

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

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"From rights on paper to rights in action"— 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 ensuing 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.



Main avenues for remedy in Finland, Norway and Sweden

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

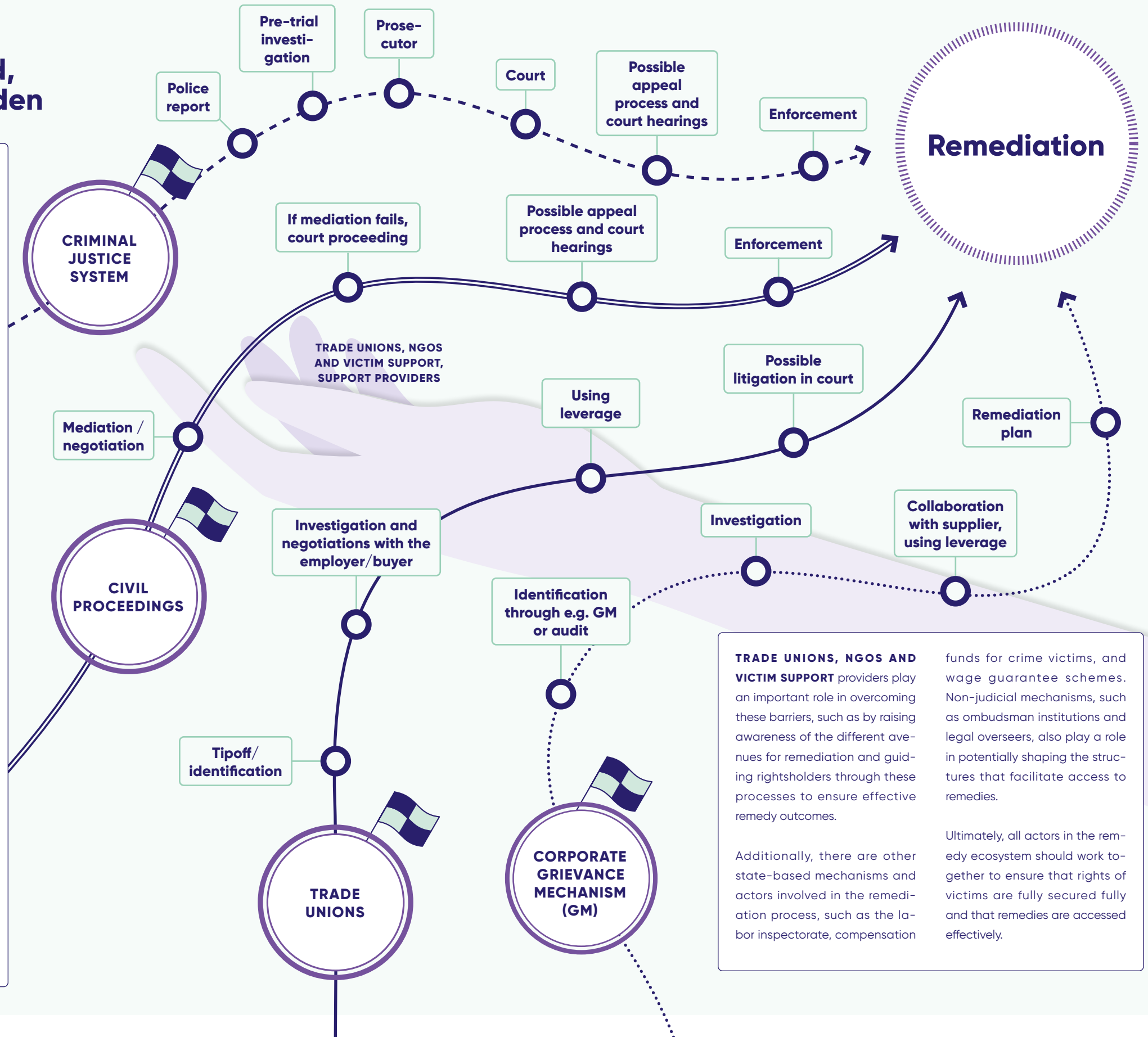
1. CRIMINAL JUSTICE PROCESS: Cases of labour exploitation that meet the criteria for criminal offences are handled within the criminal justice system. The process involves pre-trial investigation, and potentially prosecution and conviction of offenders.

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.