

MEMO / 2 June 2015

Severe labour exploitation: workers moving within or into the EU

1. What is severe labour exploitation?

Working every day of the week for wages that are paid at irregular intervals or not at all, living in cramped substandard conditions isolated from the rest of the community, or working without a contract and continuous threats of deportation are all examples of severe labour exploitation. Formally, 'severe labour exploitation' refers to all forms of labour exploitation that are criminal under the legislation of the Member State in which the exploitation occurs. While only certain forms of labour exploitation are covered by EU criminal legislation, Article 5 of the Charter of Fundamental Rights of the EU prohibits slavery and forced labour, while Article 31 stipulates that all workers have the right to "fair and just" working conditions.

2. Who are the victims of severe labour exploitation in the EU?

Victims of severe labour exploitation are workers who endure working conditions that are criminal under the legislation of the country in which it is taking place. Victims of labour exploitation often work in isolation, in the fields, in households or on construction sites. After their employment ends, victims often leave the country in which they have been working and are then difficult to trace. However, practitioners who work with victims of severe labour exploitation are able to describe victims' experiences, and a number of these experts shared their knowledge and expertise in interviews with FRA, by participating in focus group discussions or providing case studies.

3. Did FRA identify how many victims of severe labour exploitation there are in the EU?

The nature of the crime of labour exploitation makes it difficult to quantify the number of victims. This is both because definitions of labour exploitation differ between EU Member States, because the measures taken to combat labour exploitation differ, and because of the widespread phenomenon of underreporting. The evidence collected by FRA shows that in the EU Member States in which the definition of labour exploitation is broader and in which more inspections take place, the number of victims identified and sentences is higher than in those countries with more restrictive definitions. Attempts to quantify labour exploitation should be treated with outmost care, such as the International Labour Organization (ILO) estimate that "around three out of every 1,000 persons worldwide, were in forced labour at any given point in time" over a 10-year period from 2002 to 2011. In order to better appraise the quantitative dimension of labour exploitation, FRA's research identified a number of high-risk sectors in which workers are more likely to be exploited, including agriculture, forestry, fishing, construction, accommodation and food service activities, domestic work, and some forms of manufacturing.

4. Who is at risk of becoming a victim of severe labour exploitation in the EU?

There is a series of risks factors that make workers particularly vulnerable to exploitation. They can be grouped as:

- Risk factors relating to the legal and institutional framework of the country of employment, such as the deficiency of investigations or a lack of monitoring of working conditions
- Risk factors concerning the workers' personal situation, such as not knowing the language of the country in which they are working, a low educational level, or having experienced extreme poverty in the country of origin
- Risk factors at the workplace, such as working in an economic sector prone to labour exploitation, or in a hazardous employment situation
- Risk factors created by employers, for example when they do not provide a contract written in a language the worker can understand, do not inform workers of their entitlements, or increase the dependency of workers (for example, by providing accommodation, transport, or employing other family members).

5. What is the role of the EU institutions and Member States if cases of severe labour exploitation occur?

EU Member States have obligations of due diligence. This means that if workers from another country face a serious risk of being severely exploited, they are entitled to protection measures adopted by the competent authorities. Member States have duties, stemming from EU law, to carry out inspections aimed at identifying cases of labour exploitation, to protect victims, to establish redress mechanisms and to ensure that perpetrators are brought to justice.

6. What is unique about this research?

This is the first EU research to comprehensively explore all criminal forms of labour exploitation of workers moving within or into the EU. It provides evidence that:

- severe labour exploitation is widespread in the EU in a number of industries (such as agriculture, construction, hotel and catering, domestic work, manufacturing); yet perpetrators continue to act with impunity
- consumers are not aware that the products they buy may be the result of labour exploitation, as there is a lack of binding standards or branding
- differing definitions of criminal labour exploitation in EU Member States means that what is punishable as a crime in one country may not be in another.
- For example, in countries such as Bulgaria, Cyprus, Greece, Latvia, Lithuania, Luxembourg, Malta and Slovenia, the laws on exploitative working conditions only protect third-country nationals in an irregular situation. In almost all EU Member States, workers with an irregular residence status from non-EU countries are protected from severe labour exploitation by means of criminal law provisions. EU nationals enjoy this level of protection in only four Member States (Belgium, France, Germany and the Netherlands).

7. How was the data for the report collected?

Both desk and field research were used: desk research into the legal and institutional framework of severe labour exploitation was conducted in all 28 EU Member States, while field research was carried out in 21 EU countries, i.e. all Member States except Denmark, Estonia, Latvia, Luxembourg, Romania, Slovenia and Sweden (this was due to resource limitations). Member States were selected to ensure coverage of different geographical regions, as well as diverse economic situations and legal traditions. The fieldwork involved a total of 616 expert interviews with various professional groups working in the field of labour exploitation, such as labour inspectorates, the police, judges and representatives of workers and employers, as well as 24 focus group discussions that involved mixed groups of different practitioners. In addition, as part of the fieldwork, 217 case studies of examples of severe labour exploitation were collected. These were based on information supplied by experts at Member State level.

8. What can be done to improve the situation?

- EU institutions and Member States can respond to the risk factors identified by establishing prevention and monitoring mechanisms, establishing a legal and institutional framework to trace cases of labour exploitation, through workplace inspection. They can also ensure access to justice to the victims, with targeted support services, provision of information about victims' rights, effective investigations and prosecution, and sanctions against perpetrators of labour exploitation.
- The general public should be aware that labour exploitation is a reality, and that a climate of zero tolerance would benefit all workers and sectors of the economy.
- Trade unions and civil society organisations should reach out to workers moving within or into the EU and support transparent employment relationships with work contracts written in a language understood by the workers that oblige employers to pay wages once a month and not at the end of a project or season.
- Consumers should have the right to know if the products they buy are likely to have been produced under exploitative conditions. Certificates or branding testifying to fair working conditions should therefore be included with products and services.
- Companies should be obliged to disclose information on safeguards to ensure labour exploitation is not taking place; and a public register of employers or recruiters convicted of labour exploitation should be made available to the public.
- The right of victims to be acknowledged as victims and to have access to justice should not be made conditional on residence status. Victims must have access to compensation regardless of their residence status.

9. How will the FRA follow up on the results of the survey?

In order to better understand the experiences and needs of victims, FRA is planning a follow-up project that will interview workers who have experienced or are at risk of labour exploitation in the EU.

In addition, FRA will promote the use of the research results for policy change. This will be achieved in close cooperation with institutions such as the European Commission, the European Parliament, the Council of Europe, the International Labour Organisation (ILO), the International Trade Union Confederation (ITUC) and European Trade Union Confederation (ETUC), as well as other EU Agencies such as Eurofound and the European Agency for Safety and Health at Work (EU-OSHA). FRA will also work closely with the Member States and civil society organisations, as well as encouraging the media to raise awareness of the phenomenon of severe labour exploitation in the EU.

For further information, please contact the FRA Media Team:

Email: media@fra.europa.eu / Tel.: +43 1 58030-642