafficking for forced labour is increasing, although identification of victims has gone down, a trend that has been linked for instance to the swift deportation of foreigners under the immigration regime without proper screening for human trafficking (GRETA 2022). Currently, there are a few non-governmental organisations (NGOs) that are assisting possible victims who voluntarily report to the National Co-ordinating Unit for Victims of Trafficking (KOM), a unit established by the authorities to drive the overall inter-agency and interdisciplinary cooperation (GRETA 2022). Norway does not have an independent national rapporteur on human trafficking, although this has previously been recommended, since it has proven to be a success in driving the response at the level of both policy and practice in such countries as Finland (Arnegaard & Davis 2019; Jokinen et al. 2023; Davis & Haapasaari 2024).

The discussion on labour exploitation in Norway has in recent years been focused around two policy agendas, social dumping and work-related crime, both non-legally binding terms. The term social dumping is used to describe foreign workers who experience significantly worse wages and working conditions than native workers, which may include excessive work hours and bad living conditions. The term work-related crime refers to various forms of profit-motivated crime in the labour market that affect both the conditions and rights of workers as well as the welfare state and responsible business



enterprises (Davis & Haapasaari 2024; Regjeringen 2024a; Spanger et al. 2024). In its 2022 country assessment report, GRETA highlights the challenges arising when possible cases of human trafficking are frequently qualified as social dumping cases, which may result in victims not having access to services and free legal aid and subsequently do not receive the necessary assistance in seeking remediation through the courts (GRETA 2022, 41).

In 2022, the government introduced a National Action Plan against Social Dumping and Work-Related Crime (Departmentene 2022). An important finding related to these two somewhat overlapping policy agendas is that although the authorities recognise exploitation as a key form of work-related crime, it is not reflected in current policy documents, which fail to provide a clear definition of labour exploitation (Økland Jahnsen 2024, 3; Bjelland & Vestby 2017). Perhaps the prioritising of the work-related crime agenda has seen the rights of migrant workers suffer somewhat at the expense of efforts to tackle economic crime and organised labour market crime (Økland Jahnsen 2024, 3).

Among recent developments, new laws and regulations have been introduced to tackle labour exploitation. The Wage Theft Law was introduced in 2022, a type of criminal law that tackles the practice of wage theft in addition to labour law. The sentence can be up to two years imprisonment for ordinary wage theft and up to six years imprisonment for gross wage theft (FriFagbevegelsen 2022). Norway is the first country in Europe to legislate against wage theft, providing a criminal law provision which until now was to be found only in some states in Australia and the United States (ibid.).

Other recent developments include a stricter penalty framework for breaches of the Work Environment Act and the General Application Act (which deals with the general application of collective agreements) (FriFagbevegelsen 2022). In 2023, the government also introduced new regulations based on the Working Environment Act, on staffing companies and labour hire. The intention behind the regulations is to create a safer and more stable labour market by promoting more direct and permanent employment. The regulations come as a response to a significant increase in labour hire particularly in the construction industry over the last twenty years, a development that has had several negative consequences (Ørjasæter 2023). The regulations include a ban on hiring labour from staffing companies for temporary contracts in general, and a ban on labour hire from temporary staffing agencies on building sites in parts of Eastern Norway (Regjeringen 2023). The Government has also decided to develop a strategy against human trafficking to achieve a more coordinated and

predictable response for victims of human trafficking. The new strategy will be launched in spring 2025 (Regjeringen 2024b).

Norway has also followed international developments in the area of business and human rights, which saw a watershed moment in 2011 with the introduction of the international normative framework, the UN Guiding Principles on Business and Human Rights (UNGPs). The UNGPs outlines the three pillars of States' duty to protect human rights, businesses duty to respect human rights, and remedy. Subsequently, the Norwegian Action Plan (NAP) for business and human rights was adopted in 2015 as a national incorporation of the UNGPs. The NAP, which has yet to be updated, focuses heavily on Norwegian-related business activity in a global context, and it fails to mention the risk of labour exploitation of migrant workers in a national context, although such human rights violations also falls within the remit of the UNGPs. The NAP does, however, state that Norway has comprehensive human rights and compensation laws that can lead to economic compensation or redress in cases where human rights are violated (Davis & Haapasaari 2024).

The Norwegian Transparency Act was introduced in 2022, which follows an international legislative trend in the area of human rights due diligence laws (Deva 2023). It is a law that binds business enterprises to respect fundamental human rights and decent working conditions nationally and internationally, in consistency with the standards set out in the UNGPs and the OECD Guidelines for Multinational Enterprises. The law requires larger companies to conduct a human rights due diligence process to identify, prevent, stop or mitigate actual and potential negative human rights impacts that are directly or indirectly linked to the company's operations and supply chains. Larger companies must publicly report on their findings annually, and the law includes a clause that binds all companies to provide information upon request (Davis & Haapasaari 2024; Deva 2023). Further, companies can be sanctioned if they do not abide by the requirements of the law, which is enforced by the consumer authority. The authority also provides guidelines for how businesses report duties in their annual Transparency Act statement. In its list of circumstances that qualify as adverse human rights impacts, the consumer authority includes poor working conditions, social dumping, forced labour, insufficient wages and discrimination, all conditions that can affect migrant workers in risk sectors in Norway (Forbrukertilsynet 2024).

The overall responsibility for enabling exploited migrant workers to rightfully access remedy in Norway sits with the State, which has the duty to protect. However, other actors, such as business enterprises, also carry a responsibility to ensure access to remedy. The State provide financial support to a few NGOs which voluntarily

assist exploited migrant workers in seeking remediation. The starting point for this mapping is that human rights are actualised through the delivery of effective remedy for rightsholders as outlined in the UNGPs, human rights treaties and human rights law. Our aim with this report is to improve the understanding of how effectively grievance mechanisms are currently working for exploited migrant workers. Further, our recommendations are designed to support a remedy ecosystem that improves and becomes more aligned with the required effectiveness criteria of the UNGPs, so that the provision of effective remedy can become a reality for exploited migrant workers in Norway.

4.2 Methods and data

THE NORWEGIAN mapping was conducted by Tina Davis at Coretta and Martin Luther King Institute for Peace (King Institute). The key purpose of the mapping is to get a better overview of the different grievance mechanisms that exist for exploited migrant workers, how they function, and how the current system actualises access to remedy in practice.

The mapping is based on data collection using both secondary and primary sources. Twelve semi-structured interviews were conducted with fourteen experts from trade unions, authorities, policy makers, businesses, and NGOs. This allowed for a more in-depth understanding of the current practical application and challenges linked to the provision of grievance mechanisms to migrant workers in Norway. Representatives from the police, prosecutors and migrant workers were not included among the interviewees. The interviews took place between January 2024 and April 2024, and were conducted online.

An expert meeting in the form of a roundtable was organized as part of the project together with the Norwegian retailer, NorgesGruppen. The roundtable took place in Oslo in June, 2024 with twenty-seven participants primarily from large businesses and SMEs across multiple sectors as well as representatives from the authorities, NGOs, and a law firm. The focus of the presentations and discussions were how businesses work with the provision of grievance mechanisms and access to remedy, and challenges they face when working with remediation processes. Electronics Watch also presented their Principles for Worker-Driven Remedy. Insights from the discussions are utilized in the mapping.

Norwegian authorities were contacted in the mapping process to capture a better understanding of how they are involved in remediation processes linked to exploited migrant workers. The authorities include The Norwegian Parliamentary Ombud (Norwegian: Sivilombudet), the Equality and Anti-discrimination Ombud (Norwegian: Likestillings-og diskrimineringsombudet), Norwegian National Human Rights Institution (Norwegian: Norges institusjon for menneskerettigheter), the Consumer

Authority (Norwegian: Forbrukertilsynet) and the National Contact Point for Responsible Business (Norwegian: Norges kontaktpunkt for ansvarlig næringsliv).

4.3 Brief overview of grievance mechanisms

THIS CHAPTER presents an overview of grievance mechanisms that are available for migrant workers who experience labour exploitation in Norway. In the realm of access to remedy there is a remedy ecosystem that includes the different stakeholders, mechanisms and laws necessary to provide remediation in practice to exploited migrant workers. In alignment with the requirements in the UNGPs, Norway has a robust system of grievance mechanisms overall that consists of state-based judicial grievance mechanisms, state-based non-judicial grievance mechanisms, and non-state-based grievance mechanisms as outlined below.

The state-based judicial grievance mechanisms that exist in Norway are comprehensive for migrant workers who experience varying degrees of exploitation and whose right it is to have access to effective remedy. However, some of these mechanisms are more operational and well-functioning in practice than others when it comes to their application to labour exploitation cases. According to the UNGPs, it is the State's responsibility through effective policy, law and regulation to investigate, punish and redress human rights abuse that occurs (Ministry of Foreign Affairs of Norway 2015, 4). There are two tracks that can lead to remediation in cases of exploitation: a criminal law track based on several provisions and on criminal proceedings, and a civil law track in the case of labour violations that involve unpaid wages and other work-related disputes. Which track is used depends on the nature and severity of the human rights harm inflicted on the migrant worker.

Legal aid is not a grievance mechanism per se, but it is a necessity for exploited migrant workers in criminal proceedings and in many civil cases in order for their rights to be actualized, since court and administrative procedures are very complex. Legal aid is provided by NGOs, trade unions and pro bono lawyers. Free legal aid is currently limited to an initial three hours for victims of human trafficking, in order to help them decide if they wish to file a report to the police. As this process may take longer, one can apply to have the three hours extended. A human trafficking victim is then appointed a lawyer for the duration of the trial if a report is submitted to the police (GRE-TA 2022). Should the assessment of a case find that it does not involve human trafficking, all free legal aid disappears. In exploitation cases that are classified as social dumping or wage theft, an exploited

migrant worker is not entitled to free legal aid unless the person has had his or her employment contract illegally terminated (Brunovskis & Ødegård 2022). In such cases, a limited number of legal aid hours are given.

The judicial grievance mechanisms linked to labour exploitation include:

In cases of criminal proceedings involving human trafficking for forced labour (criminal code sections 257 and 258) and wage theft (criminal code sections 395 and 396):

- District courts
- Courts of appeal
- The Supreme Court of Norway

Judicial grievance mechanisms in cases of civil proceedings:

- The Conciliation Court (mediation institutions with limited sentencing authority)
- District courts
- The Equality and Anti-Discrimination Tribunal
- The National Insurance Court (independent tribunal)

State-based non-judicial mechanisms include:

- **THE PARLIAMENTARY OMBUD**, whose role it is to safeguard the rights of individuals in their dealings with public administration.
- **THE EQUALITY AND ANTI-DISCRIMINATION OMBUD**, a government agency under the Ministry of Culture with the main task of fighting discrimination and promoting equality in the workplace and elsewhere. Its role in this context is to give guidance to workers who may have been discriminated against on the basis of ethnicity.

- **COUNTY GOVERNORS**, who serve as intermediaries between the central and the local government, and who work to ensure that the decisions of Parliament and Government are implemented properly.
- **THE NORWEGIAN HUMAN RIGHTS INSTITUTION**, which is an independent public body established by Parliament to strengthen the implementation of human rights in Norway in accordance with the Constitution and national and international human rights laws.
- **THE NATIONAL CONTACT POINT (NCP)** provides information on the OECD Guidelines for Multinational Enterprises and the UNGPs, and it solves cases of alleged violations of the OECD guidelines independently of the government. The NCP is administratively placed under the Ministry of Foreign Affairs.

Administrative bodies related to cases of labour exploitation:

- **THE DIRECTORATE OF IMMIGRATION (UDI)** identifies victims of trafficking and grants a six-month reflection period with the purpose of allowing victims to break free from the perpetrators, and to make informed decisions about whether they wish to press charges. The reflection period allows a set of rights and support in the remediation phase.
- **THE NORWEGIAN LABOUR INSPECTION AUTHORITY** is a governmental agency under the Ministry of Labour and Social Inclusion, which has administrative, supervisory and information responsibilities. It performs inspections to ensure that the Working Environment Act and the General Application Act is followed.
- **THE SERVICE CENTRE FOR FOREIGN WORKERS (SUA)** is a collaboration between the Labour Inspection Authority, the police, the Tax Administration, and the Directorate of Immigration (UDI). The SUA helps migrant workers sort out the things they need in order to be able to work in Norway, such as registration certificates, residence cards, tax deduction cards, and a Norwegian identification number. The SUA also provides information.

- The role of **THE NORWEGIAN LABOUR AND WELFARE ADMINISTRATION (NAV)** is to provide social and financial security and to facilitate the transition into work. The NAV also ensures a wage guarantee, which means that should the employer become insolvent, employees are paid the wages, holiday pay and other payment for work that they are due.
- **CENTRES AGAINST WORK-RELATED CRIME (THE A-KRIM CENTERS)** are inter-agency collaborations between the Labour Inspecting Authority, the Labour and Welfare Administration (NAV), the Police Authority and the Tax Authority. The collaboration started in 2015 and currently has eight centres across Norway, which also collaborate with other authorities.
- Every **POLICE AUTHORITY DISTRICT** has a specialised human trafficking unit, and the police cooperate with several agencies and organisations in combating human trafficking.
- **THE NATIONAL CRIMINAL INVESTIGATION SERVICE (KRIPOS)** is a special agency of the Norwegian Police Service and has national responsibility for providing analysis and support to the police districts. It functions as a national competence centre for international work against human trafficking, and it leads the police's national competency group against human trafficking.
- **HUMAN TRAFFICKING SUPPORT OSLO (HTSO)** at the NAV office in the Grunerløkka district of Oslo provides assistance and support for possible victims of trafficking in the Oslo municipality. It also provides advice and guidance on matters related to human trafficking for NAV offices across Norway. In addition, HTSO collaborates with NGOs to ensure trafficking victims get access to services, and it provides housing and legal assistance for victims.

- **THE CONSUMER AUTHORITY** is the supervisory body of the Transparency Act. The Consumer Authority processes individual cases, including ones based on tips from the general public, and carries out inspections and checks on compliance with the Act.

Non-state-based grievance mechanisms are avenues which migrant workers can try to access when they have experienced exploitation. These include trade unions, non-governmental organisations (NGOs), industry partnerships and programmes, civil society partnerships, and corporate grievance mechanisms.

Some examples of Non-state-based grievance mechanisms:

- **THE JUDICIAL DEPARTMENT OF THE NORWEGIAN CONFEDERATION OF TRADE UNION (LO)** offers free legal aid in some instances to exploited migrant workers who are not members of any unions but who need support with wage claims.¹⁰
- **OTHER UNIONS** which are working on remedy in risk sectors include Fellesforbundet (FF), Norway's largest trade union in the private sector, which covers construction, restaurants and catering, transport, agriculture and aquaculture. The Norwegian Union of Food, Beverage and Allied Workers (NNN) and the Norwegian Union of General Workers (Arbeidsmandsforbundet), the members of which include workers in the cleaning sector, security, and construction and maintenance in the public sector.
- **NORWEGIAN CIVIL SOCIETY ORGANISATIONS** include the NGO ROSA Project, which was established under the Crisis Centre Secretariat, and serves as Norway's competency centre against human trafficking with a national trafficking helpline. They provide assistance to ensure that possible victims of human trafficking obtain crucial services, including information about their rights, legal aid, health care and shelter, and they assist in applying for a reflection period and asylum.

¹⁰ The LO has 23 trade unions which are affiliated with the organization.

- **OTHER KEY NGOS** supporting exploited migrant workers in obtaining access to grievance mechanisms and remedy are Caritas, the Salvation Army, and the City Church Mission, which provide different services such as aid, advice, shelter, and some legal assistance within their capacities. They have all received funding from the Ministry of Justice and Public Security in the past that is provided on an annual basis and follows an application process. The three NGOs mentioned here have established a collaborative forum together with Fair Play Bygg and others. In 2024 they sent a joint letter to the Ministry of Labour and Social Inclusion with suggestions on how to prevent wage theft and strengthen support for victims.
- **FAIR PLAY BYGG** is a membership NGO operating in the construction sector based on cooperation between industry organisations, companies and trade unions. They have a whistleblower mechanism through which anyone can report directly to them about cases of exploitation and work-related crime. They investigate cases and pass on the information to the relevant authorities, such as the labour inspection authorities, the police authorities, the tax authorities, and the Norwegian Labour and Welfare Administration.
- **JUSSBUSS** is a free legal aid clinic run by students that provides legal aid in several areas, including labour law. They help workers in cases of unlawful dismissal as well as wage theft (of wages and holiday pay), and work to strengthen the position of workers in legal disputes. Jurk is also a voluntary initiative mainly run by law students. It provides legal aid to women.
- Lastly, reference should be made to **CORPORATE GRIEVANCE MECHANISMS**, which often consist of external whistleblower channels and internal reporting systems for employees, as well as e-mail addresses for issues linked to the human rights due diligence law, the Transparency Act.

Within the Norwegian remedy ecosystem, exploited workers can in some instances access limited free legal aid paid by the authorities as mentioned earlier. However, there is a limit on the legal hours that they can access, and the number is often not sufficient for these types of cases, which are complex and challenging, an issue that has been highlighted and criticized by several of the participants in this study, as well as by researchers and other stakeholders (Brunovskis & Ødegård 2022; GRETA 2022; Stortinget 2024).

An independent committee published a report in 2020 containing recommendations based on an assessment of the current Act on Free Legal Aid. These are still under review (GRETA 2022, 16). The committee suggested that free legal aid should be prioritised in cases of wage recovery (Norwegian Government Security and Service Organisation 2020). The NGO forum mentioned previously has expressed in a joint letter that it is important to include this in a new Act on Free Legal Aid (NGO Forum 2024).

There are also other policies and laws within the remedy ecosystem, such as the Norwegian National Action Plan (NAP) for Business and Human Rights from 2015 and the National Action Plan against Social Dumping and Work-Related Crime from 2022, as mentioned in the introduction. The latter action plan has six key focus areas, which are: an organized working life and a strengthened tripartite system; the strengthening of labour rights; prevention of exploitation of employees; mobilisation of consumer- and procurement power; increased knowledge about social dumping and work-related crime; control and follow up in cross-agency cooperation; and international cooperation (Regjeringen 2022). The action plan sets out 35 initiatives to improve workers' rights and deter criminal activity, and a key priority is full-time employment and organization to protect against low wage competition and labour exploitation. Concrete suggestions to strengthen workers' rights are clarifying the standards for accommodation provided by employers, and strengthening the rights of employees when a company declares bankruptcy. The government is also considering criminalizing severe exploitation that does not reach the high threshold of human trafficking for forced labour (FriFagbevegelsen 2022).

The relevant laws and regulations linked to access to remedy can be split into criminal laws and civil laws. The main criminal laws are the Wage Theft Law as well as the criminal code provisions on human trafficking, sections 257 and 258.

For civil claims, the key laws are the Working Environment Act; the General Application Act; the Damages Compensation Act; the Dispute Act; the Equality and Anti-Discrimination Act; the Holidays

Act; the Immigration Act; the Law on Social Services in the Labour and Welfare Administration; and the Criminal Injuries Compensation Act.

The General Application Act, which is designed to ensure that migrant workers get equal wage and working conditions compared to Norwegian workers and in line with collective agreements, includes two regulations we wish to highlight, since they are relevant to the remedy ecosystem. The first, the Obligation to Ensure Compliance (Påseplikten), makes business enterprises which are either the main supplier or contractor, responsible for ensuring that the General Application Act is followed by their own organization and by subcontractors in sectors where the General Application Act applies, by allowing the companies to demand documentation from subcontractors (Arbeidstilsynet 2024b). The second, Joint and Several Liability (Solidaransvar) provides that a contracting company is responsible for ensuring that contractors further down the value chain pay wages according to the tariff. The Joint and Several Liability ensures that all contractors in a value chain are bound by a shared responsibility to make sure that employees receive wages by their employer according to the tariff. The only part of the value chain which is exempt from the responsibility is the buyer/contractor (Arbeidstilsynet 2024c).

Another relevant law is the Norwegian Transparency Act, a soft law that binds larger companies to exercise human rights due diligence in their operations and supply chains, and to provide information upon request. The Legal Aid Act is also relevant, since it states the conditions for free legal aid for exploited migrant workers who are in certain circumstances.

4.4 State-based judicial mechanisms

ACCESS TO justice is a crucial part of a State's duty to protect human rights. It is also vital that victims of serious crimes, such as exploitation and trafficking for forced labour, can access justice to have their right to effective remedy met. Norway has a quite comprehensive judicial system that addresses labour exploitation. However, several sources have identified barriers and weaknesses in the processes.

4.4.1 Pre-trial investigation of criminal cases

IN CASES of human trafficking involving labour exploitation, Norway is second among the Nordic countries after Finland when it comes to the number of convictions. In the years between 2003 and 2024, there were only three convictions in Norway for human trafficking for forced labour, and 54 convictions altogether for human trafficking, most of them concerning sexual exploitation (KOM 2024; Schoultz et

al. 2023). Between 2017 and 2020, there were only eighteen convictions for human trafficking altogether. There are several reasons for this low number, such as the very low percentage of possible victims who have been identified (Brunovskis & Ødegård 2019; United States Department of State 2021).

Norway has been criticised for its low identification and its unreliable identification system (United States Department of State 2021, GRETA 2022). In 2023, 27 cases of human trafficking were reported to the police, and eight of them were related to labour exploitation. There were no convictions for trafficking during the same year (KOM 2024). Some cases related to social dumping are re-qualified as lesser offences¹¹. According to GRETA, this could be due to insufficient knowledge of human trafficking among some police prosecutors and judges, and also due to a reluctance among police prosecutors to proceed with cases that are based only on evidence given by the victim (GRETA 2022, 25).

In cases where it could still be a question of human trafficking, this means that the victims can be deprived of several rights linked to assistance in the remedy process, such as rehabilitation, housing, health support, and other welfare benefits that come with the reflection period for potential victims of trafficking. Victims also lose access to compensation and a residence permit, and there is no recourse available once a case is re-qualified.

Another reason for the decline in cases of possible victims has been linked to swift deportations of foreigners by the police without proper screening for human trafficking (GRETA 2022). “Victims of human trafficking, by virtue of their status as victims of crime and of human rights violations, have the right to access to justice and effective remedies for any harm committed against them”, states a country evaluation report by GRETA (2022, 12). A report by the Oslo Regional Prosecution Office criticises the police for their lack of investigation and prosecution of trafficking cases (Thorenfeldt & Stolt-Nielsen 2022).

There are signs that the criminal code provisions on human trafficking for labour exploitation are underused (Brunovskis & Ødegård 2019). In addition to lack of competence among responders about such cases, victims may be afraid to seek help or to press charges due to fear of reprisals. In cases of severe labour exploitation that might qualify as human trafficking, the situations may be reported to the police and the support services in different ways. In some cases, the police or other authorities are notified about very bad working conditions or the employment of migrants with an irregular status and these reports prompt an inspection, while at other times cases are uncovered during an inspection or by the person seeking help

¹¹ Social dumping is a broad, non-legal category encompassing various violations of labour laws and regulations.

from one of the NGOs (Brunovskis & Ødegård 2019). Prosecutors may also hesitate to prosecute severe labour exploitation cases as human trafficking due to the high evidence threshold, and so they press charges for less severe offences that can guarantee a higher success rate (Brunovskis & Ødegård 2019).

NGOs participating in this study and which provide support to victims of severe labour exploitation that may amount to a criminal offence often have the impression that cases are not investigated by the police. Although the NGOs map and help prepare the cases, the police drop them because they claim the evidence is not strong enough. However, it is rare that workers who have experienced severe exploitation will have all the necessary documentation, such as time sheets, pay slips, and proper contracts, since one of the modus operandi of perpetrators is to not provide correct documents and sometimes to enter into verbal contracts (Brunovskis & Ødegård 2022).

As mentioned previously, Norway does not have a National Referral Mechanism (NRM), which has implications for the quality of identification and for an understanding of the number of victims identified each year, since there currently are no national statistics on the number of victims of human trafficking who have been identified. NGOs which assist victims report on a voluntary basis to the National Co-Ordination Unit for Victims of Trafficking (KOM).

In 2022, the new Wage Theft Law was introduced. This law could to a certain extent bridge the judicial gap between labour law violations and more severe labour exploitation that fall under the criminal code provisions on human trafficking (Davis & Haapasaari 2024). Wage theft is closely linked to social dumping and is defined as the payment of wages only in part or not at all; illegal deductions in wages; lack of holiday pay; payment of wages below tariff; and neglect to pay for overtime (UIO 2022). Workers who are affected by wage theft often lack a safety net and are not eligible for social welfare benefits, and so the consequences have a major effect on their lives (NGO Forum 2024).

The police have registered more than 250 cases of wage theft since the law was introduced in 2022. However, so far there has been only one conviction (NRK 2023). The burden of proof is on the exploited worker, and since the law was introduced, the police have dropped 90% of the cases, primarily due to the evidence threshold being so high and lack of resources to investigate (ibid.). Interviews with migrant workers in a study on recruitment and exploitation revealed that fourteen out of the nineteen workers interviewed had experienced wage theft (Davis 2023). Commenting on the recent Wage Theft Law, an authority interviewee says:

"Unfortunately, what happens is when they report a case of wage theft. I have had two cases [of wage theft] myself, which were referred to the Conciliation Court, because the police did not have capacity. Unfortunately, it is the foreign workers who become more vulnerable, because they go around in circles. They become a ball thrown from agency to agency, because no one is able to help them other than to provide advice."

- Authority



Although there is no data on wage theft, it is presumed to be the most common form of work-related crime. NGOs that provide services to vulnerable workers point to wage theft as being the most common reason why they are contacted. However, it is also important to note that many of the workers who experience wage theft may be victims also of severe labour exploitation (NGO Forum 2024).

The lack of proper investigation in cases of wage theft and human trafficking is a major deterrent for migrant workers to access remedy. Although victims can file a complaint for failure to investigate their human trafficking case to either the competent regional prosecution office or the Parliamentary Ombud, the former has received only one such complaint (GRETA 2022, 29). It is seen as a great challenge that cases of wage theft reported to the police are being dropped without investigation and that so few cases lead to punishment. Without sentences, the criminal code provisions will also not fulfil their preventative function (NGO Forum 2024). A representative of an NGO shared their experience of trying to engage with the authorities in wage theft cases:

"I think we have an extremely huge problem with the state not being accessible for the ones who wish to put forward a grievance. They are referred to a civil process to reclaim their money, which I would not call a grievance mechanism, only a possible attempt at getting remediation."

- NGO



There are ongoing discussions in Norway about the need for a new criminal law provision that would capture severe labour exploitation in the grey area that does not meet the threshold of human trafficking for forced labour, but which would capture other elements of exploitation besides wage theft. Finland has a legal provision on extortionate work discrimination and Sweden as well as Denmark has a law on human exploitation, which criminalises exploitation. The

argument is that a new legal category could lead to more prosecutions and convictions thus to remedy for victims of labour exploitation that does not fulfil the elements of human trafficking. At the same time, however, a new provision might entail a risk that the threshold for using the trafficking provision becomes even higher than it is at present.

The current government has signalled that it is considering new ways to ensure that employees who experience severe exploitation can obtain better support in claiming their rights, in order to lower the threshold for coming forward when they experience exploitation, and to criminalise more forms of exploitation (Fair Play Bygg 2022). This in turn will improve access to remedy and remediation for victims, and it will heighten the risk for perpetrators who seek to exploit workers.

Another barrier is limited access to free legal aid. In cases of wage theft, a person does not receive free legal aid, and several participants point to the overall complexity of the process. Some NGOs that provide support to exploited migrant workers may in some cases be able to provide legal aid, but their resources are limited, and it is also very much a question of chance who gets to know about their services. There is currently a political push for free legal aid to victims of wage theft. As a representative of an NGO points out:

"Today's system does not facilitate for persons who don't have resources. It is extremely psychologically and financially demanding to be in a situation of exploitation such as a wage theft case without knowing the language or having any money. If you have just had your wages stolen, it is nearly impossible to get into the system. You have to turn to voluntary initiatives to get help to cover your case in Norway. There is hardly any official aid available, only a few NGOs such as City Church Mission and Caritas which offer low threshold support."

- NGO

Lack of access to essential information about rights, and to translation and interpretation by qualified independent interpreters, are also possible hindrances. Without these, it is very difficult to access one's rights, since lack of language skills and lack of knowledge about the system makes it very challenging to communicate with the authorities.

For temporary migrant workers who are on a shorter seasonal visa or for workers from the EU who have not been paid their wages, it can be very challenging to seek remediation, because they may either

have to leave the country due to the expiry of their visa, or due to lack of money to stay in Norway while their case for claiming their wages is in process (Davis & Haapasaari 2024).

A report by NTAES, a national interagency analysis and intelligence centre, states that employing migrant workers makes it easier for employers to commit wage theft, since the employees often will have to return to their home country. Moreover, returning home makes it more challenging for them to try and claim the wages (NTAES 2020, 18). A representative of an NGO points out the difficulties in seeking remedy, especially for migrant workers who are in the country on short-term visas:

"It is very difficult for seasonal workers, because they are back in their home countries when they need remediation, as they are here only short-term, and may not get their wages before they have to travel back. And then they try to get hold of the money when they are back in their home country, which is extremely challenging because they may be on the other side of the world, they don't have the language skills, and they don't have knowledge about our system."

– NGO



The lack of free legal aid puts migrant workers in a very vulnerable situation if they are exposed to wage theft. According to research, many workers in general do not have a buffer account with extra money that amounts to wages even for a one-month period, particularly workers in lower-paid jobs, and immigrants are overrepresented in this category. This puts financially vulnerable workers in an even more precarious situation if they experience wage theft (Normann & Epland 2020).

In addition to the various rights that different laws trigger for the victim, there are also quite significant differences in the punishments, depending on which law is applied. Using the human trafficking provisions in the criminal code signals a certain seriousness of the crime committed, with sentences of up to 6 years on the basis of section 257, and up to 10 years on the basis of section 258. The Wage Theft Law can in theory lead to sentences of up to six years in severe cases (Davis & Haapasaari 2024). Breaches of the Work Environment Act or sanctions given by the Labour Inspectorate can result in imprisonment for up to one year, fines, or both. Similarly, breaches of the General Application Act can result in fines or a sentence of up to three years (Brunovskis & Ødegård 2019). The low number of prosecutions for human trafficking for forced labour and for wage theft creates a

crucial barrier in access to remedy for exploited migrant workers, and the status quo remains when it comes to the low risk for perpetrators.

Structural barriers for migrant workers:

- **A LACK** of identification of and investigations into potential cases of human trafficking and wage theft by the police, which makes it nearly impossible to access remedy through the criminal courts.
- **CASES UNPROCESSED** by the police for so long that both evidence and perpetrators may disappear before the cases are processed.
- **CASES DROPPED** by the police due to lack of capacity, which creates impunity for perpetrators.
- **LIMITED ACCESS** to free legal aid, and only in human trafficking cases and unlawful termination of employment contracts, but not for wage theft cases.

4.4.2 Financial investigations and confiscation

THERE ARE close links between financial crime, work-related crime, social dumping and other forms of crime, such as welfare crime, bankruptcy crime, fraud and tax evasion. All these illegal activities can overlap and affect individuals (Regjeringen 2024a).

In accordance with criminal code section 67, the profit or the value of a crime shall fully or partly be confiscated from the person who benefitted from the criminal act. The confiscation can be ordered even if the profit has been used. Criminal code section 68 allows the confiscation of all assets of value in serious crime cases with a large profit potential. This section can be applied if the criminal proceeds from the offence are deemed to have exceeded 150,000 kroner (approximately 13,000 euros) (Lovdata Inndragning 2024). Assets that are confiscated in criminal cases are transferred directly to the State Treasury. Since compensation in human trafficking cases is seen to be a priority, the court can decide that the confiscated assets will cover the claims of victims for compensation (GRETA 2022).

The court or the prosecutor can adjust the confiscation to the amount being paid as compensation to the offended party. Although confiscation is a criminal law response, national law does not classify

it as a penalty per se, but as a deterrent to the commission of crime (Lovdata 2024).

Since profit is key to organised crime, confiscation is an important tool in combating financial crime. The confiscation rates have been consistently low in Norway over the last twenty years (Stortinget 2023). A report from the Police Academy found that investigations linked to the money trail are often not prioritized due to low capacity and lack of competence among investigators and prosecutors. Even though the offenders are sentenced for a crime, they still end up keeping the money, since the profits are often not covered in the investigation (Politihøgskolen 2023). The Norwegian National Authority for Investigation and Prosecution of Economic and Environmental Crime (Økokrim) has admitted that they have not been effective in confiscating money and goods even though they have the mandate to do so (Norsk Byggebransje 2024).

One strategy to deter work-related crime is to increase the risk by more actively going after the criminal proceeds. With the current low risk of a criminal conviction in a human trafficking or a wage theft case, it is important to confiscate the profits. As a lecturer at the Police Academy says:

"Increased risk of identification is very important, but the police must become better at going after the money... if you let the criminals keep the profit then it is not a deterrent to get six months in prison if there are millions of kroner waiting in your cupboard. Then it's been an amazing hourly pay. And this is most likely money you will put into new crime" (Fair Play Bygg 2022, 24).

Confiscation of the proceeds of crime is mandatory, and GRETA has urged Norwegian authorities to ensure that property used to commit human trafficking or any proceeds from the crime is effectively seized (GRETA 2022, 29). A representative for an NGO says:

"I believe that civil forfeiture should also be used. That one has to lower the threshold for this and think that if you have a lot of funds that doesn't lead back to legal business, then there should be a presumption that it stems from illegal means. And then the State which collects these funds should probably think that ok, can we repurpose these collected funds instead of sending them directly to the Treasury, so that there is a fund or an arrangement for preventative initiatives, controls, and reparations."

- NGO

A recommendation to Parliament from the Justice Committee has proposed a broad range of initiatives to the Government on how to better prevent and tackle work-related crime. These initiatives include digital declaration of money that is being brought in and out of the country, introducing a QR code that registers all invoices, the establishment of a national register of business enterprises on which a judgment or administrative sanction has been imposed, and more (Stortinget 2024).

The government has announced that they will propose new regulations for civil forfeiture in 2024, which can have the potential to help combat work-related crime and labour exploitation if these regulations are designed, resourced and implemented effectively (Stortinget 2024). A new draft law, currently being circulated for public comments, deals with the prevention of crime and organized crime, and suggests lowering the burden of proof for confiscating money or goods, from having to be “proven beyond any doubt” that it stems from criminal activity to it “being shown to be likely” that it stems from such activity (Aftenposten 2024).

4.4.3 Claims for damages and access to compensation

ACCORDING TO the Council of Europe Convention on Action against Trafficking in Human Beings, victims of human trafficking have a right to compensation. The purpose of compensation is multifold: covering harm or loss caused by the perpetrator, reparation for injuries, access to justice as well as deterrence and punishment of traffickers. Compensation can also be seen as a recognition by States of their failure to uphold their human rights obligations (GRETA 2022).

Victims can seek compensation for financial costs or material injury and for non-financial costs or non-material damages from the offenders either in criminal proceedings or in civil action against them. For the latter, the person needs to remain in the country, which exploited persons in criminal cases often do not, once their case is finished. The fact that many victims leave after criminal proceeding ends is only one of several barriers to civil claims, together with high costs, lack of free legal aid and support services, and that the burden of proof regarding the damage is on the claimant (ibid.).

In an investigation, the prosecution seeks to secure evidence of negative financial and non-financial impact on the victim, such as loss of wages and suffering, which can form the basis for compensation and will be included in the charges (ibid.). In 2021, five victims in Norway received compensation from traffickers that amounted to a total of 446,000 kroner (approximately 37,000 Euros) (United States State Department 2023).

A new law for victims of violent crime, the Compensation for Victims of Violent Crime Act, entered into force in 2023, which allows victims also of human trafficking to seek compensation from the State for violent crime separately from court-ordered compensation. As long as it can be clearly demonstrated that a victim has suffered an injury to his or her life, health and freedom, this compensation can be granted regardless of the outcome of the criminal proceedings. One key change is that the victim no longer needs to apply for compensation if a court has already ordered compensation in a criminal case (Regjeringen 2024a). The new law supersedes a Compensation Act for victims of violent crimes that was deemed unpredictable, inaccessible and unfair (GRETA 2022).

Although it is not a formal requirement that it is determined in criminal proceedings that a person had been a victim of human trafficking, a person who is not is far less likely to receive State compensation (GRETA 2022, 21). Barriers such as long processing times prevent victims from receiving adequate and timely compensation (ROSA Project 2024).

In cases of wage theft, a recent proposal put forward in Parliament suggests that the State take over the responsibility to collect obvious wage claims on behalf of the victim, which several NGOs have advocated for, in order to balance out the relationship between criminal actors and vulnerable employees (Parliament 2024).

The Discrimination Tribunal deals with complaints about the implementation of the discrimination regulation. The tribunal can issue a fine in order to stop or correct the discrimination or can implement other measures to ensure that the discrimination stops and is not repeated. Further, the tribunal can grant compensation and financial recovery in working life cases, although this requires that the person has been able to document the financial loss. (Regjeringen 2024c).

4.4.4 Civil litigation

A MIGRANT worker whose job has been unlawfully terminated or who has not received his or her wages can bring a case to a civil court, and according to Norwegian law this will be regulated as a dispute. It is the responsibility of the employee to file a case for instance in order to claim unpaid wages. The first step for the claimant is to provide a written warning to the other party with a request that this party formulate a response within a reasonable time period in order to try and resolve the case outside of the court, thus avoiding the costs and lengthy process. If it proves impossible to come to a mutual agreement, the next step is to file a complaint to the conciliation council, where both parties have an opportunity to present their side of the

case. The conciliation council is primarily a mediation body which can decide on an outcome if both parties agree to this. If the documentation is not sufficient, then the council cannot provide a judgment. A decision by the council is not final and can be overturned by the court.

If the proceedings before the conciliation council do not lead to a solution or if the decision is not accepted by one or both of the sides, the parties can file a lawsuit with the District Court. In preparing the court case, the plaintiff decides what claims to present in court and on what evidence. Based on this, both parties prepare their side of the case. A lawyer will usually prepare the summons. After the preparations are completed, the plaintiff may not present further claims or evidence in the case. The next step is the main court proceedings. This is usually a verbal process in which the evidence is presented directly to the court. Both parties are allowed to present their side of the case, and then witnesses can be called. After that, each side will present their arguments, and then each side can comment or present questions to the other party. After this, the judge will review the case, and prepare and present the decision. This decision should be given within six months. After the judgment in the case, both parties have the possibility of appeal. It is up to the court of appeal whether or not to accept the appeal.

Civil litigation is one of the most common avenues for financial remediation if migrant workers have experienced exploitation in the form of wage claims or where wage theft is involved. An authority representative notes the following:

"It requires specialist knowledge to work with wage claims... You have to know where you can get something, so that you don't start a process that only gives the migrant worker a piece of paper in their hand and no money. They [the NGOs] are getting better and better at seeing where there are possibilities, where there is money and when there is a point with pressure and judicial steps and when there is not."

– Authority

Several of the informants point to the complex process involved in trying to reclaim wages or obtain compensation through the civil courts. Some NGOs provide support to migrant workers in preparing the documentation for their case and advising them on what is needed in the process. However, the NGO representatives point to how complicated civil proceedings are, that they are costly, and that it is a lengthy process that can take up to two years. And if a claimant

loses the case, there is also a risk that the person has to cover their own court costs as well as those of the other party.

Structural barriers for migrant workers in civil litigation:

- **VERY LIMITED** access to free legal aid, and only in the specific case of illegal termination of employment contracts.
- **THE NEED** to file a case personally.
- **COSTLY PROCESS** and the need to pay in order to file a case.
- **COMPLICATED PROCESS** with procedural rules that require advanced insight into the Norwegian system, and sufficient Norwegian language and other skills.
- **RISKY, SINCE** the claimant may have to cover the counterparty's court costs if they lose.
- **VERY LONG** processing time in the Conciliation Court, up to two years.
- **THE BURDEN** of proof is on the claimant who may never have had access to the necessary documents (contracts, time sheets, pay slips etc.) during their employment.
- **A DECISION** in favour of the migrant worker can be appealed by the employer, which prolongs the process. Also, if the case then goes to the district court, the migrant worker is required to have a lawyer, which they may not be able to afford.
- **A LACK** of free legal aid may result in impunity for perpetrators in the situation of appeals, and hinder access to remedy for the claimant who has filed the case.
- **A CLAIMANT'S** claim for wages will first be subjected to mediation. Even if claimants succeed with their claim, they often do not get the full amount.

- **IF THE** claim for unpaid wages has been successfully mediated or there is a verdict, another court fee has to be paid to the bailiff before the claimant can collect the money from the employer. However, the employer may not have the money that is meant to be collected.

4.5 State-based non-judicial mechanisms

THE NON-JUDICIAL mechanisms provided by the State are also an important part of the remedy ecosystem. These mechanisms were not discussed by the experts we interviewed, which suggests that they are not viewed as relevant or are not much-used avenues in cases where a migrant worker has been exploited, or that they are not well-known mechanisms in general.

4.5.1 Ombud offices, the National Contact Point and the Norwegian Human Rights Institution

THE PARLIAMENTARY Ombud has a mandate from Parliament to investigate complaints from citizens who claim that they have experienced an injustice or an error on the part of the public administration. The Parliamentary Ombud is also a preventive mechanism. The Ombud is appointed for a four-year term. The Ombud's office does not accept complaints related to cases that have been addressed in the court system. All the Ombud's statements about specific cases are made public on their website. No cases have been processed that specifically concern exploited migrant workers, although this is possible in cases where the authorities have not addressed a case in a sufficient manner (The Norwegian Parliamentary Ombud 2024).

The Equality and Anti-Discrimination Ombud is both a guidance and monitoring body that tackles cases of discrimination on the basis of ethnicity, gender, disability, religion, sexual orientation, gender identity, gender expression and age, as well as monitors how Norway fulfils its human rights obligation. Out of 2,405 requests that the Ombud received in 2023, 1,218 were related to working life; 159 of those concerned ethnicity (The Norwegian Equality and Anti-Discrimination Ombud 2024).

The Ombud also provides guidance on how to bring a case to the Equality and Anti-Discrimination Tribunal, which is a complaints body that issues legally binding decisions on discrimination cases in accordance with the Equality and Anti-Discrimination Act. The Tribunal can also award compensation. A migrant worker who has experienced discrimination due to ethnicity can complain to the Tribunal.

There is about a one and a half year waiting time to process a case through the Tribunal. The claimant must file a complaint personally, which is a barrier for temporary migrant workers who may have experienced discrimination because of their ethnicity in the form of getting lower wages than what they are entitled to. Commenting on challenges that migrant workers can experience, a representative of the authorities says:

"It seems that quite a few employers hire foreign workers to give them weaker terms and conditions, that this is the purpose of the employment. The core problem is that they are hired because they have a weaker negotiation position to begin with and lack knowledge about the rights in Norwegian working life."

– Authority

There are very few cases in general that go through the Tribunal.

The National Human Rights Institution (NIM) is an independent public body established by Parliament which has the legislative mandate to monitor the human rights situation in Norway. Their task is not to work with individual cases, but to provide expert advice and guidance to the State authorities so that they can best meet their human rights obligations. Until now, the NIM has not worked directly with cases related to exploited migrant workers. They have written a brief on the function of human trafficking rapporteurs as part of a discussion on possibly establishing this role in Norway, as has been done in some other countries, such as Finland (email exchange with NIM's office on 21 January 2024).

The National Contact Point (NCP) Norway is an independent expert advisory body made up of four independent experts, appointed by the Norwegian Ministry of Foreign Affairs and the Ministry of Trade, Industry and Fishery based on recommendations by business, trade unions and civil society organisations. NCP Norway also has a secretariat. One of the three key tasks of the NCP is to handle complaints in accordance with the OECD Guidelines for Multinational Enterprises, which provide a clear framework for dealing with complaints in the context of responsible business practice. In the process of dialogue and mediation, companies, stakeholders and rightsholders meet, and victims of adverse human rights impacts may have the opportunity to put forward their demands for change and remediation. Any individual with a legitimate interest in a specific case can file a complaint, which is often done by NGOs, trade unions, groups and individuals. As a non-judicial grievance mechanism, the national NCP can tackle issues taking place in its country involving multinationals,

as well as issues taking place in other countries involving multinationals headquartered in its country (NCP Norway 2024).

Often the NCP issues recommendations to companies on how they should do things in a way that is aligned with the OECD guidelines. This may be for the reason that the companies need to put in place mechanisms for remediation or fair grievance mechanisms in the company, or that they need to improve their due diligence processes and address deficiencies internally in the company. The NCP may recommend that companies agree to perform different investigations. NCP cases involve a very limited amount of financial compensation. The NCP may call for recognition that an error has taken place that needs to be corrected. Often when an agreement has not been reached during mediation, a final statement will be released by the NCP where the possible breaches that have taken place will be stated. This is also a form of remediation.

The Norwegian NCP has handled eighteen complaint cases since 2011, some of which were rejected (NCP Norway 2024). The NCP can be utilized as a grievance mechanism for cases of labour exploitation of migrant workers that occur in Norway. However, this has yet to happen.

"I think there is a tendency to accept a lot of similar cases in the contact points, and it is not the more complicated cases related to this matter that have been handled. When I look through the database, there are a lot of cases related to trade unions and that workers should be allowed to organize, and this is more common than migrant worker cases. And I would think that this is because you have those who are not in trade unions and then you have migrant workers, who if they speak up are in an even more precarious situation. They can potentially be sent out of the country or lose access to their livelihood, while if you are a worker in your own home country it is easier to raise a problem."

– Authority

Structural barriers for migrant workers

- **MIGRANT WORKERS** often lack information about the Norwegian system.
- **TO ACCESS** or engage with the offices listed above with a complaint or a case as part of a remediation process, an impacted migrant worker would need expert advice and/or professional representation, which is costly and not readily available.
- **NGOS THAT** provide support to exploited migrant workers may not be in communication with the non-judicial state-based offices.

4.5.2 Administrative bodies

THE DIRECTORATE of Immigration (UDI) is responsible for providing accommodation for possible victims of human trafficking who are seeking asylum (protection) or limited residency (KOM 2024). They may grant a six-month reflection period, residence permits and asylum to victims of trafficking in human beings. However, not all possible victims of human trafficking wish to apply for the reflection period and report their case to the police, which affects their rights in accessing remedy. A representative from the authorities says:

"If these people do not wish to apply for the reflection period, then their rights will not be triggered. And then it stops there. And we know that there are many who are afraid, who have a family who are being threatened abroad, so they choose not to report it, because they themselves are afraid. They just wish to get away from that environment and find another job, and then it is difficult for us to follow up."

– Authority

The Labour and Welfare Administration (NAV) is responsible for providing aid during the reflection period to victims of trafficking in municipalities across the country, and persons are entitled to benefits in accordance with the Law on Social Services in the Labour and Welfare Administration in the municipality where they are staying (KOM 2024). However, not all possible victims will receive support. According to a representative from the authorities:

"To trigger rights through NAV, there is a requirement of a valid residence permit. Many who are exploited in human trafficking do not have this... So we have used a clause in the Law on Social Services in the Labour and Welfare Administration, which is about advice and guidance, since this is the only right that one can access through NAV that doesn't require a residence permit."

– Authority

NAV also administers a mechanism through which migrant workers can apply for unpaid wages, the so-called wage guarantee. The purpose of this scheme is to ensure that workers are paid wages, holiday pay and overtime when employers are not able to pay due to the company becoming insolvent or due to bankruptcy. Workers who have had their contract terminated illegally can also seek support here. The worker must substantiate a claim by providing documents, such as employment contracts, pay slips, and deduction statements. If a worker is self-employed on paper even though the employment relationship functions as regular employment in practice, which in recent years has been identified as one modus of exploitation, the worker will not be able to access wage guarantee payments (NAV 2024).

The wage guarantee payment has recently attracted media attention due to the long processing time involved. It currently takes up to eighteen months to receive a payout, which can leave the person no other choice but to seek social welfare or take loans in the meantime, if they are eligible to do so, in order to cover rent and other regular bills (FriFagbevegelsen 2024; NRK 2024). This has further raised a political debate in which several Members of Parliament have criticized the current system. They have suggested further digitalisation of the process and the automatization of payouts in relatively straightforward cases (NRK 2024). Another point of discussion is the limitation period of 12 months in wage guarantee payments which, in order to secure proper legal protection for exploited workers, should be expanded in line with other financial claims that have a limitation period of three years (Frifagbevegelsen 2024).

Human Trafficking Support Oslo (HTSO) at the NAV in the Grunerløkka district provides assistance and support for possible victims of trafficking in the municipality of Oslo, and it provides advice and guidance on human trafficking related matters for NAV offices across Norway (KOM 2024). This is the only centre of its kind, since in Norway there is no national assistance system or a so-called National Referral Mechanism, as mentioned in the introduction.

HTSO also provides housing, and it assists in identifying victims of human trafficking and applying for the six months reflection period. Since HTSO does not do outreach work, it cooperates with NGOs, other government agencies and lawyers. Asked how common it is that the clients they support receive remediation, a representative of the authorities says:

"We see it as minimal. Most of the cases are dropped after six months, which means after the reflection period, and that is the end of it."

- Authority

The Norwegian Labour Inspection Authority is a governmental agency that has administrative, supervisory and information responsibility. Its goal is to ensure a healthy working environment for all, with safe and secure employment conditions. It works to prevent social dumping, and to identify and fight work-related crime. It monitors the working conditions of migrant workers through audits, inspections and investigations in order to ensure that the requirements of the Working Environment Act and other related acts are being met by employers. The authority also has ten internal human trafficking contacts spread across the country that provide training for their colleagues on identifying important indicators (KOM 2024). A representative of the Labour Inspection Authority explains:

"The big difference between the civil track and the non-state-based organisations is that we don't follow up employees. We follow up businesses. We do not cover all the needs of the persons we meet who are in a situation of exploitation, but we try to prevent and knock the employers who are exploiting them out of the game."

- Labour Inspectorate

The Labour Inspection Authority is an important grievance mechanism for migrant workers who may experience violations of the Working Environment Act. It may respond by giving business enterprises orders to correct situations within a given time limit. If the order is not met, it may impose fines of different sizes depending on the violation, with the aim of making it unprofitable to violate the Act. Further, it can shut down operations in cases of imminent danger, and report companies to the police for serious breaches of the Act.

What is most relevant for foreign workers is the opportunity we have to impose orders on employers to pay wages in arrears in sectors where we have a minimum wage. In those cases, we can order them to pay the amount that accords with the minimum pay per hour. This is number one. And number two is that we can order the employer to pay for overtime, and this affects all sectors, since this is a universal supplement to which everyone who is working is entitled.

– Labour Inspectorate

In cases where an order to pay wages is given, employers have to pay this into the employee's bank account and show proof of the bank transfer. It is not good enough to show that the amount has been set aside in order to be transferred by the bank. The employer has to provide proof of an actual transfer into a bank account in the employee's name. If the employer does not pay, an infringement fee can be imposed. The infringement fee goes directly to the State, and not to the employee.

Since the Labour Inspectorate Authority was given the mandate to order employers to pay back wages in 2022, the Authority has notified or issued 128 fines as of January 2024, and 84% of the fines had been fulfilled by the end of January 2024 (Arbeidstilsynet 2024d). In 2023, the authority reported 42 cases of work-related crime to the police (ibid.).

Migrant workers and other individuals can report poor working conditions and any wrongdoings in their own or other workplaces to the Labour Inspection Authority. If a migrant worker files a report online, they can do so confidentially, and after the report has been submitted, they can choose to have a dialogue with the Labour Inspection Authority through an online dialogue platform. The government agency receives more than 10,000 reports each year, and although each report is registered, they do not follow up all of them. Sometimes they may contact a company directly and demand that the company remedy the situation, or they may conduct an inspection (Arbeidstilsynet 2024). However, the migrant worker whose rights have been violated will not be informed about any possible consequences this has for the employer, as a representative of an NGO point out:

"I experience many asking me why the Labour Inspection Authority hasn't told them what they have done with the employer. They say 'I want to know.' Their experience is that they don't know what happens with the case. I experience that many have a need to know that their tip has been seriously addressed and that the employer has been sanctioned in one way or another, but they are unfortunately not allowed to know this."

- NGO

The agency does not keep track of the nationalities of employees whom they meet during their inspections, and therefore do not know how many inspections that concern foreign workers have been conducted and how many relate to national workers, although it is common to meet migrant workers when they inspect (Arbeidstilsynet 2024). One of the overall goals of the Authority, and one major inspection category, is specifically uncovering and combating work-related crimes linked to wage theft and poor working conditions. The authority performed 1,828 inspections focusing on such conditions in 2023. Their inspectors discovered violations at 630 of the companies they inspected (Arbeidstilsynet 2024). A representative of the authorities:

"If an exploited person is met in a way that makes them feel it was their own fault and that they should have known better, and that there hardly is hope because the system in Norway is so overloaded and we have so few resources, and that they don't have the right documentation, then this matters greatly for how the remediation progresses."

- Authority

The Labour Inspection Authority also provide information about rights, such as the Know Your Rights online campaign that lists all rights, obligations, laws and regulations for migrant workers in various languages. In specific cases where the government agency is being notified or their representatives meet migrant workers during inspections, they will provide information and guidance to potential victims of exploitation on how to reach other authorities, NGOs and trade unions which may assist them further in accessing remedy.

"I believe that in our context, it is important in what way a person is being met by the authorities, how you are being talked to, and that the information you get is not just correct, but also relevant and communicated in an understandable way. This is important, because it can determine how a case progresses."

– Authority

The Service Centre for Foreign Workers (SUA) is a collaboration between the Labour Inspection Authority, the Police Authority, the Tax Administration, and the Directorate for Immigration (UDI). SUA provides information about the rights of migrant workers and helps workers with everything that they need to work in Norway, including an electronic ID, D numbers¹² and national identity numbers (SUA 2024).

Although the Labour Inspection Authority, UDI, NAV and SUA all provide information to victims of trafficking for exploitation, GRETA has recommended that the authorities further strengthen the provision of information regarding rights, available services and how to access them, and that the information is provided in a language that the person understands (GRETA 2022, 52).

Although the Labour Inspection Authority is conducting more inspections now than in previous years and their mandate for giving sanctions has been broadened, NGO experts interviewed in this mapping did point out that responsibilities were frequently shuffled between the Labour Inspection Authority and the Police Authority, and that these authorities, including NAV, did pass on more cases to them even though NGOs operate with less resources and therefore have limited capacity. NGOs have raised a concern that the infringement fees imposed by the Labour Inspection Authority, which is a necessity to sanction employers, are not seen as an end solution by the Police Authority, which prevents serious labour exploitation from being reported. The NGO experts have suggested that clearer guidelines should be developed for when infringement fees should be imposed and when a case should be reported to the police. Further, they also raise the concern that infringement fees for breaches of the General Application Act may prevent the Labour Inspection Authority from also giving orders to pay back the wages that are due (NGO Forum 2024).

In their 2022 country assessment report, GRETA recommends that the Norwegian authorities, including the Labour Inspection Authority, NAV and SUA, increase their outreach work in order to identify victims of human trafficking for labour exploitation. This also includes more training and targeted awareness raising among migrant

¹² D number is assigned to foreign nationals without a Norwegian national identity number, and it is used as an identification to Norwegian authorities.

workers about risks and rights, to ensure also that human trafficking cases are not treated as social dumping cases, since this deprives victims of their access to remedy (GRETA 2022, 55).

Structural barriers for migrant workers:

- **NEED TO** have a valid residency permit to trigger rights through NAV.
- **POSSIBLE VICTIMS** of trafficking need to utilize the reflection period in order to access remedy. The reflection period requires them to report their case to the police, which many are afraid of due to reprisals to themselves and their families.
- **NAV'S WAGE** guarantee arrangement is slow in processing a case and paying out the money.
- **THE LIMITATION** period for wage guarantee payments is twelve months, which provides limited legal protection for exploited migrant workers.
- **THERE IS** a lack of transparency and engagement with the informant about how tipoffs are being followed up and addressed.
- **NOT SUFFICIENT** information available to migrant workers about rights, available services and how to access them.
- **LACK OF** clear guidelines for when infringement fees should be applied.
- **LACK OF** clear instructions for when the inspection bodies should report cases to the police.

4.6 Non-state-based grievance mechanisms

CERTAIN NON-STATE-BASED grievance mechanisms that are facilitated by trade unions, NGOs and business enterprises can be accessed in cases that involve labour exploitation. These mechanisms may offer various forms of support during the remediation process, and they are an important part of the remedy ecosystem that directly or indirectly facilitates and provides access to remedy for migrant workers.

4.6.1 Trade unions facilitating access to remedy

THERE IS a strong tripartite system in Norwegian working life that is based on cooperation between employers, unions and the government in order to seek improvements in different areas, such as the working environment and safety. Trade union membership offers protection and assistance in the form of legal and other support in cases of labour violations and disputes. In 2017/2018, Norway ranked sixth among countries in respect of the rate of unionization, after Iceland, Denmark, Sweden, Finland and Belgium (OECD 2020).

From 2008 to 2018, the overall number of members in trade unions increased by 238,000 organised wage earners. Of these, the number of occupationally active wage earners amounts to 98,000 (Nergaard 2020, 8). About 69 per cent of all workers are covered by a collective agreement, representing workers in both the public and the private sector (Arbeidslivet 2020). However, the number of employees who are covered by collective agreements in the private sector dropped from 63 per cent in 1998 to 52 per cent in 2017. The number also dropped in the categories of private production and private services (Nergaard 2020, 21).

Migrants who are members of a union are primarily workers who have residence status or have worked for a longer period in Norway. About two out of three migrants are not members of a union, and only 32% of migrant workers are organised, compared to 54% of workers in the native population (Fagbladet 2024). Some of the reasons for the low level of organization among foreign workers is that it is costly and that they in general lack trust in trade unions (NTAES 2020).

Workers have traditionally contacted trade unions when they have encountered challenges in their workplaces (Brunovskis & Ødegård 2022). The cohort of migrant workers who are working more temporarily in Norway, who are also the most vulnerable group, are often not members of trade unions. Also, there are usually no shop stewards or safety representatives at the workplaces where severe exploitation takes place (Brunovskis & Ødegård 2022). The temporality of certain visas, such as the seasonal visa, somewhat denies migrant workers the right to freedom of association, since there are currently no suitable union membership available for this group. A Norwegian health worker states: "The ones who are not members are the ones that need it the most: foreigners who don't know very much about laws and regulations, who have not attended school here and who take a lot of extra shifts." (Fagbladet 2024).

There is a difference in annual income between employees who are members of trade unions and employees who are not. The average annual income for trade union members is 341,201 Norwegian kroner (approximately 30,000 euros) while non-members have an

average annual income of 191,205 Norwegian crowns (approximately 16,000 euros) (Jussbuss 2023, 20).

Previously, it was not so common to offer free legal aid to migrant workers who are not organized, precisely because the attitude was that the possible risk of exploitation should be an incentive for them to become members. However, this has changed a bit in recent years.

"We have a societal responsibility to make sure that people are not exploited in their work situation in Norway, and we cooperate with the LO, so there is a possibility to get legal aid through our system even though you are not a member."

– Trade union

Migrant workers who are not members may contact trade unions for support if they have found information on the trade union's website or someone in their network has recommended that they contact a trade union. When unions are contacted about a specific case, they may do some initial investigations, contact the Labour Inspection Authorities, contact a company higher up in the value chain to try and get the case settled, or refer the case to the LO. An informant states:

"They don't contact us during the first year to ask for advice. It is probably easier to exploit the ones who have just arrived rather than those who have been here several times and have gotten familiar with the Norwegian system. But even after years, and this is especially with the summer seasonal workers, they can still be afraid of talking to us."

– Trade union

The Norwegian Confederation of Trade Unions (LO) has an initiative according to which their legal department provides free legal aid to support some victims of social dumping, and unions can refer workers to the legal department. This is based on a decision in a strategy against work-related crime and social dumping that the LO launched in 2018 (LO, 2018). If a worker is a member of a union, they will get support throughout the remediation process from start to finish.

However, for migrant workers who are not members, the unions will mostly be involved at the start of the remedy process when they receive a case and sometimes do an initial gathering of information, and either refer it on to the LO's service or in some cases try to settle it by contacting larger companies in the value chain. Due to the lack of organisation, particularly amongst the cohort of

temporary migrant workers, many of them who may be exposed to labour exploitation will quite possibly not be in direct contact with the unions at all.

"We should maybe also have a membership that is better suited for migrant workers. As I see it, we probably don't have the right package for them... We need a membership that covers their needs, which makes it possible for them to be members for a certain period and not have to pay a fee when they are not here. That could be one possibility. And when the employees come and sign their contracts, that it says something about remedy systems that exist and that there are organisations that can support them with their employment relationship."

– Trade union

The suggestion of trade union membership especially designed for temporary migrant workers, combined with employment contracts that include information about grievance mechanisms, remediation and organisations that can give assistance, offers measures that could provide better protection. Although the unions primarily are there to support their members, the effect of not supporting more workers experiencing labour exploitation will have an impact on their access to remedy. It also allows an unlevel playing field created by rogue companies to exist, which can affect responsible businesses.

4.6.2 The role of non-governmental organisations (NGOs)

SOME EXPLOITED migrant workers receive key support facilitated by civil society actors, such as NGOs, which also function as grievance mechanisms. As GRETA states: "Civil society, including NGOs, trade unions, diaspora organisations and employer organisations plays a vital role in enabling victims of human trafficking to claim compensation and other remedies." (GRETA 2022, 13).

The NGOs provide support to possible victims of human trafficking and labour exploitation in the form of advice and aid.

The ROSA Project (the acronym stands for Re-establishment, Accommodation, Safety and Assistance) operates the national human trafficking hotline and serves as the national competency centre against trafficking. When potential victims of trafficking are in the process of being identified, they are often referred to ROSA by different stakeholders. Rosa provides them with information about their rights and available services, and they contact a lawyer and an

interpreter who assist them with their case. When ROSA identifies a person as a possible victim of trafficking, a lawyer will submit an application for a reflection period to the Immigration Authority (UDI) directly or through the police, if the person so wishes. They also provide follow-up services and activities in the form of health care, legal assistance, language courses and vocational training and they provide housing at shelters across Norway through the organization, Krisesentersekretariatet.

Migrant workers who have experienced labour exploitation may also contact one of the other NGOs which voluntarily provide assistance in the form of advice and aid. For persons who are not identified as possible victims of human trafficking and are therefore not entitled to remedy in the form of rehabilitation services provided by the public sector, the services are few and scattered, since there are no subsidy schemes that cover the category of labour exploitation (Brunovskis & Ødegård 2022). Many exploited migrant workers who get in touch with the NGOs have often been rejected by the police or NAV first (ibid.). As a representative of an NGO says:

"If you have ordinary working life on one side and the human trafficking provisions on the other side, we work in the grey area between. There is a lot of dirt between there. When it comes to reaching the threshold for human trafficking, you hardly ever do. And in my experience, the element of force is often lacking and because of this, these people do not get any form of protection."

- NGO

The aid that the NGOs offer is not being provided by the public system, and some claim that the aid should be the responsibility of the public sector as opposed to being outsourced as it is today (Brunovskis and Ødegård 2022). Some of the key organisations that offer advice and aid are Caritas, the Salvation Army, and the Church City Mission, which all offer slightly different services that sometimes overlap, such as advice and guidance, free legal aid, and temporary accommodation. Although there also are some other organisations that provide assistance, one interviewee points to the limited support that currently exists:

"It is only the NGOs that do the work we do."

- NGO

The NGOs receive limited grants from the Ministry of Justice to provide assistance to exploited migrants, which takes the form of providing information to migrant workers about available services, mapping

their case, and supporting workers who want to claim unpaid wages, either with in-house legal advice or by connecting them with lawyers with whom the NGOs cooperate. The NGOs further provide support in reporting the case to the police. They may also provide help with housing, navigating the public system, claiming welfare support and more. Regarding what kind of assistance their organization provides to exploited migrant workers, an NGO representative states:

"Information, guidance, advice, and support with some civil legal proceedings, such as wage collection. So, in many ways we work a bit like the trade unions for the ones who are not organized... As a foreign worker one is more exposed to the risk of exploitation or injuries and death in the workplace, much higher than for Norwegians, so we provide aid for this group, which we call persons in vulnerable positions."

- NGO

Jussbuss, an initiative linked to the University of Oslo, is one of the voluntary initiatives that offer free legal aid in addition to JURK, Advokatvakten and others. In 2023, Jussbuss processed a total of 706 labour law cases, compared to 531 in 2022 (Jussbuss 2024, 25). Many of the workers who contact them are not members of trade unions. Most of the labour-related cases they get concern wage theft and termination of employment contracts. Jussbuss has received the impression that many of their clients in these cases have been without pay for several months, and therefore they have almost no ability to pay for a lawyer to claim their wages. At the same time, their legal issues are crucial for their overall welfare. Many of the migrant workers who contact them about wage theft have experienced social dumping, and Jussbuss believes that there is a great need for access to free legal aid in these labour cases (Jussbuss 2024).

In the interviews, it became clear that the NGOs experience an overload of cases and they have to make hard priorities in what they can take on, due to the limitation of resources. There is a need both to strengthen the assistance offered to victims of human trafficking as well as to develop more low-threshold support for migrant workers who experience severe exploitation. Both should be backed by long-term funding in order to ensure accessibility, predictability and continuity of support, and preservation of knowledge and experience to continuously strengthen and improve their function as grievance mechanisms.

4.6.3 Corporate grievance mechanisms

THERE HAS been increased interest in corporate grievance mechanisms in recent years due to the introduction of the UNGPs and the subsequent increase in corporate human rights responsibilities. According to the Work Environment Act, all companies in Norway with a minimum of five employees have to establish routines for internal complaints and whistleblowing. The routines have to include an encouragement to employees to report objectionable conditions, an explanation of the process of complaining, and an explanation of how the employer receives, processes, and follows up on the complaint. In addition, these routines have to be easily accessible to the employees.

There are two types of grievance mechanisms established by business enterprises. Corporate grievance mechanisms (CGM) are operated without any intervention by the State (Harrison, et al. 2024), and at a production level, there are operational grievance mechanisms (OGMs), which are linked to the day-to-day operations of a company and through which individuals or a group can complain or raise concerns and seek remedy. OGMs are often designed to also address broader concerns and seek resolution for matters beyond exploitation or violations of migrant workers' rights. OGMs function to help companies identify and manage human rights risks, and to provide remedy for those affected.

At a value chain level, internal corporate grievance mechanisms (CGM) are designed by brands and retailers, and can be used by their suppliers, workers and other stakeholders linked to the value chain. There is little knowledge about the effectiveness of these mechanisms, and they are not the only routes by which a grievance can reach a brand or retailer. A grievance can be received by a sustainability team, a complaints hotline or e-mail address, or through direct contact by a worker, NGO or trade union. As a representative for a brand explains:

"We have an external whistleblower channel that is listed on our website, also in English. And we have our contact details on all our products so that every worker can see who they are producing for if they are in the direct production line of our products."

–Business

A trade union representative points out that the route for contacting a brand directly can be an effective way to resolve impacts of labour exploitation on migrant workers:

"One way we often try and solve these cases is that we approach the value chain of the producers when we realise there is a case of social dumping. They are very quick to try and fix things, to correct or get the producers to pay the real cost. It is perhaps the most effective method for remediation that we have, because the chains do not want to have any negative publicity around this."

– Trade union

Although it can be effective to contact companies directly, as the trade union representative states above, the companies are also clear that what they can do in a certain situation will depend on where in the supply chain the harm is inflicted. As a representative of a company states:

"We have our own routine for remediation that defines our role in it. It is a varying degree of mandate we have linked to where in the value chain the challenge is. If it is we who have caused it, which it very rarely will be since we have suppliers, then we will of course stop or prevent what causes us to contribute to the situation, and correct it."

– Business

¹³ The Transparency Act statements of 30 of the largest Norwegian companies by revenue were examined. 19 of the companies listed their pre-existing whistleblower and hotline channels as CGMs, which could be inadequate as stand-alone mechanisms to address human rights concerns (Harrison et al. 2024).

Industry-based GMs and multi-stakeholder GMs are initiatives where companies partner up together or with other stakeholders to tackle human rights violations in accordance with Principle 29 of the UNGPs. An example of this in Norway is Fair Play Bygg, which is a multi-stakeholder initiative established to tackle work-related crime and social dumping in the construction industry. The organisation's members are trade unions, industry organisations, and businesses.

As GRETA (2022, 13) states: "The private sector should also play a role in enabling access to, as well as providing remedies to trafficked persons, in accordance with the UN 'Protect, Respect Remedy' Framework and United Nations Guiding Principles on Business and Human Rights. The role of businesses includes steps to ensure that their supply chains are free of trafficked labour, as well as the adoption and implementation of measures to facilitate victims' access to remedy for any harm that occurs."

There are concerns about just how effective CGMs are, since there is a lack of empirical evidence that would prove their effectiveness¹³. Some also argue that the focus needs to shift from the procedural aspect of corporate grievance mechanisms to an outcome focus

for rightsholders. Although state-based judicial mechanisms are central to ensuring global access to remedy, state-based non-judicial and non-state-based grievance mechanisms are crucial in complementing them (Wielga & Harrison 2021). As such, CGMs are an essential part of the ‘bouquet of remedy’ that needs to be available to persons who have had their human rights violated (UN 2017).

"We have had challenges linked to migrant workers both in Nordic countries and in Thailand. And here we were not responsible for the remediation, but we have worked through different channels to ensure remediation. We have had one, two, three cases over two years in Sweden and Finland with berry pickers from Thailand. [...] One views the risk as low in the Nordic countries, but then you have severe exploitation in the first tier.

– Business

The General Application Act includes a ‘duty to see’ provision, as mentioned previously, that make companies who use contractors and sub-contractors responsible for fulfilling the duty of informing the contractors and sub-contractors about tariffs for wages and working conditions, and the duty to see that these are followed. The Act is enforced by the Labour Inspector Authority.

Contractors also have a solidarity responsibility, the so-called Joint and Several Liability provision, which means two or more parties are liable in respect of the same liability. This entails that the contract provider is responsible to ensure that their sub-contractors in the value chain pay wages in accordance with the provisions in the General Applications Act. This responsibility means that most of the parties in the value chain practice ‘one for all, and all for one’ towards any employee at the bottom of the value chain who does not get paid wages and overtime according to the tariff from the employer. This mechanism is only valid in sectors that has tariff regulated wages¹⁴. Trade unions and NGOs who support exploited migrant workers have started using this mechanism to try to access remedy more effectively through dialogue with contractors that have leverage over their sub-contractors. Currently, the provision does not include buyers/construction clients as an accountable party in value chains although they possess considerable power to influence contractors and sub-contractors (Arbeidstilsynet 2024c).

¹⁴ The nine tariff regulated sectors are: construction, cleaning, hospitality, shipping and yard industry, agriculture and green houses, fishing industry, electric, hgv transport, and personal transport.



Example of an NGO using the Joint and Several Liability provision to access remedy

IN 2023, the NGO Caritas assisted a construction worker from Poland to seek remedy. He was recruited from Lithuania by a friend and worked at a factory in Norway. He was employed by a Lithuanian company, which was a sub-contractor to a Danish company that performed construction work at the Norwegian-owned factory.

IN THE first month, he worked around eight hours a day but then he started working twelve-hour nightshifts. He was instructed to stamp out three hours before his shift finished and to continue working afterwards. The first month he was only paid 1500 € although he should have been paid according to the tariff. After the second month, he had worked 233 hours, but did not receive any wages. He then had an injury but his employers told him they would deduct money from his wages for being on sick leave. The person had a total wage claim of around 7500 €.

HE WAS told by his employer to hand in his resignation in Norway in order to get his wages and a new job when he returned to Lithuania. Instead, he contacted NAV (Labour and Welfare Administration) who encouraged him to contact Caritas. Caritas contacted the factory directly and asked for a statement. They then had meetings with several parties, including a trade union, the Danish sub-contractor, the management of the factory, an independent compliance firm, and a human rights lawyer. The response was mixed. Caritas was first told that all the wages had been paid while the sub-contractor tried to make the migrant worker retract his wage claim based on the promise that they would pay him directly in full once back in Lithuania.

CARITAS USED the Joint and Several Liability provision in the General Act¹⁵ and sent a claim for outstanding wages and holiday pay. The NGO had meetings with the factory and Danish sub-contractor. The process was drawn out as the Danish sub-contractor initially refused to pay, and then only paid a part of the claim. Based on documentation, Caritas could prove that the employment contract was in breach of the law. In the end the parties came to a settlement where the sub-contractor paid the majority of the wage claim. When the companies involved understood the severity of the case and the reputational risk, they agreed to settle.

Source: Presentation at a roundtable event 14 June 2024

A roundtable was organized as part of this study with business actors where twenty-seven participants primarily from larger companies' attended. Experiences, dilemmas and challenges linked to grievance mechanisms and access to remedy were discussed. Several valuable points were made, for instance the importance of both the legal aspect as well as the ethical aspect of corporates providing access to remedy. Challenges were raised about the ability and leverage a company may or may not have to drive change when adverse human rights impacts are happening further down the value chain, and the importance of keeping the focus on the person whose human rights is being violated. It became apparent that there is a wish for more knowledge exchange on the provision of grievance mechanisms. This will drive better functionality and practical application of the non-state-based grievance mechanisms in line with the UNGP effectiveness criteria¹⁶, which subsequently can lead to better access to remedy for victims of human rights abuses.

As previously mentioned, in 2022 Norway introduced a human rights due diligence law for business enterprises, the Transparency Act. The law imposes an obligation on larger business enterprises to conduct due diligence processes in order to identify, prevent and mitigate adverse impact on human rights and on working conditions in their operations, supply chains and business partnerships. Further, larger companies must also publicly report on their findings, and all companies are bound by an information provision contained in the law (Forbrukertilsynet 2024). Around 9000 business enterprises have a duty to conduct due diligence and report under the new law. After the first reporting year, the Consumer Authority which enforces the law randomly selected 500 companies and controlled their statements. 100 of the companies had not published a statement on their webpages, which raised concerns about the extent in which companies had started conducting due diligence processes¹⁷ (Forbrukertilsynet 2023).

The companies covered by the law have to conduct due diligence and meet the criteria of the Transparency Act, which is based on the OECD Guidelines and a six-step model that includes remediation and compensation (Forbrukertilsynet 2024). In its due diligence guidelines to companies, the Consumer Authority states that 'where you have either caused or contributed to negative consequences, you must ensure or enter into a partnership to provide remediation and compensation where this is required' (Forbrukertilsynet 2024, step 6). In its reporting guidelines to businesses, the Consumer Authority expects that annual statements contain a general description of how the business is organized, its areas of operations, and guidelines and routines for how to address adverse impact on human rights and decent

¹⁵ See chapter 4.3 for explanation of the Joint and Several Liability provision.

¹⁶ The third pillar of the UNGPs include a set of effectiveness criteria (principle 31), which is a benchmark for designing, assessing, and revising non-judicial grievance mechanisms to ensure they are effective in practice.

¹⁷ The companies that had not published a statement were sent letters from the Consumer Authority where they outline a company's duties and possible sanctions the authority can impose.

working conditions. This includes reporting on the company's whistleblower channels and grievance mechanisms put in place to expose negative impacts as well as reporting about remediation processes (Forbrukertilsynet 2024).

The Consumer Authority has the mandate to give warnings and sanctions if companies do not fulfil the requirements under the law¹⁸. Its main approach is to engage in dialogue with companies which have not published a due diligence report or has not responded to a request for information. The website of the Consumer Authority provides the possibility of sending a tipoff in case a company is not abiding by the intention of the law. If it receives a grievance related to labour exploitation, which has yet to happen, the relevant authorities will be contacted, and the Consumer Authority can engage in dialogue with the company in question (phone conversation with Consumer Authority advisor, September 2024).

In the below table we have assessed the Transparency Act statements of six Norwegian companies from 2022 and 2023, based on the information they have disclosed about their grievance mechanisms and remediation cases in their annual and sustainability reports.

¹⁸ The Consumer Authority has in September 2024 imposed the first penalty for a violation of the Transparency Act.



Disclosure on grievance mechanisms			Disclosure on remediation	
	2022	2023	2022	2023
Coop Norge AS (cooperatives)	Internal whistleblower channel. No external channel, although Coop discloses about recognizing the need for it.	Grievance routines and an internal whistleblower channel. Acknowledges they can improve on grievance mechanism for external parties, and will consider to establish an external channel.	Two cases of remediation. One related to serious human rights violations by a berry producer, a sub-contractor to a supplier. Another related to a fruit supplier in Italy where there were no negative consequences. Minimal information shared about the cases.	Violations of labour rights in tomato production supply chain in Spain, found out through external sources. Follow-up of the case will be prioritised, and remedy provided for consequences they have contributed to. Another case linked to forced labour in China, brought to their attention by the Outlaw Ocean Project. No potential links so far to the findings that require any initiatives. No mention of remedy outcome for the 2022 case linked to berry supplier.
Norges-Gruppen (supermarkets and convenience stores)	No disclosure on grievance mechanisms. Discloses about the risk of exploitation of migrant workers and related initiatives.	No disclosure on grievance mechanisms. Discloses that migrant workers are especially at risk of human rights violations, and the company has several initiatives that address their work situations and safety violations.	One remediation case of severe human rights violation linked to a berry producer, a sub-contractor to a supplier, which was dealt with according to company's routines for remedy. Minimal information shared about the case. Mentions following up cases in risk countries, such as China, Sweden, Thailand, Costa Rica and countries in West Africa related to exaggerated overtime, no freedom of organization, low wages, exploitation of migrant workers, and health.	Disclosures about specific cases of exploitation of Thai migrant workers in Sweden, forced labour of Uighurs in fishing industry in China, payment of recruitment fees by workers in chicken industry in Thailand, and child labour in the chocolate industry.

	Disclosure on grievance mechanisms		Disclosure on remediation	
	2022	2023	2022	2023
Lerøy Seafood Group ASA	Internal and external whistleblower channels. Disclosure of details about the procedures and whistleblower policy.	Internal and external whistleblower channels, grievance committee. Whistleblower policy.	Discloses that no negative consequences or significant risks were detected through their due diligence process, and that they have not handled any remediation cases in 2022.	Discloses that no negative consequences or significant risks were detected through their due diligence process. They did not have any remediation cases in 2023.
Gartnerhallen SA (primary industries)	No disclosure on grievance mechanisms. However, discloses that they use information in their risk analysis, which they have captured through several channels, incl. their whistleblower routines.	No disclosure on grievance mechanisms. Have not uncovered any risks through their due diligence process.	No disclosure on cases of remediation.	No disclosure on cases of remediation.
AF Gruppen (construction)	Whistleblower channel, internal reporting procedure within the leadership hierarchy, whistleblowing committee. Mentions work-related crime and risk of exploitation for migrant workers.	Whistleblower channel, internal reporting procedure within the leadership hierarchy, whistleblowing committee. Have a dedicated resource who works with work-related crime at C-suite level, and a forum for work-related crime.	One case of remediation linked to a sub-contractor on a building site whose agreement was terminated. Migrants had not been paid wages. AF Gruppen paid the outstanding wages and offered the workers direct employment.	Discloses about one case where a supplier had breached the Work Environment Act and falsified time sheets. The company was fined by the Police and blocked from further contracts. No disclosure on remediation to the violated workers.

	Disclosure on grievance mechanisms		Disclosure on remediation	
	2022	2023	2022	2023
Skanska Norway (construction)	Whistleblower channel for internal and external stakeholders. Acknowledgement of the risks that migrant workers are vulnerable to exploitation in the sector.	Whistleblower channel for internal and external stakeholders, no grievances related to human rights through their hotline. Acknowledges the risk of exploitation of migrant workers in their sector.	No cases on remediation disclosed.	Discloses that where they detected irregularities during audits related to lack of overtime pay or excessive work hours, they have remediated. No disclosure on any concrete cases.

TABLE 2: Disclosures in the Transparency Act Statements of six Norwegian companies regarding grievance mechanisms and remediation.¹⁹

Most of the companies provide some information about their grievance mechanism systems, but far more details are given about how they work to prevent human rights breaches in their supply chains linked to the due diligence process. Although only NorgesGruppen, Skanska and AF Gruppen acknowledge the risk of exploitation for migrant workers in their national supply chains, all the companies nevertheless share some of the common risks known to their sectors globally. An example of this is the berry picking case mentioned throughout the report, where migrant workers from Thailand were subjected to trafficking for forced labour in the berry picking industries in Finland and Sweden (see page 23–24). Although NorgesGruppen mentions the case in their 2023 Transparency Act Statement, they do not disclose any details about the remediation of the berry pickers as the investigation is still ongoing (NorgesGruppen 2024, p. 123).

The overall disclosures of the six companies regarding their grievance procedures and remedy cases is quite limited. When assessing the information provided, several questions arise regarding how the grievance mechanisms are designed and communicated to workers in their operations and supply chains; the number of grievances that come through the grievance mechanisms; how the companies answer to affected workers; and how they link grievance mechanisms to their organizational learning. In the few cases where companies have disclosed about concrete remedial action, they reveal very little

¹⁹ The reports are included in the list of references.

about how the rightsholders were remediated and what the outcome was for them. Half of the companies does not acknowledge any risk to workers in their operations and supply chains although it is widely documented that migrant workers can be prone to exploitation in their sectors in Norway.

Currently, the statements provide limited transparency on if and how the companies work with grievance procedures as a risk management tool to improve working conditions and prevent harm. Although the lack of transparency about their mechanisms is known to be typical among companies in general, it prevents stakeholders from evaluating their effectiveness (Harri-son et al. 2024). Benchmarking of a larger sample of the annual Transparen-cy Act statements and scrutinize the data can contribute to further drive the quality and transparency of businesses' continuous work to improve their pathways to remedy.



Remediation case: repayment of wages and offer of direct employment

THE MULTI-STAKEHOLDER initiative, Fair Play Bygg received several reports through their grievance mechanism from employees working for a sub-contractor who were doing construction work on a new hospital in the city of Drammen. The workers had not received their wages, their time sheets had been manipulated, and their boss was bullying them. The employer dealing directly with the workers was not the person registered as the company director. The registered director was from Lithuania, the cousin of the acting employer, and someone with a history of being involved in rogue companies. Fair Play Bygg contacted the Labour Inspection Authority, the Tax Authority, the Police, the main contractor and the construction client. The main contractor, AF Gruppen and the construction client immediately liaised to investigate the situation.

Fair Play Bygg informed the employees about the Joint and Several Liability provision that the main contractor, AF Gruppen was bound by, and the workers themselves wrote a letter to the company. AF Gruppen met with the workers and Fair Play Bygg, who they already had a partnership with, and the company decided to pay the wages, which was also in line with the construction client's wish. While AF Gruppen was undertaking the process of investigating and calculating the unpaid wages, they paid out an advance to the affected workers within fourteen days. The contract between AF Gruppen and the sub-contractor was terminated, and the workers were offered direct employment by AF Gruppen. The construction client was involved all along with the main contractor in ensuring the welfare of the workers.

Source: Annual Report Fair Play Bygg 2022, AF Gruppen 2022 Transparency Act Statement.

Structural barriers for migrant workers:

Trade Unions:

- **NO MEMBERSHIPS** designed to be suited for temporary migrant workers.
- **OFFER LIMITED** legal aid to non-organized migrant workers who experience exploitation.
- **LIMITED LEVERAGE** over non-organized employers.

NGOs:

- **COINCIDENTAL WHETHER** migrant workers find their services or not.
- **DUE TO** limited resources and overload of cases, NGOs have to prioritize what cases to take.
- **LACK OF** low threshold services that support exploited workers who do not meet the criteria for a possible victim of human trafficking in accessing remedy.
- **LACK OF** resources in general, and lack of long-term funding that can provide predictability, consistency and better access to services and aid for exploited migrant workers.
- **LIMITED KNOWLEDGE** and practical understanding of frameworks, guidelines, national action plans and laws linked to business and human rights.

Corporate Grievance Mechanisms:

- **MIGRANT WORKERS** may not be aware of the existence of the grievance mechanisms or how they function. Language barriers or other obstacles may hinder access.
- **GRIEVANCE MECHANISMS** may not be especially designed to meet the needs of a company's operations or meet the UNGPs effectiveness criteria (31), and potential users of the mechanisms may not have been involved in its design and operational assessment.
- **FEAR OF** the risk of reprisals for raising a grievance and uncertainty of the process and outcome hinders reporting.
- **MECHANISMS MAY** become a tick box exercise if they are not used as a risk management tool which is also important for an effective practice of human rights due diligence.

4.7 Conclusions

ALTHOUGH NORWAY has a comprehensive system of grievance mechanisms and access to remedy that aligns with the UNGPs, as outlined in the National Action Plan on Business and Human rights, the mapping shows that there are several hindrances and weaknesses in actualising these rights for exploited migrant workers. It becomes evident when assessing the remedy ecosystem that several elements create practical barriers, which makes it very difficult to access grievance mechanisms and successfully obtain remediation for workers who experience labour exploitation. Although victims of human trafficking are entitled to far more rights than victims of severe labour exploitation, it is apparent that the lack of identification and investigation resulting from a combination of factors, such as insufficient resources, deportations and failure to properly qualify some cases of labour exploitation as human trafficking, imposes major barriers to obtaining these rights. The lack of a National Referral System and the lack of statistical data also prevent strengthened identification and overview. Thus, the number of court sentences in cases of human trafficking forced labour is noticeably low in Norway.

Migrant workers who experience severe labour exploitation have far fewer rights within the current system that could support them in the pursuit of remediation. Limited or no access to free legal aid combined with a complex system and processes makes it nearly impossible to navigate a civil judicial path to claim remedies, such as repayment of wages. The lack of resources and priority within the police to investigate and prosecute wage theft cases has left the Wage Theft Law ineffective. As a result, many cases get transferred to the path of reclaiming wages through the civil courts. This requires that the rightsholder files the claim personally, a path that is costly and has a long processing time. Without a law that tackles severe labour exploitation cases more broadly also when they do not reach the high threshold of human trafficking, a grey area remains and affected migrant workers fall through the cracks.

NGOs and trade unions play a crucial role in enabling victims of labour exploitation to access remedy. Although affected migrant workers can seek support from NGOs, the services that NGOs offer are restricted due to limited resources. The extent to which migrant workers become aware of their services is a matter of chance, since there is insufficient information available about their existence. Furthermore, trade unions do not have a membership category that is deemed suitable for temporary migrants, and the support currently provided for non-members is very limited.

This mapping shows that the knowledge and understanding about the provision of grievance mechanisms varies significantly

among authorities and businesses alike. The awareness of the United Nations Guiding Principles on Business and Human Rights and its expectations for the State and businesses to provide access to effective remedy for exploited workers was limited or non-existent among many of the interviewees. This suggests that there is a gap that needs to be bridged between the state-based stakeholders and the NGOs on the one hand, and the business enterprises on the other hand in the understanding of how their roles are part of a broader system that together are responsible for providing access to remedy. A system where relevant strategies and national action plans are not fully mainstreamed across all agencies, where authorities do not have sufficient resources to effectively implement laws and strategies, and where communication between key stakeholders is poor or barely existent in some places, does not create a solid foundation for a well-functioning remedy ecosystem.

Businesses have a duty to respect human rights and a shared responsibility to provide access to remedy and remediation. Although Norwegian companies are bound by law to have whistleblower mechanisms, and larger companies have to perform due diligence processes under the Transparency Act, the public statements disclose very little about cases of grievances and remediation related to labour exploitation in Norway. However, trade unions and NGOs participating in this study have revealed that they have successfully obtained remediation for exploited workers by having dialogue directly with corporate buyers and clients in the value chain. This path should be pursued more actively. One way to encourage this would be to reform the Joint and Liability provision in the General Act to include buyers and construction clients, and to formalise that external parties representing negatively affected workers also can utilise the provision as a pathway to remedy.

The chances that a person who works temporarily in Norway will be able to access remedy if they experience exploitation is low. It requires knowledge about rights, how the system works, and information about support services to seek remediation. Simultaneously, it takes will and perseverance to go through this process for a person who has experienced the stress and mental, emotional or physical harm of being in a situation of exploitation in a foreign country. Norway has a comprehensive, yet complex and fragmented remedy ecosystem with its state-based judicial and non-judicial grievance mechanisms, laws and strategies, as well as non-state-based grievance mechanisms. When measured against the UNGPs effectiveness criteria, the road to remediation for exploited migrant workers is currently full of hurdles and dead ends with ineffective grievance mechanisms and barriers to access to remedy that need a significant overhaul for the system to fulfil its duty in practice.

5

Sweden



5.1 Labour exploitation in Sweden

THE PROBLEM of exploitation of migrant workers in Sweden has been raised sporadically both in the media and in policies over the years, but only recently has it been acknowledged as an area of concern at the political level (Salvation Army Sweden 2021). The earlier focus of anti-trafficking action in Sweden was largely on combating trafficking for sexual exploitation and prostitution (Spanger et al. 2024, Schoultz & Smiragina-Ingelström 2024, 155, GRETA 2018). The topic of labour exploitation appeared already in 2008 in the draft of the government action plan on exploitation and trafficking, which aimed, e.g., to strengthen rights for migrant workers, enhance cooperation among and training for authorities, provide a broadened mandate for the tax authority to inspect undeclared work, and improve support measures for victims (DS 2008:7). However, the proposed action plan never received political approval. At the same time, the labour migration policy in respect of citizens from non-EU countries underwent a major reform in 2008, which made it the most liberal policy among the OECD countries (OECD 2011: 11). This reform had an impact on the approach of Swedish policymakers and authorities to labour exploitation for many years to come (Spanger et al. 2024).

Perhaps as an indication of the low political interest in labour exploitation in Sweden, there is only a limited amount of research available on the topic, although there has been a recent surge in new

studies (see e.g., Kegö & Leijonmarck 2010; Thörnqvist & Woolfson 2012; Vogiazides & Hedberg 2013; Axelsson & Hedberg 2018; Schoultz & Muhire 2023a; 2023b; Schoultz & Smiragina-Ingelström 2024). Labour exploitation has raised some media interest over the years, and several serious cases of exploitation have recently been reported by the media and investigative journalists especially in the construction sector (Fyrk 2020; Sunvisson 2021; SVT 27 December 2023), but also in the cleaning sector (Torp 2020; SVT 9 December 2023), forestry (DN 15 May 2021), berry picking (DN 29 June 2023), and restaurants (Expressen 1 January 2020). In addition, non-governmental organisations (NGOs) and the police authorities have identified cases in the food industry, factory work, hotels and tourism, the retail industry, car washes and car repair shops, scrap shops, beauty parlours (such as nail salons), transport, and domestic work (in particular au pairs and maids) (Swedish Police Authority 2022; Salvation Army Sweden 2021). In 2021 the police identified the following nationalities represented among the victims of exploitation within different sectors: construction (Moldavia, Poland, Ukraine), restaurants (Bangladesh, Mongolia, Thailand, Vietnam), food production (Romania, Ukraine), the cleaning sector, agriculture (Romania), the berry sector (Bulgaria), and beauty salons (Thailand, Vietnam) (Swedish Police Authority 2021). Some 300 berry pickers from Thailand were identified in 2022 as victims in investigations of labour exploitation (Swedish Police Authority 2022), and 237 of these persons ended up filing a claim with the help of civil society actors (Swedish Civil Society Platform 2024).

Recent development efforts by the Swedish government to prevent labour exploitation include the introduction of the new crime of “human exploitation” in 2018 (the Swedish Criminal Code (1962:700), chapter 4, section 1 b). Its purpose is to tackle exploitation that does not meet the criteria of human trafficking. Thus far, between 2018 and 2023 some 300 reports have been made to the police, and of these seven cases were brought to court as involving labour exploitation (Johansson 2024). So far, three prosecutions have led to a conviction under the provision on human exploitation. The cases included a restaurant owner who was convicted of exploiting two foreign workers from Bangladesh, a woman who was convicted of exploiting two East Asian women in au pair work, while her husband was convicted of aiding and abetting the crime of human exploitation, and two berry entrepreneurs who were convicted of aggravated human exploitation concerning nine Thai berry pickers (Johansson 2024; SVT 27 December 2023; SVT 7 September 2023; DN 11 July 2024). As of 2023, there have been no criminal convictions for trafficking for the purpose of forced labour (Johansson 2024).

Among the more recent developments, the Swedish Government has introduced an initiative to tackle work-related crime through multi-authority cooperation.²⁰ In 2021, the Swedish government set up a national Delegation Against work-related Crime, the task of which is to address work-related crime and propose government measures. Furthermore, in 2022, seven regional centres against work-related crime were established around Sweden (Myndigheter mot Arbetslivskriminalitet in Swedish).

Labour market institutions in Sweden play a crucial role in preventing exploitation through a combination of regulation of the labour market, ensuring compliance with collective agreements, and monitoring of working conditions. This historical construction, often called the “Swedish Model,” is based on cooperation and joint agreement between worker representatives and employers on key regulations and collective agreements which establish key mechanisms for the protection of workers in Sweden. Any disputes between employers and employees are typically negotiated between trade unions and employer partners. The Swedish labour market governance is built on the assumption that both workers and employers are organized (Sjödin 2021).

The role of the authorities in Sweden in monitoring wages and working conditions is limited (Salvation Army Sweden 2021). The Swedish Work Environment Authority (Arbetsmiljöverket) supervises only occupational safety, compliance with the Working Environment and Working Time Act, and the safety of certain machines and construction materials. It also oversees (gender) equality in the workplace but does not have a mandate to supervise wages. Inspections are sometimes carried out in cooperation with the immigration police, which has a mandate to oversee residence and work permits. In Sweden, the trade unions monitor working conditions, but they do not oversee non-organized workplaces. Because migrant workers rarely belong to trade unions, this leads to a situation where no institution is tasked with supervising the working conditions and wages of migrant workers who are not members of a trade union. (Pekkarinen et al. 2021, 98.)

The Swedish National Action Plan (NAP) for business and human rights, developed in 2015, highlights the role of different courts as a way to seek legal remedies. In addition, the NAP addresses the role of different ombudsmen institutions in ensuring that human rights are respected, such as the Parliamentary Ombudsman (Justitieombudsmannen, JO) and the Equality Ombudsman (Diskrimineringsombudsmannen, DO). In addition, the Chancellor of Justice (Justitiekanslern, JK) can receive complaints and settle claims for damages against the State. The National Contact Point (NCP) is

²⁰ This cooperation involves the Swedish Police Authority, the Swedish Public Employment Service, the Swedish Work Environment Authority, the Swedish Economic Crime Authority, the Swedish Social Insurance Agency, the Swedish Gender Equality Agency, the Swedish Migration Agency and the Swedish Tax Agency.

mentioned as an authority that solves problems in individual cases, through dialogue and discussion. In relation to corporate grievance mechanisms, the NAP states that it is up to each company to assess what is the appropriate approach for them, as long as the approach is transparent and based on negotiations with employee representatives in cases that involve workers, guidelines are developed by companies on how both internal and external stakeholders can report suspected misconduct, and the processes handling them are secure. (Swedish Ministry of Foreign affairs 2017, 15-16.) In a 2017 follow-up of the NAP, the Government promoted the organisation of workshops in order to increase awareness among state-owned companies about the UN Guiding Principles, including grievance mechanisms. The Government also emphasizes its expectations that Swedish companies comply with the UNGPs, and review their grievance mechanisms. Even though labour exploitation or human trafficking in Sweden is not explicitly mentioned in the NAP, the NAP describes the protection provided by Swedish legislation, including the Swedish model, the role of shop stewards and union representation, the role of the Labour court, as well as the Swedish Discrimination Act which applies for example in working life. (Swedish Ministry of Foreign Affairs, 2017, 10.)



5.2 Methods and data

THE SWEDISH MAPPING has been conducted by HEUNI and the King Institute together. The desk review included government reports, academic research, reports by civil society and different authorities, annual reports of companies, and media reports. In addition, some written decisions of the authorities were reviewed. The annual reports of six Swedish companies were assessed, based on the information that they disclose about their grievance mechanisms and remediation.

Seven semi-structured interviews were organized with nine interviewees: four interviews with trade unions, one with an authority, one with an NGO, and one with a business representative. Two of the trade union interviews had two interviewees representing the organization. The interviews were carried out between February and March 2024, and all of them were conducted online. In addition, several Swedish authorities representing different grievance mechanisms were contacted via email. The email exchange is referenced in this mapping. In addition, one online discussion was held with two authority representatives.

In March 2024, a roundtable discussion of experts was organized in Stockholm to discuss exploited migrant workers' access to remedy in Sweden. The event gathered 24 participants from Swedish companies, trade unions, researchers, authorities, and the project

partners. The participating companies operated especially in food production and retail. The insights from the roundtable discussion are used in this report as background material.

5.3 Brief overview of grievance mechanisms

THIS CHAPTER presents a summary of grievance mechanisms in Sweden that can be used in cases related to the exploitation of migrant workers. The mechanisms are both operational as well as more theoretical, meaning that they could be used to seek remedy, but based on information collected in this project, have not (yet) been used in cases related to labour exploitation.

The state-based judicial grievance mechanisms in Sweden include:

- **THE CRIMINAL JUSTICE PROCESS** – relevant criminal provisions include those dealing with human trafficking for forced labour (CC chapter 4, section 1a) and human exploitation (CC chapter 4, section 1b). In addition, the provisions on unlawful coercion (CC chapter 4, section 4), unlawful dispossession (CC chapter 8, section 8), fraud (CC chapter 9, section 1) and usury (CC chapter 9, section 5) can be applied. Additionally, work environment offences (CC chapter 3, section 10) can be prosecuted under the Work Environment Act, which includes violations that lead to serious accidents or harmful conditions for workers.
- **THE LABOUR COURT** – if an exploited worker is represented by a union, the case can be litigated in the labour court. Unions can sue organized employers in the labour court if a settlement is not reached in negotiations.
- **CIVIL LITIGATION** – disputes related to employment law, such as claims for unpaid wages and social contributions. This is done through the local district court (tingsrätt), and in practice, a person needs the assistance of legal counsel to take the case forward.

Victims of trafficking in human beings are entitled to state-funded legal aid. Legal aid is financed for other victims of crime by the State in cases where the person cannot pay for legal counsel fully themselves, and whose annual income does not exceed 260,000 SEK (around

24,000 euros) (Rättshjälpmyndigheten 2024). A person should, however, cover parts of the costs themselves, depending on their income. Legal aid can cover up to 100 hours, and this number of hours can be extended by the court (GRETA 2023a, 6).

Presumed victims of trafficking are also entitled to the services of an injured party's counsel (målsägandebiträde), who assists the victim in the preliminary investigation and trial, as well as in the proceedings to claim damages from the perpetrator (GRETA 2023a, 16).

The key civil laws are the Employment Protection Act, the Work Environment Act, the Discrimination Act, the Working Hours Act, the Annual Leave Act, the Aliens Act, the Prohibition of Discrimination of Employees Working Part Time and Employees with Fixed-term Employment Act, the Wage Guarantee Act, and the Act on Contractor Liability for Wage Claims.

Compensation in cases of harm can be sought under the Tort Liability Act, and victims of crime can seek compensation from the State on the basis of the Criminal Injuries Compensation Act. The procedural framework for seeking remedies is governed by the Code of Judicial Procedure.

State-based non-judicial mechanisms include:

- **THE CHANCELLOR OF JUSTICE** (Justitiekanslern, JK) acts as the Swedish Government's ombudsman in supervising public authorities and civil servants and can represent the State in legal disputes. The Chancellor deals with complaints and claims for compensation.
- **THE PARLIAMENTARY OMBUDSMEN** (Justitieombudsmannen, JO) ensures that public authorities comply with laws, and complaints can be made “by anybody who believes that he or she or someone else has been treated wrongly or unjustly” by a public authority.
- **THE EQUALITY OMBUDSMAN** (Diskrimineringsombudsmannen, DO) monitors compliance with the Discrimination Act and handles complaints concerning discrimination.
- **THE SWEDISH NATIONAL CONTACT POINT** (NCP) is based under the Ministry of Foreign Affairs and operates through tripartite cooperation among the State, the business sector and trade unions.

- **THE NATIONAL POLICE** acts as the national rapporteur on trafficking in human beings, follows the development regarding human trafficking in Sweden and makes recommendations for how to improve actions to prevent and address trafficking.
- **THE SWEDISH HUMAN RIGHTS INSTITUTE** functions as the national human rights institution. The institute investigates and reports on how human rights are respected and implemented in Sweden, gives recommendations and raises awareness on human rights topics, but does not handle individual cases or complaints.

Administrative bodies related to cases of labour exploitation:

- **SOCIAL SERVICES** are responsible for providing assistance to victims of human trafficking. The regional coordinators against prostitution and trafficking, are based under the social services. The regional coordinators form part of the national coordination against prostitution and human trafficking, and support the Swedish Gender Equality Agency's national work relating to prostitution, human trafficking, human exploitation and exploitation of children.
- **THE SWEDISH GENDER EQUALITY AGENCY** coordinates the activities against trafficking in human beings at the national level, under the National Coordination Against Prostitution and Trafficking in Human Beings (Nationella Samordningen mot Prostitution och Människohandel NSPM). In addition, the Swedish Gender Equality Agency coordinates the National Task Force against Prostitution and Human Trafficking (Nationellt Metodstödsteam NMT), that consists of government agencies' representatives and other actors working against trafficking²¹. It provides operational method support to municipalities, government agencies and NGOs in cases of trafficking.
- **THE SWEDISH GENDER EQUALITY AGENCY** also funds the Voluntary Return and Integration Programme, managed by the International Organization for Migration (IOM), and runs a telephone helpline for professionals in trafficking cases.

²¹ In addition to the Swedish Gender Equality Agency, the NMT includes representatives from the Swedish Police Authority, the Swedish Migration Agency, the Swedish Prosecution Authority, the Swedish Work Environment Authority, the Swedish Tax Agency, representatives from social services (regional coordinators and specialised clinics) and members of the healthcare sector.

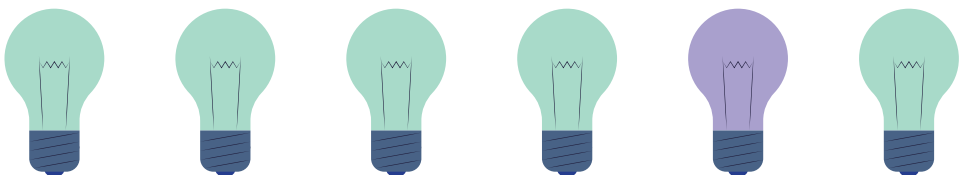
- **THE SWEDISH MIGRATION AGENCY** (Migrationsverket) identifies victims of trafficking and exploitation and can at the request of the social services issue a 30-day reflection period for victims of trafficking to consider whether they are ready to cooperate with the authorities in the investigation of their case.
- **THE WORK ENVIRONMENT AUTHORITY** (Arbetsmiljöverket), i.e. the labour inspectorate, coordinates the multi-agency work against work-related crimes. Its mandate focuses on occupational health and safety matters and working hours.
- At the time of the writing of this report, **THERE ARE SEVEN CENTRES AGAINST WORK-RELATED CRIME** located in different Swedish cities, at which representatives of different agencies work together against work-related crime. The agencies include the Swedish Public Employment Service, the Swedish Work Environment Authority, the Swedish Economic Crime Authority, the Swedish Social Insurance Agency, the Swedish Gender Equality Agency, the Swedish Migration Agency, the Swedish Police Authority, the Swedish Tax Agency and the Swedish Prosecution Authority (Swedish Work Environment Authority 2024).
- **THE COUNTY ADMINISTRATIVE BOARD** is responsible for wage guarantee matters if an employer has entered into bankruptcy.
- After a final judgment ordering the convicted perpetrator to pay compensation, **THE SWEDISH ENFORCEMENT AGENCY** investigates the financial situation of the perpetrator and seeks to claim the funds from them and transfer these to the victim (GRETA 2023a, 20). If the offender is found to be insolvent, or there is no insurance to cover the injuries, or the offender is not identified, the Swedish Crime Victim Authority (Brottsförmyndigheten) may grant the victim State compensation (GRETA 2023a, 14).

The relevant non-state-based grievance mechanisms include corporate grievance mechanisms. In this chapter we also address trade unions and non-governmental organisations (NGOs), since they can facilitate access to remedy through, e.g., negotiations or other relevant grievance mechanisms in cases of labour exploitation. Their role in supporting exploited workers allows the workers to obtain information and access to state-based grievance mechanisms and rights,

and they play an important role in the Swedish ecosystem for providing and ensuring remedy for exploited workers.

- **SVERIGES ARBETARES CENTRALORGANISATION (SAC)**, is a syndicalist²² central trade union that has very actively worked with migrant workers and assisted them in claiming unpaid wages. It consists of several local unions (Lokala Samorganisation, LS).
- **THE UNION CENTRE FOR UNDOCUMENTED WORKERS** (Fackligt Center för Papperslösa) is a non-profit association established by the central trade union organizations LO, TCO and Saco in 2008. The centre helps and assists undocumented migrant workers and asylum seekers in the Swedish labour market.
- **FASTIGHETS – REAL ESTATE EMPLOYEES' UNION** established a network against work-related crime in 2023 under a project grant by the Swedish Work Environment Agency. The purpose of the network is to bring together responsible employers in order to encourage exploited workers to report misconduct and find fair employment among the network's employers.
- **BYGGNADS – THE CONSTRUCTION SECTOR TRADE UNION** has established special functions focusing on work-related crime, Fair Play Bygg and Svensk Bygg kontroll. Svensk Bygg kontroll operates an inspection system that conducts reviews of construction companies and employers and how they comply with the collective agreements. The services are intended for contractors who want to know more about their potential subcontractors. Fair Play Bygg is a tipoff function provided by the union's local Stockholm-Gotland branch and Stockholm's builder association. It can be used to report an incident or a suspicion of criminal activity in the construction sector.
- **CORPORATE GRIEVANCE** mechanisms are often internal reporting procedures or whistleblower channels.

²² The syndicalist labour movement has its roots in the anarchist tradition and sees that revolutionary labour unions are needed to defend and extend gains and rights for the working class (van der Walt 2019).



- **THE SWEDISH CIVIL SOCIETY PLATFORM** consists of different NGOs that support trafficking victims. Some of them operate the National Support Programme (Nationella Stödprogrammet NSP) that complements the assistance provided by the social services, and can provide identification, first aid, medical care, clothes, support, legal advice, trauma treatment, long-term assistance, safe return and integration (GRETA 2023a, 43; Swedish Civil Society Platform 2024).

5.4 State-based judicial mechanisms

5.4.1 Pre-trial investigation and prosecution of criminal cases

THE MAJORITY of labour exploitation cases reported to the police come by way of the Migration Agency, but cases are also reported by workers themselves, trade unions, labour inspectors, or the regional coordinators (Johansson 2024, 25; Schoultz & Muhire 2023b). Both previous research and the interviewees indicate that there is a lack of protocol and clarity regarding which cases result in actual police investigations and under what criteria (Johansson 2020; 2024; Schoultz & Muhire 2023b).

"I think it's a bit of a lottery which cases are investigated and which are not. Let's say that we during the last year or last two years maybe reported 100 cases. In maybe 20 cases, they opened an investigation. And I think 5 cases are still open. None have gone to court."

– Trade union

Cases of labour exploitation rarely result in criminal prosecution in Sweden. A study by Schoultz & Muhire (2023b) reveals how only a small number of reported labour trafficking and exploitation cases have led to indictment, with 98 per cent of preliminary investigations being discontinued, often due to difficulties in securing evidence or the police frequently concluding that no crime has occurred. The low prosecution rates were due to the fact that criminal law procedures are intertwined with the migrant labour system, a system in which victims may be uncooperative due to their insecure migration status, or in which there are informal employment schemes that do not leave any technical trace evidence for investigators. In addition, some of the interviewees noted that deportation is a real concern for

victims of labour exploitation (see also Schoultz & Smiragina-Ingelström 2024). For example, an interviewee from a trade union was hesitant to collaborate with the authorities, and reluctant to share information about the irregular migrant workers whom they have assisted due to the risk of repercussions:

“As long as we don’t get any security for our clients, we cannot refer them forward. We can’t really cooperate [with the authorities] that much.”

– Trade union

The low number of prosecutions and convictions in Sweden in relation to human trafficking cases has also been raised as a concern by the Council of Europe (2023, 23), since there has been only one conviction for trafficking for forced labour, a case in 2012 concerning berry picking. Misinterpretation and a lack of understanding about forced labour indicators among judicial professionals, especially when it comes to the issue of interpreting voluntariness and consent, may limit access to protection and justice since cases may be prosecuted in the form of less severe crime categories (Johansson 2020). However, the new offence of human exploitation in the Swedish criminal code has not increased the number of convictions (Schoultz and Muhire 2023b). It seems that the threshold for the crime of human exploitation is rather high. The high barrier to prosecute cases related to labour exploitation is a significant hindrance to access to remedy for exploited workers and contributes to continued impunity for perpetrators.

5.4.2 Claims for damages and access to compensation

IF THE court convicts a person of the crime of human trafficking, the victim is entitled to claim damages from the offender for physical and psychological injuries, aggrievement, and for costs and expenses incurred in connection with the crime as well as its investigation and prosecution. In applying for the damages, the victim can be assisted by his/her counsel, but if there is no counsel, the Swedish Crime Victim Authority is obliged to provide information and assistance (Swedish Crime Victim Authority). The court decides on the amount of compensation for criminal injury, and the damages are primarily the responsibility of the convicted perpetrator(s). After a guilty verdict, the victim may receive assistance from the Swedish Enforcement Authority in collecting the compensation. If the perpetrator has insufficient assets, or there is no insurance to cover damages, the victim may apply for State compensation through the Crime Victim Authority.

However, public legal aid is not available for this final stage of the process. Usually, the damages are decided upon in conjunction with the trial and verdict, but a ruling can also be handed down in a separate process. (Swedish Gender Equality Agency 2019, 71-72; 25.)

A victim of human trafficking or other crimes may also apply for criminal damage compensation from the State if he or she cannot receive full compensation from the offender. The right to receive criminal damage compensation from the State applies to crimes that have occurred in Sweden, and a criminal report must be filed. Compensation can be obtained, for example, for loss of income, pain and suffering, or a serious violation of personal integrity. An application for compensation is to be made to the Crime Victim Authority within three years of the crime. According to GRETA's report, State compensation has been paid to at least eight victims of human trafficking through the Crime Victim Authority between 2013 and 2017, but none of the reported cases concerned labour trafficking (GRETA 2018, 36).

Since 2020, the Crime Victim Authority has, however, granted compensation on the basis of one claim concerning labour trafficking, and of two claims concerning human exploitation. In the human trafficking case, a woman of Thai origin had been lured to Sweden to work as an undocumented migrant in a restaurant and was paid 200 SEK/day (approx. 17€). She was furthermore deemed to be a victim of trafficking for sexual exploitation in prostitution in Norway. The Swedish Crime Victim Authority granted her 100,000 SEK (about 8,700€) in compensation, and the Norwegian court of appeal granted her 1,050,500 NOK (about 89,000€) in compensation for unpaid wages and infraction/violation (Swedish Crime Victim Authority 11953/2022). The two other claims regarding human exploitation concerned a highly publicized case of a couple of Bangladeshi origin who worked in a restaurant (see SVT 27 December 2023). They received 40,000 SEK each (about 3,500€ each) in compensation (Crime Victim Authority 12026; 12028/22). Subsequent to the amendment of the law governing compensation for infringement on 1 July 2022, the maximum compensation amount has been doubled, a significant increase. The new, higher levels apply only to offences that have occurred after 1 July 2022. So far, these higher levels have not been applied in cases related to human exploitation or human trafficking (email exchange with the Swedish Crime Victim Authority 20 June 2024).

In order for the victim to be able to apply for crime victim compensation, an investigation must be initiated, although a prosecution or conviction is not required (email exchange with a researcher 28 June 2024). As was shown above, very few cases of exploitation are investigated by the police in the first place, and thus only a fraction of exploited workers has access to remedy in the form

of compensation granted through the criminal process or by the Crime Victim Authority.

A study and analysis by Johansson (2024) of human exploitation cases dealt with by Swedish criminal courts between 2018 and 2023 shows that in only one case were the victims awarded damages based on claims for compensation for non-payment of wages. In the other two cases in which the victims claimed compensation for unpaid wages, the claims were dismissed. This therefore means that there is a great likelihood that victims will not receive compensation if they try to claim compensation for non-payment of wages in connection with a criminal process, in particular because the courts differ in their assessment of the claims. If the prosecution is dismissed, the victim cannot take the wage claim to the civil process either, because the dismissal of the prosecution means that a valid decision with legal force has been made in the criminal process. In view of the very few convictions for labour exploitation that exist in Sweden, it seems that victims of exploitation rarely get redress through the criminal process, nor do they get compensation for non-payment of wages through other means of recourse. (Johansson 2024, 22.)

5.4.3 Civil litigation

AS OUTLINED above, legal aid is available in criminal cases for persons with limited means. In the case of civil procedure claims, trade unions may assist their members in the initiation of civil processes. Also undocumented migrants may receive support through the Union Centre for Undocumented Migrants, which has been able to obtain public legal aid in a couple of cases (Schoultz & Muhire 2023a, 13). Persons who are not union members would have to sue the employer in the district court, which entails a risk of personal costs should they lose the case. As was mentioned in one of the expert interviews, it is unlikely that a migrant worker would independently enter into such a process, since the worker would most likely need professional assistance during the different stages of the procedure.

"You would need somebody to initiate that case for you. I mean a migrant worker won't have the capacity to do that, and it costs money. Not a lot, but I think it's a couple of hundred at least, maybe up to 900 SEK [80€]? There is a fee to start a civil procedure and you need somebody, you need to hire a lawyer if you're not in the union. And they're not in the union, so, it's not happening."

– Authority

The Labour Court in Sweden (Arbetsdomstolen) is tasked with dealing with labour disputes concerning adherence with collective agreements, or other disputes concerning the relationship between the employer and the employee. In such cases the Labour Court is the first and only instance. In recent research Schoultz & Muhire (2023a) analysed Swedish civil and labour court settlements and judgments in the context of labour exploitation. Cases in the civil court concern migrant workers lodging complaints against an employer for the non-payment of wages or insufficient wage payments, while the cases in the Labour Court involve unions representing migrant workers who are seeking damages for breaches of collective agreements, and also claiming unpaid or insufficient wages (Schoultz and Muhire 2023a, 6). The unions use the threat of taking the case to court to pressure employers to negotiate. Especially SAC has litigated several cases in the labour court related to the rights of migrant workers. However, suing in the labour court is time-consuming, providing evidence in support of wage claims is difficult, and demanding compensation and wage claims is difficult and expensive for exploited workers unless they belong to a trade union.

Based on the EU Employer Sanctions Directive, Sweden has enacted the Act on the right to wages and other remuneration for work performed by a foreigner who does not have the right to reside in Sweden (Act 2013:644). According to this Act, undocumented persons may claim unpaid wages for three months' work. However, the Swedish authorities are not always aware of this possibility (Pekkarinen et al. 2021). The courts in Sweden have considered at least four such cases. In three cases, the plaintiff was awarded the unpaid wages, but in one case the plaintiff was not, since the court deemed the plaintiff an entrepreneur and not an employee (Johansson 2024, 23). According to Johansson (2024), Sweden is neglecting its obligations under the EU's Employers' Sanctions Directive, especially regarding provision of information to irregular workers who are about to be deported, regarding the possibility of seeking unpaid wages.

Overall, migrant workers in Sweden have little protection and limited access to remedy, such as means of securing unpaid wages (Johansson 2024; SOU 2024:14, 204).

The reason for the low number of cases includes for example:

- Migrant workers are not informed about the possibilities to claim unpaid wages or compensation.
- Victims have to initiate a criminal investigation or otherwise risk deportation.
- There are limited rights to legal aid in initiating a civil lawsuit.
- There is a significant cost risk associated with losing a civil case (Johansson 2024, 24).

In addition, structural barriers for migrant workers' access to remedy include:

- Labour exploitation is not always identified properly, since there is a lack of protocol for police investigations on labour exploitation.
- Difficulties in gathering evidence, and victims are often not willing to cooperate with the authorities as they may fear deportation, or reprisals from their employer if they talk to the authorities.
- High threshold to prosecute for trafficking for forced labour and human exploitation.



5.5 State-based non-judicial grievance mechanisms

THE STATE-BASED NON-JUDICIAL MECHANISMS were not discussed by the interviewed experts, suggesting that these are not seen as relevant channels for labour exploitation cases, or they have not been used in such cases, or there is not enough awareness of these channels. The following assessment is based on public information and written correspondence with the authorities in charge of the respective mechanisms.

5.5.1 Ombudsmen offices, the Chancellor of Justice and the National Contact Point

THE CHANCELLOR OF JUSTICE is one of the legal oversight institutions and deals with complaints and claims for compensation when the public authorities and civil servants have not fulfilled their duties. The Chancellor has handled complaints related to different authorities, such as the Swedish Work Environment Agency, the Migration Agency's slow processing times on permits, and police investigations. The Chancellor of Justice rarely reviews individual cases because such supervision is carried out by the Parliamentary Ombudsman, and partly also because the Chancellor's supervision is intended to focus more on structural problems than on individual violations. However, should individual victims request damages because a preliminary investigation on, e.g., human trafficking was deficient, the Chancellor of Justice could investigate the matter and examine whether there has been a violation of rights, and could subsequently make a claims settlement decision (see: 2020/5729; email exchange with the office of the Chancellor of Justice of Sweden 27 June 2024). The Chancellor of Justice can order compensation only when the violation can be attributed to the State. The Chancellor of Justice has not handled complaints related to labour exploitation (*ibid.*), but in theory, the Office could handle complaints regarding the actions of the authorities in labour exploitation cases, where for example the police or prosecutor has not fulfilled their duties.

THE PARLIAMENTARY OMBUDSMEN (Justitieombudsmannen, JO) deals with individual complaints concerning the actions of the public authorities. According to its annual report, the Parliamentary Ombudsmen is receiving an increasing number of complaints (The Swedish Parliamentary Ombudsmen 2024), but so far no cases related to labour exploitation have been addressed (email exchange with the office of the Swedish Parliamentary Ombudsmen 25 June 2024). However, several complaints regarding the Migration Agency, the police,

and court proceedings are handled by the Ombudsmen every year. In theory, there is potential for submitting complaints to the Ombudsmen regarding insufficient actions by the authorities in labour exploitation cases.

THE EQUALITY OMBUDSMAN (Diskrimineringsombudsmannen, DO) monitors compliance with the Discrimination Act (2008:567) and handles complaints concerning discrimination. Based on a complaint, the Equality Ombudsman can conduct a supervisory investigation against the notified party, for example a company, which ends with a supervisory decision in which the Equality Ombudsman makes an assessment of whether an individual has been exposed to discrimination, e.g. by assessing whether an employee has been discriminated against in working life. However, these supervisory decisions are not legally binding and carry no sanctions. The Equality Ombudsman also takes a small number of cases to court each year, requesting that the other party pay compensation for discrimination (a form of damages) to the individual. In practice the Equality Ombudsman could demand that a company must pay discrimination compensation to an employee who has been discriminated against in some way in working life and the discrimination is, e.g., related to the employee's ethnicity. If the claim is successful, the court will order the company to pay discrimination compensation to the individual. However, the Equality Ombudsman has not received complaints concerning discrimination involving exploitation of migrant workers. (Email exchange with the Swedish Equality Ombudsman's office 2 July 2024.)

THE SWEDISH NATIONAL CONTACT POINT (NCP) handles complaints by stakeholders who are of the opinion that an enterprise has breached the OECD Guidelines for Multinational Enterprises on Responsible Business Conduct. The NCP is a tripartite cooperation among the State, the business sector and trade unions and it can give recommendations and mediate between parties regarding the submitted complaints. The NCP receives one or two complaints a year. None of them have concerned migrant workers in Sweden (email exchange with the NCP 26 June 2024).

THE NATIONAL RAPPOREUR ON TRAFFICKING, operating under the Police Authority, does not deal with individual cases or complaints. In recent years, the annual reports of the rapporteur have raised the question of labour exploitation, and have made some relevant recommendations, e.g., for more comprehensive victim support for persons whose experience is not defined as human trafficking (Swedish Police Authority 2021).

THE NATIONAL HUMAN RIGHTS INSTITUTION, i.e. The Swedish Institute for Human Rights, does not handle individual cases or complaints. However, the Institute deals with business and human rights issues in its work and has raised concerns in its reporting to the UN about, e.g., the lack of sufficient funding and victim and human rights-based perspectives in the work of the Swedish government against exploitation (The Swedish Institute for Human Rights 2024, 143).

5.5.2 Administrative bodies

THE SOCIAL SERVICES are responsible for providing assistance to victims of human trafficking. At the time of writing this report, there are some 19 regional coordinators against prostitution and trafficking in seven regions around the country. The regional coordinators are based under the social services in each region, and, e.g., provide support to the authorities, businesses and NGO actors, carry out training, participate in joint authority work against exploitation, provide support measures to victims, coordinate efforts between relevant authorities, and conduct outreach work. (Swedish Gender Equality Agency 2024a.) The regional coordinators identified 375 victims in 2022, out of whom 130 were victims of labour exploitation (Swedish Gender Equality Agency 2023). In 2023, the coordinators identified 414 victims, out of whom 189 were victims of labour exploitation (Swedish Gender Equality Agency 2024b).

Based on an interview with an authority, there seems to be a general lack of awareness among different authorities regarding labour exploitation and trafficking. The social services were mentioned as one example. This has led to situations where the regional coordinators have provided direct assistance to victims of exploitation, even though it should be the responsibility of the social services.

"There is such low knowledge in Sweden about this group of exploited workers, that they actually could be victims of crime. If a victim would actually find social services and go there, they probably wouldn't receive a lot of help. I don't think social services understand what this issue is. If it was sexual exploitation, they would, but not labour exploitation. But in theory, that is who is responsible for providing certain types of support."

– Authority

In 2023, the regional coordinators identified 73 persons as victims of labour exploitation during joint inspections relating to work-related crime (Swedish Gender Equality Agency 2024). The Gender Equality

Agency does not have a mandate to independently carry out inspections, but can participate in joint inspections if there is a suspicion of trafficking or exploitation (Myndigheten mot arbetslivskriminalitet 2024, 14). According to Johansson (2024), the involvement of regional coordinators in workplace inspections, however, varies regionally. The role of the regional coordinators is essential in sharing expertise, but the awareness of the other authorities should be improved, since a handful of experts in the whole of Sweden cannot do much, as was discussed in one of the interviews:

“But the end goal is that the regular professionals who are always at these inspections, like the police and the labour inspectors, maybe there’s the tax agency out a lot, they see a lot of stuff. The idea is that they would realize that when they see something, they need to report it and contact the regional coordinator or social services. But that’s not really happening right now.”

– Authority

One of the key agencies in addressing exploitation at work is the Swedish Work Environment Authority, but as outlined above, it cannot inspect that employers are complying with labour law regulations and wage levels, since this is the responsibility of the trade unions (Statens offentliga utredningar 2023). Trade unions, again, cannot oversee non-organized workplaces, which leads to a gap in overseeing the working conditions and wages of migrant workers who are not members of the trade union (Pekkarinen et al. 2021, 98). Several interviewees criticized the limited role of the labour inspectors, especially from the perspective that the Swedish Work Environment Authority has not had a mandate or instructions to work on issues relating to human trafficking or exploitation in particular. This has led to a lack of internal processes or of guidance to act for example when suspecting exploitation, and to caution. One interviewee recalled how some labour inspectors previously declined to share information with workers about organizations that could assist them, since it would be “overstepping their mandate”.

“That’s not what they’re supposed to work with, even though they see it [exploitation]. It’s more or less up to the individual inspector, if they feel personally that they see something and they can’t turn away, like morally they care, then they might make a police report, and I also think they do a lot of inspections with the police. They assume that the police see what they see and the police will make the report, but that’s not always the case.”

– Authority

Based on the interviews, there seem to be insufficient clarity regarding the roles and mandates of the different authorities regarding possible victims of labour exploitation, which is something that was criticized also in a report by the Swedish National Audit Office (2020). For example, in cases where a crime is suspected, several authorities have had the impression that they do not have the mandate to investigate wages and working hours, especially if a collective agreement is in place (ibid.). To tackle these ambiguities, the Delegation Against Work-related Crime recommended in its report (Statens Offentliga Utredningar 2024) that the Work Environment Authority should contribute more to combatting trafficking and exploitation. According to an authority interviewee, this could mean in practice that labour inspectors would be given training on identifying signs of exploitation and an internal protocol would be established on how to report such suspicions forward. According to the most recent GRETA report on Sweden (2023a, 30), the Work Environment Authority has in fact received training on identifying possible cases of trafficking and exploitation and on how to respond to these cases. Moreover, the Delegation’s report (2024) underlined that combatting labour exploitation and human trafficking should be given higher priority in the work of the work-related crime centres.



Case example: The role of the regional coordinators in facilitating access to remedy

THE REGIONAL coordinators offer practical consultation and guidance to individuals seeking help, as well as to other professionals. They are regional experts on human trafficking topics and support other authorities in their regions in trafficking cases. The coordinators also assist victims and ensure they receive the support and protection they need throughout the process. The regional coordinators throughout Sweden have an assigned work description, but there may be regional differences in their ways of work.

POTENTIAL VICTIMS of trafficking and exploitation are typically referred to the coordinators by the Migration Agency or the police, and some clients have contacted the coordinators themselves. In addition, the coordinators are part of work-related crime centers and occasionally participate in workplace inspections where they meet workers.

THEY ENGAGE in extensive dialogue with clients and provide information to potential victims about their rights and available options. One coordinator described their aim as making individuals feel as well-informed as possible, enabling them to make informed decisions about how to proceed. The coordinators have shared information of trade unions to their clients, and even organized meetings between unions and clients. Clients give their consent if they want their information to be referred to other authorities, such as the Work Environment Authority or the Migration Agency. One coordinator noted that they see their role as building bridges between clients and authorities and have had positive experiences working with the police. They regularly consult the police regarding their clients and aim to help build a case by gathering sufficient information for a police report. One coordinator commented on police investigations as follows:

"More investigations are needed to put these employers in court, otherwise it will just go on and on, and will eventually cripple the welfare state and serious employers."

(Discussion with Swedish regional coordinators 30 September 2024)

The Swedish Migration Agency is tasked with the identification of suspected victims of trafficking and exploitation and is obliged to report the suspicions to the police and the social services. The Migration Agency can also carry out checks on employers, deny permission and deport people. It can request wage specifications, accounting files and other supporting documents in matters related to labour immigration and can carry out post-check of work permits (Statens offentliga utredningar 2024, 113.) In 2023, the Swedish Migration Agency identified 576 cases of suspected human trafficking, out of which 344 were suspected victims of forced labour or human exploitation. About 230 of these concerned the berry industry (Myndigheten mot arbetslivskriminalitet 2024, 15).

The National Referral Mechanism for victims of human trafficking (NRM) outlines the process of assistance and provides practical guidance for professionals who encounter victims of trafficking and clarifies the responsibilities of the different authorities (Swedish Gender Equality Agency 2019). Female victims of human trafficking related to sexual exploitation have quite good chances of getting into supported housing or a shelter (see, e.g., Socialstyrelsen 2020, 56), while the situation of male victims of labour-related human trafficking is more difficult. Based on the Immigration Act, a person identified as a victim of human trafficking can be granted a 30-day reflection period and given a temporary residence permit. This requires that the victim has filed a report with the police and that a preliminary investigation has been commenced. Furthermore, if a victim of human trafficking agrees to cooperate with the police or his/her personal situation is particularly difficult, the victim can be granted a temporary residence permit, and be given social assistance (CBSS 2018, 43). However, if the investigation is closed, the government deports victims who lack legal residence, which hinders victims from reporting trafficking crimes (United States Department of State TIP report 2024). In 2023, the Swedish Migration Agency granted 71 temporary residence permits to persons presumed to be victims of human trafficking and/or human exploitation (Myndigheten mot arbetslivskriminalitet 2024, 15). One of the interviewed trade union representatives felt that the temporary residence permit was one of the few positive developments, as it grants the migrant worker the possibility to work legally:

“We have members who have received up to 18 months of residency while the investigation is ongoing [...] for 18 months they can work legally even if they are later deported. 18 months of wages means that they can send a lot of money home and they can have some kind of capital when they leave Sweden. So I think this is the only thing when it comes to ‘human exploitation’ that really works.”

– Trade union

Victims of human trafficking may also apply for asylum, and circumstances related to their situation may lead to granting the applicant international protection, i.e. refugee status. If the asylum applicant finds a job, s/he can apply for a work permit. After four years of working, s/he can apply for a permanent residence permit. The ABIS organization, which offers job opportunities to asylum seekers in a vulnerable position, and Swedish Civil Society Platform have cooperated to help victims of human trafficking transition from asylum seekers to work permit applicants (the so-called track change process) (CBSS 2018, 43–44).

The State is liable to pay an employee’s claim against an employer who has been declared bankrupt in Sweden or another Nordic country (Wage Guarantee Act 1992:497). The wage guarantee payment is made by the County Administrative Board. Previous assessments have shown that there are risks of misuse of the wage guarantee in situations where an employer underpays its workers, and then claims bankruptcy (Riksrevisionen 2022). Trade unions have reported, e.g., on a construction company that employed undocumented workers from Uzbekistan, Russia and Belarus, forged documents from the Swedish Migration Agency, did not pay taxes, and paid wages in cash. Finally, the employer stopped paying wages all together, left the country and claimed bankruptcy, whereafter the wage guarantee covered the unpaid wages (Boss 2023). Ten years ago, some 70 Cambodian seasonal forest workers in Sweden were left unpaid by a Swedish company which claimed bankruptcy. However, before the workers were paid through the wage guarantee, a relative of a representative of the forest company contacted the Swedish Enforcement Authority with financial claims against 34 of the workers. She claimed that she had lent them money to cover the unpaid wages. None of the workers were members of the trade union, but the union agreed to cover legal aid costs so that the workers could bring the case to court. In the end, the court ruled in the workers’ favour and argued that the Swedish Enforcement Authority had unjustly withheld the workers’ wage guarantee, and ordered that the wages be paid. (Ohlin 2016.)

In the construction sector, there is a special law, the Act on contractor liability for wage claims (2018:1472), which can be used to claim wages when an employer which acts as a subcontractor has not paid the wages of the employees.²³ According to an expert interview and Schoultz & Muhire (2023a), the SAC has successfully utilized the law to claim wages for their members. The law was also mentioned in the interviews as a working mechanism to claim unpaid wages in the construction sector.

Structural barriers in migrant workers' access to remedy:

- **THE POSSIBILITY** to submit complaints about labour exploitation to different ombudsman institutions has not necessarily been identified yet in Sweden.
- **NOT ENOUGH** awareness of labour exploitation, and the authorities do not identify labour exploitation victims properly.
- **NAVIGATING THROUGH** the ecosystem of different authorities, mechanisms, laws, rights and remedies is complex and requires assistance from someone familiar with the system.

²³ Act on contractor liability for wage claims (Lag om entreprenörsansvar för lönefordringar) - Government.se

5.6 Non-state-based grievance mechanisms

THE NON-STATE-BASED grievance mechanisms assessed in this chapter focus especially on the role of trade unions, NGOs and Swedish companies.

5.6.1 Trade unions facilitating access to remedy

THE ASSESSMENT of access to remedy in Sweden indicates that the role of trade unions is important in providing access to various grievance mechanisms. The Swedish trade unions are working to different degrees on the rights of migrant workers. The operating methods of trade unions range from negotiations to legal advice and litigation in court. At best, employers correct unpaid wages when a union contacts them. The unions pressure companies into negotiations with the threat of going to court (Schoultz & Muhire 2023a, 10), or with blockades, and some have also received considerable media attention, which can further pressure companies as well as the state to take action.

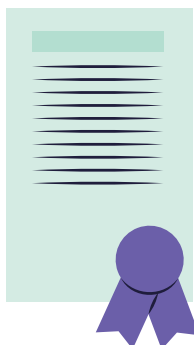
For union members, the union's help in disputes with employers is typically an effective way to access unpaid wages or compensation for other labour law violations. For non-members, access to remedy is limited. Typically, migrant workers are not members of the unions, due for example to their temporary residence and the cost of membership, language barriers, misconceptions regarding unions, as well as possible threats by employers (Swedish National Audit Office 2020, 49–50).

A study by the Swedish National Audit Office (2020, 50) points out that the biggest obstacle for trade unions in monitoring the working conditions of vulnerable groups is their difficulties in getting members of these groups to join the unions. One interviewee from an NGO, however, was critical towards trade unions and argued that the unions do not make proper efforts to recruit migrant workers who are in a vulnerable position, such as migrant berry pickers. According to another interviewee, joining the union can be difficult due to language barriers, the requirement to be a member for a certain period before the member can claim benefits, and the requirement to have a legal residence in Sweden. One trade union interviewee argued, however, that these barriers are more psychological and linked to labelling and attitudes among the unions towards migrant workers.

“There is a mental barrier saying that migrant workers cannot be organised, that migrant workers in some kind of way differ from ordinary workers. They do not want to be part of organizing, they do not want to take care of their rights, they don't care about anything but making money. But [...] this is not true, no one should say any longer that it's not possible to organise migrant workers.”

– Trade union

The typical requirement for how long one must have been a union member before receiving any support is three months. Schoultz and Muhire (2023a) show that in some unions, there is internal debate about this requirement. Our interviewees also talked about experiences where they have tried to convince their colleagues to take cases with workers who are not members when they have initially declined to do so. One trade union interviewee linked the responsibility of assisting non-members with the importance of protecting also Swedish workers:



"Because it's so important, too, not just for that person, but also to keep up the collective agreement in Sweden, which it's like the base of the labour law in Sweden. To handle these cases is actually of course important for each and every one who is in that situation, but it's also very important for the unions themselves to take care of these questions. [...]"

Sometimes that is an issue because not all of our systems can recognise or make it possible to register someone who doesn't have a Swedish personal number. But if your system doesn't allow this, then maybe you should help the exploited person anyway because it's in defence of the collective agreements and it's also something that prevents wages from being dumped."

– Trade union

Although unions usually do not provide legal assistance in court to non-members, local representatives or shop stewards have the possibility of handling a non-member's case within their employer's site. It seems that it is at least partly up to an individual person to decide whether or not to assist also non-members (Schoultz & Muhire 2023a, 9). A rather extreme example of a personal commitment to support non-members is a case where a construction trade union representative personally paid the membership fee of an exploited migrant worker, just to ensure that if the case would go forward to central negotiations, then the worker would receive the union's support (ibid.).

Smaller and more radical unions are both more flexible and successful in their recruitment of members and in providing assistance to exploited migrant workers. An example is the SAC, which has decided to assist workers immediately when they become members. Their assistance is also retrospective and covers past disputes. This is a great difference compared to the traditional approach of trade unions, which typically require a certain membership period before providing full membership benefits. The typical cases that SAC deals with involve assisting an employee in claiming unpaid wages (SOU 2024:14, 203). SAC actively uses different laws, such as the law on contractors' liability for wage claims or the Wage Guarantee Act, to claim unpaid wages (Schoultz & Muhire 2023a, 8). They have also forwarded cases to the police under the human exploitation provision. One interviewee was of the opinion that SAC is the union that reports the most cases to the police.

Also Schoultz & Muhire (2023a) highlight the engagement of SAC as well as of the Union Centre for Undocumented Migrant Workers. The report by the Delegation Against Work-Related Crime (2024) assesses that Solidariska Byggare, SAC's division for construction workers in Stockholm, has gone the furthest in organizing and assisting exploited workers. SAC has also helped to form regional "union organizations," such as Husby Arbetarcentrum, established in 2019, which operate with practices similar to that of the SAC. They help workers file complaints and negotiate with employers, and also assist with court litigation. Husby Arbetarcentrum has also managed to utilize Swedish legislation on small claims litigation (Förenklat tvistemål or Småmål), which reduces the cost risk if the case is lost. (Schoultz & Muhire 2023a.) Based on the interviews, these smaller organizations truly aim to protect and advance the rights of migrant workers, compared to the 'traditional' unions. Schoultz and Muhire (2023a) conclude that the role of semi-union organizations, such as the Union for undocumented migrant workers and Husby Arbetscentrum, are responding to a need to which the traditional unions have not been able to respond. One union interviewee described their methods as follows:

"Sometimes the decision will still be to just endure those bad conditions, because otherwise you don't have a future in Sweden. But then you can, for example, gather evidence, and when you're free from this employer, we can collect everything that the worker was denied during these two years. And this happens quite often. If you were forced to pay back part of your wages during these two years, if you just document it, we can claim it afterwards. If you were forced to work extra hours for free, if you document it, we can claim it afterwards."

– Trade union

The focus of Swedish policy on work-related crime is also seen in the work of trade unions. It appears that some of the Swedish unions aim to get the unscrupulous employers out of the market but forget to protect the exploited workers who are not union members. There are some examples of cases where trade unions have sued employers for non-compliance with the collective agreement and won. Sjödin (2021) describes a case where the union received the damages, but the workers received nothing since they were not involved in the case. This is worrying from a victim's rights perspective, as it in essence denies the

victim's right to remedy, especially when the organization in question is a trade union that should be protecting workers' rights.

Indeed, one trade union interviewee saw that the trade unions could address labour exploitation much more if they wanted to:

"Swedish institutions are very weak, and it will take a long time to make sure that they are strong enough and so on. But the unions are not so weak. If the unions decided that they wanted to eliminate the problem of exploitation of migrant workers, they could be part of the solution very quickly."

– Trade union

In order to increase the role of social partners in work against work-related crime, a report by the Delegation Against Work-Related Crimes suggests that the unions should provide information for workers in risk groups. The report also recommends exploring possibilities for further exchange of information and cooperation between the authorities and the social partners (SOU 2024:14, 205-206). Similarly, GRETA recommends in their evaluation that trade union representatives should be informed of potential cases of labour exploitation in workplace inspections (GRETA 2023a, 38).

Good practice: Fastighet's network against work related crime

THE REAL estate employees' union (Fastighetsanställdas Förbund) is a union for workers in the cleaning and building maintenance industries. The union established a regional network against work-related crime in 2023 under a project grant by the Swedish Work Environment Agency. The aim of the project is to detect unscrupulous employers and gather a network of reliable employers in the cleaning industry, who can provide fair employment to exploited workers.

THE PROJECT aims to provide fair employment to the workers, which helps them secure a residence permit, and hopefully motivates them to report the exploitation to the police without fear of deportation. In 2024, the union received increased funding and will widen the project and the network from the Western part of Sweden to Southern Sweden. Thanks to the project the number of tipoffs regarding unscrupulous employers has increased.

Source: <https://www.fastighets.se/om-oss/samverkan-och-projekt/natverk-mot-arbetslivskriminalitet/>, and discussion with the trade union 20 March 2024

5.6.2 The role of non-governmental organization (NGOs)

THE SWEDISH Civil Society Platform (Plattformen Civila Sverige mot människohandel) is a coalition of organizations that work against human trafficking and help victims who, for example, do not want to contact the authorities due to fear or due to their irregular migration status. Through the organization's network, the victim can receive the help s/he needs from the moment of contact until the safe return home or integration into Swedish society. In 2023, about 360 possible victims of labour exploitation were encountered by civil society actors in Sweden (Swedish Civil Society Platform 2024). The majority of people encountered were men, and this is related to the recent increase in cases of labour exploitation, in particular in the berry industry (ibid.). The Salvation Army (Frälsningsarmén) offers services to people who are, or are at risk of becoming, victims of labour exploitation, human trafficking or modern slavery. The organization runs a Safe Haven service centre in Stockholm and Malmö, where legal advice and social support are offered, e.g., housing services for victims of human trafficking.

The support that NGOs are able to give to victims of labour exploitation in accessing remedy through state-based judicial grievance mechanisms is limited. One interviewee from an NGO expressed the view that NGOs have a role in the facilitation of more victim-centred encounters between victims and such authorities as the regional coordinators or the police when conducting, e.g., workplace inspections. The lack of enforcement and investigations related to exploitation and trafficking impacts also on the work of support providers and victim assistance. One interviewee discussed how they provide support not only in criminal justice related matters but also in migration related issues, e.g., when persons want to apply for a residence permit or leave Sweden.

“We always combine [work with migration and criminal justice procedures] because we know the odds in the Swedish criminal system are so low and they're better off looking after their migration status if they want to stay in Sweden.”

–NGO

5.6.3 Corporate grievance mechanisms

FOR THE purposes of this report, we assessed the sustainability reports of six Swedish companies from 2023 and specifically sought information about grievance mechanisms and remediation. As can be seen from the table, all of the companies disclose some information about their existing mechanisms, such as whistleblower channels and internal reporting procedures. However, none of the companies disclose information about specific cases of remediation, even though some describe their approaches to remediation.

Disclosure on grievance mechanisms

Disclosure on remediation

Ica Gruppen (retail)	Whistleblower channel for internal stakeholders, reporting to internal audit committee, or direct superior, safety officer or HR.	No disclosure on remediation. If irregularities are detected, a concrete action plan is established and followed-up in an audit. Supplier gets a chance to correct the problem, but if problems reoccur, the agreement will be terminated. Four supplier agreements terminated after non-compliance with Ica's human rights requirements.
Axfood (food)	Group-wide and company-specific whistleblower channels. Mention of an external project regarding grievance mechanisms in Spain and Italy.	Reports through reporting channels and other identified non-compliance will be investigated and remedied if necessary. In the amfori BSCI audits, five suppliers were identified as having deviations related to issues such as health and safety violations and excessive working hours. One agreement was terminated due to non-compliance with Axfood's code of conduct.
Lantmännen (agriculture)	Whistleblower channel for internal stakeholders, employee survey, Owner representative organization, HR and legal.	Lantmännen's approach to harm caused by the company is to listen, compensate, and remediate, and prevent the harm from happening again.
Inter Ikea Group (retail)	Whistleblower channel, 129 reports in 2023. In addition, reporting to a manager, and HR. A pilot starting in 2024 to study how to best communicate and operate grievance mechanisms in the value chain.	If non-compliance is detected, IKEA aims to identify root causes, ensure that suppliers implement corrective actions, and terminate the cooperation with suppliers who do not correct the situation. In 2023, non-compliance found with work time registration, accident insurance, and responsible recruitment. Agreements with seven suppliers were terminated.
Skanska (construction)	Whistleblower channel, 128 reports in 2023. In addition, local reporting lines and ethics committees in business units.	No disclosure on remediation.
NCC (construction)	Whistleblower channel, 74 reports in 2023. Phone channel.	No disclosure on remediation. If non-compliance is detected in audits, supplier must correct it, or the agreement may be terminated.

TABLE 3: Disclosures in the sustainability reports of six Swedish companies regarding grievance mechanisms and remediation.²⁴

The most information was disclosed by Axfood and Ikea. Based on its reporting, Axfood is participating in an initiative led by Ethical Trading Initiative UK regarding improving grievance mechanisms for vulnerable workers in Spanish and Italian agriculture supply chains (see Ethical Trading Initiative 2023). In their annual report, Axfood recognizes the challenges regarding the availability of grievance mechanisms to seasonal migrant workers and imposes requirements regarding access to readily available grievance mechanisms that allow for remediation (Axfood 2024, 93). Moreover, Axfood says that the whistleblower channel is a central tool for an effective process where risks and misconduct in the operations are identified, and can be investigated and remedied (Axfood 2024, 96). Axfood also says that the earlier any deficiencies can be detected, the better the possibilities there are to influence, investigate, and remediate the impacts (ibid). On their website, Axfood further encourages people to report and provides a link to the reporting channels of Swedish authorities (however, at the time of the writing of this report, these links are inactive) (Axfood).

IKEA discloses that it requires its business partners to have a grievance mechanism in place for their workers. IKEA further reports that it is exploring possibilities to set up a grievance mechanism in their value chain, and aiming to engage stakeholders in the process. It expects to start a pilot in 2024 in three selected markets to understand how to best communicate and operate the grievance mechanism (IKEA 2024a, 58). IKEA also provides details regarding its collaboration with the International Organization for Migration (IOM) to strengthen rights of migrant workers and responsible recruitment. IOM trained a number of IKEA's and its suppliers' workers globally in migrant-centered human rights due diligence. IKEA states that businesses need to ensure migrant workers' access to effective grievance mechanisms and remediation processes. (IKEA 2024a, 51)

IKEA discloses that it has discovered non-compliance in working hour registration (13 suppliers), accident insurance (seven suppliers) and responsible recruitment of migrant workers (three suppliers) in its audits. IKEA does not disclose the specific actions it took, but says that securing compliance with its requirements related to responsible recruitment of migrant workers is an important area they work with in all the markets they operate. IKEA reports that in 2023, it terminated contracts with seven suppliers who did not address the above-mentioned issues properly. (IKEA 2024a, 56).

On their website, IKEA provides detailed information about their remediation policy, for example about recognizing that "remediation should be effective and meaningful in each context and tailored to the needs of specific vulnerable groups". IKEA further states

²⁴ The reports are included in the list of references.

that in alignment with the UNGP's, it recognizes the need to strengthen its approach to provide remedy to affected rightsholders beyond its direct business partners. Whenever IKEA is indirectly linked to a negative impact caused by their supplier, it cooperates and through the supplier "provides access to meaningful remediation" with expert or independent organization support. Moreover, IKEA states that it works through multi-stakeholder initiatives to advance dialogue on sectoral and global human rights issues. (IKEA.)

Some of these companies, which operate in the UK, produce also an annual Modern Slavery Statements in line with the UK Modern Slavery Act. In its statement, IKEA UK and Ireland refers to its mechanisms for remedy in its supply chain. However, no concrete examples of remediation are reported in the latest statement.²⁵ Similarly, Skanska UK produces a Modern Slavery Statement, where it refers to its Code of Conduct hotline, which provides an anonymous channel to report suspected legal or ethical breaches anonymously.²⁶

In an expert meeting with Swedish businesses and other stakeholders from academia, trade unions, and public authorities, organized as part of this project in Stockholm in March 2024, the many challenges in access to remedy were discussed. First, migrant workers indeed face significant barriers in preparing and submitting claims, barriers which are linked to their lack of knowledge of their rights as well as the lack of support from trade unions or other support organisations. The consensus was that workers themselves would be best positioned to raise awareness about exploitation, but since they are not mobilized, they lack real opportunities to do so. The second topic raised in the meeting was related to access to information, especially in languages that migrant workers speak. Thirdly, the role of civil society and the need for increased cooperation between civil society actors, companies, and the authorities in ensuring migrant workers' access to grievance mechanisms and remedies were discussed. It was suggested that learning from best practices in other countries or from sectors where more progress has been made is important. Participants agreed that although labour laws and other safeguards exist on paper, they are inefficient for migrant workers, in particular because of the overly long processes and risks related to high costs. Together these factors make it challenging for migrant workers to access remedies in practice. One participant mentioned a concrete case of remediation through a multi-stakeholder initiative in global supply chains, a case that took two years to complete. The processes are equally long also within Swedish supply chains. Participants highlighted the importance of other than state-based mechanisms in seeking and receiving remedy. Lastly, the discussions emphasised the importance of building trust and increasing communication with migrant workers,

²⁵ modern-slavery-statement-fy22-fiscal-19-05-23-002.pdf (ikea.com)

²⁶ <https://www.skanska.co.uk/49c29f/siteassets/about-skanska/supply-chain/modern-slavery-and-human-trafficking-statement.pdf>

especially so that their attempts at seeking remedy could succeed. Migrant workers will not receive the information they need regarding their rights and obligations as workers in Sweden unless both private and public actors engage with each other to improve practices and learn from each other. One participant commented that Ethical Trading Initiative Sweden's work with the wild berry sector is a great example of bringing companies and stakeholders together, instead of leaving each party to solve problems by themselves.

Good example: Multi-stakeholder initiatives and partnerships promoting migrant workers' rights

ETHICAL TRADING INITIATIVE (ETI) SWEDEN is a multi-stakeholder organization consisting of members. ETI Sweden and some of its members have actively worked to improve the human rights of berry pickers in Sweden. In 2023, ETI Sweden launched a study on how to implement Employer Pays Principle for Thai Berry Pickers who come to pick berries in Sweden (see Wingborg 2023) and has actively engaged in dialogue with the industry and other stakeholders in Sweden to develop responsible recruitment of berry pickers. (Ethical Trading Initiative Sweden 2024.) Axfood and Ica Gruppen both disclose in their 2023 sustainability reports that they participate in ETI Sweden's work to improve the working conditions of wildberry pickers.

IKEA HAS partnered for several years with the International Organization for Migration (IOM) to promote the rights and well-being of migrant workers across IKEA's supply chain. Since 2018, IKEA and IOM have partnered to promote the rights of Thai berry pickers in Sweden. They have for example created informational audio-visual materials to berry pickers in Thai and Isaan on Youtube, including how to raise a complaint as a berry picker. (IOM Thailand 2021.) In 2024, a new three-year global partnership was launched, with the aim to strengthen responsible recruitment, promote decent work and improve access to effective remedies for migrant workers. The partnership will support IKEA's suppliers to ensure secure and meaningful work and increasing focus on the challenges that migrant workers face across global supply chains. (IKEA 2024b.)

According to Jönssön (2023, 1186), the Swedish government has typically seen corporate social responsibility as something that concerns global outreach and as having a focus outside the “well-regulated Swedish system.” This mapping shows that there seems to be a lack of engagement and awareness regarding social sustainability and remedy within the Swedish context and in risk sectors inside Sweden. Regarding the efforts of Swedish companies to prevent labour exploitation, interviewees from an NGO, an authority, and a trade union were all rather sceptical regarding the level of corporate efforts and engagement. Two interviewees commented that if the companies really would want to take action, they could, even without any obligations outlined in law. One interviewee suspected that the businesses intentionally turn a blind eye to misuses:

“I don’t know about the level of awareness among Swedish companies, I feel like they should know because they’re so close to the suppliers, assuming they know their business they should know, but maybe they just choose not to see it?”

– Authority

One authority interviewee mentioned that companies argue that it is so difficult to know and prevent labour exploitation, and criticized them for the lack of true measures, especially when the exploitation takes place in their physical proximity in Sweden. Compared to global multi-tier supply chains, it should be easier to oversee supply chains nationally and locally. An authority interviewee as well as an NGO representative both hoped that the EU Corporate Sustainability Due Diligence Directive (CSDDD) would set clear obligations for supply chain oversight also in Sweden.

One interviewed business representative talked about their due diligence measures and processes and that migrant workers are an especially vulnerable group. Their work has focused on global supply chains, but also in food produce in Southern Europe, as well as the berry pickers in Sweden and in Finland.

“Migrant workers are a vulnerable group, and it’s one of the key areas we have pinpointed [...] so we need to be particularly cautious. In our sustainability routine we go through everything where there could be risks for migrant workers. Traditionally, we are looking into the global supply chains [...] and Italy, Spain and some other European countries with a lot of migrant workers in the fruit and vegetable sector. And then berries, wild berries, and mushrooms in Sweden and Finland, because it is almost only migrant workers working in these sectors, so we have a routine there also.”

– Business

In the interviews, larger companies were seen to take better action, due to the reputational risks involved, and due to their interest in upholding fair competition. When talking about the construction and cleaning industries, one trade union interviewee saw that the low prices are sometimes “just too tempting”, especially if there are problems in adhering to the schedule and a risk of incurring contractual sanctions for delays. The interviewee commented that it seems to be “convenient not to look so much into” the choice and use of subcontractors:

“The subcontracts are cheap. They have this army of construction workers standing by, just being able to come in and work 60 hours a week for a month or two. That’s been their unique selling point [...] I mean, of course, all these companies could end exploitation immediately if they went back to a policy of having their own personnel.”

– Trade union

One trade union interviewee saw that due to the law on a contractor’s liability for wage claims, some larger companies are now choosing their subcontractors more carefully since they would eventually be responsible for covering the wages of the employees of their subcontractors if these are not being paid. Interestingly, the construction companies assessed above, Skanska and NCC, do not disclose any information about paying back unpaid wages in their supply chains in their 2023 sustainability reports, even though the labour exploitation risks in construction sector are evident.

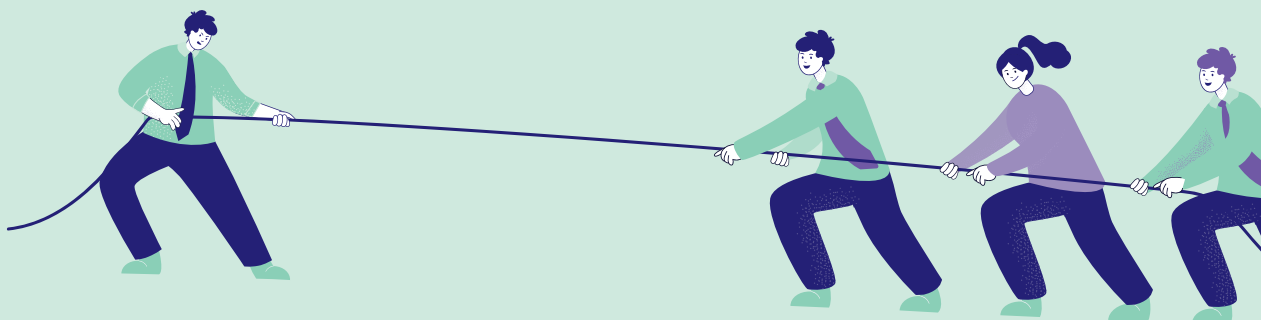
Structural barriers in migrant workers' access to remedy:

Trade unions:

- **MIGRANT WORKERS** working for non-organized employers and workplaces may be left without any oversight.
- **MANY UNIONS** have strict policies on not assisting non-members; their support is intended only for their members.
- **SOME UNIONS** lack a proper effort to recruit migrant workers as members.

Companies:

- **LACK OF** awareness of labour exploitation risks and lack of due diligence measures in supply chains in Sweden.
- **THE COMPANIES** do not publish much information about their grievance mechanisms and possible cases of remediation, thus making it difficult to assess the effectiveness of their channels and their measures.



5.7 Conclusions

BASED ON this mapping, exploited migrant workers have very limited access to remedy in Sweden with significant barriers to accessing unpaid wages and other means of protection. For a long time, labour exploitation has lacked political prioritisation, leading to inadequate identification, investigation, and prosecution of cases. Other reasons include limited awareness among workers about their rights such as needing to initiate criminal investigation to avoid deportation and the high financial risks involved in civil litigations. Justice for exploited migrant workers is hindered also due to the lack of clear protocols for investigating labour exploitation.

The protection provided by the Swedish model and traditional trade unions has also been limited, since many migrant workers are not union members. However, smaller and more radical unions have taken a critical role in organizing and advocating for the rights of exploited migrant workers. Notably, the syndicalist union SAC has successfully facilitated industrial action to claim unpaid wages and other payments for their members demonstrating effectiveness in supporting vulnerable workers. However, especially non-unionized migrant workers are left without oversight, since the government agencies lack the mandate to monitor migrant workers' wages, while traditional trade unions show limited interest in non-members. Trade unions could play more critical role in protecting migrant workers and also make sure that exploited workers receive compensation in conjunction with winning cases against employers.

Due to the lack of clear mandates of authorities in addressing labour exploitation, there is a genuine risk that cases are not investigated and thus access to remedies is unlikely. The ambiguity around responsibilities of authorities was highlighted by interviews as well as literature which both highlight the need for stronger coordination among social partners.

In general, awareness of labour exploitation risks in Sweden remain low, even though recent developments on the policy level, in research, and in media coverage have brought the topic to the attention of the general public. Also, there is a risk that the current policies focusing on work-related crime emphasize more on the actions of criminal actors rather than securing the rights of the victims.

In practice, a person in a foreign country with little knowledge of their rights and how the system operates is very unlikely to seek remedy alone. NGOs provide support to victims, but their work is hindered by insufficient cooperation with authorities and challenges related to enforcement. Interviews highlighted the need for improved access to information in multiple languages and learning from existing best practices. Furthermore, trade unions, NGOs and regional coordinators play an important role in sharing information to workers as well as facilitating their access to remedy through the different mechanisms. Businesses also could provide an important alternative for accessing remedies outside the current state-based system as long as approaches are victim-centered and workers are put to the core and meaningfully engaged in the process.

Main avenues for remedy in Finland, Norway and Sweden

THIS SIMPLIFIED FLOWCHART illustrates four primary avenues for remedy in Finland, Norway and Sweden:

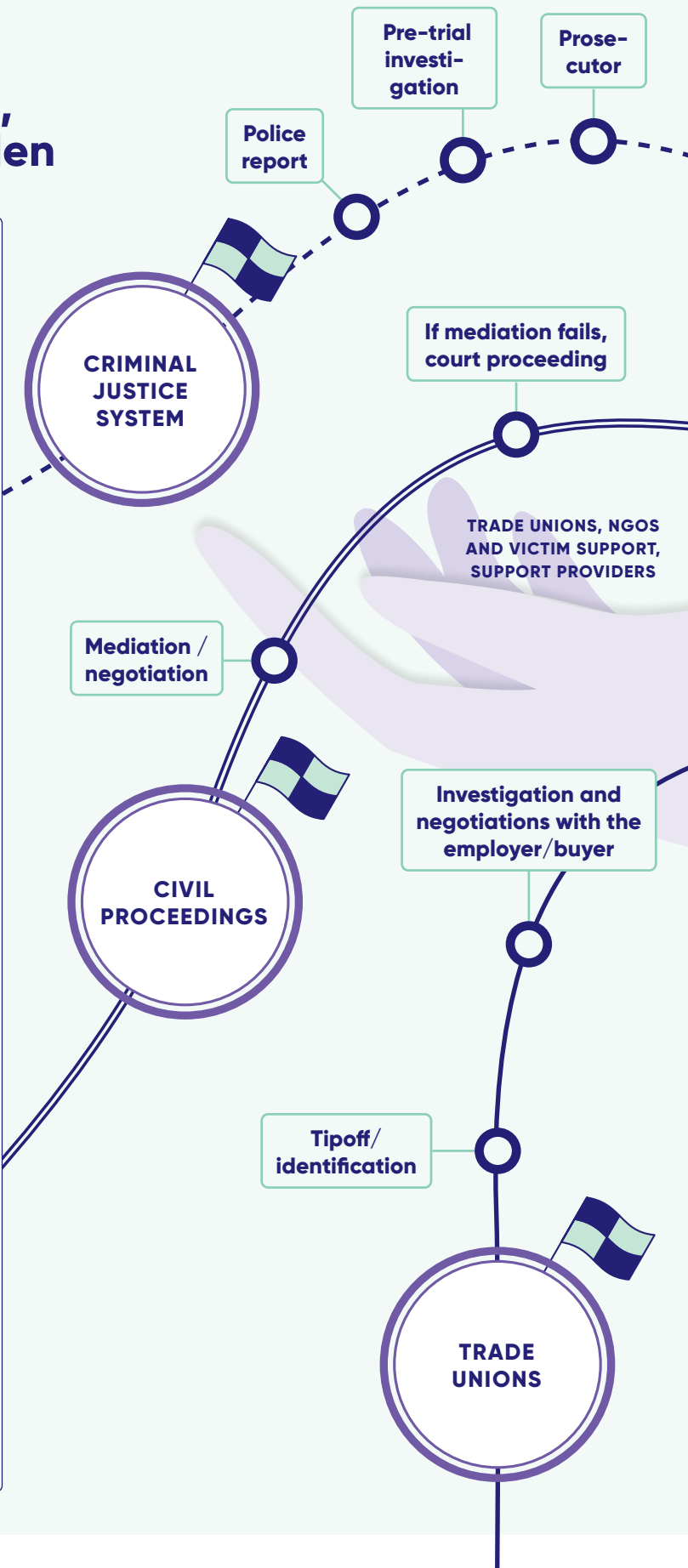
1. CRIMINAL JUSTICE PROCESS: Cases of labour exploitation that meet the criteria for criminal offences are handled within the criminal justice system. The process involves pre-trial investigation, and potentially prosecution and conviction of offenders.

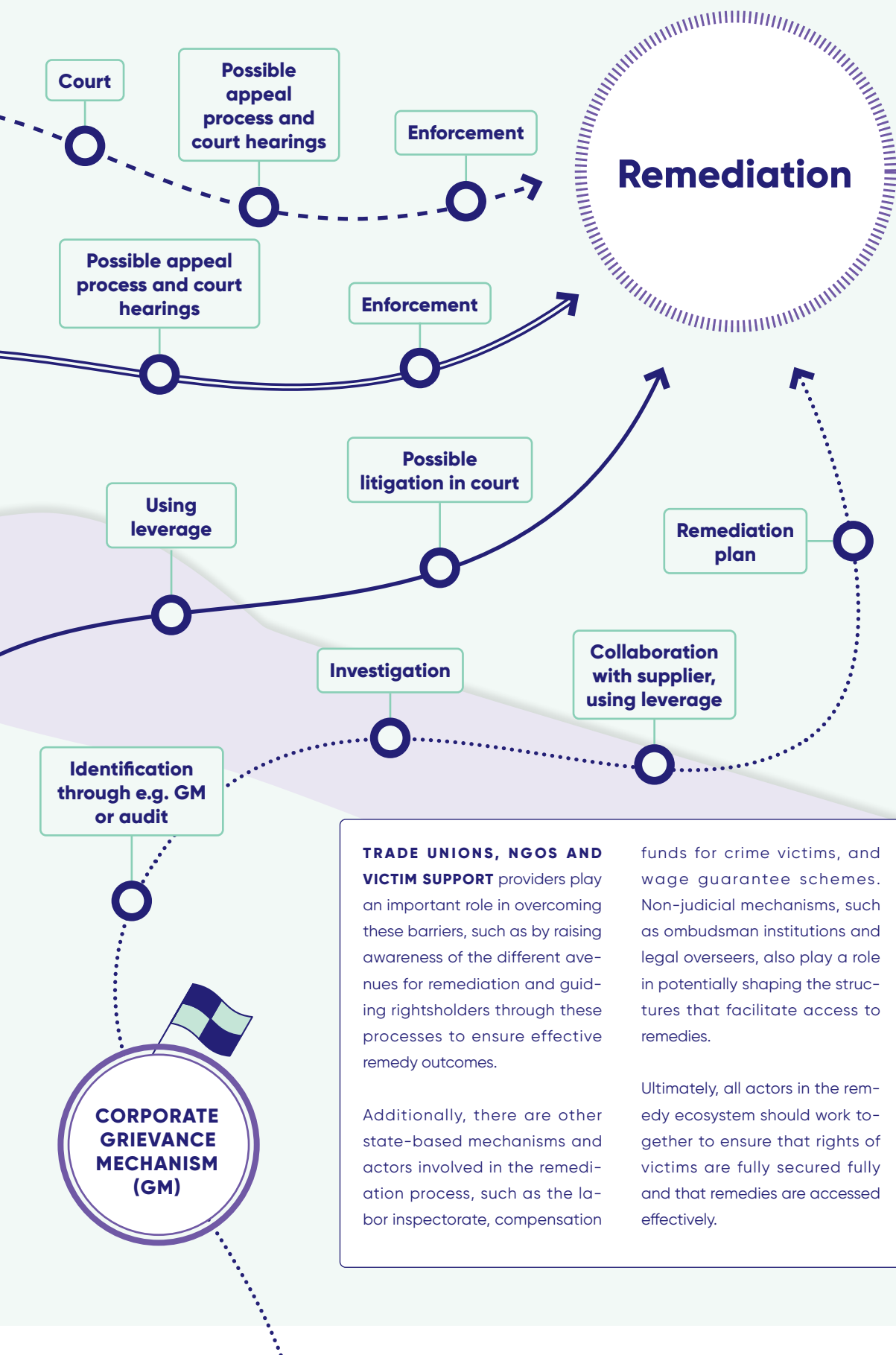
2. CIVIL PROCEEDINGS: Disputes between employees and employers can also be litigated in civil courts if a settlement is not reached through negotiations.

3. TRADE UNIONS: Assistance is typically provided to union members but sometimes non-members and new members receive support as well. Trade unions offer advice, negotiate unpaid wages and compensation with employers, and use leverage to facilitate remediation by contracting entities. In some cases, trade unions may litigate disputes in civil or labour court.

4. CORPORATE GRIEVANCE MECHANISMS: Many companies have operational-level grievance mechanisms or conduct audits through which cases of labour exploitation can be identified and remediation processes can be initiated.

THESE PROCESSES ARE OFTEN COMPLEX: they can take years, have uncertain outcomes, and do not always lead to remediation. Several structural barriers may disrupt the processes and prevent cases from reaching a resolution.





TRADE UNIONS, NGOS AND VICTIM SUPPORT providers play an important role in overcoming these barriers, such as by raising awareness of the different avenues for remediation and guiding rightsholders through these processes to ensure effective remedy outcomes.

Additionally, there are other state-based mechanisms and actors involved in the remediation process, such as the labor inspectorate, compensation

funds for crime victims, and wage guarantee schemes. Non-judicial mechanisms, such as ombudsman institutions and legal overseers, also play a role in potentially shaping the structures that facilitate access to remedies.

Ultimately, all actors in the remedy ecosystem should work together to ensure that rights of victims are fully secured fully and that remedies are accessed effectively.

6 Examples of access to remedy for exploited migrant workers in the Baltic Sea region

This chapter presents a set of identified practices that facilitate exploited migrant workers' access to remedy in the broader Baltic Sea region: in Denmark, Estonia, Germany, Iceland, Latvia, Lithuania, and Poland. The chapter contributes to our understanding of the landscape of access to remedy for victims of labour exploitation across the Baltic Sea region.

THE PRACTICES outlined in this chapter are derived from a comprehensive desk review and consultations with selected experts on labour exploitation and/or business and human rights within the target countries. Additionally, the Third Evaluation Round reports by the Group of Experts on Action against Trafficking in Human Beings (GRETA), under the Council of Europe, have been utilised in order to provide an overview of access to remedy and rights available to victims of trafficking and labour exploitation in each respective country.

The desk review is not meant to be as descriptive and as systematic as the mapping done in connection with Finland, Norway and Sweden, but rather provide a first step towards understanding the range of mechanisms, as well as highlight existing promising practices in access to remedy in cases of labour exploitation that can serve as models for improving protection for migrant workers across the region. For instance, assistance to victims of labour exploitation and trafficking is largely provided by local NGOs along with municipal and state actors. However, due to the limited scope of the desk review, their role in providing access to remedy will not be discussed in detail.

The examples presented in this chapter are:

- Labour dispute committees in Estonia and Lithuania
- Advisory centres for migrant workers operated by trade unions in Germany
- The German Supply Chain Act
- Worker-driven monitoring and Worker-Driven Remedy Principles by Electronics Watch, operating in Poland
- A public procurement initiative in Denmark: the City of Copenhagen's task force against social dumping
- Trade unions overseeing working conditions and assisting migrant workers in claiming unpaid wages in Iceland
- The Latvian Ombudsman institution

6.1 The labour dispute committee in Estonia

ESTONIA IS a source, transit and destination country for human trafficking and exploitation. Before the Russian invasion of Ukraine in 2022, most of the victims of labour exploitation identified in Estonia were Ukrainian men. In the more recent years, victims from Central Asia have emerged, such as from Uzbekistan and Tajikistan. (Pekkarinen and Jokinen 2023, 21.) Sexual exploitation has been the main form of exploitation among formally identified victims, but labour exploitation is the most common form among presumed victims. Most victims of labour exploitation are men, working especially in construction and manufacturing (GRETA 2023b, 6).

In Estonia, the labour dispute committee is an extrajudicial authority that seeks to resolve disputes between employees and employers in an impartial, efficient and fair manner (Republic of Estonia Labour Inspectorate 2024a). If disagreements arise which the parties cannot solve amongst themselves, these can be brought to a labour dispute committee. The committee helps the parties reconcile, find a compromise, and reach a settlement agreement. The committee can decide on both individual and collective disputes. Both employees and employers can file a petition with the committee. (ibid.)

Labour dispute committees do not deal with disputes related to injury or death caused by workplace accidents or occupational diseases, nor disputes that stem from agreements other than employment contracts (Republic of Estonia Labour Inspectorate 2024a). In these cases, the parties must turn to district courts. However, the committees can be approached in cases where the parties have signed for example a contract for services but the situation, in reality, resembles an employment relationship. The committees can be asked to formally recognize the claims (minimum wage, overtime compensation etc.) made on the basis of an employment relationship. (ibid.)

Labour dispute committees must process petitions within 45 days of receiving them (Republic of Estonia Labour Inspectorate 2024a). If the matter is resolved before the committee takes it under consideration, it is possible for the petitioner to withdraw the petition, in which case the opposing party will not be notified that a petition had been made. If the case is already being processed by the committee, the termination of the process needs to be approved by both parties. Even after a withdrawal or termination of the case, the claim can be submitted to a district court, if necessary, but the labour dispute committee cannot be approached again with the same claim. (ibid.)

A signed petition can be filed with the labour dispute committee either by post or via e-mail (Republic of Estonia Labour Inspectorate 2024b). The petition, the settlement process as well as the communications with the committee must be done in the Estonian language, and any piece of evidence that is in another language has to be translated into Estonian at the petitioner's cost (ibid.). The Labour Inspectorate's (2024b) website offers detailed written and video instructions in Estonian on how to prepare a petition. However, a petition requires a certain amount of understanding of the administrative process as well as of administrative language. It therefore seems unlikely that a person without adequate language skills or understanding of the Estonian system would be able to fill out the petition themselves. Local victim support organizations have thus in some situations offered to help foreign workers in submitting forms (Pekkarinen et al. 2021, 110).

The dispute can be resolved in ordinary proceedings, conciliation proceedings, or written proceedings (Republic of Estonia Labour Inspectorate 2023). In ordinary proceedings, a petition is reviewed at a session. The dispute is resolved by three committee members: the chairperson and two representatives appointed by social partners (i.e., one representative of the employees and one of the employers); these two do not represent the interests of the parties, but rather participate in hearing the matter and reaching a decision. In conciliation proceedings, the chairperson of the labour dispute committee acts as a conciliator, who helps the parties come to an agreement on both legal and other issues affecting the dispute. Both parties need to agree to take part in conciliation proceedings. Written proceedings can be used for settling monetary claims of up to 6,400 EUR. (ibid.)

In 2020, amendments were made to the labour dispute legislation, which allowed for a fully virtual hearing, in which, for example, a foreign worker or their representative participates in the committee hearing remotely. This makes it possible for the worker to take part in the hearing even after leaving Estonia. (Pekkarinen et al. 2021, 112.)

The Estonian labour dispute committees give about 3,000 decisions each year (Pekkarinen et al. 2021, 112). The biggest benefit of the labour dispute committees is that the process has the potential to be faster and much lighter than a court process. The proceedings are free of charge, and it is not necessary to hire a lawyer. The case can be resolved even without the attendance of the opposing party, as long as the petitioner is present. Labour dispute committees also lessen the workload of courts considerably. If a conclusion cannot be reached in a case, this is often due to insufficient evidence being presented. The committee can inform the petitioner that the case cannot proceed based on the material provided, but due to their impartial role, they cannot advise the petitioner on what type of evidence he/she should provide. The Labour Inspectorate website offers some examples of documents that can be annexed to the petition. Moreover, victim support services can advise their clients on gathering evidence. A lack of a written employment contract or timesheets is often a key challenge in building a case. (ibid.).

Based on discussions with an Estonian victim support expert (discussion with a victim support provider on 13 August 2024), it can be difficult to prove for example the amount of unpaid wages, especially if wages were paid in cash without written payslips. Hence, the burden of proof, the language requirements and other procedural elements of the process can in practice limit vulnerable victims' access to remedy through the labour dispute committee. Even though there is not necessarily a need for a lawyer, a person who is not familiar with Estonian or the application or the procedure, does in practice need somebody to assist them in the application process. No free interpretation is provided in the labour dispute procedures, which is a direct hindrance to persons who cannot afford to cover the cost of interpretation themselves.

According to the Estonian victim support expert, unscrupulous employers refuse to pay despite the committee's decision, since they assume that the workers do not have the means to start the official enforcement process. Some businesses intentionally make their companies insolvent in order to avoid paying back wages. Moreover, some unscrupulous employers have appealed the committee's decision to the district court, with the aim of scaring the worker into withdrawing from the court process. A victim support expert sees this as a scheme that some employers utilize in order to benefit from the vulnerability of the workers who are not familiar with the Estonian system. (ibid.) Furthermore, employers who systematically exploit their migrant workforce rarely pay wages to those who have already left the country (Pekkarinen et al. 2021, 111).



Victim support provider facilitating access to remedy

THE SOCIAL INSURANCE BOARD in Estonia is a governmental authority functioning under the Ministry of Health and Social Affairs, that operates a Human Trafficking Service under their Victim Support and Prevention Services Department. The organization provides counselling services for victims of trafficking and exploitation, and they can be contacted via phone or e-mail.

The service actively assists migrant workers in submitting applications to the Labour Dispute Committee. Typically, the clients are guided to the Social Insurance Board by the police or another entity. Some have also found out about the organization themselves or through their networks.

After a contact from the presumed victim, the Social Insurance Board tries to find out how much unpaid wages there might be, and whether there are some other indicators of exploitation or trafficking involved. In 2023, 98 % of the Social Insurance Board's clients were third country nationals. According to a discussion with an expert working at the service, the victims typically contact them regarding their most recent missing wages. However, when the Social Insurance Board looks further into the case, there is often other exploitation involved and the workers are owed much more money than they initially thought.

The aim of the Social Insurance Board is to make the applications to the labour dispute committee as strong as possible, despite the occasional challenges in gathering evidence. Sometimes, the strong applications have compelled the employers to pay before the case has been brought up in the labour dispute committee. In addition, the Social Insurance Board has also initiated proceedings to place a company in bankruptcy in order to secure unpaid wages through the wage guarantee system.

The interviewed expert, however, underlined that it is very difficult to prove the amount of unpaid wages, since there is a lot of cash payments involved. The clients typically get some money through the committees, but not all that has been claimed, due to the difficulties in proving all worked hours. The Social Insurance Board also refers cases to the police when they suspect further exploitation in the cases. The Social Insurance Board does not follow up on the cases and thus does not have information about how much their clients have actually recovered unpaid wages based on the decisions of the labour dispute committee.

(Discussion with a victim support provider on 13 August 2024.)

6.2 The labour dispute committee in Lithuania

LITHUANIA IS a country of origin, transit and destination for labour migration and exploitation. Most identified victims are Lithuanian nationals, of whom nearly half have been exploited in Lithuania (GRETA 2024b, 10). Foreign victims in Lithuania have come for example from Ukraine, Belarus, and Central Asia (HEUNI 2022).

The Lithuanian labour dispute committees handle disputes between an employer and an employee, for example related to unpaid wages. There are 19 labour dispute committees in Lithuania, and they consist of representatives of both employers and trade unions, whom are appointed by the Tripartite Council Secretariat and approved by the chief state labour inspector of Lithuania (National Labour Inspectorate of Lithuania 2023).

The labour dispute committees received more than 5,000 complaints in 2022, almost 1,000 of which came from migrants (HEUNI 2022). Most complaints dealt with wages. The complaint forms are available in Lithuanian, English or Russian. The worker can get assistance from the consultation division of the Labour Inspectorate in filling out and submitting the forms (*ibid.*). The application form must be filled out properly and be accompanied by sufficient evidence such as payslips, worktime records, and employment contracts. The Labour Inspectorate can be contacted online, via email, phone, or by visiting their physical location.

According to an email exchange with the Lithuanian State Labour Inspectorate, migrant workers typically learn about the labour dispute committee through their own networks, colleagues or trade unions (email exchange with National Labour Inspectorate of Lithuania 30 August 2024). There are no comprehensive statistics on what organizations have assisted migrant workers in filling out the applications, but in practice for example local trade unions have assisted workers who have become members of the unions (*ibid.*).

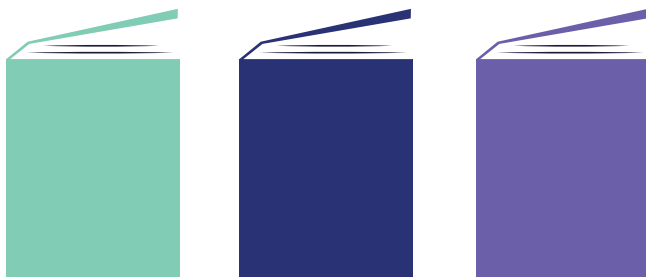
The procedure is free of charge. The process starts by submitting an application to the committee. After receiving and reviewing the application, the committee may interview the employee(s) and possibly gather other relevant information and interview also other employees besides the complainant. The application must be submitted within three months from the violation, but the deadline for applications can be extended by the labour dispute committee. (Lithuanian Trade Union Confederation, National Labour Inspectorate of Lithuania 2023.)

Both the employee and the employer are invited to a committee meeting to reconcile the dispute. If there is no resolution between the parties, the committee votes on the decision. The disputes must be decided within one month from receiving the application. This can

be extended in some cases to two months. The decisions are binding, but they can be appealed to the district court. (ibid.)

According to the most recent GRETA report on Lithuania (2024b, 35), the Labour Inspectorate generally fails to follow up on cases dealt with by the labour dispute committee, despite possible signs of labour exploitation. According to GRETA, in 2021 the labour dispute committees found nearly 6,500 labour law violations, but only around 2 % of the cases were followed up by the Labour Inspectorate (ibid.). GRETA recommends that information sharing between the labour dispute committees and the State Labour Inspectorate should be strengthened (GRETA 2024b, 36).

There are no official statistics on how much has been paid to workers based on decisions of the labour dispute committee. If an employer refuses to pay despite the committee's decision, the worker can apply for an official enforcement process. However, according to an email exchange with the State Labour Inspectorate, relatively few complainants end up applying for enforcement. (Email exchange with National Labour Inspectorate of Lithuania 30 August 2024.)



6.3 Germany: Advisory centres for migrant workers

GERMANY IS primarily a country of destination for human trafficking. Workers affected by exploitation in Germany often come from countries such as Bulgaria, China, India, Moldova, Poland, Romania and Ukraine. Cases of labour exploitation have been identified in, e.g., meat processing, construction, agriculture, transport and logistics, cleaning, hotels and hospitality, and care work. (Lupascu 2020.) The focus on labour exploitation has increased over the past years, and in 2023, Germany launched the drafting of a National Action Plan Against Labour Exploitation and Forced Labour that is set to be adopted in 2025 (BMAS 2023).

Several organisations provide support and advice to victims of trafficking and migrant workers in exploitative labour conditions, and a number of organisations are also working with initiatives related to raising overall awareness about labour exploitation risks in Germany. In the following, we present a few examples: Fair Mobility, Fair Integration, and the Service Centre Against Labour Exploitation, Forced Labour and Human Trafficking.

Fair Mobility was launched in 2011 by the German Trade Union Confederation DGB. Fair Mobility has several advisory centres in Germany that offer counselling on workers' rights to mobile workers from Central and Eastern European countries. Fair Mobility helps to enforce fair wages and working conditions by informing, advising and supporting workers in their own languages. The Federal Ministry of Labour and Social Affairs provides 90 % of the funding for Fair Mobility, and the Federal Board of the DGB the remaining 10 %. (Faire Mobilität.)

According to detailed statistics published by Fair Mobility, the number of cases considered and the number of persons who contact the advisory centres have increased steadily almost every year. In 2023, they worked with 7,742 cases involving 9,696 individuals. The statistics indicate that the organisation is easy to approach through the internet, although people are also referred by third parties. Most inquiries are handled via telephone or email. The vast majority of cases are resolved with advice from Fair Mobility within hours from contact, but in some cases, they do participate in mediation if required. Most inquiries come from men (60 per cent), and a significant number of contacts were from individuals originating from Bulgaria, Poland and Romania. The inquiries came from various sectors, including logistics, construction, road transportation and cleaning. Nearly half of the contacts concerned issues related to remuneration. Other reasons for contacting Fair Mobility were mainly related to termination of contract, sick pay, employment contracts and collective agreements, and unemployment benefits. (Faire Mobilität Beratungsaufkommen 2023.)

In addition to their counselling services, Fair Mobility develops awareness raising materials on the rights of workers in several languages (e.g., a step-by-step guide to claiming wages) and also on the German labour market, and operates a hotline. In addition, they organize regular events; in 2023, they reached out to over 26,500 people and shared information for example about the labour law, work time restrictions, and remuneration. (ibid.)

Regarding mediation, media publicity is one way to pressure the employer to settle wage claims (email exchange with Fair Mobility 27 June 2024). If the dispute is not settled through mediation, Fair Mobility supports workers in many ways, such as by providing information about steps in the potential court process, and how the court process in practice entails that the workers would have to sue the employer in court themselves, with the help of a lawyer, or with the assistance of their trade union if they are members. According to GRETA (2024c, 24) a trade union lawyer from BEMA (Berliner Beratungszentrum für Migration und Gute Arbeit) assists trafficking victims in claiming back wages pro bono in labour courts. In this way, around 200 000 euros in back wages are claimed by victims every year. However, even in these cases many employers enter into insolvency and thus do not pay the back wages (ibid.).

Fair Mobility also participates in an EU-funded network, “Fair European Labour Mobility 2 (FELM II)” consisting of trade unions in Austria, Bulgaria, Hungary, Poland, Romania, Serbia and Slovenia. The trade unions operate advisory centres to support employees who are posted to work in Germany or Austria, or who return home after the posting. In addition to information sharing and advising, the counselors in the centres can assist in problems with extrajudicial assertion of claims, mediate with the employers, and in some cases, provide support in court hearings. The network is currently funded for 2024-2025. (Fair European Labour Mobility 2024.)

Fair Integration is another trade union-based advisory service targeted at third country nationals in Germany. They offer advice on social and labour law issues in different locations for refugees and other migrants from outside of Europe. The centres are located in all of Germany’s regional states. In addition to the centres, Fair Integration has published various information on their website in several languages. (Fair Integration.) The Fair Integration centres are coordinated by the Competence Centre for Fair Integration, based at a subsidiary of the national training institute (DGB Bildungswerk) of the German Trade Union Confederation, DGB. They are funded by the Federal Ministry of Labour and Social Affairs (BMAS) and the European Social Fund (ESF). (ibid.)



THE SERVICE CENTRE AGAINST LABOUR EXPLOITATION, FORCED LABOUR AND HUMAN TRAFFICKING (Service Centre)

offers training and information to law enforcement agencies, other relevant advisory centres, trade unions and employers' associations, labour inspectors, immigration authorities, employment agencies, federal state ministries and civil society actors. The Service Centre was established in 2017 and is funded by the Federal Ministry for Labour and Social Affairs (BMAS) and is managed by the trade union organization Arbeit und Leben Berlin-Brandenburg DGB/VHS e.V.

Their aim is to strengthen nationwide cooperation structures against labour exploitation and trafficking, raise awareness, and build the capacity of the relevant authorities, social partners, and civil society. The Service Centre has produced checklists for example for identifying labour exploitation in seasonal work and nursing, flyers about workers' rights in several languages, and a ready-made "calendar" to document one's own working hours. All the materials are available on their website. (Servicestelle Gegen Zwangsarbeit.)

In 2021, the Federal Ministry of Finance and the Federal Ministry of Labour and Social Affairs (BMAS) signed a framework agreement to increase cooperation with the Financial Control of Undeclared Work Unit (FKS), Fair Mobility, Fair Integration, and the Service Centre against Labour Exploitation, Forced Labour and Human Trafficking. The objective is to cooperate and combat labour exploitation more effectively and improve identification and protection of trafficking victims. (Federal Ministry of Labour and Social Affairs of Germany 2021.)



THE GERMAN SOCIAL COMPENSATION ACT came into effect in January 2024. It provides that victims affected by physical or psychological violence may receive compensation from the government (KOK 2024). The compensation covers for example medical care, cash benefits and welfare benefits (GRETA 2024c, 24). According to GRETA, all cases of human trafficking are covered by the definition of psychological violence. Foreign victims, regardless of their status, are also eligible. In addition, the legislation covers translation and interpretation costs (ibid). It does not require prosecution or conviction of the perpetrator. GRETA comments that the legislation will likely improve the access of trafficking victims to State compensation, but its impact on the ground level remains to be seen (GRETA 2024c, 25)

6.4 The German Supply Chain Act

THE GERMAN Act on Corporate Due Diligence to Prevent Human Rights Violations in Supply Chains (“Supply Chain Act”, in German: Lieferkettensorgfaltspflichtengesetz (LkSG)) came into effect on 1 January 2023. The law was initiated in the 2016 German National Action Plan on Business and Human Rights (NAP), which included a call for the government to consider mandatory legislation if voluntary due diligence measures proved insufficient. At the same time, the then government coalition agreed that it would adopt a corporate due diligence law in case fewer than 50% of companies with at least 500 employees would implement voluntary due diligence measures by the mid-2020s. The government subsequently commissioned a review of voluntary corporate due diligence-based initiatives, which revealed that only 13-17% of businesses with more than 500 employees actively applied human rights due diligence. The findings created political disagreement concerning the scope and aims of the law. Around the same time, a civil society network was formed to promote human rights due diligence law. To overcome the stalled political debate, more than 200,000 people signed a petition to enact such a law, which was handed over to the Federal Chancellery in 2020. The Supply Chain Act was subsequently introduced to the Federal Parliament (Bundestag) in April 2021. (Krajewski et al 2021; Gustafsson et al 2023.)

The Supply Chain Act currently applies to companies that have their central administration, principal place of business, administrative headquarters, statutory seat or branch office in Germany, and which employ at least 3,000 employees in Germany. From 2024 on, the scope of the Act was broadened so that it applies to companies with at least 1,000 employees. The companies must respect human rights by implementing certain due diligence obligations, such as establishing a risk management system to identify, prevent, or minimize the risk of human rights violations (Federal Ministry of Labour and Social Affairs). According to the Act, these violations may concern, for example, child labour, forced labour, disregard for occupational safety and health obligations, disregard for the freedom of association, unequal treatment in employment, or refusal to pay an adequate living wage (Supply Chain Act, 2021).

The Act makes complaint procedures mandatory and includes an obligation to take remedial action and suspend the business relationship, if necessary. Section 7 of the Act concerns remedial action. It stipulates that if a company discovers a violation that is imminent or has already occurred, it must without undue delay take appropriate action to prevent, end, or minimize the extent of the violation (Supply Chain Act, 2021). If the violation is by a direct supplier and is such that the company cannot end it right away, the company must develop and implement a plan (“a concept”) with a concrete timetable for ending or minimizing the violation. This may require temporary suspension of the business relationship. The termination of a business relationship is required in cases where the violation is very serious, the concept timetable is not followed, or when the company has no other less severe way of exerting influence over the supplier. The effectiveness of the remedial action must be reviewed. (Ibid.)

According to section 8 of the Act, the company must also ensure that an appropriate internal complaint procedure is in place so that persons can report risks and violations of human rights and environment-related obligations caused by the company’s economic actions in its own business area or by its direct supplier (Supply Chain Act, 2021). The company can also participate in an external complaint procedure, if the rules of the procedure are publicly available in written form; if the persons entrusted with the proceedings guarantee their impartiality and secrecy; and, if the complaints procedure is accessible to the potential parties involved and ensures protection against disadvantage or punishment as a result of a complaint. The effectiveness of the complaint procedure must also be reviewed at least once a year (ibid.). The Federal Office of Economic Affairs and Export Control (BAFA) has published detailed guidance on establishing complaint

procedures according to the Supply Chain Act (Federal Office of Economic Affairs and Export Control).

If companies do not comply with their legal obligations, an administrative fine may be imposed on them of up to 8 million euros or 2% of their annual global turnover. If a fine above a certain minimum level is imposed, companies may be excluded from the awarding of public contracts. The supervising authority is BAFA which has broad powers, for example, to enter business premises, inspect documents, demand that companies take concrete action to fulfil their obligations, and impose financial penalties. The effectiveness of the Act will be assessed in 2026. (Federal Ministry of Labour and Social Affairs).

A complaint can be submitted through the website of BAFA. In addition, the Act makes it possible for affected workers to authorize trade unions and for NGOs to lodge claims on their behalf in German courts. According to the German civil society alliance Initiative Lieferkettengesetz (Supply Chain Act Initiative) (2021, 3), this may help with some potential barriers such as the high costs associated with hiring a lawyer or the workers' unwillingness to take the matter to court due to, for instance, fear of retaliation. The Initiative points out that as a downside, the law does not include civil law provisions that would hold companies accountable for not following their due diligence obligations. Furthermore, the supply chain obligations only truly apply to the company's own operations and to their direct suppliers, while indirect suppliers are included only in specific circumstances (Initiative Lieferkettengesetz, 3–4). For indirect suppliers, the law stipulates that businesses should conduct a risk analysis if they obtain "substantiated information" concerning possible human rights violations or environmental damage. If such violations are uncovered, the company must ensure preventative measures and draw up and implement a similar concept as for its own operations. This means that the law does not directly require companies to engage in systematic due diligence towards indirect suppliers. (Krajewski et al 2021, 556.)

The European Centre for Constitutional and Human Rights (ECCHR) in Germany has filed complaints under the Supply Chain Act to BAFA and to companies. All of the cases concern global supply chains. In one of the cases, the ECCHR complained that German car manufacturers were not adequately responding to the risk of forced labour in supplier factories in the Uyghur Region. In another complaint ECCHR and its partners filed complaints against German supermarket chains for not taking effective and adequate steps to prevent human rights violations in their banana supply chains in Ecuador. ECCHR has also filed complaints on behalf of workers affected by the Rana Plaza disaster in Bangladesh in 2013.²⁷

²⁷ [ECCHR: Ten years after Rana Plaza: Workers Submit Complaint.](#)



Case example: Lorry drivers' strike leading to remediation

THE SUPPLY Chain Act applies to the operations and supply chains of companies also in Germany. In 2023, there was a highly publicized case of a lorry drivers' strike in Germany (the so-called 'Gräfenhausen case'). The drivers employed by companies under a Polish group had been subjected to severe underpayment. Drivers from Georgia, Tajikistan, Turkey, Ukraine and Uzbekistan went on strike to demand their wages and better working conditions. They organized and were supported by trade unions. Eventually, in April 2023 the company ended up paying 300,000 euros to around 60 drivers. Pressure was also put on the larger companies in the supply chain, which were covered by the Supply Chain Act (Treblin 2023).

A SECOND strike took place in August and September of 2023 against the same company, and involved around 130 drivers. In September, representatives of the Supply Chain Act enforcement authority BAFA visited the drivers to inspect whether German companies had violated the Act (Gerritz 2023). Shortly after, a pay settlement totalling around 500,000 euros was reached. The details of the deal were not made public, but according to the media, the money was paid by the larger German companies in the supply chain (Business and Human Rights Resource Centre 2023; Treblin 2023; European Transport Workers' Federation 2023).

²⁸ This is not an extensive list of the questions, since no official translation of the reporting questionnaire in English was found.

The Supply Chain Act requires that companies disclose information about their due diligence activities by using a specific questionnaire template (BAFA). The questions related to grievance mechanisms and remediation include for example:²⁸

Identification of violations and remediation measures in the company's own business area, at direct suppliers, and at indirect suppliers

- Were any violations identified, and if yes, regarding what topics, and how many?
- Description of remediation measures and how their effectiveness is verified
- What measures were taken to put an end to or minimize further violations?
- Description of whether the violations stopped or not
- Description of whether further analysis has been made regarding a need to adapt the preventative measures
- Description of procedures to identify and prioritize violations at direct and/or indirect suppliers

Complaint mechanism

- Description of the complaint procedures, the company's own procedure and/or any third-party procedures in which the company participates
- Access to the mechanism(s): which stakeholders have access to the mechanism, how is the access ensured?
- Availability and link to the rules of procedure
- Responsible persons and functions of the complaint procedure
- Description of whistleblower protections
- Number and type of received complaints, duration and outcome of the procedures

The reporting requirements have received criticism. For example, Harrison et al. (2024) criticise the German law for having only vague disclosure requirements that lack detail regarding the complaints mechanisms that have been established. For example, there is no specification of what type of action or the extent of the action which companies are required to take in order to make their complaints mechanisms known to rightsholders. They argue that the reporting requirements are weak (Ibid, 7). Moreover, the law does not impose on companies the obligation to ensure concrete and specific remedies

such as public apologies, guarantees of non-repetition or reparations in the form of damages or compensation (Krajewski et al. 2021, 558).

However, compared to previous reporting requirements in, e.g., the EU Non-Financial Reporting Directive,²⁹ the Supply Chain Act requires that considerably more information be reported. From the perspective of accessing remedies in risk sectors for labour exploitation (such as construction), the Supply Chain Act provides exploited migrant workers with potential new avenues to recourse, as the above example from transportation sector shows.

6.5 Poland: Electronics Watch and worker-driven remedy principles

POLAND IS a country of origin, transit and destination in terms of both labour migration and trafficking for the purpose of forced labour. Migration to Poland from neighbouring non-EU states has been active, particularly from Ukraine. Labour exploitation and trafficking cases have been observed in Poland in, e.g., agriculture, construction, food processing, domestic work and the garment sector. (Muraszkiewicz 2020.)

Electronics Watch is a non-profit organization helping public buyers to cooperate and protect labour rights in global supply chains. Their mission is to capitalize on the leverage of public buyers in order to promote and protect workers' rights in global supply chains. Their work focuses on capacity building for public authorities, worker-driven monitoring, and engagement with the industry (Electronics Watch a). One of their strategic goals is to extend their model to other sectors (Electronics Watch 2024).

Electronics Watch coordinates worker-driven monitoring and facilitates remediation activities in electronics hardware and low emission vehicle supply chains together with their civil society partners in several production countries globally, including Poland. Workers can report their concerns to the monitoring partners, and Electronics Watch may cooperate with the monitoring organizations or other independent researchers in order to investigate and develop solutions to the complaints (Electronics Watch b). In Poland, the monitoring partner of Electronics Watch is the Polish Institute for Human Rights and Business.

According to Electronics Watch, local civil society organizations understand the local contexts and languages, and have established relationships with the workers and their communities. They are also able to minimize fear of reprisals for reporting abuses (ibid.). Electronics Watch also trains their partners in its methodology for consistent and credible reporting on the actual and potential risks to

²⁹ As of 2024, the Non-Financial Reporting Directive has been replaced by the Corporate Sustainability Reporting Directive, which sets out more specific reporting requirements.

workers and helps them to educate the workers and cooperate with trade unions and representatives (Electronics Watch a).

In 2023, Electronics Watch updated its Principles of Worker-Driven Remedy, which were developed in consultation with trade unions, labour rights organizations and public buyers. The Principles are meant to be a framework for public buyers, suppliers, and workers' rights organizations in order to address the negative impacts that workers may experience in supply chains. Electronics Watch highlights that the Principles do not “replace judicial or other civic remedies”, or undermine mechanisms in collective bargaining agreements, but can be helpful for trade unions and worker representatives. A key element of worker-driven remedy is that the workers are involved directly in the processes and that workers determine the needed forms and outcomes of remediation with trade unions, worker representatives, and human rights defenders. Due to the power imbalance between workers and the employer, the role and leverage of stakeholders, such as public buyers, is essential in requiring meaningful engagement of the workers (Electronics Watch 2023, 2).

The Principles are:

- 1.** Respect for human rights law
- 2.** Workers at the core
- 3.** Protection and promotion of trade unions, worker representatives and human rights defenders
- 4.** Timely and urgent action
- 5.** Transparency
- 6.** Removal of barriers to worker participation
- 7.** Worker participation in design and implementation
- 8.** Shared responsibility and meaningful engagement of stakeholders
- 9.** Provision of various reparation measures
- 10.** Inclusion of backward- and forward-looking measures

(Electronics Watch 2023)



Case examples: Remediation processes facilitated by Electronics Watch

ELECTRONICS WATCH has published reports on the impacts and remediation outcomes of their work in global supply chains. For example, in one case Electronics Watch facilitated a remediation process for a group of irregular migrant workers who were in situations of forced labour by their employer. At an electronics component factory in Malaysia, migrant workers were forced into illegal and unsafe work because the company had outsourced recruitment and employment contracts to an agency. They charged high fees for work permits, confiscated passports, underpaid workers and forced them to work overtime. An investigation done by Electronics Watch corroborated workers' claims of violent threats from the agency. Electronics Watch engaged public buyers and the Responsible Business Alliance (RBA) to seek remedy for the workers. Workers got reimbursements for illegal wage deductions, and the agency was no longer allowed to supply workers to the electronics company. Some workers that did not return home achieved legal status with support by civil society organisations, and were then employed directly by the company, with some support from the The Responsible Business Alliance which helped to

compensate the costs of regularization (Electronics Watch 2022a.)

IN ANOTHER example from Czechia, Electronics Watch conducted a risk assessment and a full investigation after receiving a complaint from a worker. Violations of Czech labour law and of ILO and EU standards were found, including discrimination against migrant workers and trade union members. Some agency workers had not received full pay slips, violating Czech law, and in addition, there were issues in the cleanliness and privacy of dormitories, which violated the Code of Conduct of one of the buyers, Hewlett Packard (HP). Some migrant female workers reported having been told "not to get pregnant" nor should they "be unwell". In addition to Electronics Watch, HP conducted its own investigations. The remedy outcomes included better production planning for more stable and predictable working hours, income security and higher wages; expansion of the use of eight-hour work shifts as compared to twelve-hour shifts; a minimum guaranteed income for temporary, indirect workers. More and more workers were directly employed by the employer, thus providing more security of employment as well as better access to the trade union. Electronics Watch continues to monitor working conditions at the factories in Czechia (Electronics Watch 2022b.)

There is no public information on possible cases that have led to remediation in Poland under Electronics Watch's framework, but for example a report of the COVID-19 impacts on workers in the electronics industry was published in 2020. According to the report, dialogue with trade unions and a company took place and led to measures to enable workers to access their right to join a trade union that represented their interests (Electronics Watch c). According to an email exchange with the Polish Institute for Human Rights and Business (12 August 2024), Electronics Watch, together with their monitoring partners in Poland, delivered training sessions at local centres for migrant workers on Polish labour law, the right to freedom of association and tackling discrimination. The mapping shows that there exists potential for migrant workers' access to remedy in Poland through these civil society monitoring activities, as is shown by remediation outcomes from global supply chains.

6.6 Trade unions in Iceland

EXPLOITATION OF migrant workers, including asylum seekers and refugees, is the most common form of trafficking and exploitation in Iceland, and is reported to occur primarily in the construction, tourism and catering sectors (GRETA 2023c, 9).

Trade unions in Iceland have a central role in work against labour exploitation, and they are active in supporting migrant workers with issues related to labour conditions. They share information on workers' rights and have also helped workers to claim unpaid wages (email exchange with a trade union, 19 June 2024). In the case of non-payment of wages, the trade union first sends a payment request to the company, but if the wages are not paid in the time allocated, a lawyer of the trade union brings a case against the company for the recovery of the wages. In case of the employer's bankruptcy, workers can apply to the State Wage Guarantee Fund to claim up to 18 months of unpaid wages. (GRETA 2023c, 22.)

The trade union density in Iceland is very high, and migrant workers are often also members of the unions. Many unions have a policy of helping also non-members, and many workers eventually recover their back wages, but the processes can last long, between 6 and 24 months (email exchange with a trade union 19 June 2024).

Unions are able to conduct their own workplace inspections and inspect for example work contracts and payslips. However, some exceptions apply, such as the fishing sector where they are not allowed to conduct inspections (GRETA 2023c, 36). Trade unions can thus reach out to migrant workers in workplaces and inform them about their rights and the role of trade unions in Iceland. The

unions have also conducted joint inspections together with the authorities. For example, in 2022, 22 joint inspections were conducted at workplaces. The unions have also assisted migrant workers who have worked without work permits. Moreover, the unions refer cases of presumed trafficking to the police and the victim support system (GRETA 2023c). GRETA (2019b) comments that trade unions in Iceland are at the forefront of the fight against trafficking, through provision of training, raising awareness and participating in workplace inspections. In addition, the unions have representatives on the board of the Directorate of Labour (*ibid.*).

There have been recent legislative developments in Iceland regarding the increasing and formalizing role of trade unions in conducting workplace inspections. As per recent legislation no. 105/2024 amending fundamental law no. 55/1980 on Working Terms and Pension Rights Insurance³⁰, the regular consultation and cooperation between the relevant authorities and social partners will be formalized, including in respect of workplace inspections. The law also enables parties to share necessary information with one another. According to a discussion with an Icelandic trade union expert (19 September 2024), the legislation is rather groundbreaking and gives the Icelandic unions additional powers and responsibilities. The preparations for the new role have not yet started at the time of the writing of this report.

³⁰ See <https://www.althingi.is/altext/154/s/1354.html> and <https://www.althingi.is/altext/154/s/2132.html>

In a case noted in the most recent GRETA report (2023c), Romanian nationals had been recruited by an employment agency in Romania to work in a food delivery company in Reykjavik. They were promised a minimum wage, but were charged for electricity, food, poor housing, internet, and transportation, thus receiving no wages. Once the case was discovered, the employment agency declared itself insolvent. The victims were able to recover their unpaid wages from the State Wage Guarantee Fund with the assistance of a trade union. In another case, a trade union reported a case of four Filipino women working in a restaurant who were receiving little payment due to unlawful deductions from their wages. The police, however, investigated the case as wage theft instead of as trafficking, thus affecting the victims' access to support.

The Icelandic Confederation of Labour provides a tipoff function on its website, where workers can contact the union, also anonymously if necessary. The website provides information in 12 languages. (Icelandic Confederation of Labour.)

A report by the Industrial Workers of the World Iceland (2021, 31) underlines that “the labour courts and unions are overwhelmed” with the number of wage theft cases. In addition, the workers rarely receive all the wages to which they are entitled, since working hours

and unlawful deductions from wages are difficult to prove. The employers can also prolong the process, and according to the report, unions often recommend that workers settle the cases for less money in order to get some money sooner and to avoid the long and possibly costly court case. Some employees have understandably been disappointed with this, and some have even filed a complaint against their union for (not) handling conflicts in certain cases, but the complaints were not taken forward (ibid.).

6.7 Public procurement in Denmark: The City of Copenhagen's initiative against social dumping

DENMARK IS primarily a country of destination for human trafficking. Migrant workers are primarily employed in construction, cleaning, agriculture and horticulture – all sectors in which cases of labour exploitation have been observed as well. (Spanger & Hvalkof 2021.)

Denmark has had a strong policy focus on social dumping. This has been manifested in, e.g., the City of Copenhagen having a task force against social dumping, established in 2018, which works extensively against social dumping and labour exploitation in Copenhagen's procurement and supply chains. The task force for example conducts inspections at worksites in order to ensure that suppliers and subcontractors are following collective agreements, and they have created a leaflet for workers in 10 languages, as well as a video and other materials regarding workers' rights in Denmark. (Copenhagen against social dumping a.)

The City has a "labour clause" in its procurement agreements: everyone working for the City of Copenhagen must receive fair pay and working conditions. This means that employees working for tasks for the municipality must be paid according to applicable collective agreements for the same type of work. Employees must be informed of their pay and working conditions within four weeks of the start of work. The labour clause is a four-page document, available online. (City of Copenhagen 2021.) In addition, contracts of over 1 million DKK (approximately over 130,000 euros) have a Corporate Social Responsibility (CSR) appendix, which sets out requirements regarding human rights, climate and environment, and the prevention of corruption (Copenhagen against social dumping b.).

The task force conducts inspections at ongoing projects based on risk assessment, both unannounced and agreed visits. If the team assesses that there is a risk for violations, a document check is conducted. The check includes for example employee lists, pay slips and timesheets (Copenhagen against social dumping c.). In 2023, 611

checks were conducted, of which 177 were site visits regarding the labour clause, 281 document checks, 119 training checks and 34 site visits where the companies and workers were inspected. The task force found 148 violations of the labour clause, corresponding to a rate of 58 % of all document checks in 2023. Most violations involved the underpayment of wages, and some dealt with employment conditions that were not in line with collective agreements. (Copenhagen against social dumping 2024.)

In 2023, 106 violations were found at construction sites. Inspections were also prioritized in the cleaning sector, where 29 violations were found. Some inspections were made also in the transportation sector, but the numbers are not included in the report since these cases were still ongoing when the annual report was published. (Copenhagen against social dumping 2024.)

If violations are found, the task force will enter into dialogue with the employer in question. The employer will be given the opportunity to pay the back wages and the other reimbursements. In 2023, the action team claimed unpaid wages for 112 employees totalling approximately 0,5 million DKK (ca. 67,000 euros). By the end of 2023, 400,000 DKK were secured for 93 employees. In some cases, the workers who were entitled to the back wages could not be identified, and in such cases, the City holds the money. In 2023, this happened in four cases and amounted to a total of 67,000 DKK (ca. 9 000 euros). (Copenhagen against social dumping 2024, 22).

If the supplier does not take corrective actions, it may have to pay a fine. The City also has the possibility to withhold their payments. As a last resort, the City can terminate the contract with the supplier, or demand that the supplier terminates a contract with their subcontractor if they do not meet the requirements (Copenhagen against social dumping d).

The City of Copenhagen also has a tipoff channel for suspicions regarding social dumping and unfair working conditions. It can be contacted online or via phone, and a report can be made anonymously as well. The reports should include as precise information as possible, at minimum the address of the work site that the suspicions concern. In 2023, 30 tipoffs were received through the hotline. In addition, internal tipoffs from other professionals working for the City of Copenhagen are received regularly. (Copenhagen against social dumping 2024.)



Case example: public procurement and remediating bogus self-employment in transportation

IN ITS annual report, the task force describes a major case related to bogus self-employment in the transportation sector that was concluded in 2023. The case was initiated in 2021 and involved a violation of the labour clause in the procurement agreement. It concerned 41 drivers who had worked for a supplier to the City of Copenhagen between 2017 and 2021. The case has been the task force's largest and most complex case ever.

The case unfolded when an inspection was conducted at a transportation company supplying the City. The company was of the opinion that the labour clause did not apply to them since the drivers were independent contractors with their own company registration number. The task force, however, reviewed the case and assessed that the drivers were not independent subcontractors, and the labour clause therefore did apply to them. The assessment was based on the working conditions of the individual drivers and took into account for example whether the employer was able to exercise detailed control and/or instruction over how the drivers performed their work, and whether the drivers were fully or partially required to personally carry out the work.

The task force was able to calculate the claims for unpaid wages based on available documentation. The transportation company did not at first correct the wages, and the contract was terminated in February 2022. Legal negotiations followed and ended in a settlement in June 2023. More than 2.5 DKK (over 340,000 euros) were paid to 41 drivers, whose identity the City was able to verify.

Afterwards, the company in question has undergone a 'self-cleaning process' and is again a supplier to the City of Copenhagen. (Copenhagen against social dumping 2024, 24–27.)

6.8 The Ombudsman in Latvia

FOR A long time, Latvia was considered primarily a country of origin and/or transit for human trafficking, and labour exploitation in the Latvian context was seen to involve Latvian nationals becoming victims of human trafficking abroad. Now, Latvia has also become a country of destination due to a labour shortage in Latvia and an increase of workers mostly from non-EU countries. Especially male migrants from Ukraine, Uzbekistan, Tajikistan, Kazakhstan, India and Vietnam are the most likely to face the risk of labour exploitation. The risk sectors include construction, agriculture, the food industry and manufacturing (Godmane 2021.)

The Ombudsman in Latvia is an ombudsman institution responsible for several different topics, protecting the rights and legal interests of persons if the State or the public authorities have violated their rights. The Ombudsman has several focus areas, including business and human rights, as well as non-discrimination (Ombudsman of Latvia). Regarding labour exploitation, the Ombudsman is in the process, together with the Ministry of Interior and the Procurement Monitoring Bureau, of creating guidelines for the prevention of labour exploitation and trafficking in public procurement (Ombudsman of Latvia 2024, 85).

³¹ <https://heuni.fi/-/flow>

Regarding business and human rights, the Ombudsman has called for development of a National Action Plan and awareness raising on the UN Guiding Principles (Ombudsman of Latvia 2024, 87). In 2024, the Ombudsman published a study regarding the upcoming Corporate Sustainability Due Diligence directive. Among many issues, the study notes that several Latvian NGOs can be valuable partners for businesses. For example, the victim support providers “Centres MARTA” and “Shelter Safe House” are listed as organisations that could help companies understand labour exploitation risks and identify signs of human trafficking. Moreover, the report addresses the labour exploitation risks taking place also in Latvia, and lists for example materials from the HEUNI-managed FLOW -project³¹ (Artamonova 2024).

The Ombudsman has a universal reporting channel through which anyone who thinks that their rights have been violated can submit a report to the Ombudsman. It can be submitted via phone, email, post or on site. The Ombudsman has guidance on its website on how to file an application. The website of the Ombudsman is available in Latvian, English, and Russian. The application must include information about who and which institution the complaint concerns, an accurate description of the case and its negative consequences, and whether the case has been appealed to a higher authority. Before contacting the Ombudsman, the applicant must have first

contacted the authorities into whose competence the matter falls. The Ombudsman would not typically consider matters that have not been handled by a competent authority, and in such a case would provide information to the applicant about the suitable mechanism to use.

We were not able to receive a reply from the office of the Ombudsman about how they see their role regarding exploited migrant workers and whether they have received contacts from migrant workers. However, we see that due to the Ombudsman's wide area of expertise and the mandate that covers business and human rights, there is potential for it to drive the efforts of businesses in the prevention and remediation of labour exploitation. The Ombudsman's role as a potential grievance mechanism should be further explored.

We also identified two other examples from Latvia. The first concerns workplace inspections and identification of potential breaches of labour rights, and the second is a case of exploitation in a confectionary company in Latvia.



Questionnaire for workers in labour inspections

IN LATVIA, the State Labour Inspectorate uses a special self-reporting questionnaire during workplace inspections if there are suspicions about unfavourable employment conditions. The questionnaire is available in Latvian and Russian. Usually, employees fill out the questionnaire by themselves (self-reporting), but alternatively these questions can be asked by the inspector. The questionnaire includes questions on the contract, working hours, working conditions, wages, etc. These answers provide legitimate ground for inspectors to identify undocumented labour.

Questions included in the questionnaire:

- What is your work?
- Who supervises you, defines your daily tasks?
- How many days per week do you work? How many hours?
- What kind of contract do you have (written, other, none)?
- Do you have your copy of the contract?
- Who was the other party to the contract?
- When and where did you sign the contract?
- Does your employer provide all necessary equipment for you?
- What are your monthly wages?
- Have you been instructed about safety?
- Do you have a working permit in Latvia?
- Where is your passport? Do you have it or is it in the possession of your employer?
- Who ensures accommodation for you?
- Can you move freely or act according to your rights?
- Who brought you to Latvia and when?
- Who pays wages to you?
- Does anyone intimidate you or use physical force against you?
- Other comments.

Source: HEUNI 2022, Summary of the best practices collected – ELECT.



Case Example: Supermarket chains stop purchases from a confectionary company exploiting its workers

IN 2020, a Latvian confectionary manufacturer was in the headlines for suspected human trafficking and money laundering. The company's chairperson was detained for rendering Indian workers helpless and dependent, and for threatening and physically harming them. The company denied the allegations. According to the police, they found during the investigation that several third country nationals had been exploited at the company's factory for a long time. The workers had not received their full wages and they were forced into debt. In addition, their passports had been confiscated.

AFTER THE news spread, several retail chains announced that they were terminating their relationship with the supplier. No information about remediation for workers was mentioned by the buyer companies.

Source: https://eng.lsm.lv/article/society/crime/police-uncovers-suspected-human-trafficking-at-bakery-company-in-latvia.382443/?utm_source=lsm&utm_medium=article-bottom&utm_campaign=article

6.9 Summary and reflections on different practices in access to remedy in the Baltic Sea region

EVEN THOUGH the profiles of the different Baltic Sea region countries covered in this report vary, exploitation of migrant workers has been detected in all countries of the region. Overall, the number of criminal convictions for labour exploitation remains low in the Baltic Sea region. While the practices presented in this chapter have succeeded in providing remedy to some exploited workers, problems remain in ensuring broad access to remedy. Therefore, alternative and effective mechanisms to improve exploited workers' access to remedy are needed.

- **THE LABOUR** dispute committees in Estonia and Lithuania provide a less cumbersome state-based judicial process than civil litigation in seeking remedy for labour law violations, and the procedures are free of charge. However, they still involve procedural obstacles similar to those in the more cumbersome judicial processes, such as strict language requirements, engagement in a bureaucratic administrative process, burden of proof, and possible hindrances in eventual enforcement in order to receive the unpaid wages. Moreover, migrant workers who are not familiar with local contexts or languages do in practice need someone to assist them in submitting the application to the labour dispute committees.
- **TRADE UNIONS** are essential in sharing information and assisting workers in recovering unpaid wages. In countries with strong trade unions, such as the Nordic countries and Germany, several unions operating in risk sectors have established effective practices and have successfully assisted migrant workers in claiming (some of) their unpaid wages. However, many trade unions are still struggling with the extent to which support and assistance should be extended to those who are not members. The examples from the region however show that unions are at least to a certain extent ready and willing to assist also non-members.
- **MANDATORY HUMAN** rights due diligence (HRDD) legislation is expected to strengthen corporate measures to improve their complaint procedures and remediation. The German Supply Chain Act is already in effect, and the truck drivers' case from Germany shows some signs of companies participating in remediation for labour exploitation in their supply chains, with trade unions continuing to have central roles in facilitating the remediation process.

- **AT THE** same time, corporate-led social responsibility is being subjected to more and more criticism, (see e.g. Marquis 2023; MSI Integrity 2020) while worker-led remediation is gaining ground. The role of worker representatives and trade unions is highlighted from a human rights due diligence (HRDD) perspective in contexts where unions have traditionally not had high shares of membership, such as in Poland. Gathering together large buyers and capitalizing on their leverage in order to improve remediation will hopefully result in more effective remediation for workers. Electronics Watch's worker-driven remedy principles and worker-driven monitoring is a promising practice in putting the workers and rightsholders in the centre.
- **IN GENERAL**, there is more room for public buyers to contribute to remediation, as the initiative against social dumping in Copenhagen shows. Public buyers should not only focus on detecting non-compliance with procurement agreements, but also demand remediation from their suppliers when exploitation or other negative human rights impacts are identified.
- **LASTLY, NATIONAL** remedy ecosystems require effective and proactive institutions which understand the links between labour exploitation and business and human rights. The Ombudsman in Latvia has addressed labour exploitation risks in the business and human rights context. We see that there is room for active state institutions, in particular legal overseers, in improving the actions of authorities as well as encouraging businesses to enhance their fight against labour exploitation and human trafficking.

7

Recommendations to improve exploited migrant workers' access to remedy in the Baltic Sea region

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For the State:

Criminal process

- **STRENGTHEN SPECIALIZATION** of police, prosecutors and judges in human trafficking and related crimes through training and the establishment of specialized units.
- **ENSURE THAT** parallel criminal provisions are investigated and used in prosecutions in order to decrease impunity and ensure criminal liability.
- **INTRODUCE NEW** criminal legislation to tackle exploitation that does not amount to human trafficking.
- **STANDARDISE PRE-INVESTIGATION** practices to automatically include financial investigation, confiscation of assets and proceeds of crime, and application of corporate liability in relevant cases in order to improve victim compensation outcomes, and to facilitate the recovery of unpaid wages and compensation.
- **ENSURE THAT** victims of exploitation are treated with respect and made aware of the available judicial remedies, and that they are clearly informed about the available options and potential outcomes.

- **ESTABLISH EFFECTIVE** structures and simplified processes to support victims in accessing compensation through different channels, such as applying for enforcement, crime victim compensation, and insolvency funds.
- **ESTABLISH EFFECTIVE** compensation funds to facilitate access to compensation.
- **ENSURE COMPENSATION** for victims of serious crime in line with the Norwegian Compensation for Victims of Violent Crime, which allows victims of human trafficking to seek compensation for violent crime separately from court ordered compensation and regardless of the outcome of a criminal proceedings.
- **IMPROVE ACCESS** to free legal aid for victims of labour exploitation and train staff of legal aid offices regarding human trafficking and related exploitation crimes.
- **WHEN A** civil case shows clear evidence of trafficking or other related crimes, trade unions, civil society and legal aid/lawyers should refer the case to the criminal process, so that the victim can access rights to which victims of trafficking or other crimes are entitled. The consideration should be made from the point of view of the victim and for his or her benefit.

Civil litigation:

- **ESTABLISH THE** possibility of class action by trade unions and other civil society organizations, enable workers to participate also anonymously, and allow workers who are not union members to participate.
- **IN COUNTRIES** where there are labour dispute committees, the committees should be made more accessible in practice for workers who do not speak and understand national languages, e.g., by making interpretation available.

Regulatory bodies

- **STRENGTHEN KNOWLEDGE** about labour exploitation and its links to human trafficking among staff of regulatory bodies in order to improve the detection of victims, and to ensure a coordinated approach in referring them to further services.
- **INCREASE THE** powers of the labour inspectorate to enforce remedies, enabling them to act as a low-threshold mechanism to claim unpaid wages.
- **ESTABLISH OTHER** low-threshold mechanisms to claim unpaid wages and compensation, such as the labour dispute committees in Estonia and Lithuania.
- **ENSURE THAT** regulatory bodies, such as labour inspectorates, have a mandate and specialization, as well as enough resources to monitor the working conditions and wages of migrant workers.
- **ENHANCE MULTI-AUTHORITY** and multidisciplinary collaboration between different regulatory bodies, e.g., in line with the work-related crime centres in Norway and Sweden.
- **STRENGTHEN THE** right of the labour inspectorate to impose administrative sanctions on employers who fail to follow regulations and laws.

Legal overseers

- **NATIONAL LEGAL** overseers, such as the Chancellor of Justice or other relevant bodies, should take a more active role in overseeing compliance in investigations and prosecution of labour exploitation cases.

Business and human rights policymakers:

- **GOVERNMENTS SHOULD** regularly update the National Action Plans (NAP) on Business and Human Rights, and in the plans, reflect the current situation and barriers in access to remedy, include follow-up actions and identify what entities are responsible for such actions, and consider introducing a separate National Action Plan on labour exploitation in line with the Finnish example, or include it as a specific topic in the Business and Human Rights NAP.
- **ESTABLISH A** strong mandate for the upcoming national competent authority overseeing the implementation of the EU Corporate Sustainability Due Diligence Directive (EU CSDDD) and the EU Ban on Products Made with Forced Labour. Ensure efficient cooperation with the relevant national authorities related to labour exploitation, such as the labour inspectorate.
- **IN THE** national enforcement of the EU CSDDD, strengthen access to remedy for workers exploited in corporate conduct and in supply chains.
- **PROVIDE CLEAR** requirements and guidance to businesses for how to improve and report on grievance mechanisms and provide for remedy, in line with the EU and national laws on human rights due diligence.

For the State in view of its responsibility to protect victims and workers at risk of exploitation:

- **DEVELOP AND** implement targeted information campaigns for labour migrants with a focus on verifiable increase in awareness about rights, support services, trade union memberships, grievance mechanisms and access to remedy.
- **GIVE REFLECTION** periods to potential victims of trafficking with an undocumented status so that they can remain in the destination country, recover and determine whether they want to cooperate with law enforcement in a criminal process.
- **REFER ALL** potential victims of trafficking to specialized assistance services in order to assist them in their physical, psychological and social recovery. Guaranteed assistance includes appropriate and secure accommodation, psychological and material assistance, access to emergency medical treatment, translation and interpretation, counselling and information, including legal advice.
- **DEVELOP AND** grant residence permit options for victims of labour exploitation that allow them to change employers and sectors and are not tied to the police investigation, in line with the residence permit or certificate due to exploitation by the employer in Finland.
- **DEVELOP POSSIBILITIES** for the regularization of undocumented workers.
- **STRENGTHEN THE** application of the Employers' Sanctions Directive in order to compensate undocumented workers who have not been adequately paid, in line with the model used in the Netherlands and Belgium where an assumption of a minimum of three months' (Belgium) or six months' (Netherlands) work relationship can be used to calculate and compensate unpaid wages for undocumented exploited workers.

For businesses:

- **CONDUCT DUE** diligence in national and international supply chains and in recruitment, with a specific focus on identifying and managing labour exploitation risks.
- **INVOLVE, CONSULT** and meaningfully engage different groups of migrant workers in the design, operations, and outcomes of grievance mechanisms in order to better accommodate these to the needs of migrant workers.
- **WHEN ASSESSING** and designing operational-level grievance mechanisms, ensure that they fill out the effectiveness criteria of the UNGPs. Learn from best practices, such as [the Operational Guidelines](#) created by the IOM.
- **IN COUNTRIES** where trade unions are key actors, increase collaboration with shop stewards within their own organization, and involve them in developing due diligence measures and ensuring fair working conditions for migrant workers in their subcontracting chains.
- **INVOLVE WORKER** representatives and/or trade union/shop steward presence in grievance mechanisms and processes when dealing with issues regarding workers' rights.
- **ESTABLISH CLEAR** corporate guidelines on how to handle and act in cases of suspicions of labour exploitation, including remediation.
- **REPORT IN** a transparent and public manner about grievances and cases of remediation.
- **CONSIDER EMPLOYING** exploited workers and offering them fair employment that helps them to secure residence status and integrate into the society.

For trade unions:

- **FURTHER DEVELOP** work with migrant workers: attract more members and engage persons with migrant backgrounds in union activities.
- **ENSURE FLEXIBILITY** in the provision of legal aid for non-members in cases that weaken everyone's rights and wage levels in the country.
- **PUBLISH STATISTICS** on the number of labour exploitation cases dealt with annually in order to increase transparency.
- **SEASONAL WORK:** develop a trade union membership type for seasonal workers/temporary workers, who are typically only in the country for a short period of time.
- **SHOP STEWARDS** and other local worker representatives should be trained regarding labour exploitation and possible signs of exploitation.
- **INFLUENCE AND** engage with buyer companies in supply chains in order to enable remediation of workers in the supply chain.
- **EXPLORE POSSIBILITIES** to cooperate and exchange information with the labour inspectorate and NGOs.



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