

Social Fieldwork Research (FRANET)

# Protecting migrant workers from exploitation in the EU: workers' perspectives

Country report Belgium, September 2017

FRANET contractor: Milieu Ltd

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## Contents

1. Executive summary .....	4
2. Short description of fieldwork/sample composition .....	7
2.1. Selection and recruitment of participants through gatekeepers .....	7
2.2 Difficulties encountered during the selection of participants .....	8
2.3 Sample of participants .....	8
2.4 Conducting interviews and focus groups.....	11
2.5. Analysis of the interviews and focus groups.....	12
3. Legal and institutional framework .....	13
3.1. Legislation/policy .....	13
3.2. Labour exploitation and the institutional setting .....	14
3.3. Victim support.....	16
3.4. Risk management.....	17
3.5. Court cases.....	17
3.6. Promising practices .....	18
4. Risk factors for severe labour exploitation .....	20
4.1 Economic reality: in need of financial means to survive .....	20
4.2. Vulnerability linked to residence status.....	21
4.2.1 Workers in an irregular situation .....	22
4.2.2 Workers dependent on employers for regularisation or visa.....	23
4.3. Being 'foreign' – lack of access to reliable information .....	23
4.4. Lack of knowledge of the local language .....	24
4.5. Psychological factors.....	25
4.6. Other factors .....	27
4.6.1 Reasons for leaving the country of origin (push factors).....	27
4.6.2 Reasons for moving to Belgium (pull factors).....	27
4.6.3 Economic sectors .....	28
4.6.4 Link between former skills and jobs in Belgium.....	28
4.6.5. Being alone.....	28
5. Workers' experiences of severe labour exploitation.....	28
5.1. Construction, cleaning and care as common sectors in experiences of exploitation.....	29
5.2. Recruitment and insertion .....	32
5.3. Work contracts and residence permits.....	33
5.4. Payment, working hours and work tasks .....	35
5.5. Relationship with employer and colleagues .....	38

5.6. Health, safety and security .....	39
5.7. Violence and threats .....	40
5.8. Living conditions, housing and isolation .....	41
5.9. Inspections .....	43
5.10. Strategies and results of negotiations and confrontations with employers .....	43
6. Asking for help: victim support and access to justice .....	46
6.1 Type of organisation providing assistance (other than police).....	46
6.2 Type and level of assistance received.....	47
6.2.1 Type of assistance received .....	47
6.2.2 Adequacy of help .....	48
6.2.3 Treatment by others .....	49
6.3 Hindering and enabling factors in asking for help .....	49
6.3.1 Hindering factors.....	49
6.3.2 Enabling factors.....	52
6.4 Experience of reporting to the police .....	53
6.4.1 Experiences with the police .....	53
6.4.2 Reasons for not reporting to the police.....	54
6.5 Access to information about rights.....	55
6.6 Level of workers' satisfaction with current situation .....	56
7. Ways forward and prevention .....	59
7.1. Limits of the acceptable.....	59
7.2. Converting experiences into learning and advising.....	60
7.2.1 Advice on starting conditions.....	60
7.2.2 Advice on how to manage during the work period .....	61
7.2.3 Advice on when and how to leave a situation of labour exploitation .....	61
7.3. The way forward – reflections on strategies of change.....	62
7.3.1 Prevention on micro level .....	62
7.3.2. Prevention on meso level .....	62
7.3.3. Prevention on macro level .....	63
8. Conclusion and any other observations.....	65
ANNEX – desk research.....	68

## 1. Executive summary

### Fieldwork/sample composition

The findings of this study are based on five months of fieldwork during which 30 workers who experienced labour exploitation in Belgium were interviewed (20 interviews plus two focus groups discussions with 10 participants in total). The participants were identified with the help of different gatekeepers to ensure a large variety of immigrant profiles economic sectors and nationalities. The focus groups as well as most interviews were conducted face to face without the help of an interpreter.

### Legal and institutional framework

In Belgium, labour exploitation is punished in the context of human trafficking or as violations of (criminal labour) law. Anyone can be the victim of human trafficking, irrespective of nationality, age or gender, and consent of the victim is irrelevant for there to be (economic) exploitation. Individuals as well as legal entities can be convicted for human trafficking.

Belgium has a rather extensive institutional setting in place for labour exploitation. In addition to an Interdepartmental Coordination Platform for the Fight against Trafficking and Smuggling in human beings and multidisciplinary cooperation, actors involved include the labour inspectorates, the Federal Social Inspection Service and the Directorate-General Monitoring of Social Legislation, regional social inspection services, and the federal criminal police's Central Human Trafficking Unit. In terms of victim support, the main actors include the Federal Migration Centre, Myria, three recognised reception centres for victims of human trafficking, and several non-profit organisations.

### Risk factors for severe labour exploitation

The findings of the interviews and focus groups point to five main risk factors for severe labour exploitation in Belgium. The most important factor being poor economic situation of workers (1<sup>st</sup> factor), which places workers at risk of exploitation. Workers vulnerable to labour exploitation often see no other option than to accept difficult working conditions in order to provide for basics for survival such as food and housing.

Another key risk factor concerns the residence status (2<sup>nd</sup> factor). Workers in irregular situation or dependent on their employers for regularisation or visa are particularly at risk of exploitation. As they are not able to secure legal employment, they rely on informal employment for survival. Many of the undocumented interviewees regarded exploitation as something "unavoidable", with no possible recourse to complain to the police. In 2009, Belgium offered irregular immigrants the possibility to regularise their situation by presenting a work contract that fulfilled certain conditions, one of which was to have a contract with a minimum duration of one year. In practice, it forced some workers to stay with the same employer, even if abuse took place, in the hope to regularise their status. In fact, several interviewees ended up in an exploitation situation with no successful regularisation in the end, some due to false promises from the employer. The vulnerability of undocumented workers results in unequal power relationship between the employer and the worker. The former sometimes threatens to inform the police on the irregular status of the worker. This power dynamic and dependency heightens the risk of exploitation and abuse.

Being a "foreigner" (3<sup>rd</sup> factor) and not speaking the local language (4<sup>th</sup> factor) create further risks for exploitation. The lack of knowledge of how things are done or what can reasonably be expected, makes them more vulnerable. Foreign workers do not know what to expect and it creates risk of misinformation. Furthermore, those factors affect the ability of those workers to speaking up in case of exploitation. Psychological factors (5<sup>th</sup> factor) also play a role in workers' vulnerability to exploitation. It was more evident for domestic workers, whose

closeness with employers may make it harder for them to set limits to what they would do or accept.

### **Workers' experiences of severe labour exploitation**

Construction and cleaning and care were the two dominant economic sectors in the sample. Workers in the construction sector reported very low wages or complete lack of payment, extremely long working hours, and physically challenging work. Few safety measures are taken, and work accidents happen often without any medical care or follow-up. Workers in the cleaning and care sector reported on long working hours, underpayment, manipulation and emotional blackmail by the employer.

The recruitment practices varied considerably among the workers who suffered labour exploitation, though generally speaking there are no clear relationships between the type of recruitment and the different situations of labour exploitation. The majority of the respondents in the sample (mainly irregular workers) worked without a contract. Those with a contract were EU citizens and Third-Country Nationals with EU residency, though not all regular residents were able to work with a contract. Work contracts were usually drawn up in a vague way, in a language the worker did not understand, or it was simply not followed. All workers interviewed experienced problems with payment.

Many workers experienced serious problems with issues of health, safety or security. More than half of the workers reported being threatened with, or experiencing, violence from their employer, ranging from being put under extreme work pressure by the employer (including health risks) to verbal violence, where workers were shouted at and/or humiliated and insulted. Only a few workers experienced physical violence. Many workers also experienced very precarious living conditions.

### **Asking for help: victim support and access to justice**

Most but not all workers who experienced severe labour exploitation in our sample asked for help. However, it is highly likely that this influenced by our research approach of getting into contact with workers through gatekeepers, such as victim support organisations and trade unions. Most interviewees feel well treated by organisations providing support, though some also reported on negative experiences. Legal aid, including information on workers' rights, is by far the most common type of help reported by workers who experienced labour exploitation in Belgium. Other types of help include medical assistance, material help (food, clothes, use of washing machine and/or accommodation), financial aid, information on available services, training and education. Whereas opinions on the adequacy of the help received are mixed, several workers complained about the lack of basic assistance.

Several factors hindered victims of labour exploitation from asking for help. Workers often do not see the point in asking for help, because they consider it impossible to escape from exploitation. Workers also do not always know who to turn to, or they are not aware of the seriousness of the situation they are in. Furthermore, lack of sufficient language skills or fear may hinder workers to reach out for help. Participants cited three recurring factors that pushed them to search for help, namely the desire to recover overdue salary or compensation and medical care after a work accident, to seek justice, and/or to prevent that other workers are exploited.

Only one in four interviewees reported their situation of labour exploitation to the police. Workers in an irregular situation appear less likely to report directly to the police. Fear plays a big role in this regard. Most workers were not informed about or aware of workers' rights during the situation of labour exploitation. Notwithstanding that most interviewees are no longer in a situation of labour exploitation, the majority is not satisfied with their current situation. Workers who experienced severe labour exploitation often remain in an overall vulnerable situation, even after the labour exploitation has stopped, because no real change of the working situation

could take place (especially regarding legal status and outcome of legal procedure after filing a complaint).

### **Ways forward and prevention**

The majority of interviewees stated they would not accept the same job again as the one in which they faced exploitation; various participants stressed they would not work unofficially again. Written contracts, residence and work permits, as well as respect for fixed working hours, personal protective equipment, lesser workloads and higher pay were cited among the conditions that must be in place to avoid situations of labour exploitation.

The participants would advise other workers to ensure that all working conditions are fixed and clear when starting a job. Having a contract checked by a support organisation and collecting the right information could also be helpful to ensure that workers' rights are respected and protected. During the actual working period, it is useful to collect evidence of the fact that one is performing labour and to closely monitor hours worked, safety measures, salary, overall working conditions, and the employer's attitude. In situations of labour exploitation, most workers would advise others to leave if there is no possibility of improvement.

In terms of prevention, better information is key to ensure that workers are better protected against situations of exploitation at the micro level. Having a work contract, health insurance and other working conditions are also considered important. Support organisations could also help to improve the overall resilience of foreign workers, for instance through civil integration courses. At the meso level, more solidarity, collaboration and confidence between workers is recommended. More direct relationships between employers and employees, and sensitisation to correct the negative image of workers without residence documents, were also mentioned. At the structural level, the need for regularisation was stressed by all participants to avoid situations of labour exploitation. The need for legal frameworks for irregular workers, for more effective strategies to better protect foreign workers, and for better inspections, were also stressed by some participants.

### **Conclusion and other observations**

The researchers conclude that labour exploitation seems relatively widespread in Belgium and that it is not restricted to a specific sector or hidden areas of the Belgian economy. Exploitation can take place in any sector and it also takes place in the public space. Foreigner workers are vulnerable to labour exploitation, especially when they are in an irregular situation. People face labour exploitation due to economic necessity, fear, abuse and manipulation. Labour exploitation leaves mental and/or physical traces among the victims, during the experience of labour exploitation as well as long after it has ended. Furthermore, many workers are also confronted with precarious housing and overall living situations. Furthermore, the judicial system fails the victims, through lengthy proceedings and often negative outcomes, thereby making them victims once more whilst the employer escapes all responsibility.

The researchers formulate four policy recommendations, namely: 1) the need for accessible and adequate regularisation of workers in an irregular situation and the provision of legal labour migration channels; 2) the need to stop the impunity of employers by different mechanisms: separating complaint mechanisms from migration proceedings, improving effectiveness and legitimacy of legal procedures, and reinforcing more adequate control and inspection focused on the protection of the employee and the punishment of the employer; ; 3) the need to increase support for victim support organisations; 4) the need to invest in sensitisation among employers, employees and society in general about the occurrence of extreme labour exploitation, and to promote and achieve real change.

## 2. Short description of fieldwork/sample composition

The fieldwork for this study took place over five months (from early April 2017 until 4 September 2017), during which time 20 interviews were conducted with victims of labour exploitation in Belgium. In addition to the interviews, two focus groups were carried out, with 10 respondents in total (six for the first group and four for the second). This brings the total number of participants in the fieldwork to 30. Respondents were identified with the help of nine different gatekeepers.

### 2.1. Selection and recruitment of participants through gatekeepers

At the start of the fieldwork, it was decided to reach out to a large number of gatekeepers. About 30 organisations with different profiles were contacted: trade unions (for different sectors), organisations supporting refugees, organisations supporting people without residence documents, victim support organisations (for cases of labour exploitation and/or human trafficking), organisations representing minority groups, integration services, faith-based organisations, etc. The aim was to cover a variety of sectors, nationalities, and immigrant profiles. While some gatekeepers were identified at the very beginning, others were contacted in a later phase at the suggestion of other gatekeepers. Regional coverage was also taken into account when contacting gatekeepers. For example, trade union representatives from the different regions in Belgium (Flanders, Brussels and Wallonia) were contacted.

The nature of the cooperation depended largely on the gatekeeper in question. Most gatekeepers took an active role in the project, by informing people about the research objectives, inviting and encouraging them to participate, and sometimes organising the appointment. In other cases, only a list of contacts was provided. Some gatekeepers were not much involved due to lack of time, workload, or summer holidays. In one case, the researchers were invited to address immigrants at the organisation itself, but the gatekeeper preferred that this did not take place. The gatekeeper in that case was worried about the potential consequences of the research for the precarious working situation of people without residence documents. More specifically, the gatekeeper feared that the research results could lead to more controls, which could negatively affect the irregular immigrants' living circumstances. The gatekeeper's level of involvement was decisive for the interviewees' participation in the project: it proved hard to convince workers to participate when the initial contact came from the researchers. The involvement of the gatekeeper was necessary to ensure a sufficient level of trust among the interviewees.

Remarkably, the group of irregular immigrants was the least difficult to reach. This might be due in part to the fact that these workers are especially vulnerable to labour exploitation due to their irregular situation. Additionally, the active involvement and enthusiasm of some of the main gatekeepers – who work with irregular immigrants – was a significantly positive force in securing respondents from this group. For example, ORCA, the support organisation for victims of labour exploitation to which almost all other gatekeepers referred to as the expert on the matter, was of particular help in this regard, and also organisations such as the General Christian Trade Union (ACV) and PAG-ASA, the support organisation for victims of human trafficking (irregular and regular migrants) were active in reaching out to possible respondents, amongst others.

Through the different gatekeepers, other immigrant profiles were reached; namely, (regular and irregular) domestic workers, (former) asylum seekers, posted workers and EU citizens. An overview of participants in the interviews and focus groups, by immigrant profile, economic sector, nationality and gender is provided in Table 1 (see also Section 2.3).

## 2.2 Difficulties encountered during the selection of participants

At the outset of the project, the goal was to include EU citizens (other than Belgian nationals) in the sample. It was clear from the literature and from initial contact with the gatekeepers that labour exploitation is also a reality for EU citizens in Belgium, particularly for Bulgarian, Polish and Romanian workers. The gatekeepers mentioned several sectors in this regard (such as construction, the meat industry, the horticulture industry). The phenomenon of pseudo self-employment was highlighted by actors in the field (such as trade union representatives). During the fieldwork, however, it proved very difficult to find possible respondents for the group of EU workers. In the end, the researchers managed to identify three EU citizens (one Italian, two Bulgarians) with this profile.

The challenge in reaching EU workers can be partially explained by the difficulties encountered by some gatekeepers' after agreeing to cooperate. Some gatekeepers considered it unfeasible to ask the EU workers with whom they were in contact to participate, in view of their precarious living situations. Other gatekeepers did contact clients to inform them about the study and invited them to participate, but their clients refused. Another recurring problem was that some EU workers had already returned home after experiencing problems in Belgium. Trade union representatives were the main 'channel' to reach out to EU citizens. The integration service of Brussels (BON) also proved helpful. One gatekeeper explained that Polish workers sometimes try to get justice in Poland, rather than filing a complaint in Belgium. More generally, trade union representatives indicated that it was hard to reach Polish, Bulgarian or Romanian workers because they are not familiar with the concept of 'trade union' in their home country (or trade unions tend to have a different meaning or association), or they are very scared to report problems, and/or because these communities are rather 'closed' and hard to access.

The researchers made efforts to actively include applicants for international protection in the research, and various refugee support organisations were contacted. Some were not aware of possible cases of labour exploitation amongst their target group, and suspected that labour exploitation occurs less with refugees because of their legal residence status. Other organisations, which have a helpdesk to respond to asylum seekers and refugees' questions, did not have, nor could ask for, these people's contact details. Through other gatekeepers, the researchers identified and interviewed one respondent who was an applicant for international protection when the labour exploitation took place.

During the fieldwork, one interviewee was identified and contacted by two different gatekeepers. The inter-connectedness of organisations was also visible in other cases, without posing a problem for the fieldwork. For instance, during some interviews, it became clear that the interviewee was also in contact with other gatekeepers, in addition to the person that had facilitated the interview. After conducting the interviews, the researchers realised that the (three) posted workers interviewed, who were identified by two different gatekeepers, were connected to the same case of labour exploitation. A possible drawback of their connection to the same case is that no conclusions can be drawn about posted workers in general. The researchers do not consider it to be problematic for other analyses, however. Furthermore, the researchers believe that this situation may indicate that the share of labour exploitation victims who actually come into contact with a third-party organisation, share information about their work experience, and ask for help, is rather small. Such an indication not only applies to EU citizens, but also to non-EU immigrants.

## 2.3 Sample of participants

Table 1 provides an overview of the participants in the interviews and focus groups for this Belgian study, and shows that the sample covers a large variety of immigrant profiles, economic sectors and nationalities. The researchers actively influenced the selection of participants by choosing gatekeepers on the basis of the immigrant profile of their target group

(legal status and economic sector). Nationality and gender were important criteria from the start and, while the researchers paid attention to this throughout the selection process, the identification process took a more natural course since the researchers did not ask the gatekeepers to actively select on nationality (with the exception of EU citizens).

Morocco is the most common country of origin in the sample, with 12 of the 30 respondents having Moroccan nationality. A strong representation of Moroccans was expected, given the large number of Moroccan immigrants living in Belgium (in regular as well as in irregular situations).<sup>1</sup> Among the 20 interviewees, 14 were male and six were female. The focus groups gathered six women (first focus group) and four men (second focus group). In the sample, gender can be linked to a specific economic sector and to country of origin. Further research is necessary to understand if, and the extent to which, gender plays a role in immigrants' vulnerability to labour exploitation, the type of labour exploitation experienced (e.g. more physical or not), access to help, etc. The sample succeeded in covering the existing variety in the field, with the exception of the regional spread. While the researchers contacted gatekeepers in all three Regions (Brussels, Flanders and Wallonia), most participants were identified through gatekeepers in Brussels. In total, 14 interviewees were living in Brussels during the work experience covered in the interview, two in Flanders, and four in Wallonia. Both focus groups took place with people who had lived in Brussels at the time of their relevant work experience.

For the focus groups, given the sensitivity of the topic and the required high level of trust, the researchers opted to invite participants who knew each other previously and/or were linked to the same organisation, as this might facilitate participants to open up. The first focus group consisted of a group of six female domestic workers. Some of the participants were engaged by a company to clean, others worked for a specific family as housekeeper, cleaner and/or nanny. The second focus group was conducted with four men in irregular situation, each of whom had different working experiences but are part of a group of activists that strive for better rights (both in terms of labour and regularisation) for undocumented workers. An additional reason for the selection of this second group was their familiarity, as activists, with practices of labour exploitation in the field; their knowledge is thus not limited to their own experience. Language constituted a criterion for participation. In order to facilitate a natural conversation, it was necessary that all participants spoke the same language (Spanish for the first focus group, French for the second).

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<sup>1</sup> Moroccans were the fourth most common foreign nationality in Belgium in 2016, after French, Italian and Dutch nationality. In total, 82,009 citizens had Moroccan nationality (Services of the Belgian Federal Government, 2017). These numbers do not include the large share of Moroccans living in Belgium without a residence permit. The annual report of OR.CA, the main organisation providing support to victims of severe labour exploitation in Belgium, also mentions North Africa as the most common region of origin of their clients (OR.CA, 2017).

**Table 1 Overview of participants in interviews and focus groups, by immigrant profile, economic sector, nationality and gender<sup>2</sup>**

INTERVIEWS					
		Economic sector/ occupation	Nationalities	Male	Female
1	Posted workers	Construction	Morocco <sup>3</sup>	3	0
2	Seasonal workers <sup>4</sup>	/	/	0	0
3	Domestic workers / tied to employer for visa	Domestic work; retail	Brazil, Pakistan, Philippines	1	2
4	Applicants for international protection	Distribution of newspapers	Sub-Saharan Africa	1	0
5	Migrants in an irregular situation	Construction, manufacture, cleaning, food/restaurant, administration	Algeria, Guinea, Ivory Coast, Morocco, Togo	9	1 (3*)
6	Other foreign workers (e.g. EU citizens enjoying their right to freedom of movement)	Meat processing, restaurant, cleaning	Bulgaria, Italy	0	3
FOCUS GROUPS					
	Target group	Economic sector/ occupation	Nationalities	Male	Female
1	Domestic workers	Domestic work, cleaning	Argentina, Ecuador, Guatemala, Spain, Mexico, Spain <sup>5</sup>	0	6
2	Irregular immigrants	Restaurant, cleaning, construction	Congo, Morocco	4	0

<sup>2</sup> Please note that when referring to or quoting interviewees and focus group participants in this report, the country of origin is sometimes replaced with the more general geographical region in order to guarantee the anonymity of research participants.

<sup>3</sup> These workers had legal residence in Spain.

<sup>4</sup> Please note that within this research, the term ‘seasonal worker’ has a wider scope than the definition of seasonal workers contained in the EU Directive on Seasonal Workers, and also includes seasonal workers under national schemes as well as under the EU Directive on Seasonal Workers. It also includes EU workers moving for seasonal work.

<sup>5</sup> It is important to note that a participant from Spain (domestic worker) participated at the first focus group. However, she is not taken into account in the analysis because she had not yet worked in Belgium.

\* In the group of irregular migrants, the two female domestic workers should be taken into account as well. Whereas they are officially in the group of domestic workers, they are also in an irregular situation.

Table 2 (below) gives an overview of the occurrence of indicators of severe labour exploitation.

**Table 2 Overview of occurrence of severe labour exploitation indicators**

<b>Circumstances which emerged as typical indicators of situations of severe labour exploitation* of workers in employment relationships</b>		
<b>Circumstance/indicator</b>	<b>Total number</b>	<b>Breakdown by category</b>
No salary paid or salary considerably below legal minimum wage	20/20	10IR, 3D, 3P, 3O, 1IP
Parts of remuneration flowing back to employer on various – often unreasonable – grounds	7/20	2IR, 3O, 1D, 1IP
Lack of social security payments	19/20	10IR, 2D, 1P, 1O
Extremely long working hours	17/20	9IR, 3D, 2O, 2P, 1IP
Very few or no days' leave	13/20	6IR, 2D, 2P, 3O
Working conditions differ significantly from what was agreed	8/20	2IR, 2D, 3P, 1O
Worker lives at the workplace	5/20	3IR, 2D
Hardly any contact with nationals or persons from outside the workplace	4/20	3P, 1IR
Passport retained, limited freedom of movement	0/20	
No contract, or contract in a language the interviewee could not understand	16/20	10 IR, 2D, 3O, 1IP

## 2.4 Conducting interviews and focus groups

Most interviews (18) were conducted face to face, with two conducted via Skype. For 16 interviews, no interpreter was needed, because there was a common language between the interviewer and the interviewee (mostly French; in some cases, English, Portuguese or Spanish). For four interviews, interpretation services were necessary (Arabic, Turkish and Bulgarian). None of the interviews were conducted in Dutch, despite the fact that Dutch is the official language in Flanders and that Brussels is officially bilingual (French-Dutch). The first focus group was conducted in Spanish (mother tongue for all participants) and the second focus group in French. The length of the interview ranged from 41 to 107 minutes, with an average length of 77 minutes. Both focus groups lasted about two hours (115 and 125 minutes, respectively).

Overall, levels of trust were good during the interviews, for three key reasons. Firstly, most interviewees joined the study through a trusted gatekeeper from whom they received support; the interviews generally took place in a room at the gatekeeper's building. Secondly, confidentiality and anonymity was emphasised by the interviewers at the beginning of the interview; it was also confirmed by the consent form. Thirdly, most of the interviews were carried out in direct contact (without an interpreter) and, where possible, in an informal atmosphere. Fear was, however, a recurring issue throughout the fieldwork, preventing some

people from participating on any level. However, once an interviewee agreed to participate and the interview began, participants were – generally speaking – quite open and trusting. With regard to the interpreter, the interviews conducted with interpreter were experienced in different ways by the participants. Two interviewees seemed to be more open, because they were able to speak in their own language, and because of their confidence in the interpreter as a trust person. On the other hand, the other two interviews were actually rather limited by the interpreter due to was less of a connection between the interviewer and the interviewee and because the interpreter was not translating everything literally.

## **2.5. Analysis of the interviews and focus groups**

After the interviews and focus groups, an interview report was written up from the interviewer's notes (or the note takers' notes, for the focus groups) and the recordings of the interview. Both focus groups and almost all of the interviews were recorded. In three cases, the interviewee did not consent to recording. In one other case, recording was not possible for technical reasons (Skype interview). The analyses in this study were based on the detailed interview reports and on the two focus group reports, with findings compared across interviews. A double approach was taken to the analysis, On the one hand, because this Belgian study formed part of a broader international study, a clear framework was set up beforehand. The researchers therefore followed the FRA guidelines, which pre-determined the focus of the analysis. On the other hand, the researchers also sought to identify possible new elements raised during the interviews (within the framework of the four main themes, i.e. risk factors, workers' experiences, asking for help, and prevention). In doing so, attention was paid to possible relationships between recurring elements and the profile (groups) of the immigrant workers.

### 3. Legal and institutional framework

#### 3.1. Legislation/policy<sup>6</sup>

In Belgium, labour exploitation is punished within the context of human trafficking. Some forms of labour exploitation may also be punished as violations of (criminal) labour law. Anyone – Belgian nationals as well as foreigners – can fall victim to human trafficking.<sup>7</sup> The establishment of exploitation suffices to qualify a situation as exploitation. Belgian criminal law stipulates that the consent of the victim to such (economic) exploitation is irrelevant.<sup>8</sup>

In 2013, the definition of human trafficking included in Article 433quinquies of the Criminal Code was clarified and expanded to transpose the Employers' Sanctions Directive.<sup>9</sup> On labour exploitation, the first paragraph of this article stipulates that:

*“Results in the crime of human trafficking, the recruitment, transportation, transfer, housing, shelter of a person, taking or transferring of control over him with the purpose of: [...] 3° the performance of work or the delivery of services in circumstances contrary to human dignity; [...] Except in the case mentioned in 5°, the consent of the persons referred to in the first indent with the intended or actual exploitation is irrelevant.”<sup>10</sup>*

As indicated in the Circular of 23 December 2016 on the establishment of multidisciplinary cooperation with regard to victims of trafficking in human beings and/or certain more serious forms of trafficking in human beings, **anyone can be the victim of human trafficking**, irrespective of gender (men and women), age (adults or minors), or nationality (Belgians, EU citizens, and Third-Country Nationals). Whether or not the individual has a residency permit is also irrelevant.<sup>11</sup>

Another law from 2013 introduced a fourth paragraph into Article 433quinquies of the Criminal Code, which provides that the fine for the crime of human trafficking is applied as many times as there are victims.<sup>12</sup>

<sup>6</sup> Please note that the legal and institutional framework has changed significantly since 2017 when this research was carried out.

<sup>7</sup> Belgian Criminal Policy Service (*Dienst voor het Strafrechtelijk Beleid / Service de la Politique Criminelle*) (2014), [The fight against trafficking and smuggling of human beings – Policy and approach](#), DSB-SPC, p. 4.

<sup>8</sup> Article 433quinquies Criminal Code.

<sup>9</sup> Law to amend Art. 433quinquies of the Criminal Code to clarify and expand the definition of human trafficking ([Wet tot wijziging van artikel 433quinquies van het Strafwetboek met het oog op het verduidelijken en het uitbreiden van de definitie van mensenhandel / Loi visant à modifier l'article 433quinquies du Code pénal en vue de clarifier et d'étendre la définition de la traite des êtres humains](#)), 29 April 2013.

<sup>10</sup> “Levert het misdrijf mensenhandel op, de werving, het vervoer, de overbrenging, de huisvesting, de opvang van een person, het nemen of de overdracht van de controle over hem met als doel: [...] 3° het verrichten van werk of het verlenen van diensten, in omstandigheden die in strijd zijn met de menselijke waardigheid; [...] Behalve in het in 5° genoemde geval is de toestemming van de in het eerste lid bedoelde personen met de voorgenomen of daadwerkelijke uitbuiting van geen belang.”

<sup>11</sup> Circular on the establishment of multidisciplinary cooperation with regard to victims of trafficking in human being and/or certain more serious forms of trafficking in human beings (Omzendbrief inzake de invoering van een multidisciplinaire samenwerking met betrekking tot e slachtoffers van mensenhandel en/of van bepaalde zwaardere vormen van mensenhandel / Circulaire relative à la mise en oeuvre d'une coopération multidisciplinaire concernant les victimes de la traite des êtres humains et/ou certaines formes aggravées de trafic des êtres humains), 23 December 2016.

<sup>12</sup> Law on the punishment of the exploitation of vagrancy and of prostitution, human trafficking and human smuggling as a function of the number of victims ([Wet houdende bestraffing van de exploitatie van bedelarij en van prostitutie, mensenhandel en mensensmokkel in verhouding tot het aantal slachtoffers / Loi portant repression de l'exploitation de la mendicité et de la prostitution, de la traite et du trafic des êtres humains en fonction du nombre de victimes](#)), 24 June 2013.

In cases where a **legal entity** is convicted for human trafficking, the Criminal Code foresees sanctions that would effectively prevent that legal entity from entitlement to public benefits, aids or subsidies. These may include: the dissolution of the legal entity; the prohibition to carry on an activity falling within the scope of the company's business, except for activities that are part of a public service mission; or the closure of one or more establishments, except for establishments where activities are carried out which are part of a public service mission.<sup>13</sup>

In cases where the employer is convicted as an **individual**, the judge can order the prohibition, for one to three years, to exploit, either by themselves or through an intermediary, certain types of businesses, such as an establishment providing beverages, employment agency, entertainment company, rental or sale agency for visual media, hotel, furnished rental agency, travel agency, etc.<sup>14</sup> The judge may also order the temporary or permanent, partial or total, closure of the undertaking in which the crimes were committed.<sup>15</sup>

Conviction for human trafficking and employing irregular immigrants is included among the criteria that exclude persons or companies from applying for public contracts for a period of five years.<sup>16</sup> The Law on Public Procurement also sets out that economic operators shall respect and ensure compliance by all persons acting as subcontractors, and by any person undertaking performance of the contract, with all of the applicable social and labour law obligations established by EU law, national law, collective agreements or by international environmental, social and labour law.<sup>17</sup> Breaches of such obligations shall give rise, where necessary, to the application of breach of contract measures in respect of the procurement contract.

In 2015, 93 sentences were imposed for facts relating to human trafficking.<sup>18</sup> The sanctions ranged from 88 effective prison sentences, 52 suspended prison sentences, 79 fines, 32 suspended fines, 50 forfeitures, 52 deprivations of rights, three business prohibitions, and one alternative sanction (hard labour).

### 3.2. Labour exploitation and the institutional setting

In 1995, an **Interdepartmental Coordination Platform for the Fight against Trafficking and Smuggling in human beings** (ICP) was established. The ICP is composed of all federal actors – at policy and operational levels – active in the fight against human trafficking and human smuggling.<sup>19</sup> The Circular of 23 December 2016 on the establishment of

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<sup>13</sup> Art. 7bis of the Criminal Code.

<sup>14</sup> Art. 433novies of the Criminal Code.

<sup>15</sup> Art. 433novies of the Criminal Code.

<sup>16</sup> Art. 67 of the Law on public procurement ([Wet inzake overheidsopdrachten](#) / [Loi relative aux marches publics](#)), 17 June 2016.

<sup>17</sup> Article 7 of the Law on public procurement ([Wet inzake overheidsopdrachten](#) / [Loi relative aux marches publics](#)), 17 June 2016.

<sup>18</sup> Note that this crime – and this number – extends beyond cases of labour exploitation. Myria (2016), [Jaarrapport mensenhandel and mensensmokkel 2016: Bedelaars in de handen van mensensmokkelaars / Rapport annual traite et trafic des êtres humains 2016: Des mendiants aux mains de trafiquants](#), Myria, p. 186.

<sup>19</sup> It concerns representatives of the Prime Minister, the Minister of Justice, the Minister of Internal Affairs, Minister of Employment, Minister of Social Security, etc. and their administrations, as well as the Board of Prosecutors General (which has an expertise network on human trafficking and human smuggling), the Federal Public Prosecutor's Office and Child Focus [the European Centre for Missing and Sexually Exploited Children]. Since 1 September 2014, specialised reception centres and the Financial Intelligence Processing Unit are also included in the ICP. The ICP now also includes a representative of the Regions and of the Communities. Royal Decree amending Royal Decree of 16 May 2014 concerning the fight against the smuggling and trafficking of human beings (*Koninklijk Besluit van tot wijziging van het Koninklijk Besluit van 16 mei 2014 betreffende de*

multidisciplinary cooperation with regard to victims of trafficking in human beings and/or certain more serious forms of trafficking in human beings, established **multidisciplinary cooperation** between the **different partners** in order to apply the victim protection scheme for victims of human trafficking or more serious forms of human smuggling.<sup>20</sup>

The **labour inspectorates** are responsible for monitoring and carrying out inspections related to the application of labour laws and well-being at work. There are five labour inspectorates in Belgium: one at federal level and four at regional level covering the Flemish Region (*Inspectie Werk & Sociale Economie van het Vlaamse Gewest; IWSE*), the Walloon Region, the Brussels-Capital Region and the German Community.

At the **federal level**, the **Social Inspection Service** of the Federal Public Service (FPS) Social Security, together with the **Directorate-General Monitoring of Social Legislation** of the FPS Employment actively contribute to the fight against human trafficking.<sup>21</sup> Not only do these services participate in the coordination meetings provided for by Col 01/2015,<sup>22</sup> they also carry out targeted controls to check compliance with social legislation (e.g. checking social papers, labour conditions, employment of foreign workers, pay) and detect human trafficking cases.<sup>23</sup> In 2001, a protocol was put in place for cooperation between the **Social Inspection Service** of the Federal Public Service (FPS) Social Security and the **Directorate-General Monitoring of Social Legislation** of the FPS Employment in the fight against human trafficking.<sup>24</sup>

These controls mainly focus on so-called “(high) risk” sectors, such as the building sector, clothing factories, and agriculture. Additionally, FPS Social Security’s Social Inspection Service checks that employers have duly registered the workers and that they have insurance that covers work-related accidents. Absence of one or both actions could be an indication of a case of human trafficking. The same is true of worker status (i.e. false self-employed status can point to human trafficking).

Each **legal district unit** has **one social inspection unit** under the remit of the Labour Auditor. However, controls can also take place outside this framework. Local and federal policy services generally assist the social inspection services.

The **regional social inspection services** are not competent to deal with human trafficking. They may, however, act as an intermediary at times.<sup>25</sup> The 2016 Annual Report of the Supervision and Enforcement department of the **Flemish Department for Work and Social Economy** (*Afdeling Toezicht en Handhaving van het Departement Werk en Sociale*

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*bestrijding van mensensmokkel en mensenhandel / Arrêté royal modifiant l’arrêté royal du 16 May 2004 relatif à la lutte contre le trafic et la traite des êtres humains*), 21 July 2014.

<sup>20</sup> Circular on the establishment of multidisciplinary cooperation with regard to victims of trafficking in human being and/or certain more serious forms of trafficking in human beings (*Omzendbrief inzake de invoering van een multidisciplinaire samenwerking met betrekking tot de slachtoffers van mensenhandel en/of van bepaalde zwaardere vormen van mensenhandel / Circulaire relative à la mise en oeuvre d’une coopération multidisciplinaire concernant les victimes de la traite des êtres humains et/ou certaines formes aggravées de trafic des êtres humains*), 23 December 2016.

<sup>21</sup> Article 81 of the Law concerning access to the territory, stay, residence and removal of foreigners (*Wet betreffende de toegang tot het grondgebied, het verblijf, de vestiging en de verwijdering van vreemdelingen / Loi sur l’accès au territoire, le séjour, l’établissement et l’éloignement des étrangers*).

<sup>22</sup> Ministerial Directive – Col 01/2015 – concerning Investigative and Prosecutorial Procedures on Trafficking in Human Beings [entered into force on 15 May 2015].

<sup>23</sup> Belgian Criminal Policy Service (*Dienst voor het Strafrechtelijk Beleid / Service de la Politique Criminelle*) (2014), *The fight against trafficking and smuggling of human beings – Policy and approach*, DSB-SPC, p. 13.

<sup>24</sup> FPS Employment Directorate-General Monitoring of Social Legislation (2014), *Activiteitenverslag 2014 / Rapport d’Activité*, FPS Employment, p. 80.

<sup>25</sup> Belgian Criminal Policy Service (*Dienst voor het Strafrechtelijk Beleid / Service de la Politique Criminelle*) (2014), *The fight against trafficking and smuggling of human beings – Policy and approach*, DSB-SPC, p. 9.

*Economie*) clarifies that social inspectors have a certain amount of discretion (margin of appreciation): when they uncover an infringement, they can choose to draft up a protocol (*process-verbaal*), give a warning, impose a timeframe within which the offender must remedy the situation, or give information and advice on how the provisions in the legislation can be met.<sup>26</sup> If observations are made on affairs for which the department is not competent, an information report is sent to the competent service.<sup>27</sup>

The **federal criminal police** has a **Central Human Trafficking Unit** which conducts strategic and operational analysis relating to the nature, seriousness, extent and evaluation of the phenomenon, and the sectors at risk.<sup>28</sup> This service cooperates with the local police, the judicial police and the administrative police.<sup>29</sup> It provides various supports to local and federal police, such as field assistance, collecting and sharing good practice, giving advice, investigating possible connections between Belgian and international cases, and facilitating the development of partnerships with foreign police services. This Unit acts as the central police contact point for all stakeholders (within and outside the police) and draws up action plans on human trafficking and smuggling.

**All police** may encounter cases of labour exploitation in their line of work. The Federal Migration Centre (Myria) states that the police 2016 Annual Report reports a decrease in the numbers of cases of human trafficking for the purposes of labour exploitation. This reinforces the notion that instances of labour exploitation are more likely to be observed by the social inspection services.<sup>30</sup>

**Medical staff** in Belgian **hospitals** may also encounter potential victims of human trafficking.<sup>31</sup> In 2012, the Bureau of the Interdepartmental Coordination Platform and the FPS Public Health therefore put together a brochure to raise awareness among medical staff and provide information on how to help victims.<sup>32</sup>

The **FPS Foreign Affairs and Development Cooperation** provides **training** to its staff to enable them to identify possible cases of human trafficking in visa application procedures.<sup>33</sup> Belgian diplomatic and consular missions are therefore given information on human trafficking methods.

### 3.3. Victim support

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<sup>26</sup> Flemish Government (2017), [Jaarverslag Toezicht en Handhaving Departement Werk & Sociale Economie](#), Flemish Government, p. 30.

<sup>27</sup> These could be: supervision of the social laws, social inspection, Immigration Office, local police, etc.

<sup>28</sup> Ministerial Directive on the investigation and prosecution policy on trafficking in human beings ([Ministeriële Richtlijn inzake het opsporings- en vervolgingsbeleid betreffende mensenhandel](#) / *Directive ministérielle relative à la politique de recherches et poursuites en matière de traite des êtres humains* (French version not found online)), 14 December 2006, p. 5.

<sup>29</sup> Article 44 Law of the Office of the Police ([Wet op het Politieambt](#) / *Loi sur la fonction de police*), 5 August 1992.

<sup>30</sup> Myria (2016), [Jaarrapport mensenhandel and mensensmokkel 2016: Bedelaars in de handen van mensensmokkelaars](#) / *Rapport annual traite et trafic des êtres humains 2016: Des mendicants aux mains de trafiquants*, Myria, p. 168.

<sup>31</sup> Belgian Criminal Policy Service (*Dienst voor het Strafrechtelijk Beleid* / *Service de la Politique Criminelle*) (2014), [The fight against trafficking and smuggling of human beings – Policy and approach](#), DSB-SPC, p. 18.

<sup>32</sup> Interdepartmental Coordination Platform for the Fight against Trafficking and Smuggling in human beings (2012), [Mensenhandel... wat te doen? Advies voor ziekenhuispersoneel](#) / *Traite des êtres humains, que faire? Conseils pour les personnel hospitalier*.

<sup>33</sup> Belgian Criminal Policy Service (*Dienst voor het Strafrechtelijk beleid* / *Service de la Politique criminelle*) (2014), [The fight against trafficking and smuggling of human beings – Policy and approach](#), DSB-SPC, p. 19.

Myria provides legal advice to victims of human trafficking. It can start legal proceedings in its own name or on behalf of victims. In addition, Belgium has three recognised reception centres for victims of human trafficking.<sup>34</sup> These centres provide different types of support, including shelter and guidance, psychological and medical help, administrative and legal support. They are also authorised to apply for residence documents and for extensions of such documents directly to the Immigration Office. They can also start legal proceedings on behalf of victims of human trafficking. Each centre covers a part of the Belgian territory and has a reception centre at a secret location. Pag-asa covers Brussels, Payoke covers Flanders and Sürya covers Wallonia.

Belgium has several non-profit organisations that focus on foreigners and, more specifically, on refugees, asylum seekers and/or immigrants without legal residence in Belgium. The large Brussels-based organisation OR.CA, provides information on the rights of foreigner workers, legal advice and support to undocumented workers. Several other organisations are also based in Brussels (Meeting, Raiz Mirim and Vluchtelingenwerk Vlaanderen), some in the Flemish Region (Filet Divers in Antwerp, De Tinten in Ghent, and Vluchtelingenondersteuning (VLOS) in Sint-Niklaas) and in the Walloon Region (Point d'Appui in Liège). The support they provide to victims of human trafficking varies from legal (Point d'Appui; De Tinten; Meeting; VLOS), administrative (Point d'Appui; VLOS; Raiz Mirim), and social support (Point d'Appui; Filet Divers; De Tinten; Meeting; Raiz Mirim), to language training (Filet Diverse; Raiz Mirim), medical support (De Tinten) and material support, including emergency reception, food and clothing (De Tinten; VLOS; Vluchtelingenwerk Vlaanderen).

### 3.4. Risk management

Belgium has specialised police units that regularly investigate so-called non-risk sectors, as well as new sectors, in order to identify possible new risk factors for labour exploitation.<sup>35</sup> These units conduct their own research and publish reports demonstrating current trends and advising on problem areas. They cooperate on labour exploitation cases with other institutions, such as inspection bodies and Europol.<sup>36</sup> They proactively conduct monthly inspections of high-risk sectors, which are led by the auditor or public prosecutor, with which other organisations such as labour and social inspectorates and victim support organisations are linked.

### 3.5. Court cases

Since 2014, there have been 55 judgments on cases involving severe labour exploitation in Belgium, according to the Myria database.<sup>37</sup> The five key judgments in which the applicable criminal law provisions are clarified, are discussed in the Annex to this report.

The case law states clearly that the employment of foreign workers without a work permit or a residence permit for a minimal and variable salary, without social protection, is equal to forced

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<sup>34</sup> Belgium, Royal Decree on the recognition of centres specialising in the reception and guidance of victims of trafficking in human beings and of certain more serious forms of trafficking in human beings and on the consent to go to court (*Koninklijk Besluit inzake de erkenning van de centra gespecialiseerd in de opvang en de begeleiding van slachtoffers van mensenhandel en van bepaalde zwaardere vormen van mensenhandel en inzake de erkenning om in rechte op te treden / Arrêté royal relatif à la reconnaissance des centres spécialisés dans l'accueil et l'accompagnement des victimes de traite et de certaines formes aggravées des êtres humains et à l'agrément pour ester en justice*), 18 April 2013.

<sup>35</sup> FRA (2015), [Severe labour exploitation: workers moving within or into the European Union](#), FRA, p. 86.

<sup>36</sup> *Ibid.*

<sup>37</sup> Some of these concern the same cases, e.g. where the judgment of the lower court was appealed. Myria reports on case law on human trafficking on its website. See Myria, [Rechtspraak mensenhandel /Jurisprudence](#) (accessed on 1 September 2017).

submission to arbitrariness and should be labelled as human trafficking.<sup>38</sup> The crime of human trafficking requires a special purpose, namely the employment of the victim in circumstances that are contrary to human dignity.<sup>39</sup> Criminalisation does not, however, require the exploitation to take place within the framework of an employment contract and no relationship of subordination needs to be demonstrated in order to find evidence of the violation of human dignity.<sup>40</sup> In this regard, 'to recruit' does not imply that the recruited person was asked, nor does it exclude circumstances where the request came from the employed person himself/herself.<sup>41</sup> Whereas the notion of 'coercion' is not a constitutive element, it does constitute an aggravating circumstance of the moral component of the crime of human trafficking.<sup>42</sup>

Whether or not human dignity is violated depends on an evaluation of the individual circumstances of the situation.<sup>43</sup> In addition to a salary significantly below the minimum wage in Belgium, high number of hours worked, and non-payment of salary are considered tantamount to circumstances contrary to human dignity.<sup>44</sup> Belgian case law further explains that it makes little difference if the workers who are the victims of human trafficking have agreed to the proposed salary.<sup>45</sup> The issue of whether or not the victims' salaries in Belgium would be sufficient for quality of life in their country of origin cannot be used as the standard to decide if a situation constitutes employment in violation of human dignity.<sup>46</sup>

### 3.6. Promising practices

A promising practice is the civic integration programme for newly arrived migrants ("*inburgeringscursus*"), which is funded by the Flemish government and implemented by three government agencies.<sup>47</sup> The programme was put in place by the Decree of 7 June 2013 on the Flemish integration and civic integration policy.<sup>48</sup> The programme provides information to migrant workers, for instance about the services provided by trade unions. The fieldwork for this study revealed that the information given during the course may help victims of labour exploitation to seek assistance.

The programme is free and includes a module on Dutch, one on life in Belgium (working, living, education, rights and duties ...), guidance to find work or training, and information about sports, culture and leisure. Courses are given in the native language of those taking the course, or in a language they understand.

Foreigners with legal residency in Belgium and Belgians of foreign origin (Belgians who are born abroad and of whom at least one parent was also born abroad), who live in Flanders or in Brussels (official registration with a commune in either Region is required) and who are at least 18 years old are eligible for and entitled to civil integration.

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<sup>38</sup> Belgium, Criminal Court (*Correctionele Rechtbank*), Dendermonde [DE69.98.31150/13](#), 27 February 2017.

<sup>39</sup> *Ibid.*

<sup>40</sup> Belgium, Court of Appeal (*Court d'Appel*), Mons [2013/AG/16](#), 13 January 2016.

<sup>41</sup> *Ibid.*

<sup>42</sup> Belgium, Criminal Court (*Correctionele Rechtbank*), Kortrijk [no case number](#), 16 February 2015.

<sup>43</sup> Belgium, Criminal Court (*Tribunal Correctionnel*), Liège [LI69.98.499-12](#), 25 April 2016.

<sup>44</sup> Belgium, Criminal Court (*Tribunal Correctionnel*), Mons [55.L2.13067/08](#), 21 April 2016.

<sup>45</sup> *Ibid.*

<sup>46</sup> Belgium, Criminal Court (*Correctionele Rechtbank*), Kortrijk [no case number](#), 16 February 2015.

<sup>47</sup> It concerns: (1) the Integration and Civil Integration Agency (*Agentschap Integratie & Inburgering*) in Flanders and in Brussels, (2) Atlas in the city of Ghent, and (3) In-Gent in the city of Ghent. Flanders (*Vlaanderen*), [Inburgering in Vlaanderen](#) (accessed on 1 September 2017). Integration and Civil Integration Agency (*Agentschap Integratie & Inburgering*), [Wie mag of moet inburgeren?](#) (accessed on 1 September 2017).

<sup>48</sup> Flanders, Decree on the Flemish integration and civil integration policy ([Decreet betreffende het Vlaamse integratie- en inburgeringsbeleid](#)), 7 June 2013.

Foreigners who are not officially registered with a commune (and who are thus not in the population register), such as tourists, diplomats, and foreigners without legal residence, are not part of the target group. Other foreigners, such as asylum seekers whose procedure has not yet reached four months duration, and foreigners with a legal residency of a maximum of one year, are excluded from the target group.

Certain groups are obliged to sign up and follow the primary civil integration groups within three months of becoming part of the target group,<sup>49</sup> whereas others are exempted from the civil integration obligation, despite belonging to one of the groups mentioned above.<sup>50</sup>

Foreigners who apply for certain kinds of residency status from 26 January 2017 onwards are obliged to undertake integration efforts after receiving that status.<sup>51</sup> If they do not make sufficient effort, the Foreigners' Affairs Office can terminate their residency. This federal condition for residency, and sanction for non-compliance, is added to the previously existing Flemish civil integration duty, which is also enforced with an administrative fine.

No similar programme exists in Wallonia.

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<sup>49</sup> Newly arrived foreigners who formally register with a commune with a residency title for more than three months (family migrant from outside the EU, Iceland, Norway or Switzerland), recognised refugees, persons with the status of subsidiary protection, victims of human trafficking, and humanitarian or medical regularised persons with a discretionary residence permit; Newly arrived foreigners who officially registered with a Flemish commune after 28 February 2016 after having been registered for the first time as 18+ in a Walloon or Brussels commune less than five years ago, if they have a residency title in the framework of a residency status that obliges them; Newly arrived Belgians (people aged 18-65) who became Belgians abroad and who officially register in a Belgian commune for the first time; they must be born abroad and have at least one parent who was also born abroad; Newly arrived Belgians who officially registered with a Flemish commune after 28 February 2016 after having been registered for the first time as 18+ in a Walloon or Brussels commune less than five years ago; they must be born abroad and have at least one parent who was also born abroad; Minors who are newly arrived and who speak a foreign language, when they become 18 years old and have not yet been officially registered in the Population Register (*Rijksregister*) for 12 consecutive months; they have a residency permit of more than three months; Servants of recognised worship with a residence permit of more than three months.

<sup>50</sup> People over the age of 65 (except for servants of recognised worship); Citizens of the EU, Iceland, Liechtenstein, Norway or Switzerland and their family members in the strict sense; Belgians and their family members who enjoyed freedom of movement in the EU; Persons from outside the EU, Iceland, Liechtenstein, Norway or Switzerland who are long-term residents in an EU Member States and have already met the integration conditions there, although they must still undertake a Dutch course; Labour or study migrants (and their family members) (except for servants of recognised worship); People with proof of a diploma of education in Belgium or the Netherlands (except for servants of recognised worship) or of a complete year of reception education (*onthaalonderwijs*); People who are seriously ill or people with disabilities, for whom the pursuit of a civil integration programme is permanently impossible; People who have already obtained a certificate of civil integration.

<sup>51</sup> Integration and Civil Integration Agency (*Agentschap Integratie & Inburgering*), [Wie mag of moet inburgeren?](#) (accessed on 1 September 2017).

## 4. Risk factors for severe labour exploitation

This section identifies risk factors for severe labour exploitation. Based on the analysis of the interviews and the focus groups, the factors that render foreign workers vulnerable to exploitation are explained here. In total, five factors are identified, based on the participants' perspectives of their own vulnerability to exploitation. These factors are summarised in Table 3 and explained in more detail further on. In addition to these five factors, a sixth point on 'other factors' was added (see Section 4.6). The latter were fixed topics in the interviews: while these elements were not explicitly identified as risk factors by the interviewees (or only to a small extent), they are relevant in identifying risk factors.

**Table 3 Risk factors for severe labour exploitation**

Risk factor	Number of interviews (20)	Number of focus group participants (10)
Economic reality: need financial means to survive	13	4
Vulnerability linked to residence status <ul style="list-style-type: none"> <li>- Worker in an irregular situation</li> <li>- Worker dependent on employer for regularisation or visa</li> </ul>	9 2	4 1
Being foreign – lack of access to reliable information	4	2
Lack of knowledge of the local language	2	2
Psychological factors	3	5

### 4.1 Economic reality: in need of financial means to survive

The first reason that people stay in a job with very harsh conditions is that they need money and, therefore, do not have a choice. This was explicitly mentioned in at least 13 of the 20 interviews, as well as in both focus groups. In many cases, it is a matter of survival. Not having a job is not an option; it is better to have a bad job than no job at all. People cannot afford to be picky, thus they accept very difficult conditions. The lack of alternatives makes people accept poor conditions.

*"I have no choice. What can I do to have money, to eat ... I have no choice." - "Je n'ai pas le choix. Comment je vais faire pour avoir de l'argent, pour manger, ... Je n'ai pas le choix."* (Belgium, male interviewee from Morocco, construction, migrant in an irregular situation at the time of exploitation).

*"The job of an undocumented immigrant is to get by in order to be able to eat." - "Un sans-papier son travail s'est de débrouiller pour pouvoir manger."* (Belgium, male interviewee from Western Africa, construction, migrant in an irregular situation at the time of exploitation).

*"When you work without papers, the employer will take advantage, he will pay four or five euros. When you are not legally in the country, you don't have the choice, you have to work"*

*to pay rent, to eat ... So even for three or four euros; you have to work. So, you will always accept.” - “Comme tu travailles sans papiers, le patron il va profiter, il va payer quatre euro, ou cinq euro. Quand tu n’es pas légalisé, tu n’as pas le choix, il faut travailler pour payer le loyer, pour manger. Donc toujours, même trois euros ou quatre euros, il faut travailler. Donc tu vas toujours accepter.”* (Belgium, male interviewee from Northern Africa, retail, migrant in an irregular situation at the time of exploitation).

Three specific expenses are predominantly mentioned by the interviewees: food, housing, and to support the family (in Belgium or in the country of origin). One interviewee (a male applicant for international protection working as a newspaper distributor) explained that food is less of a problem, saying that finding housing is the most difficult, especially during wintertime, when it is cold and wet. Finding accommodation appeared to be a problem for some interviewees. For example, one interviewee (a male migrant in an irregular situation from Western Africa, working at a warehouse) was sleeping in a train station. Others slept at their workplace because they could not afford anywhere else. The struggle to find and pay for decent housing was a recurring element throughout many interviews. More details on workers’ experiences of housing is given in Section 5.8.

Five interviewees specifically mentioned the need to take care of their family. For them, fulfilling that duty is more important than having good working conditions. Even if conditions are very bad, it is still better than not having a job and not being able to send money home to support their family. Providing income to their family takes priority over everything else.

Given their desperate need for money, people are also afraid to lose their jobs. This was mentioned in the second focus group, as well as several individual interviews. Losing a job would mean ending up in a much worse situation and people therefore put up with bad treatment and harsh conditions.

*“We work because we need to. We are always afraid to be fired. If the job does not work out, if progress is not made, we are always afraid to be fired. That implies we have to do three times as much effort, you see? We have to work.” - “Nous on travaille parce qu’on a besoin. On a toujours peur d’être viré. Si le boulot ne marche pas, n’avance pas, on est toujours dans la peur d’être viré. Ça veut dire on doit faire le triple d’effort, tu vois? Il faut qu’on travaille.”* (Belgium, male focus group participant from Morocco, cleaning/construction, migrant in an irregular situation at the time of discussion)

Financial needs make workers dependent on their employer. They do not necessarily see alternative job opportunities. Several interviewees stressed that the employers know that the workers desperately need money. The awareness that workers have little or no alternative, gives employers power and allows them to take advantage:

*“Either you work and you save your life, or you just stay like that. So that’s also why, they take advantage of it. They know you need it, you need to live, you cannot stay without income. So they exploit.” - “Ou soit tu travailles et tu sauves ta vie, ou soit tu restes comme ça. Donc c’est à cause de ça aussi, ils profitent. Ils savent que tu en as besoin, de vivre, tu peux pas vivre sans revenus. Donc voilà, ils exploitent.”* (Belgium, male interviewee from Western Africa, construction, migrant in an irregular situation at the time of exploitation).

This reasoning does not only apply to irregular immigrants. A female interviewee (EU national) exploited while working for the food industry stated that employers know that people come to Belgium with the intention of earning money. The fact that you need money, she said, causes them to take advantage.

## 4.2. Vulnerability linked to residence status

The residence status of a worker has an impact on his/her work opportunities, as well as on the risk of exploitation. Workers in an irregular situation are discussed in Section 4.2.1 and

workers dependent on employer for regularisation or visa in Section 4.2.2. Whereas both situations can be considered as a risk factor for labour exploitation, different mechanisms are at play for each group.

#### 4.2.1 Workers in an irregular situation

As outlined in Section 4.1, employers take advantage of workers' need for money; it gives employers more power. They know that workers will generally not refuse, even though the working conditions are poor or the payment is low, because there are no better alternatives available. Being an undocumented immigrant reinforces workers' vulnerabilities in two ways: it reduces their alternatives and it strengthens the employers' positions of power.

On reduced alternatives, many of the undocumented interviewees regarded exploitation as something "unavoidable". While there might be "bad" and "less bad" jobs, these workers know that, by definition, they will be exploited one way or another. It is considered a given (see Sections 5 and 7 for further discussion). The observation that being undocumented gives power to the employer was stressed in at least eight interviews and in both focus groups. The vulnerability of irregular workers presents an advantage to employers, or as one domestic worker phrased it:

*"She [the employer] likes me for not having residence documents." - "Ela gosta de mim por não ter documentos." (Belgium, female interviewee from Brazil, domestic worker, migrant in an irregular situation at the time of exploitation).*

As a result, employers generally adopt a "take it or leave it" attitude.

The main problem, from the perspective of the interviewees is that an undocumented immigrant cannot protest or complain, nor can they go to the police; a fact of which the employer is well aware.

*"They [the employers] take advantage of it as well. As they do not engage someone who has residence documents, only people without. So, they can do as they wish. 'If I do not pay you, what will you do?' So, they know that if you do not have residence documents, you cannot go to the police. [...] The police will take you at the same time, so we are hiding for that, and the employers, they are taking advantage of that."*

*"Eux [les employeurs] aussi, ils profitent. Parce qu'il ne s'engagent pas quelqu'un qui a des papiers, seulement des gens sans papiers. Alors, ils peuvent faire comme ils veulent. 'Si je ne te paie pas, tu vas faire quoi?' Donc ils savent si tu n'as pas des papiers, tu ne peux pas aller à la police. [...] La police va te prendre aussi en même temps, donc nous on se cache pour ça, et les patrons, ils profitent de ça." (Belgium, male interviewee, newspaper distributor, applicant for international protection)*

Some interviewees also emphasised the freedom of employers to do what they want because they get away with it. The (irregular) worker, on the other hand, remains the victim (see Section 7).

Apart from the inability to file a complaint with the police, the fear of the police among irregular immigrants is also actively used by employers to scare the workers and to exert control. This was mentioned in several interviews. For instance, a male interviewee (irregular situation, Western Africa) explained that he continued working, regardless of the problems and the little money he earned, because the employer had threatened to call the police. When the threats were made, he fell on his knees, begging the employer not to do it. This example clearly illustrates the unequal power relationship between the employer and the worker. Similarly, for a male interviewee from Western Africa, fear of the police constituted a key element in understanding his vulnerability to exploitation. An encounter with the police would imply being deported to their home country.

*“And still, they will threaten you, ‘I will call the police’. It’s like you were in his box. He controls you. I was in his box. He can do what he wants. They know where you sleep too. The threats continue.” - “Et encore, ils vont te menacer, je vais appeler police. C’est comme si tu étais dans sa boîte. Il te contrôle. J’étais dans sa boîte. Tout ce qu’il veut il va faire ; ils savent aussi là où tu dors. Les menaces continuent.”* (Belgium, male interviewee from Western Africa, construction, migrant in an irregular situation at the time of exploitation).

For many undocumented interviewees, not being able to stay legally in Belgium determines their life and their opportunities to a large extent; regularising their status would change everything for them.

#### 4.2.2 Workers dependent on employers for regularisation or visa

Another major risk factor for labour exploitation is being tied to a particular employer in order to acquire or to keep legal residency in Belgium.

In 2009, Belgium gave irregular immigrants the option to regularise their situation by presenting a work contract that fulfilled certain conditions. One of the conditions was that workers had to have a contract with a minimum duration of one year. In practice, the rules made workers to be dependent on an employer for his/her residence in Belgium. Several interviewees ended up in a situation where they stayed in a job and accepted poor working conditions in order to meet the conditions of the regularisation process, even though the regularisation procedure was not successful in the end or was nullified by false promises from the employer. In the second focus group, participants also indicated that dependency on an employer, with the associated power dynamic, constituted a big problem. One participant said that the state had encouraged exploitation and slavery by asking workers to stick to the same employer:

*“We were part of the regularisation in 2009 [ ...] You could see that the first thing ... it was the state who made, who encouraged the exploitation, who encouraged the slavery. Because the state let the boss ... it was him (the boss) who was in charge of things.” - “Nous on était dans la régularisation de 2009 [ ...] On voit que la première chose... c’est l’état qui a fait, qui a encouragé l’exploitation, encouragé l’esclavage. Parce qu’il a laissé le patron...c’est lui qui gère les choses. ”* (Belgium, male focus group participant from Morocco, cleaning/construction, migrant in an irregular situation at the time of discussion)

The worker had to do what the employer asked; if not, the employer could end the collaboration and the worker would lose the chance of obtaining a residence card. A similar assertion was made by a male interviewee working in a shop and tied to his employer through his visa, who stated that the system was an invitation for exploitation and abuse of power. Two interviewees mentioned that the employer asked for money to meet the criteria for regularisation: one person had to pay a large amount of money to avoid his contract being terminated early, while another interviewee (male in an irregular situation, Morocco, construction) mentioned that work contracts fulfilling the regularisation criteria could be bought for a certain amount of money. A participant in the second focus group (male in an irregular situation, Morocco, cleaning/construction) reported that an employer asked him for large sums of money during his work contract as part of this same regularisation procedure; this was supposedly to pay taxes, but the employer kept the money.

A similar problem exists for domestic workers, who are tied to their employer for their visas, as highlighted during the first focus group, more particularly by domestic workers hired by diplomats.

#### 4.3. Being ‘foreign’ – lack of access to reliable information

Another element that creates risk for exploitation, is being a “foreigner”. People who are “new” to Belgium and who do not know how things are done or what can reasonably be expected, are more vulnerable.

Foreigners do not know what to expect. For example, a female irregular domestic worker from the Philippines explained that a person knows nothing when they first arrive and so takes whatever job is available.

A second, but strongly related problem, is that foreigners have a harder time speaking up when they do not know the country. This argument was particularly evident during the first focus group. For example, a female focus group participant who works as a domestic worker and who is tied to her employer for her visa, explained:

*“In the beginning, to tell you the truth, I did not try [to negotiate] because I was very scared to do so. Because I am in a different country, I don’t know anybody, I don’t know anything about [how things work] here, so many times, when they would tell me things, it was like...now what...I am already here now, so why would I fight it.” - “Yo, la verdad, al principio como que no lo intenté [negociar] porque sí me dió mucho miedo. Porque fue así como que el hecho de que, estoy en un país diferente, no conozco a nadie, no sé nada de aquí, entonces como que, muchas veces cuando me empezaron a decir las cosas, fue como que, pues ya qué, ya estoy aquí, ya para qué le hago pelea al asunto.”* (Belgium, female focus group participant from Mexico, domestic worker, regular migrant)

This woman was scared to cause trouble in a foreign country. In addition, it was her first time abroad and her first time away from her parents.

Other women in the first focus group shared this experience to a large extent: not knowing the country and its cultural codes, habits and practices makes persons vulnerable, and so they argue less and simply surrender. This problem is exacerbated when the person knows nobody. For instance, in the case of the domestic workers in the first focus group, some participants explained that they only had contact with the family for which they worked. They therefore focus on trying to get along and to do as they are told. More experiences of isolation are considered further in Section 5.8.

A third risk associated with being a “foreigner” is misinformation. For example, a male Pakistani worker who is tied to his employer for visa purposes, explained that his employer deliberately gave him the wrong information about the possibility of applying for asylum or obtaining another type of legal residence. A Bulgarian interviewee made a similar point, stating that, as an immigrant, she heard things from others and had certain ideas in mind, but could easily be misinformed.

In sum, being a foreigner makes it more difficult to make well-informed decisions, and increases the vulnerability of workers. This risk factor was emphasised to a lesser extent than the others during the interviews. It was a central theme during the first focus group, but only a minority of interviewees mentioned their foreignness specifically as a risk factor. However, based on the frequent mentions of the lack of information on the help available (see Section 6), the researchers believe that it may have been a risk factor for more workers (see also the discussion of pull factors in Section 4.6.2).

#### **4.4. Lack of knowledge of the local language**

A few interviewees emphasised the lack of knowledge of the local language (Dutch or French, depending on the region<sup>52</sup>) as an important factor underpinning their vulnerability to exploitation. This is closely related to the previous point of being a “foreigner” and being misinformed more easily (see Section 4.3) and was mentioned by several participants in the first focus group as well. Some interviewees stated that they did not understand the work contract they had signed because they did not speak the language in which it was drafted. For example, one interviewee (female EU national) explained that her family incurred large debts because her husband had signed a document that (unknowingly) made him the partner of a company which went bankrupt shortly after signing. Another interviewee (also a female EU national) also mentioned that she was confronted by a debt collector, because her social contributions as (pseudo) self-employed had not been paid. In this case too, lack of language knowledge contributed to causing the problem.

While heavily stressed by some, lack of the local language was mentioned by a minority of the participants in this project. However, the researchers believe that a selection effect could have played a role here. As noted in Section 2, interviewees were identified through gatekeepers such as trade unions or victim support organisations. The researchers suspect that the most vulnerable people are less likely to find access to these organisations, including people who do not speak the language. To illustrate the language skills of the current sample: only three of the victims of labour exploitation interviewed had a good knowledge of the local language (French or Dutch, depending on the region) upon arrival. Most have made some progress during their stay in Belgium, and 16 of the 20 interviewees had a good knowledge at the time of the interview. While only a few participants explicitly cited lack of language knowledge as a factor contributing to their vulnerability to exploitation, many interviewees expressed their keenness to learn the local language(s), which is considered a way to make progress. For instance, one participant (a male posted worker from Morocco, construction) explained that he was learning French in order to have access to better jobs. In other words, for him, learning French constitutes a strategy to avoid exploitation in the future. While the research findings indicate that knowing the local language does not constitute a guarantee against exploitation, a lack of language skills increases workers’ vulnerability.

#### 4.5. Psychological factors

The interviews made it clear that psychological factors play a role in workers’ vulnerability to exploitation. This was evident in both focus groups, and was also mentioned in several interviews. In the first focus group with domestic workers, the participants explained that workers are often asked to do additional tasks and that they must be prepared to set limits to what they would do or accept:

*“You have to put boundaries yourself. Say either ‘this does not suit me’, or ‘I do it, but they have to pay me separately for it’.” - “Es uno que tiene que poner los límites. O decir ‘esto no me corresponde’ o, ‘Si lo hago me lo tienen que pagar a parte’.”* (Belgium, female focus group participant from Argentina, domestic worker, regular migrant)

Some participants were more able to set such limits than others. In this focus group, one person in particular stood out as more vulnerable in that regard (a young Mexican woman who was living without her parents for the first time), while the others had learned through experience to protect themselves to a certain extent.

During the first focus group’s debate on when and how to set limits to what they are asked to do, several women identified closeness to the family they worked for as a risk factor. In other words, for domestic workers, the “kindness of the family”, the familiarity and lack of distance, can be considered as an additional risk factor to labour exploitation. The familiarity is used to

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<sup>52</sup> In addition to French and Dutch, German is also an official language in Belgium. It is not mentioned here, as German is only spoken in a small part of the country. The German speaking community in Belgium comprises about 80,000 people. None of the interviewees had lived or worked in this area.

get things done; before the worker realises it, their workload increases. They accept what they are asked to do, because they are “blinded” by the kindness. For instance, employers use the argument that “we are a family”, they have a coffee together, etc. One of the women expressed it as follows:

*“So I think we should also be the ones setting limits. Because if you do not put limits, they will go beyond the limit, with a ‘nice cup of coffee’, like she says, and the next moment, you are staying and you play nice too, and they take advantage. Even though you don’t see it.” - “Entonces yo creo que los límites deberíamos también nosotros ponerlos. Porque si tú no pones los límites, ellos pasan el límite y, con el cafecito, como dice ella, y luego tú te quedas y te haces la buena también, entonces abusan. Aunque tú no lo veas.”* (Belgium, female focus group participant, cleaning, EU national)

During the first focus group, the point was made that employers will ask for more and that boundary will be crossed because workers think “they love me like family”. In the end, however, the worker can still get fired.

It was clear from the discussion that it is not easy to set these limits and have them respected. Not all people manage to do it. One of the second focus group’s participants explained that he decided not to let himself be exploited again but he is aware that not all people are able to do this:

*“In the United States during segregation, during the time when blacks accepted punishment from whites, you see, it’s as if it had become normal for them. Despite the fact that they were exploited, they were ... so we get to a point sometimes where ... vulnerability doesn’t leave you any other choices but to accept it. Now I can no longer accept. If it’s not within the normal regulations, I stick to another job. It’s a personal choice that I’ve made but others would have been unable to do so, you see? There are moments where you fold like that, because if you let go, you don’t know where to go ... So the vulnerability that undocumented migrants experience pushes them to accept the unacceptable.” - “Aux Etats-Unis, pendant la ségrégation, au moment même où les noirs acceptaient la punition qu’ils subissaient des blancs, vous voyez, c’est comme s’ils trouvaient que c’était naturel. Alors qu’ils sont exploités. Nous sommes à un moment parfois ... la vulnérabilité ne te laisse pas d’autres choix que d’accepter ... Moi aujourd’hui je ne peux plus accepter. Si ce n’est pas dans les conseils normaux, reste avec un autre travail. Ça c’est une choix personnelle que j’ai fait mais certains ne pourront pas le faire, vous voyez? Il y a des moments où tu te plies comme ça là, parce que si tu lâches, tu ne sais pas où aller ... Donc la vulnérabilité dans laquelle les sans-papiers se trouvent les oblige d’accepter l’inacceptable.”* (Belgium, male focus group participant from Congo-Brazzaville, cleaning, migrant in an irregular situation)

During the interviews and the focus groups, it was interesting to see the differences in attitudes among the participants, and to see the different manipulation strategies used by employers (see Section 5.5 for more). The psychological element of labour exploitation is complex. In addition to the aspects of vulnerability and resilience of the employee, much depends on contextual elements. Cultural background also plays a role. Some of the participants were totally controlled and manipulated by their employer – and, to some extent, were still in the employer’s power even after leaving the job – whereas others had found the strength to fight and regain control. An interviewee of European origin (and thus with legal residency) explained that she had accepted the huge pressure at work to have money, and that she did not manage to get out of it (Belgium, female interviewee, restaurant, EU national). In her opinion, it is “about psychology and personal development”, and it is also a question of money. She finally left the job after one year, because she could afford it. This echoes the statement of the participant from the focus group, mentioned above: when a worker is at his weakest, he cannot leave; once things improve, however, he starts to see more options. However, it also seems a matter of self-esteem and of experience. For instance, a male interviewee of Moroccan origin explained how he learned to set limits and to take care of himself:

*“It is not anymore as before. Now I talk more to the boss. I was too shy. I was afraid. You learn a lot of things. Before, I paid attention, I was afraid of being hit. Now, I have learned on the street. You are obliged to be like that. Life has chosen to become like that.” - “Ce n’est pas comme avant. Maintenant je parle plus avec le patron. J’étais trop timide. J’avais peur. Tu apprends beaucoup de choses. Avant, je faisais attention, j’avais peur d’être frappé. Maintenant, j’ai appris dans la rue. Tu es obligé d’être comme ça. La vie a choisi de devenir comme ça.”* (Belgium, male interviewee from Morocco, construction, migrant in an irregular situation at the time of exploitation).

## 4.6. Other factors

### 4.6.1 Reasons for leaving the country of origin (push factors)

When asked why they left their country of origin, the most common answer was economic necessity (14 interviewees). There is the need to make a living, and, in most cases, to take care of the family. The aim is not to find luxury. When economic motives were mentioned, the underlying rationale was to be able to support the family and/or to have a normal life.

*“I came here because the salary is not good in my country. It is very low and it cannot provide for my family. I have two kids, so as a single parent, because I am separated from their father, I need to work for them. That’s the main purpose why I’m here.”* (Belgium, female interviewee from the Philippines, domestic work, migrant in an irregular situation at the time of exploitation)

In addition to economic motives, some interviewees mentioned other aspects, such as a better health system, or better rights. Overall, however, economic motives came first. Four interviewees mentioned persecution and fear for their life as the main reason. Three of those four applied for asylum upon arrival (the fourth person did not apply for asylum as he was misinformed about his options). Only one interviewee (female interviewee, restaurant, EU national) mentioned being able to study abroad as the main push factor. For the majority of the interviewees, the strength of the push factors can be considered a risk factor for exploitation because it implies that “going back” is not a viable option. This reduces the possible alternatives when in a bad situation. There are some exceptions, however. A minority of interviewees reported that they considered returning home.

### 4.6.2 Reasons for moving to Belgium (pull factors)

The reasons for choosing Belgium were rather diverse throughout the interviews: some interviewees selected Belgium as a destination country because they had a friend or relative here. The network of family and friends plays an important role (see also recruitment in Section 5.2). Others chose Belgium based on assumptions about work opportunities. For instance, one interviewee imagined that work opportunities would be better (and more flexible) due to the presence of the European headquarters in Belgium; another interviewee was working in the Netherlands as a domestic worker but was told that salaries in Belgium were better. A Bulgarian worker moved from Germany to Belgium to look for better working conditions. Along the way, she met a Bulgarian man who offered her a job in Belgium. For some participants, it was a combination of assumptions about work opportunities and the presence of relatives or acquaintances that led them to select Belgium as their country of destination. Some interviewees had a specific job in mind before coming, but for most this was not the case. One interviewee chose Belgium in the context of her studies. Other reasons mentioned included the fact that there are many Arab-speakers in Belgium and the assumption that there would be fewer ID-checks in Belgium. For two interviewees, the choice of Belgium was entirely random: for one person, the smuggler picked Belgium as a destination; the second expected to go to another country but the smuggler left him once they reached Belgium, so he could not continue his journey and was left on his own.

### 4.6.3 Economic sectors

The variety of economic sectors in which these research participants work clearly indicates that labour exploitation is widespread in Belgium, and that it cannot be isolated within one specific sector. Without a doubt, the construction sector is heavily affected by labour exploitation, but other sectors are not exempt. It was striking throughout the interviews that labour exploitation occurs relatively openly in many different areas. While it might be expected that exploited workers would be working relatively far away from public space and/or out of sight, the researchers observed that this is not the case. To give a few examples: one interviewee cleaned in a major court of justice, another cleaned trains, another worked in construction sites of the public transport system in Belgium, and another interviewee helped to build units for social housing. Subcontracting allows this to happen. Some interviewees also mentioned subcontracting and the use of many intermediaries as a risk factor for exploitation. (See Section 5.1 for more details on workers' experiences; see also Section 5.2 on economic sectors, including details on subcontracting.)

### 4.6.4 Link between former skills and jobs in Belgium

Some interviewees had prior experience in the job in which they worked in Belgium. For example, three interviewees (two of them posted workers) had worked in the construction sector before coming to Belgium, and found a job in the same sector in Belgium. Some participants gained other skills or qualifications in their country of origin, whereas others had no prior experience.

There was a variety of educational levels among the participants: several were higher educated (having started but not finished higher education). With the exception of one, none of the participants had worked in "high-level jobs" in Belgium. This suggests that higher education does not exclude labour exploitation.

### 4.6.5. Being alone

Being alone was also mentioned as a risk factor, as it required people to rely on themselves and cover their own needs. This was emphasised by one participant in particular (see boxed text below). Some other participants, however, mentioned it as a side issue, in the sense that they have nothing if they do not work.

*"I don't have parents, no friends, no family... It was hunger pushing me to search, to do this work." - "Je n'ai pas de parents, pas d'amis, pas de famille... C'est la faim qui m'a poussé à chercher, à faire le travail." (Belgium, male interviewee from Western Africa, manufacture, migrant in an irregular situation at the time of exploitation).*

## 5. Workers' experiences of severe labour exploitation

This section provides information on the experiences of workers in situations of severe labour exploitation. A working situation is identified as labour exploitation if it corresponds to the established criteria as defined by the FRA. The analysis is based on 30 participants in this study (20 individual interviews and two focus groups of six and four participants, respectively).

The first part (Section 5.1) categorises the experiences of these 30 workers according to economic sector, revealing both similarities and differences within sectors. Construction, together with cleaning and care, are identified as the most commonly exploited sectors for the participants of this sample; they show diverse, but at the same time sector-defined, practices.

The second part (Sections 5.2 to 5.10) presents the findings on workers' experiences on the basis of recurring themes, corresponding more or less to the different elements of the

questionnaire used during the fieldwork. As such, it includes information on the recruitment process and standards (including issues regarding contracts and residence documents) (Sections 5.2 and 5.3) and describes working conditions related to payment, working hours and work tasks in more detail (Section 5.4). The relationship with the employer and colleagues is also taken into account (Section 5.5). This section also gives an overview of the health, safety and security situation at work (Section 5.6) and sheds light on experiences with threats and violence (Section 5.7). The findings on living conditions, housing and experiences with isolation at work and at home are considered (Section 5.8). This part concludes with workers' experiences of inspections (Section 5.9) and strategies (and effects) of negotiation and confrontation with employers (Section 5.10).

The aim of this analysis is to identify similarities and differences between the different immigrant profiles. The study is mainly qualitative, and the pre-established indicators are included for the elements outlined above. The first group of indicators constitute value judgments from the respondents as to whether or not they encountered specific difficulties (corresponding to interview questions 6.1 to 6.8). It concerns subjective evaluations based on how the workers experienced their own situation. In this sense, the presence of violence (interview question 6.7a), for example, is evaluated according to the interviewees' experiences. The second group of indicators includes circumstances (often framed similarly to the interview questions) whose presence was evaluated by external actors, namely the gatekeepers and/or the interviewer, sometimes in consultation with the interviewee.

## 5.1. Construction, cleaning and care as common sectors in experiences of exploitation

In the sample of 30 respondents<sup>53</sup>, two dominant economic sectors could be identified, namely *construction* and *cleaning and care*. Twenty participants experienced labour exploitation in these sectors as a regular (nine) or an irregular (11) worker. These numbers are influenced by the profile of the participants of the focus groups, and complemented by the immigrant profile of the interviewees. As shown in Table 4, the experiences in the *construction sector* mainly relate to male (100%), irregular (70%) workers, most of whom (regular and irregular) were Moroccan (70%). In the sample, labour exploitation in the *cleaning and care sector* is mainly experienced by women (90%). Of the 10 regular (60%) and irregular (40%) workers, six were of Latin American origin (60%).

In this sample, labour exploitation in the ***construction sector*** was mainly suffered by Moroccan workers. Notwithstanding that most are irregular workers, posted workers (Moroccans with a Spanish residence permit) also experienced very hard working conditions. The construction workers reported very low wages or complete lack of payment, as well as extremely long working hours (more details on payment, working hours and work tasks can be found in Section 5.4).

*“The hours were not calculated. Sometimes, he [the boss] left me at the construction site. I thought he had forgotten me. I did not even have anything to eat.” - “Les heures, on ne les calculait pas. Parfois, il [le patron] me laissait dans le chantier. Je pensais qu’il m’avait oublié. Je n’avais même rien à manger.”* (Belgium, male interviewee from Morocco, construction, migrant in an irregular situation at the time of exploitation).

The work is described as very demanding and physically challenging, partly due to the absence of safety wear. A construction worker from Morocco stated that irregular workers have to do work that regular workers would consider impossible. Few safety measures are taken and work accidents happen very often without any medical care or follow-up (see Section 5.6 on health, safety and security). In addition to low pay, the participants of the

<sup>53</sup> Cf. Section 2 for the methodology of data gathering and selection of the sample. The identification of the common sectors is based on the dominant work experience of the respondent.

second focus group consider the workload and physical burden a second, more subtle means of exploitation. Many irregular construction workers see no possibility of escaping the reality of exploitation.

*“If you escape exploitation, you will encounter it again. If you are undocumented, exploitation is permanent. Do you understand?” - “Si tu sors de l’exploitation, tu tombes sur l’exploitation. Si tu es sans-papiers, l’exploitation, c’est permanent. Vous avez compris?”* (Belgium, male focus group participant from Morocco, cleaning/construction, migrant in an irregular situation at the time of discussion).

The three posted workers included in the sample were employed at the same construction site. They are connected to the same employer and all are currently recognised as victims of human trafficking in Belgium. One of the posted workers described the system of exploitation in the construction sector, both for posted workers from Spain and from other countries such as Bulgaria.

*“That what happened to me, keeps on happening. You have to cut it and I do not know how. People keep on bringing people here. They treat them like slaves. How can we cut this root?” - “Eso lo que me pasó, sigue pasando. Hay que cortarlo y no sé cómo. Sigue gente que trae gente aquí. La tratan como esclavos. Como cortar esta raíz?”* (Belgium, male interviewee from Morocco, construction, regular migrant (posted worker)).

In the **cleaning and care sector**, labour exploitation takes place among workers with different types of residence and work permits. The sample had a wide variety of legal statuses, ranging from irregular workers, to domestic workers with a residence permit linked to a diplomatic household, regular workers employed by a cleaning services agency, EU nationals working in undeclared domestic work, and (pseudo) self-employed cleaners. In the employment context, too, labour exploitation is experienced in a diverse range of settings: from cleaning and care work in private households (including diplomatic families), to cleaning in public institutions. The various experiences of domestic workers confirmed the existence of a “care chain” system, whereby women leave their children behind in their country of origin to work and care for children of the families in the country of destination, in order to be able to send money home (as in the case of two female interviewees). It is striking that the workers are themselves exploited in this intimate care context, where employees care for a family’s children.

*“You are taking care of the children, you are taking care of the house, because really who is in charge of everything, is you. Because if you did not exist, if you were not there, the house falls and the children do not eat. So, they should value a little bit more.” - “Tú les estás cuidando de los niños, tú le estás manteniendo la casa, porque realmente quien se ocupa de todo, eres tú. Porque si tú no existieras si no estuvieses allí, la casa se cae y los niños no comen. Entonces deberían valorar un poquito más.”* (Belgium, female focus group participant, from South America, , cleaning (, EU national)

*“She [the employer] has an important position [...] They can pay more than enough; because I am taking care of the children who are the most important. But no...” - “Ella [la empleadora] tiene un puesto importante [...] Pueden pagar más que suficiente; porque yo les estoy cuidando los hijos que son lo más importante. Pero no...”* (Belgium, female focus group participant from Argentina, domestic worker, regular migrant)

The research shows that, particularly in situations of strong dependency on the employer, negotiations on working conditions are difficult. This is especially true for irregular workers, who, due to their vulnerable work and living situation have everything to lose and thus very little negotiating power (see Section 4.2).

*“The salary really is lower than the minimum, but I cannot complain, I do not have papers, it is difficult to ask, so I just keep quiet about it.”* (Belgium, female interviewee from the Philippines, domestic work, migrant in an irregular situation at the time of exploitation)

Domestic workers in diplomatic households are more vulnerable to labour exploitation because their specific status does not ensure them the same labour conditions as a regular domestic worker. Their residence permit is tied to their employer and they are excluded from Belgian social security. Long working hours and underpayment are among the working conditions reported by participants of this group. Another subtle form of exploitation takes place within the private spheres of families, where manipulation and emotional blackmail by the employer are common practices (see Section 4.5 on psychological factors and Section 5.5 on relationship with the employer). Employees working through cleaning services agencies have more room to negotiate because they are not forced to continue working for the same employer. This group mentioned specific challenges with lack of information about labour rights and difficulties in understanding contracts. The fieldwork shows that even EU citizens who enjoy legal residence in Belgium can experience labour exploitation in the cleaning and care sector. In one situation, the establishment of false self-employment, coupled with a complex system of subcontracting made working conditions very blurry (according to a female interviewee working as a cleaner (EU national)).

In addition to the 20 workers in the construction and cleaning and care sectors, the sample included nine<sup>54</sup> participants working in other sectors and who can be categorised into two broader groups.

Five respondents (with both regular and irregular status) worked in **food production, processing or selling**, such as bakeries, meat processing factories, snack bars, and restaurants. Food inspection is a common element mentioned by this group. Such inspections mainly focus on food hygiene and do not necessarily look at working conditions (see Section 5.9 on inspections). Some of the workers in this group consider irregular work to be part of the sector and they are therefore more likely to accept tough working conditions.

The remaining four respondents have experiences in **diverse jobs**, such as working in a shop, in a warehouse, as a property management, or distributing newspapers. These working experiences are too diverse to analyse them as a single group. All four interviewees, however, experienced severe labour exploitation, which was partly driven by a difficult, dependent and abusive relationship with the employer.

**Table 4 Overview of participants in interviews (20) and focus groups (10) by economic sector, legal status, nationality and gender, and reference number of the worker**

Group of economic sector	Legal status	Nationality, gender
Construction (10)	Regular: posted worker (3)	Morocco, male (3)
	Irregular (7)	Morocco (5), Togo, Algeria, male
Cleaning and care (10)	Regular: EU citizen (2)	Bulgaria, Spain, female
	Regular:	Guatemala, Ecuador, female

<sup>54</sup> Apart from the 20 respondents in the construction and cleaning and care sectors, there are nine participants remaining, as one focus group participant (EU citizen, female, Spain) was excluded from the analysis on the grounds that she had not yet worked in Belgium. (cf. Section 2 on methodology).

	Cleaning services agency (2)	
	Regular: private household (2)	Argentina, Mexico, female
	Irregular: cleaning in company (2)	Morocco, female / Congo Brazzaville, male
	Irregular: private household (2)	Philippines, Brazil, female
Food production, processing or selling (5)	Regular: EU citizen (2)	Bulgaria, Italy, female
	Irregular (3)	Morocco, male (3)
Diverse jobs (4)	Regular: Applicant for international protection (1)	Sub-Saharan Africa, male
	Regular: tied to employer for permit (1)	Pakistan, male
	Irregular (2)	Guinea, Ivory Coast, male

## 5.2. Recruitment and insertion

The **recruitment practices** varied considerably among the workers who suffered labour exploitation. Some were recruited through an **agency**, such as the three Moroccan posted workers who came from Spain to work in construction in Belgium. The most common recruitment strategy (40% - 8 interviewees) was through informal employment channels, i.e. through a **network of friends and/or family**. For five of the workers (including three posted workers), the job was facilitated by or required moving within the EU. For workers without a residence permit in Belgium, a **pick-up point** in Brussels was an important resource in finding work. At that point, those looking for work wait on the street for future employers to pass by and to offer them a specific job, often for one or multiple days, in different sectors (construction, house removals, gardening, etc.). Some of the workers stated that they would never work through that pick-up system again, because of the precarious working conditions; others considered the pick-up point an essential means by which irregular workers could earn enough to survive, even though it resulted in exploitation.

*“If I would have continued to look for work at the pick-up location for workers without residence documents, I would have lost my dignity. It is like women who sell their body. The bosses, they pass by there to ask for services in painting, electricity, etc.” - “Si j’avais continué à chercher du travail au point de ramassage pour des travailleurs sans papiers, j’aurais perdu ma dignité. C’est comme les femmes qui vendent leur corps. Les patrons, ils passent là-bas pour demander des services en peinture, électricité, etc.” (Belgium, male interviewee from Morocco, construction, migrant in an irregular situation at the time of exploitation).*

The participant quoted above stated that he no longer goes to the pick-up location but rather searches for work through his network of friends, who call him when they need someone. A few participants found their job through the **church, by chance** through a meeting in a bar, or **on the spot** by passing by and leaving their resume at potential workplaces. A male irregular worker (Morocco) found his job in construction **through the internet**. He was picked up at the train station for a test day before being employed at a construction site. With the exception of the pick-up point for irregular workers, there are no clear relationships between the type of recruitment and the different situations of labour exploitation.

The **context of employment and the type of employer** for whom the participants have worked, varied from **individual employers** (for example, in the case of domestic workers), to independent **employers with their own business** (for example a shop, bakery, snack bar, restaurant, or hotel), small or bigger **agencies** (for example for the property manager, the construction worker, the posted workers, or cleaning services agencies), **factories** (meat processing), or even **public institutions** (such as the public transport sector or court houses). It is striking that labour exploitation also takes place in public and/or highly visible jobs. The practice of **subcontracting** makes the public sector no different to the private sector, and it is commonplace across a range of sectors. Various workers with legal EU residence, such as posted workers and EU citizens, have been employed through a system of intermediaries. This means that, rather than having a direct employer-employee relationship (whether or not based on a contract), a series of sub-employers is involved, thereby creating confusing practices with unclear working conditions, fragmented responsibilities and liabilities, and different rules depending on the employer (often with different nationalities and sometimes even different legal frameworks, e.g. in the case of posted workers). This creates a hierarchy and a chain of exploitation, in which various employers were often involved in malicious practices.

*“A lot of people are looking for a job and they need a job. There are so many intermediaries. I think all this type of fraud actually happens because there are so many people. It ends up in a chaotic state. And this is how all these, I call them ‘mistakes’, happen.”* (Belgium, female interviewee from Bulgaria, cleaning (hotel), EU national).

### 5.3. Work contracts and residence permits

**Table 5 Overview of difficulties encountered by the interviewees and circumstances present regarding work contracts and residence permits**

<b>WORK CONTRACTS AND RESIDENCE PERMITS</b>		
<b>Difficulties encountered</b>	<b>Total number</b>	<b>Breakdown by category</b>
Lack of contract or other type of document (Q6.3)	16/20	10IR, 3D, 2D, 1IP
Problems with documents (Q6.6)	1/20	1D
<b>Circumstance/indicator</b>	<b>Total number</b>	<b>Breakdown by category</b>
No contract, or contract not in a language the interviewee could understand	16/20	10 IR, 2D, 3D, 1IP

Lack of social security payments	19/20	10IR, 2D, 1P, 1O
Passport retained, limited freedom of movement	0/20	

The majority of the respondents worked without a contract, as shown in Table 5 (16 of the 20 interviewees). In the sample, the workers with a contract were **EU citizens and Third-Country Nationals with EU residency**. However, even the participants with a work **contract** faced exploitation. The contract was drawn up in a vague way, in a language the worker did not understand, or it was simply not followed. This was the case for the three posted workers who had a contract and a LIMOSA declaration as a posted worker, but who still became victims of human trafficking. A female EU citizen working in a factory received only short-term contracts, often delayed, and in a language she did not speak. Moreover, the working conditions were not in line with the contract. The value of a contract is relative, considering that it does not necessarily guarantee good working conditions. Even for workers with a residence permit, working informally can go hand-in-hand with deteriorating labour rights. One of the interviewees learned by experience that, in order to avoid exploitation, it is very important to have a good understanding of all of the details of the contract before starting work (see Section 7).

Some of the interviewees with **legal status were employed as irregular workers**, despite their efforts to obtain a contract. For instance, a female EU citizen who was working in a restaurant, negotiated repeatedly to have a declared job, but the employer refused to give her a contract. Another participant, a Bulgarian woman working as a cleaner in a hotel, wanted a contract to avoid informal work, but ended up being registered as a (pseudo) self-employed person. She now has a debt collector asking for the social contributions that were never paid.

*“In the very beginning, she [the employer] asked ‘would you like to have a contract?’. I said ‘yes, I would not like to be part of the grey economy. But then, it turned out to be very expensive to be on a contract. So, she said, ‘you are going to be independent and I am going to cover your contributions.’ I still did not agree to be a self-employed person. But she said, ‘I am going to cover your social contributions, so you don’t need to worry’.”* (Belgium, female interviewee from Bulgaria, cleaning (hotel), EU national).

Considering that most respondents (16) do **not have residence documents**, the biggest group in the sample concerns **irregular workers**.

*“There’s something people don’t understand: if you are an undocumented migrant, there is nothing to sign.” - “Il y a une chose que les gens ne comprennent pas, si tu es sans-papiers, il y a aucun truc à signer.”* (Belgium, male interviewee from Western Africa, construction, migrant in an irregular situation at the time of exploitation).

It is remarkable that, out of 30 respondents, only three women did not have residence permits and as such worked irregularly (see Table 4 (cf. Section 5.1)). Most of the irregular workers were male. As explained previously (see Section 4.2), workers without residence documents are more vulnerable to labour exploitation and are frequently employed for exactly this reason: because they are undocumented, more dependent on the employer, and do not have the same rights and opportunities as regular workers.

*“Even documented workers are exploited. There you have it. They are exploited. But we, the undocumented workers, are the most exploited, we are the last of the last, the most vulnerable, compared to the others, and that is how we come to be exploited. We are left in this status, so that we can be exploited. In order to end this exploitation, we would simply need to be removed from this status. So that we could reach the same level as the others... because now, we have no rights.” - “Même les travailleurs qui ont les papiers ils sont exploités. Voilà. Ils sont exploités.”*

*Donc, mais nous les sans-papiers nous sommes plus exploités, nous sommes les derniers des derniers, les plus vulnérables, que les autres, et c'est comme ça qu'on est exploité. On nous laisse dans ces statuts pour être exploités. Pour que l'exploitation finisse il suffit de nous sortir de ce statut. Pour atteindre le niveau des autres...là on est sans droits.*" (Belgium, male focus group participant from Central Africa, cleaning, migrant in an irregular situation).

A Brazilian woman had the chance to obtain residence documents on the basis of her domestic work. She spoke with the lawyers of the municipality where she was living to find out which documents she needed; however, her employer refused to give her a contract and she could not proceed with the procedure.

*"She [the employer] took advantage of me not having residence documents. Because if I would have documents, I would not clean so many hours and I would not work in so many houses. There were three houses per day; her house, the one of her mother, and the one of her son."*  
 - *"Ela [a empregadora] aproveitou de eu não ter documentos. Porque se eu tivesse documentos, eu não iria trabalhar tantas horas e não iria trabalhar em tantas casas. Era três casas por dia, a casa dela, da mãe dela, e do filho dela."* (Belgium, female interviewee from Brazil, domestic work, migrant in an irregular situation at the time of exploitation).

Some of the irregular workers hoped – and some even tried - to obtain legal status on the basis of a work contract, through the **regularisation** measure of 2009 (see Section 4.2 on legal status as risk factor for exploitation). One worker obtained a temporary residence permit through his work in a shop, but this turned out to be very difficult. The employer exploited his dependence on a contract and ended the contract prematurely and so the permit could not be renewed. In the same case, the employer asked the interviewee to hand over his ID card so another worker could use it, but the interviewee refused. None of the other participants mentioned their employer trying to confiscate their identity card or passport.

#### 5.4. Payment, working hours and work tasks

**Table 6 Overview of difficulties encountered by the interviewees and circumstances regarding payment, working hours and work tasks**

<b>PAYMENT</b>		
<b>Difficulties encountered</b>	<b>Total number</b>	<b>Breakdown by category</b>
Problems with pay (Q6.1)	20/20	10IR, 3O, 3P, 3D, 1IP
<b>Circumstance/indicator</b>	<b>Total number</b>	<b>Breakdown by category</b>
No salary paid or salary considerably below legal minimum wage	20/20	10IR, 3D, 3P, 3O, 1IP
Parts of remuneration flowing back to employer on various – often unreasonable – grounds	7/20	2IR, 3O, 1D, 1IP
<b>WORKING HOURS</b>		

Circumstance/indicator	Total number	Breakdown by category
Extremely long working hours	17/20	9IR, 3D, 2O, 2P, 1IP
Very few or no days of leave	13/20	6IR, 2D, 2P, 3O
<b>WORK TASKS</b>		
Difficulties encountered	Total number	Breakdown by category
Problems with the work tasks asked to carry out (Q6.5)	12/20	6IR, 3O, 2D, 1IP
Circumstance/indicator	Total number	Breakdown by category
Working conditions differ significantly from what was agreed	8/20	2IR, 2D, 3P, 1O

Table 6 shows that all interviewees experienced problems with **payment**. The extent of this issue ranges from being paid too late, being underpaid, or not being paid at all.

*“The main problem was the salary. We haven’t been paid, we have been swindled. The boss did not respect us as human beings. When we arrived, we did not find anything of what had been promised. [...] We were not only badly paid, we have not been paid at all.” - “Le problème principale était le salaire. Nous ne sommes pas été payé, nous nous sommes escroqués. Le patron ne nous respectait pas comme être humain. Lorsque nous sommes arrivés, nous n’avons rien trouvé de ce qu’on nous avait promis. [...] Non seulement, nous ne sommes pas été payé, nous ne sommes pas été payé du tout.”* (Belgium, male interviewee from Morocco, construction, regular migrant (posted worker)).

Participants in the fieldwork reported salaries ranging from €5 per day and €400 per month, to €1,200 and, exceptionally, €1,500 per month. The majority of the interviewees did not receive the promised salary; they were paid only a part and only from time to time (e.g. €20 here and €100 there, etc.).

*“The problem is exactly that. Because when I worked with him [the employer], he started to say that he will pay each week. When the weeks arrived, he paid only half of it. He said ‘ok, next week’. The following week, when I worked, he said ‘ok, the people I work with, my boss as well, he is not paying me. So, you have to work.’” - “Le problème même c’est ça. Parce que quand je travaillais avec lui, il a commencé à dire qu’il va payer chaque semaine. Quand les semaines sont arrivées, il n’a payé que la moitié. Il disait, ‘ok, la semaine prochaine’. La semaine suivante, quand je travaillais, il disait, ‘ok, les gens avec qui je travaille, mon patron aussi, il ne m’a pas payé. Donc, il faut travailler.”* (Belgium, male interviewee from Sub-Saharan Africa, applicant for international protection)

Some workers mentioned that their salary was withheld for unclear or unreasonable reasons. As they were not receiving the money they had already earned, some participants remained in the same job in the hope that they would receive the salary owed. They felt stuck in a situation of exploitation.

*“He [the employer] always found an excuse. Either it doesn’t work, or there are not enough clients, or he did not have enough money because he had too many expenses, so he always found something to say to justify.” - “Il [le patron] trouvait toujours un prétexte. Soit que ça ne marche pas, soit qu’il n’y avait pas suffisamment de clients, soit qu’il n’a pas assez d’argent parce qu’il a beaucoup de dépenses, donc il trouvait toujours quelque chose à dire pour justifier dans ce sens.”* (Belgium, male interviewee from Morocco, hospitality (snack bar), migrant in an irregular situation at the time of exploitation).

Most workers (17 out of 20) mentioned very long **hours**, often without any break. They had to work many days, sometimes without any holidays. Often, they were not aware of the applicable legal framework in Belgium, as demonstrated by the experience of a Mexican domestic worker, who thought that a 54-hour working week was the standard in Belgium.

*“And then, I found out that I am doing a lot of workdays too, because here, there is a law that says that it is only 54 hours? [No... 38' says another participant] I do ... ah! That’s it! I do 54 hours a week.” - “Y ya después me enteré que pues también estoy haciendo muchas jornadas de trabajo, porque aquí hay una ley que te dice que son solo ¿54 horas? [No... 38’] Yo hago... ah! Es que es eso! Yo hago 54 horas a la semana.”* (Belgium, female focus group participant from Mexico, domestic worker, regular migrant).

*“I had to work like 38 hours per week, but I was working like 92 hours per week, without any holiday, even on Sundays. Eleven months and not a single day I have some kind of leave. Two or three times I was very sick and I ask him can I have leave, and he says no.”* (Belgium, male interviewee from Pakistan, retail, regular migrant at the time of exploitation)).

Twelve interviewees indicated problems related to **work tasks**. Eight workers were not (fully) informed about their specific tasks before starting the job (see Table 6). Other workers were asked to carry out more tasks in addition to those agreed at the start.

*“In fact, I work in something totally different from what I was told ... I did not come to take care of the child, but to give him therapy in the afternoon, because as I said, I am a psychologist and the child has [a development disorder]. Well, a week before I came, they told me that everything was going to change. That I was going to be there in the morning and that I was going to have to go to school with him. [...] When I got here, my work changed completely. I work from 7am in the morning until 4pm in the afternoon. [...]” - “De hecho, trabajo en una cosa totalmente diferente de lo que me dijeron... yo no venía a cuidar al niño, pero a darle terapia por la tarde, porque como yo dije soy psicóloga y el niño tiene [un trastorno de desarrollo]. Bueno, una semana antes de venirme, me dijeron que todo iba a cambiar. Que yo iba a estar en la mañana y que yo iba a tener que ir a la escuela con él. [...] Cuando llegue aquí, mi trabajo cambió totalmente. Trabajo de las 7 de la mañana hasta las 4 de la tarde. [...]”* (Belgium, female focus group participant from Mexico, domestic worker, regular migrant).

Even so, one participant, a Brazilian irregular domestic worker, stated that she preferred to earn money under hard conditions with too much work, than to have no job at all and not be able to send money home to support her child. Several participants were also forced to do things they did not want to do. An irregular construction worker from Morocco for example, refused when his employer asked him to steal things from the house in which they were working. Another worker reported on the risks he was forced to take.

*“I worked from 7 am to 6 pm. So, it’s 10 hours, each time 11 hours, each time even on Sunday. Before, I worked in construction, I also drove the van. It is a bit risky, without licence, without papers. Were you obliged to do that? Yes, because it was me who threw away the bags, so*

*my boss took advantage to look for containers in the street, it was not him, so he said, with the van you can go, you will throw the bags away.” - “Je travaillais de 7h du matin jusqu’ à 6 h du soir. Donc c’est dix heures, à chaque fois 11 heures, à chaque fois même dimanche. Avant, je travaillais dans le bâtiment, aussi j’ai conduit la camionnette. C’est un peu risqué (=risqué), sans permis, sans papiers. Et vous étiez obligé de faire ça? Oui, parce que c’est moi qui jetais des sacs, alors mon patron a toujours profité de chercher des containers dans la rue, ce n’est pas lui, il dit voilà, avec camionnette tu peux aller, tu vas jeter les sacs.” (Belgium, male interviewee from Northern Africa, worked at a market, migrant in an irregular situation at the time of exploitation).*

## 5.5. Relationship with employer and colleagues

The **relationship with the employer** determines whether or not a work experience is exploitive or not. Eight interviewees working in various sectors found their employer to be manipulative and abusive, both on matters of payment and false promises. Various participants felt that their employer tried to be nice and to keep them calm, yet they, too, exploited the workers, set them up and had no respect for them as people (see Section 5.6 on safety and Section 5.7 on violence and threats).

*“The Bulgarian boss received money, and we did not receive anything. Moreover, he rented a car, I think for €300 a week, because he needed to bring the workers from the Flemish city. I brought the workers from the Walloon city, but he [Bulgarian chief] needed to bring the other group of workers. The other car was rented for €300, but I did not receive anything. Neither as driver, nor for the car, nothing. I have been told that I cannot recuperate this. When I think about it, it gives me a ... it gives me a rage, you know ... His favourite word was ‘tomorrow’, ‘tomorrow’, ... but tomorrow never.” - “El jefe búlgaro recibí dinero, y nosotros no recibimos nada. Encima, alquiló un coche, creo por €300 semanal, porque necesitaba traer los trabajadores de la ciudad flamenca. Yo traía los trabajadores de la ciudad valona, pero el [jefe búlgaro] necesitaba traer al otro grupo de trabajadores. El otro coche estaba alquilado por €300, pero yo no recibí nada. Ni al conductor, ni para el coche, ni nada. Me han dicho que no puedo recuperar esto. Cuando pienso en eso, me da una... me da una rabia, sabes... La palabra preferida de él era ‘mañana’, ‘mañana’, ... pero mañana nunca.” (Belgium, male interviewee from Morocco, construction, regular migrant (posted worker)).*

As explained in Section 4.5, (the risk for) labour exploitation has a lot to do with psychological factors. It is a complex process that depends on both the manipulation strategies of the employer and the vulnerability of the employee.

*“I was really in his [the boss] power. I was not doing well and I worked a lot. Every day, there was pressure. ‘Do that, do that, ... he controlled everything. At the end, I was afraid of him.” - “J’étais vraiment dans son [le patron] pouvoir. Je n’étais pas bien et je travaillais beaucoup. Tous les jours, il y avait de la pression. ‘Fais ça, fais ça, ... il contrôlait tout. A la fin, j’avais peur de lui.” (Belgium, female interviewee, restaurant, EU national).*

The participants also mentioned their **relationships with colleagues** as an important factor influencing the overall work situation. Four participants felt discriminated against because their colleagues were treated better. For instance, one interviewee (irregular situation, Western Africa, manufacture) said that his employer was racist towards him, but not towards the employee’s colleague who had the same nationality as the employer. Another interviewee, who works in a food processing factory, mentioned different treatment and different working conditions depending on the nationality (group) of the worker. Belgian employees would work regular working hours, while Portuguese employees would work similar hours as the Bulgarian interviewee, but with a better salary. Each group had a different manager.

In several interviews, as well as in the second focus group, tensions between regular and irregular workers were highlighted as particularly problematic. One domestic worker from

South America was working irregularly at a retirement home, in addition to her work for a private household. She felt badly treated by her colleagues, Moroccan cleaning ladies, who believed that she should not be working in an informal way. The second focus group also raised this difference in the perception of irregular work, saying that regular workers are frustrated because they believe that irregular workers are taking advantage and taking work opportunities from regular workers by accepting such conditions. Irregular workers, by contrast, often feel they have no other option but to work under such conditions. They are afraid to lose their job and work hard to earn some money; for some, it is a question of survival. Various participants claimed that there needs to be greater solidarity between both groups of workers (see Section 4).

## 5.6. Health, safety and security

**Table 7 Overview of difficulties encountered by the interviewees and circumstances regarding health, safety and security**

HEALTH, SAFETY AND SECURITY		
Difficulties encountered	Total number	Breakdown by category
Problems with conditions at work (Q6.2) (with focus on safety)	20/20	10IR, 3O, 2P, 3D, 1IP

All workers experienced problems with their conditions at work, very often referring to issues of health, safety or security. The analysis of the construction sector (see Section 5.1) showed many workers complaining about **physical exploitation**. Some workers had to carry things that were too heavy for them, for example. One male applicant for international protection from Sub-Saharan Africa had to carry an impossible number of newspapers to distribute, not only in the caddy he was using, but also in his arms and on his chest. During the drive from one distribution place to another, the man and his colleagues had to sit in the back of the van, where piles of newspapers continuously fell on them. The worker stopped this (irregular) work due to back pain, lack of payment and overall poor treatment. He eventually approached a victim support organisation because he needed to go to hospital but did not have any valid residence documents, as his asylum application and appeal had been denied. Another interviewee, a male irregular worker from Morocco, worked in different bakeries and had to carry very heavy flour bags. Such examples were most frequent, but not limited to, the construction sector, with other workers, too, reporting that their work was physically taxing. The participants of the second focus group, for instance, explained that irregular workers have to work twice as hard because there is too much work per person.

*“For the workers, it breaks your back, it is infernal. That is where there is real exploitation. There is work for 10 people, but we are five.” - “Pour les travailleurs, ça vous casse le dos, c’est infernale. Et c’est là où il y a vraiment l’exploitation. En fait il y a le travail pour dix personnes mais on est cinq.”* (Belgium, female focus group participant from Morocco, migrant in an irregular situation at the time of exploitation)

Again, most often in the construction sector, there is a significant absence of security measures. Many workers (for example, in construction) did not receive **any safety clothing or equipment**. Either the workers bought protective clothing themselves or they simply did not use it. For instance, a male irregular worker from Morocco carried out electrical work at a construction site. He did not have any protective gear and his eyes developed an allergy to the dust and the products he was using. As a result, he could not sleep and had to see a

doctor. The employer subsequently felt uncomfortable that an external person knew about the working situation (and the poor conditions) and he began to threaten the worker. These threats, together with the lack of payment and the overall poor treatment, caused the worker to quit his job.

Several interviewees were **not allowed to be sick**. For example, the employer of a female factory worker from Bulgaria did not even accept a doctor's certificate stating that she was unable to work. Some domestic workers also faced complete indifference on the part of their employer regarding their health. A domestic worker received almost no time off to attend her doctor's office for an allergy she was developing. She was also required to continue working, even when she was unable to do so due to heavy headaches. This was the point at which she seriously considered going to the police. This was the limit for her.

Unsurprisingly, in view of the unsafe working conditions, various workers had **work accidents**. One male irregular worker from Western Africa worked in construction in very poor conditions and felt treated like a slave. No security clothing was provided and he lost a finger after accidentally cutting through his hand with a machine. The employer called his brother-in-law instead of an ambulance, and he did not pay for any medical treatment. Another male irregular worker from Northern Africa confirmed that working informally becomes a real issue in cases of work accidents, when it becomes very clear whether or not a worker's rights are respected. This worker cut his finger while using a machine at his place of work (food services). Ten days after the accident, he was still waiting for a reaction from his employer. He is now collecting evidence to prepare a legal case, in case his employer does not deal adequately with the incident. Another irregular worker from Western Africa hurt his hand carrying heavy bags. His employer refused to do anything and forced him to continue the work; if not, he would call the police and report him. Another worker (EU national) had to continue working as a waitress in a restaurant after hurting her ankle because the end of the year was a busy time for the restaurant. She continued work but quit shortly after, when she realised how badly the employer treated her.

The fact that many workers experienced serious problems with health and safety shows that lack of payment is only one aspect of labour exploitation. Workers are forced to accept conditions that push the limits of their physical capacity. In many cases, work accidents, chronic medical issues, or other health problems, also prevent a person from continuing to work in a particular job. Workers go as far as they can, until they reach their physical limit.

## 5.7. Violence and threats

**Table 8 Overview of difficulties encountered by the interviewees and circumstances regarding violence and threats**

VIOLENCE AND THREATS		
Difficulties encountered	Total number	Breakdown by category
Threatened with or experiencing violence from employer (Q6.7a)	11/20	7IR, 1O, 1D, 1P, 1IP
Other workers being threatened with or experiencing violence from employer (Q6.7b)	6/20	3IR, 1O, 1P, 1IP

More than half of the workers (eleven out of twenty) reported being threatened with, or experiencing, violence from their employer. The matter of violence and threats is particularly

subjective; with differences observed in the degree of violence and threats, as well as the experience of the person threatened. Some interviewees categorised their overall poor treatment and being put under **extreme work pressure** by the employer (including health risks) as a form of violence. Other circumstances that were explicitly declared as violence were related to **verbal violence**, where workers were shouted at and/or humiliated and insulted (mentioned by nine interviewees). For instance, a Bulgarian woman working in a factory stated that the employer shouted above the noise of the machines. If she made a mistake, she was yelled at in a language she did not even understand. Several employees experienced aggressive treatment and humiliation, which they felt was the final straw in addition to lack of payment and poor working conditions.

Only a few workers experienced **physical violence**, where they were hit or pushed, causing some to fall and hurt their knees. Another employee had things thrown at him, in addition to general aggressive treatment by his employer. This irregular worker (from Western Africa, manufacture) was forced to work for EUR 5 per day after breaking a door, and was threatened with being reported to the police if he did not turn up for work. The main problems highlighted were related to **threats and fear**. Several workers were threatened with being reported to the police or being deported to their country of origin, for instance, for refusing to carry out a job that was too difficult.

Some workers were very afraid of their employer, and felt it best to simply say nothing and leave. For others, this fear was the reason to go the police and to report the threats made, with the help of victim support organisations (see Section 6).

*“I would be afraid in the streets, if I denounce him [the boss].” - “J’aurais peur dans les rues, si je le dénonce [le patron].” (Belgium, female interviewee, restaurant, EU national)*

*“He [the boss] called me in his office. In his office, he closed the door and got undressed. That day he wanted to hit me. [...] He said he was going to hit me. So, I said, ‘touch me’. He said no, and he invited me to go into the cellar. But I did not go, I did not want to go there. [...] With all that, I said to myself, I have to do something. In the beginning, I did not know what to do.” - “Il [le patron] m’a appelé dans son bureau. Dans son bureau, il a fermé la porte et il s’est deshabillé. Ce jour-là, il a voulu me frapper. [...] Il a dit qu’il allait me frapper. Alors moi j’ai dit, ‘touche moi’. Il a dit non, et il m’a invité à aller dans la cave. Mais je ne suis pas aller, je ne voulais pas y aller. [...] Avec tout cela, je me suis dit, il faut que je fasse quelque chose. Au début, je ne savais pas quoi faire.” (Belgium, male interviewee from Western Africa, Administration, migrant in an irregular situation at the time of exploitation).*

Five workers experienced severe threats after reporting their employer to the authorities. An irregular construction worker, for instance, did not experience any violence or threats during his work. After filing a complaint against his employer, however, the employer threatened the worker with death if the complaint impacted a relative of the employer, who held an important public position. The interviewee had overheard that this person would call the police to have the interviewee deported to Morocco.

## 5.8. Living conditions, housing and isolation

**Table 9 Overview of difficulties encountered by the interviewees and circumstances regarding housing and isolation**

HOUSING AND ISOLATION		
Difficulties encountered	Total number	Breakdown by category

Problems with housing (Q6.4)	9/20	4IR, 3P, 1D, 1IP
Kept away from people, hidden or in isolation (Q6.8)	4/20	3IR, 1D
<b>Circumstance/indicator</b>	<b>Total number</b>	<b>Breakdown by category</b>
Worker lives at the workplace	5/20	3IR, 2D
Hardly any contact with nationals or persons from outside the workplace	4/20	3P, 1IR

Together with labour exploitation, many workers experienced very **precarious living conditions**. Some had nothing to eat, while others lacked food, housing and overall basic assistance. This was the case for the posted workers, for example, who lived in isolation at a campsite in a village.

*"There were fields of potatoes around the camping. There were days when we ate potatoes and potatoes, or corn." - "Había campos de batata alrededor del camping. Había días que comemos batatas y batatas, o el maíz."* (Belgium, male interviewee from Morocco, construction, regular migrant (posted worker)).

Almost half of the interviewees experienced **problems with housing** (nine out of 20). Some workers lived in abandoned places, far from their workplace and without any social contact; others lived on the street, slept in a train station, or in centres for homeless people. Five interviewees had no other option than to live at their workplace. One worker had EUR 100 deducted from his monthly salary for sleeping at the snack bar where he was working. He did not like it at all, since he had to sleep next to the carbon gas that was used for cooking. Even under these unhealthy circumstances, he preferred to sleep at his workplace rather than on the street. Some domestic workers lived at the houses where they worked. One of them said she could not really go anywhere, since she worked from 7 am until 8 pm or 9 pm, the house was far away from the city, and she could not afford to pay for a bus ticket. Another domestic worker explained that her living condition did not give her much privacy, which resulted in some very unpleasant experiences.

*"They do not even pay attention to you. I, for example, later learned that by law my room needed to have a key. I did not have a key. So, the child entered whenever he wanted to. So, it was very strange, because in my room, the bed was always wet, and I did not understand why. Later, about three months later, I learned that the child came and sit on my bed and peed in the bed." - "Ni te hacen caso. Yo, por ejemplo, después me enteré que por ley mi cuarto debía tener llave. Yo no tenía llave. Entonces el niño entraba cuando quería. Entonces, era muy curioso porque en mi cuarto, siempre estaba mojada la cama, y yo no entendía por que. Hasta después, como tres meses después, me enteré que el niño iba y se sentaba en mi cama y se hacía pipí en la cama."* Belgium, female focus group participant from Mexico, domestic worker, regular migrant).

Being kept away from people, hidden or working in **isolation** encompasses a variety of experiences, from being hidden during inspections to working or living in isolation. Only a few workers had to hide during inspections. A Moroccan woman who was working irregularly in cleaning, was isolated during her job. She was forbidden from speaking to clients, and was told she would lose her job if she did so. She was only allowed to say "hello". When a client greeted her and the employer was around, she did not dare to reply.

## 5.9. Inspections

Participants in the second focus group explained that inspections are often announced thus irregular workers do not show up that day. One interviewee, working in a food processing factory, pointed out that her employer adapted the work schedule according to the announced inspections. Only two participants had to **hide for inspection**, as mentioned previously (Section 5.8). One worker, employed in a warehouse, explained that he had to hide on another floor, together with his colleague who was also an irregular worker. Participants who worked in food production, processing or selling were confronted with **food inspections**. These were aimed at evaluating the hygiene standards and did not really pay attention to the working conditions. One participant witnessed a food inspection during her work at a factory during which hygiene and safety matters were checked. One interviewee lost his job twice, because the places where he was working at that time, a bakery and a snack bar, were shut down following food inspections. His colleague at the snack bar, also an irregular worker, received an order to leave the territory and was sent to a closed centre.

In general, the issue of inspection and control – principally the **fear** of it – was very much present in the working atmosphere. One interviewee was told by his employer that in case of an inspection, he must state that he was working as a volunteer for one day, in exchange for a coke. The irregular workers were really worried about the possible consequences of inspections. They complained about the relative impunity of the employer, pointing out that it is often the employees – especially the irregular workers – who face the consequences of inspections.

*“Even when the labour inspection comes with the police, the undocumented immigrant will go to a closed centre and the boss will remain fraudulent, nothing will happen to the employer. That is the system, it only goes after the undocumented immigrants ...” - “Même s’il vient l’inspecteur du travail avec la police, le sans-papier il va aller au centre fermé et le patron va rester dans la fraude, ça va faire rien du tout pour le patron. C’est ça, le système il vient seulement sur les sans-papiers ...” (Belgium, male focus group participant from Morocco, cleaning/construction, migrant in an irregular situation at the time of discussion).*

Only a few workers **experienced inspections** themselves. One interviewee was caught by the police during his irregular work at a distribution warehouse. He was sitting in the back of a van with his colleagues, when early in the morning they were stopped by the police. As he did not have any residence documents, he was sent to a closed centre. He managed to get out the closed centre with the help of a victim support organisation. During another workplace inspection that took place later on, the same respondent received a warning as the police officer told him that he was not allowed to work irregularly and that he could be expelled for that. In the end, after different jobs at the same warehouse, the interviewee was recognised as a victim of human trafficking. Another respondent (male interviewee from Morocco in an irregular situation) was arrested during an inspection at the snack bar where he was working. He reported bad treatment by the police, who, according to the employee, demonstrated their force and power. He was handcuffed tightly during the interrogation and when he said that he would only talk with a lawyer present, the police told him this is something that only happens in the movies. They threatened to charge him with a crime that he did not commit. He was released in the end, at 1.30am (see Section 6).

## 5.10. Strategies and results of negotiations and confrontations with employers

This section gives an overview of the different strategies that workers used to negotiate with, or to confront, their employer. Some workers did not believe there was any room for negotiation, in view of their undocumented status.

*“He knows I don’t have papers”. Is that the key issue? Yes, that’s it. I don’t have papers, I can’t protest, there is nothing I can do, I cannot ask for anything.” - “Il sait bien que je n’ai pas de papiers. C’est ça l’élément-clef? Oui, c’est ça, j’ai pas de papiers, je ne peux pas protester, je ne sais rien faire, je ne peux rien réclamer.”* (Belgium, male interviewee from Morocco, construction, migrant in an irregular situation at the time of exploitation).

*“People do it. There are people who ask for a higher wage. And sometimes they receive it. I do not do that. I was in a period of learning and I was not working well. After that I worked a bit more. But I cannot ask for a higher salary than the other colleagues who were already working in the bakery.” - “Les gens le font. Il y en a qui demande plus de salaire. Et parfois, ils reçoivent. Moi, je ne fais pas ça. J’étais dans une période d’apprentissage et je ne travaillais pas bien. Après je travaillais un peu plus. Mais je ne peux pas demander plus de salaire que les autres collègues qui travaillaient déjà dans la boulangerie.”* (Belgium, male interviewee from Northern Africa, food services, migrant in an irregular situation at the time of exploitation).

Others tried to negotiate to receive their salary or to improve their working conditions. However, as Table 10 illustrates, their different strategies resulted in everything from no change to serious threats.

**Table 10 Overview of interviewee’s strategies and results regarding negotiation and confrontation with the employer**

Interviewee	Strategy used	Result
One interviewee	Nothing at all (acceptance of conditions as part of the job – no severe labour exploitation though)	Nothing changed  (increase of salary after a long time, because “deserved”)
12 interviewees	Intention to discuss, arguments, dispute to receive salary or change working conditions and/or tasks	No space for discussion (3)
		Being scolded (1)
		Take it or leave it attitude (3)
		Slight improvement of working conditions (1 – because of change of supervisor)
		Serious threats from employer (1), including to report or deport (2)
		End of job (1)
One interviewee	Threat to go to police	Nothing changed
Three interviewees	Strike varying from some hours to one month	No result (2)
		Received salary at the end of the day (1)
One interviewee	Negotiation on the basis of independent residence permit (other jobs possible)	Altering of work tasks
	Strike and threat to call police	End of job (3 posted workers)

Four interviewees		Difference in salary €5 was paid (1)
Two interviewees	Collect evidence as pressure for negotiation (O3) or possible future complaint (IR9)	Interviewee did not proceed, so no results (1)
		Still in process, awaiting response from employer (1)
Seven interviewees	File a complaint*	Threats after complaint (2), including threats of false accusations of terrorist activities and reporting to police, after which interviewee reported threats to police (1)
		Legal case running, recent or less than one year (4) up to one or two years ago (one still awaiting result).
		Residence and work permit as victim of human trafficking (4)

\* More information in Section 6 on looking for help and reporting to the police.

## 6. Asking for help: victim support and access to justice

In this section, we report on the findings about asking for help. Six items will be discussed. First, we review the type of organisations participants contacted when looking for assistance (other than the police). Second, we consider the factors that hinder and enable victims of extreme forms of labour exploitation to reach out to organisations other than the police. Third, we discuss the kind of assistance received, to what extent it helped to address participants' needs and what other support may have been helpful or necessary. Fourth, we focus on participants' experiences with the police. Fifth, the participants' awareness of workers' rights is reviewed. Sixth and last, we analyse the workers' satisfaction – or in most cases, dissatisfaction - with their current situation.

### 6.1 Type of organisation providing assistance (other than police)

The interviews demonstrate that not everyone asks for help when faced with a situation of extreme labour exploitation: four interviewees have not contacted any organisation other than the police. The 16 remaining interviewees did ask for help. Whereas some interviewees have been in contact with several organisations, others reached out to just one.

Table 11 gives an overview of the types of organisation contacted for assistance, and the corresponding number and profile of interviewees. The table shows that 14 out of 20 interviewees have been in contact with at least one victim support organisation. Four interviewees were in contact with a more 'general' support organisation, such as an organisation for undocumented immigrants or refugees. Three interviewees were in touch with a legal aid office or a lawyer, two interviewees mentioned help from a trade union, one interviewee mentioned inspection, and another interviewee had contacted the consulate.

Caution is warranted when drawing conclusions based on these findings. The picture generated here, with many interviewees asking victim support organisations for help, is influenced by the way the fieldwork was conducted. As explained in Section 2.1, interviewees were selected and recruited through gatekeepers. Notwithstanding that victim support organisations clearly play an important role in providing help to victims of labour exploitation, it should be noted that the victim support organisations (two in total) that acted as gatekeepers during this project, were particularly active in helping the researchers to identify interviewees.

**Table 11 Type of organisation(s) contacted for help (note: several answers are possible at a time)**

Type of organisation contacted for assistance	Total number	Per category
No organisation – no help received at all	4/20	1IR, 2D, 1O
Victim support organisation	14/20	9IR, 1D, 3P, 1IP
General support organisation	4/20	1IR, 3P
Legal aid/lawyer	3/20	1IR, 1D, 1O
Trade union	2/20	1P, 1O
Consulate	1/20	1O
Inspection	1/20	1IR, 2D, 1O

From a policy perspective, it is important to know the gateways through which workers' access to these organisations. Most interviewees who were in touch with a victim support organisation, found access to such organisation through friends or acquaintances, or, more generally, through word of mouth. One interviewee (male posted worker from Morocco, construction) was referred by other professionals (such as a general support organisation), and two other interviewees (also posted workers from Morocco, construction) by the police. Another person already knew about the victim support organisation and reached out on his own initiative. Three interviewees were referred by one victim support organisation to the other, as organisations have somewhat different focuses or specialities (e.g. human trafficking). Of the three interviewees who sought legal aid and/or contacted a lawyer, two did so on their own initiative (male, irregular migrant, construction and female, EU national cleaner), and the third one through word of mouth (male, regular migrant, retail). Broader support organisations were contacted on referral by the trade union (in the case of one posted worker from Morocco), by word of mouth (another posted worker from Morocco), or on own initiative (female interviewee from Morocco in an irregular situation, cleaning). The latter also applies to the person who contacted the consulate for help. In one case, the contact with the trade union was a joint initiative with colleagues, all of whom stopped working at the same time because lack of payment (for example in the case of a female interviewee from Bulgaria, food industry. Another person (posted worker from Morocco, construction) was brought in touch with the trade union by a citizen who was connected to the interviewee's accommodation and who had found out about the situation.

## **6.2 Type and level of assistance received**

During the interviews, the participants were asked what help they had received, whether it covered their needs, and whether there was anything else in terms of support that would have been useful.

### **6.2.1 Type of assistance received**

It is hard to quantify the type of help received, in the sense that interviewees sometimes leave out certain types of help when discussing this topic. This makes it impossible to count, with absolute certainty, how many interviewees received a particular type of help. We can, however, provide an indication of the number of interviewees mentioning a particular type.

Out of 20 interviewees, four did not receive any help at all. For the other 16 interviewees, legal aid, often through the victim support organisation, was by far the most common type of help mentioned. Approximately twelve interviewees received legal advice or assistance to file a complaint. This also includes receiving information on their rights as workers. Three interviewees mentioned medical assistance. Only a few interviewees explicitly mentioned material help (food, clothes, the use of a washing machine, and/or accommodation). The researchers believe that, in practice, more interviewees received some type of material support. At the same time, however, several interviewees mentioned badly needing material help, but that they did not find it and/or had access to it. One interviewee mentioned he received material help while he had a three-month residence permit while his case was considered as a human trafficking case. The financial aid he received during this period allowed him to stay in a shelter and he also started vocational training. When the permit was not extended, he lost the financial support, had to leave the shelter, and could not complete the vocational training.

Two interviewees mentioned they received information on what services exist that could be of help, and where they are situated. They received a map that indicates where various services such as free meals and showers can be found. Here too, the researchers believe that the list

of people who mentioned this type of help is not exhaustive. Whereas this so-called welfare-map was mentioned by only two interviewees, the researchers suspect that more interviewees received such help. As mentioned in Section 6.1, this project's results on the type of help received are influenced by the way the fieldwork was conducted, namely with reliance on organisations such as victim support organisations and trade unions as gatekeepers to identify and reach out to potential participants.

Training was also mentioned by some interviewees as a type of assistance received. It ranges from information on workers' rights (cf. Section 6.5) to language training. One person mentioned having obtained a secondary school diploma thanks to the help of a support organisation (female interviewee from South America, domestic work, migrant in an irregular situation at the time of exploitation).

### 6.2.2 Adequacy of help

Six interviewees were satisfied with the help received. For instance, a Bulgarian interviewee managed to recover overdue salary with the help of the trade union, thereby solving her problem. However, at least an equally large group indicated not having received sufficient help. For example, one interviewee stated that she only received advice whereas she wanted assistance. Two other interviewees, who received legal assistance, stated that they lacked other types of help.

A worker in an irregular situation mentioned that he felt fine until he lodged a complaint against his employer, which left him feeling psychologically worse. In his opinion, asking for help negatively affected his situation:

*"Before I filed the complaint against the employer, I was doing fine, but now, psychologically, I'm not well, because I am scared that someone will just call the police to expel me. Really I don't sleep well at night." - "Avant quand je n'ai pas fait de plainte contre le patron j'étais bien, mais maintenant psychologiquement je ne suis pas bien parce que j'ai peur qu'on appelle la police comme ça pour m'expulser. Vraiment, je ne dors pas bien la nuit." (Belgium, male interviewee from Morocco, construction, migrant in an irregular situation at the time of exploitation).*

That interviewee added that, aside from help from friends, he did not receive any help. Another interviewee, a posted worker who is currently in an irregular situation, also expressed a lot of incomprehension and frustration and felt left on his own.

Whereas responses vary as to what else would have been helpful, one element jumps out: workers in an irregular situation mention residence documents as what they need the most. For example, a male worker from Western Africa in an irregular situation stated that he needs more than material help: a residence permit is what he actually needs, because then he would no longer need financial or material help from others as he would be able to do trainings and work with a good contract in good circumstances. Basically, his whole life would change with a residence permit that would allow him to take care of himself. Other interviewees expressed the same view. For instance, a female worker in an irregular situation stated:

*"I don't need anything at all, only to adjust my papers. I don't even need money, nothing at all, only to adjust my papers. [...] To stay in Belgium, to have a good life, to settle my situation, to travel like [other] people, to have a good job. [...] To have a good life in Belgium, that is what I need. I don't need anything else. Money means nothing, it comes and goes, but your [legal] situation..." - "J'ai besoin de rien du tout, seulement de régler mes papiers. Ni d'argent, rien du tout, seulement régler mes papiers. [...] Rester en Belgique, pour vivre bien, pour régler ma situation, pour voyager comme les [autres] gens, pour travailler un bon travail. [...] Pour vivre bien en Belgique, voilà ce dont j'ai besoin. Je n'ai pas besoin d'autre chose. L'argent*

*c'est rien, ça vient, ça part, mais la situation [légale]...*" (Belgium, female interviewee from Morocco, cleaning, migrant in an irregular situation at the time of exploitation).

Access to vocational training and/or language courses and having a job is mentioned by others. For immigrants in an irregular situation, training and job opportunities depend on their legal status. For instance, a posted worker, who was in an irregular situation at the moment of the interview, was frustrated that he was not allowed to do a training with the public employment office. Another interviewee, a worker in an irregular situation from Western Africa needs residence documents to continue and complete the studies in Belgium that he had started in his country of origin.

As mentioned, several interviewees also mentioned a lack of material help.

Central to the interviewees' responses as to what they would need, is that they want to be able to take care of themselves. They would prefer not having to ask for help and they want to get the opportunity to be self-sufficient. For instance, a worker in an irregular situation stated during the interview that he feels very stressed and cannot sleep at night, because he does not know what to do. He would like to have a job in order to take care of his family. He added:

*"As soon as I have a job, I work, without mercy, I have experience, I have everything". - "Dès que j'ai un travail, je travaille, sans pitié, j'ai de l'expérience, j'ai tout."* (Belgium, male interviewee from Morocco, construction, migrant in an irregular situation at the time of exploitation).

### 6.2.3 Treatment by others

Overall, most interviewees feel well treated by those providing support. The majority of the interviewees stated they have been treated nicely or correctly by those to whom they reached out for help. A few people also mentioned that those providing support were 'very kind' or 'provided the best service'.

Nevertheless, some negative experiences were also reported, namely when organisations stated they cannot help. For instance, several support organisations focus on victims of human trafficking and they have helped several interviewees, who were satisfied with the support provided. However, two interviewees stated that they reached out to one of these organisations and were told that they could not take their case. Another negative experience was reported by one of the posted workers in our sample, who was angry when a social assistant at a public centre for social welfare told him that it would be better if he returned to Spain. Another posted worker felt treated "like a rat" by a local association, where he was told that he had no right to be there and that he should return the same way he arrived.

## 6.3 Hindering and enabling factors in asking for help

### 6.3.1 Hindering factors

During the field work, the researchers explored the factors that hinder and enable victims of labour exploitation to ask for help. The topic was raised during the two focus groups as well as during most interviews. The most extensive discussion on the topic took place during the second focus group, which included workers in an irregular situation. Participants answered based on their own experience and on the experiences of other workers in their social circle. The general feeling among the participants of the second focus group is that **there is not really a point in asking for help**. As will be discussed below, some individual interviewees share this view. However, such a perspective appears to hold first and foremost for workers in an irregular situation. In what follows, we elaborate on why the second focus group participants are of the opinion that asking for help makes little difference.

Firstly, the participants of the second focus group explained that **it is not possible to escape from exploitation**, at least not without documents (see Section 4.1). In the perception of the participants, exploitation is unavoidable for persons in an irregular situation; there is no other way and one knows it from the very beginning. One needs money to survive – to pay rent, to buy food, to pay for gas or electricity ... –, and so one needs to work. In addition, persons who already have very little, do not want to risk worsening their situation or lose the little they have. Two female interviewees in an irregular situation who are employed as a domestic worker, made a similar reflection. More particularly, they indicated it would not make a difference to have another informal job, because other employers would not pay more, and so there is no point in reaching out to someone for help or to file a complaint against the employer. A worker (irregular situation, Western Africa) said that, even when asking for help and filing a complaint, one has only two options: either one stops working and thus stops earning money, or one ends up in a similar situation of exploitation.

Secondly, closely related to the first reason, workers may not see the point in asking for help because they have **already accepted the conditions when starting the job**. A participant from the second focus group explained it as follows:

*“As an undocumented worker, we know we have already made a choice... there is exploitation, there is. You will not escape it. You will be exploited. Because as it is, you do not have documents. You know it. You know it from the very beginning. You accept the conditions. So why ask for help? You have already accepted it.” - “Déjà quand on est un travailleur sans-papier on sait très bien qu’on a choisi déjà...qu’il y a une exploitation, il y a. Tu ne vas pas t’échapper. Tu vas être exploité. Parce que déjà t’es sans-papiers. Tu sais. Tu le sais dès le début. Tu acceptes les conditions. Alors pour demander de l’aide, pourquoi? Tu as déjà accepté.”* (Belgium, male focus group participant from Morocco, restoration/catering and moving, migrant in an irregular situation).

The same participant also mentioned, as a general explanation rather than as a personal experience, that people tend to be grateful to the person who hired them, so they do not want to cause trouble. Additionally, self-blame plays a role too: when treated badly and working in difficult conditions, people consider it to be their own fault, because they have accepted it from the start. In the interviews, self-blame was not mentioned as such. However, two interviewees stated that filing a complaint would not make sense, because the remuneration was agreed upon with the employer when they started.

Thirdly, the participants of the second focus group are not certain what could be gained from asking for help or support. They **do not think there is a chance of a significant positive outcome** when, for instance, filing a complaint. One participant (male focus group participant from Morocco, cleaning/construction, migrant in an irregular situation) mentioned that his case is pending in court since 2013 without further action, even though it is a strong file with a lot of evidence, so why would a person who does not have such proof ask for help? In his opinion, asking for help does not generate any results.<sup>55</sup> A Moroccan worker in an irregular situation made a similar comment during his interview when elaborating on the ongoing legal cases of friends and acquaintances, which take many years without result. As the situation of one worker (irregular situation, Western Africa) shows, escaping a situation of labour exploitation and initiating a legal case, is a big step and a real achievement in itself, but it does not mean that things change for people without residence documents. In the focus group, the participants indicated that the State knows, but does nothing about it. This will be further discussed in Section 7.

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<sup>55</sup> It should be mentioned that one of the other participants in the focus group, stated at a later moment in the discussion that he was preparing a file to make a complaint, even though he shared the view that there is little to gain from asking for help as chances on a positive outcome are very small.

*"[Name of a public sector organisation] has ignored the presence of undocumented immigrants in its yard, but there were dozens of undocumented immigrants. So they were exploited. It means the State closes its eyes or is lying." - "[Nom d'une organisation dans le secteur public] a ignoré la présence des sans-papiers dans son chantier, mais il y avait des dizaines de sans-papiers dans le chantier. Du coup ils étaient exploités. Alors l'Etat il ferme les yeux ou il est en train de mentir." (Belgium, male focus group participant from Morocco, restauration/catering and moving, migrant in an irregular situation).*

Later in the discussion, it was mentioned that workers in an irregular situation do not exist according to Belgian law, so filing a complaint becomes impossible. Immigrants in an irregular situation are visible when doing something wrong, but they do not exist when looking to secure their rights.

*"I will tell you why you cannot file a complaint, as an undocumented migrant. Because what does the law say? It says that an undocumented migrant does not exist in Belgian territory." - "Je vais te dire pourquoi tu ne peux pas poser une plainte, un sans-papier. Parce que la loi il dit quoi? Il dit, un sans-papier n'existe pas sur le territoire de la Belgique." (Belgium, male focus group participant from Morocco, cleaning/construction, migrant in an irregular situation at the time of discussion).*

Apart from the idea that there is not really a point in asking for help, another hindering factor is that **people do not know who to turn to**. Workers with different immigrant profiles reported on this problem. At least five interviewees stressed it as a reason for not asking for help or for not having asked earlier. The argument was made during both focus groups too. A Bulgarian interviewee also mentioned the risk of misinformation in this regard. For instance, she had been told that nobody would listen to her if she would complain to the trade union, so she would be wasting her time.

The discussion in the first focus group revealed a different yet related problem: **asking for help requires an awareness of the problem**. A first focus group participant explained that she first came into contact with a support organisation when taking language classes with the organisation. It was only after listening to prevention talks at this organisation, that she fully understood the problematic character of her working situation.

*"Each time at the end of the class, he [employee of the support organization] explains us the rules, he explains the laws, he was telling 'gather proof for everything', and it was when I was listening to this, I realised everything that was going wrong. But at that moment, I said: 'Well, what do I do now? I already accepted, I already signed my contract. What can I do?'" - "Cada final de clases nos explica las reglas, nos explica las leyes, nos decía "para cualquier cosa consigan pruebas,...", y ya cuando fui escuchando fue cuando me di cuenta de todo lo que estaba pasando mal. Pero en ese momento pues dije 'No pues, ¿ya qué hago? yo ya lo acepté, yo ya firmé mi contrato ¿Ya que puedo hacer?' (Belgium, female focus group participant from Mexico, domestic worker, regular migrant).*

The lack of access to help due to **language barriers** was mentioned by two interviewees, who are both EU citizens of Bulgarian origin. It was stated that vulnerable workers do not have sufficient language skills to seek information on rights' protection.

*"Now here's the thing... people tell you what they hear from others. Since I don't speak the language, I couldn't call [the trade union], I cannot express myself. It is different when you speak the language." - "Simdi, soyle bir sey var, insanlar birbirlerinden duyduklarini soyluyorlar. Cunku ben dilini bilmedigim icin gidip de [trade union] arayamiyorum; anlatamiyorum derdimi. Dilini bilsen baska oluyor." (Belgium, female interviewee from Bulgaria, food industry (meat processing), EU national).*

**Fear** constitutes a last hindering factor to seeking help from organisations. At least three interviewees mentioned it explicitly. For example, a worker in an irregular situation told the interviewer a friend had to invest a lot of time and effort to convince him to approach a victim support organisation. Taking this step was very difficult for him, because he was scared that he would be reported to the police:

*“They too can call the police on me.” - “Eux aussi ils peuvent appeler la police contre moi.”* (Belgium, male interviewee from Western Africa, manufacture, migrant in an irregular situation at the time of exploitation).

Once he had talked to someone at the support organisation, he felt a big relief. Fear will be discussed further when analysing the role of the police in Section 6.4.

### 6.3.2 Enabling factors

Overall, compared to the hindering factors discussed in the previous Section, there was less emphasis on enabling factors by the participants of this research project. Little was said about what *facilitated* taking the step towards seeking help. A few interviewees did mention that their friends told them that they could trust the support organisation, which facilitated in the process of looking for help. One interviewee mentioned the civic integration course as an enabling factor, because it provided her with more and accurate information, such as the scope of support provided by the trade union. We consider this as a promising practice to be mentioned, as the interviewee received valuable information through this course, and the course made a clear difference for her. However, it should be noted that the interviewee who mentioned this course, is an EU citizen. Workers in an irregular situation, on the other hand, do not have access to this type of course.

The interviews provide insight into the reasons for asking for help, more particularly regarding what *pushed* the victims of labour exploitation to reach out for help. The researchers identify three main reasons or motives.

The first reason is **financial**. Namely, workers asked for help to recover overdue salary and/or to receive compensation and medical care after a work accident. This reason was mentioned by seven interviewees and in both focus group discussions. It is important to note that the financial reason is often not the only incentive. Moreover, it is also not necessarily the strongest motive. The workers in our sample never reported their precarious working situation due to low salaries as such; complaints were only made when previous financial agreements were not respected.

The desire to see **justice** being served is the second reason. At least five interviewees mentioned this, as did the participants of both focus group discussions. For instance, a posted worker who had not been paid for his work did not want to return to Spain where he has residency, regardless of the difficulties he faced in Belgium, until justice has been served. For one worker (irregular situation, Western Africa) the humiliation by the employer was one of the reasons why he had sought help to fight his employer. A few others also mentioned threats made by the employer (see Section 5). A participant from the second focus group stressed the financial aspect and his desire for justice to occur:

*“I wanted the State, the court to practice its own justice. Because for me it’s been x amount of time that I’ve been here and the boss, he is the one who left me in this situation and who took advantage of me to the maximum, so I need to have my identity card and my money.” - Je voulais que l’état, que la justice pratique sa justice. Parce que moi ça fait X temps que je suis là, et le patron c’est lui qui m’a laissé dans cette situation et a profité de moi le maximum donc je dois avoir ma carte d’identité et mon argent.”* (Belgium, male focus group participant from Morocco, cleaning/construction, migrant in an irregular situation at the time of discussion).

A third yet closely related reason concerns the desire to **protect other workers from having to go through the same experience**. This was mentioned by at least three interviewees. A female Moroccan interviewee was very determined to fight her employer, because she knew that new people who were quiet and timid, had joined the company after she left, and she wanted to protect them. For two posted workers of Moroccan origin with Spanish residency, avoiding that the employer could do the same to other people as done to them and to workers before them, as the employer had done in the past, also constituted a strong motivation. The participants of the second focus group are all activists who strive for regularisation of immigrants in an irregular situation. They all show the same motivation and want to talk about exploitation and bad living conditions, to denounce it and to ensure that the broader public hears about it.

## 6.4 Experience of reporting to the police

### 6.4.1 Experiences with the police

Table 12 provides an overview of the number of interviewees who reported their situation of labour exploitation to the police. It shows that only one in four interviewees reported to the police. The findings suggest that there is a link between one's immigrant profile and going to the police. Notwithstanding that the sample is too small to draw a definite conclusion, it is striking that only one out of thirteen workers in an irregular situation (all those coded as 'IR' or 'D') reported directly to the police. In other words, at present, the police plays only a minor role in this matter.

**Table 12 Reporting to the police**

Reported to the police?	Total number	Breakdown by category
No	15	9IR, 3D, 3O
Yes	5	1IR, 3P, 1IP

Of the five interviewees who reported to the police, three are posted workers who were involved in the same situation of labour exploitation (see Section 2). They all felt they were treated respectfully, professionally and correctly, and considered the police intervention to have been helpful. One said that the police will treat you with respect if you do not break the rules. Thus, how the police treats you depends on the way you behave and does not depend on your origin: victims are well treated by the police, according to this interviewee. One of the ways in which the police helped these posted workers, was by referring to the municipality to sort out their housing issues and giving them food. One of the posted workers mentioned that he was in contact with the police in two different municipalities: whereas the police was helpful in one municipality, this was not the case in the other municipality where a police officer replied "*I am not a bank*" when they asked for help. The investigation into the case of these posted workers is currently still ongoing, meaning there is no court decision or final outcome yet.

The interviewee who is an applicant for international protection, felt well treated by the police. He filed a complaint, but the interviewee could not say (did not know) what kind of legal proceedings it concerned, and he had not heard from it since he filed the complaint. This means that in this case too, there is no clear outcome yet.

On the other hand, the only worker in an irregular situation who went to the police himself (male interviewee from Morocco, construction), did not feel respected by the police. A victim support organisation had advised him to go to the police after he received threats from his

former employer. The police did not listen to him and even had insulted him. Rather than helping him, they told him to get out (“*degage d’ici*”). There was no outcome of the police involvement.

The remaining 15 interviewees did not go to the police. The reasons for not doing so, will be discussed in Section 6.4.2.

A few workers who did not actively report to the police, encountered the police in another way. For instance, one worker from Northern Africa in an irregular situation had a work accident. The police came to the hospital, but only spoke to the ambulance staff and did not talk to the victim. When later on, the interviewee went to the police station to check the police report, which would constitute strong evidence of his accident to support his file, he discovered that the police did not register the accident. No notes were taken at the scene and the police asked him how he dared to come to the police station, in the sense that he took a big risk since he did not have residence documents. The interviewee replied that he was the victim in the whole situation. The police visit was thus not helpful for this interviewee.

Another worker did not go to the police himself, but was taken to the police station following an inspection at his work place. He was treated correctly, but did not feel that the police and the inspectors helped, since they were only doing their job. The interviewee did not know what the outcome of the inspection was for the employer or whether there were court proceedings. For the interviewee (male from Morocco in an irregular situation, hospitality), however, the outcome of the police involvement was an order to leave the Belgian territory.

During the second focus group, there was also mention of a negative experience with the police. A few years ago, one of the participants was arrested during an inspection of the snack bar where he was working at the time. The participant felt badly treated (“*like a terrorist*”) by the police, which overly demonstrated their power. For instance, he was handcuffed tightly during an interrogation and when he said that he would only talk with a lawyer present, the police told him that this only happens in the movies.

#### 6.4.2 Reasons for not reporting to the police

Participants in the field research mentioned various reasons for not going to the police. For workers in an irregular situation, the **fear to be deported** is the most important reason. For most workers, going to the police is therefore **simply not an option**. This argument came back in many interviews and it was also very present during the second focus group:

*“I can’t go to the police because if I did... directly into the back of the police car, it’s certain. They would implement article 54, article 55, 54. If you’re lucky, they will implement article 54, 55... which means that they will ask you to leave the territory. If you’re not lucky, you will get 127bis. Detention centre...” - “Moi je ne peux pas aller à la police parce que si je vais à la police... directement au cachot, ça c’est sûr et certain. Il va faire l’article 54, l’article 55, 54. Si vous avez la chance, ils vont faire l’article 54, 55... ça veut dire, ils vont te demander de quitter le territoire. Si vous n’avez pas de la chance, vous allez obtenir 127bis. Centre fermé...”*  
(Belgium, male focus group participant from Morocco, cleaning/construction, migrant in an irregular situation at the time of discussion).

The participant quoted above explained that he filed a complaint via the trade union. This implied that he could avoid going to the police himself.

Most interviewees did not really consider going to the police. There are, however, a few exceptions. A man from Pakistan planned going to the police to file a complaint against the employer once his residency documents would be in order, but the latter never happened. One interviewee considered going to the police at one point, when the employer got angry and

aggressive and threatened to hit the interviewee. He would have reported it to the police, if the employer would have really hit him, despite the expulsion risk. For this interviewee, the police, whom he did not trust, was the last resort:

*“I would go to the police if, for example, he had hit me, as I said, in the office, that day, that was the limit. [...] The police, above all, is the only thing I do not dare, naturally. Even if I did nothing. When I think, at home, the police are synonymous with the culpable becoming the innocent and vice versa.” - “J’irais à la police si par exemple il m’avait frappé, comme je disait, au bureau, ce jour-là, c’était la limite. [...] La police, avant tout, c’est la seule chose que je n’ose pas, naturellement. Même si je n’ai rien fait. Quand je pense chez nous, la police c’est synonyme pour le culpable devenir l’innocent et vice versa.”* (Belgium, male interviewee from Western Africa, Administration, migrant in an irregular situation at the time of exploitation).

A domestic worker in an irregular situation mentioned that she did not go to the police out of fear for losing her job. Moreover, if she would need to change jobs, she might need the employer as a reference.

For EU citizens, the reasons for not reporting labour exploitation are somewhat different, though mistrust can be considered as a reason common to all three interviewees. One EU citizen stated that she “did not have any business with the police”, without giving further explanation. Another woman cites language barriers rather than fear as the reason for not going to the police. Yet another woman, who worked in a restaurant, did not go to the police out of fear for possible negative consequences:

*“The police came to have a drink at the restaurant. The boss offered beers to the people in the bar. So, you wonder. It is like an implicit agreement. Besides, if you talk to the police, they can give you fines. If you do not pay taxes, it is still tax evasion. And I would be afraid in the streets, if I denounce him [her boss].” - “La police venait boire un verre au restaurant. Le patron offrait des bières aux gens du café. Alors, tu te poses des questions. C’est comme un accord implicite. En plus, si tu parles avec la police, ils peuvent te donner des amendes. Si tu ne paies pas les taxes, c’est quand même fraude fiscale. Et j’aurais peur dans les rues, si je le dénonce [son patron].”* (Belgium, female interviewee, restaurant, EU national).

## 6.5 Access to information about rights

Out of twenty interviewees, eleven were not told about and were unaware of workers’ rights (see Table 13). One worker in an irregular situation said:

*“I don’t even know what that means, knowing the/your rights” - “Je ne sais même pas ce que c’est, connaître les droits.”* (Belgium, male interviewee from Western Africa, manufacture, migrant in an irregular situation at the time of exploitation).

Nine interviewees are aware of workers’ rights now. However, most of them were unaware of workers’ rights *during* the work experience in which they experienced severe labour exploitation. They were informed about their rights at a *later point in time*, usually through a support organisation. Three interviewees followed an orientation and/or prevention course during which this topic was covered extensively. One of the EU citizens in the sample heard about workers’ rights during the civic integration course she followed.

**Table 13 Awareness of workers' rights**

Told about/aware of workers’ rights?	Total number	Per category
No	11/20	4IR, 2D, 3P, 1IP, 1O

Yes	9/20	6IR, 1D, 2O
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## 6.6 Level of workers' satisfaction with current situation

With the exception of two persons, all interviewees had left the work situation they identified as their 'worst working experience' during the interviews. One interviewee stayed and stated that her working conditions have improved a bit following changes in management. For another interviewee, it is not clear yet whether or not he will return to work at the end of his sick leave following a work accident recently.

Having left a particular situation of labour exploitation, does not imply that one's problems are solved. As demonstrated in table 14, only a minority (four) of the interviewees are satisfied with their current situation. Two participants mention that leaving the job has made a large difference. The first satisfied interviewee is an Italian woman who has found a better, declared job in the field of her studies. The second one is a worker in an irregular situation who has been working through his friend's network since he stopped looking for work through a pick-up system. Even though he still works irregularly, he is his own boss now and he receives a better salary. Moreover, he is now active as a volunteer to give visibility to the situation of people without residence documents. The third person is satisfied with her current situation because she received the overdue salary and so her problem is solved. That woman will start a language course soon to improve her situation, as it will allow her to understand the documents she receives from her children's school. Similarly, a posted worker cited learning the language as a way to making progress. While not satisfied with his situation, he felt he was already doing better than before. In order to find a good job, he needs to learn French and so he was happy to be given the opportunity to do so now. The fourth satisfied person had saved enough money and finished a training course and an exam, allowing her to return home happy.

**Table 14 Satisfaction with current situation**

Satisfaction with current situation	Number of interviewees	Per category
Satisfied	4	1IR, 1D, 2O
Not satisfied	15	8IR, 2D, 1O, 3P, 1IP
Other: too early to tell	1	IR9

The majority of the workers are not satisfied with their current situation. For workers in an irregular situation, the first and most frequently mentioned factor in this regard was the absence of **residence documents**. This was cited by at least eight interviewees, all of whom consider said documents as a precondition to move forward. This is in line with the findings reported on in Section 6.3.2. For most workers, the irregularity of their residence makes it impossible to have a good life, mostly because it implies that they cannot have a declared job. Furthermore, access to medical care (or health insurance) is also mentioned when discussing the need for residence documents:

*"My work situation is ok now, but with health issues, if we are sick, it is different from people with papers. We are not insured, we cannot access health benefits."* (Belgium, female interviewee from the Philippines, domestic work, migrant in an irregular situation at the time of exploitation).

A second yet closely related underlying factor for the lack of satisfaction with their current situation, is that people **remain in an overall vulnerable situation**. At least five interviewees

mentioned this explicitly when asked about their level of satisfaction with their current situation. Other interviewees mentioned it too, but during other parts of the interview.

A third common reason not to be satisfied related to the **outcome of their case**: for some people, the outcome was negative; for others, there is no outcome yet. For example, a Bulgarian woman explained that her case has not been sorted out yet, because social contributions still must be paid; she has a debt, but according to her, she is not the one who should pay it. A Moroccan worker in an irregular situation is of the opinion that not much had changed; while he is waiting for the outcome of his legal case, he still does not have access to residence documents, and so he has no other choice but to work in similar jobs. The only thing that has changed, is that he now dares to speak up to his employer. Due to the lack of change and outcome, he was considering leaving Belgium. Another participant explained that he cannot be satisfied as long as he has not received all the money that he worked for:

*“There is no reason to be proud or satisfied. The money that my employer owes me has not been paid, so I was exploited. There is no reason to be happy in such a situation.” - “Il n’y a pas de quoi d’être fier ou satisfait. L’argent que mon employeur me doit n’est pas payé, donc je me suis fait exploiter. Il n’y a pas de quoi être content dans des situations pareilles.”* (Belgium, male interviewee from Morocco, hospitality (snack bar), migrant in an irregular situation at the time of exploitation).

Related to that, a few participants mentioned that they want to see justice be served. Additionally, some participants complain that they are **not taken seriously by the legal system**, while the employers get away with everything:

*“So, I was the victim, and they [the authorities] said ‘you are the culprit’ and nothing was done to the bosses, they take money and they sleep at night.”* (Belgium, male interviewee from Pakistan, retail, regular migrant at the time of exploitation).

*“Here in Belgium, there are no rights, there is no justice, there is nothing. If you are a victim, you remain a victim.” - “Ici en Belgique, il n’y a pas de droits, il y a pas de justice, il y a rien du tout. Si t’es victime, tu restes victime.”* (Belgium, male interviewee from Northern Africa, worked at a market, migrant in an irregular situation at the time of exploitation).

This was echoed in other parts of the interviews as well. For instance, a Moroccan worker in an irregular situation expressed his frustrations with long procedures and disillusionment with the Belgian system, since his legal case is taking many years without generating any result. He felt disillusioned about the Belgian system. The participants of the second focus groups expressed similar views. One of the participants explained it as follows:

*“Why does it always have to fall on the undocumented workers [instead of the employer]? Why is it never serious? It’s ok, like for [name of another focus discussion participant], they said regarding his file that they had other priorities. Ok, but I’m also a human being, my situation is a priority for me too. I have a family, I have obligations.” - “Pourquoi toujours ça tombe sur les sans-papiers [et non pas sur les employeurs]? Pourquoi toujours ce n’est pas grave, c’est ok ? Comme pour [nom X], ils ont dit avec son dossier, on a d’autres priorités. Ok, mais moi je suis aussi être humain, ma situation c’est une priorité pour moi aussi. J’ai une famille, j’ai des obligations.”* (Belgium, male focus group participant from Morocco, restoration/catering and moving, migrant in an irregular situation).

The frustration with the legal system and the feeling of not being taken into account and not mattering, is mainly present among workers in an irregular situation.

Moreover, even though it was not often mentioned literally by the interviewees, the researchers noticed that the legal system and the different procedures and steps were sometimes hard to understand for the participants.

Some workers in an irregular situation also mentioned **fear for police controls** as an impeding factor of a good or satisfactory life; there is a genuine fear to be deported, both among the interviewees as well as among the participants in the second focus group. The latter stated that they always lived with this risk, which follows them everywhere, every time they leave their house.

Finally, two interviewees mentioned **the inability to go home and see their children**. It was the case for a posted worker, who had not seen his children for one and a half years since he did not have the financial means to visit them. His children were complaining, and he suffered from it. The other one is a domestic worker from the Philippines who is in an irregular situation in Belgium:

*“I cannot go home, because if I go home, I cannot come back here. It has been six years, I have not gone home, but I have no choice.”* (Belgium, female interviewee from the Philippines, domestic work, migrant in an irregular situation at the time of exploitation).

The interviewee in the sample who is an applicant for international protection, expressed dissatisfaction because he still needs to receive overdue salary from his employer. However, he was happy to be able to work legally and to pay taxes since receiving his residence documents, which allows him to contribute like everyone else:

*“My case will be solved if I will receive the [lacking] money. I continue to work more, because before it was informal, now it is declared. I have the right to work, even if my residence documents are temporary. I have to work more, I have to make an effort [...] My salary is better than before, but if you have a work permit, you have to pay taxes like everybody. It is better.” - “Mon cas va être solutionné si je vais recevoir cet argent [qui manque]. Je continue toujours à travailler plus, parce qu’avant c’était en noir, maintenant c’est déclaré. J’ai le droit à travailler, même avec mes papiers qui sont temporaires. Je dois travailler plus, je dois faire un effort. [...] Mon salaire est mieux qu’avant, mais si tu as le permis de travail, il faut payer les taxes comme tout le monde. C’est mieux.”* (Belgium, male interviewee from Sub-Saharan Africa, applicant for international protection)

## 7. Ways forward and prevention

This section reflects on possible ways forward and strategies of prevention. During the focus groups and the interviews, participants identified various key issues that must be avoided or fulfilled to end labour exploitation. The first Section elaborates on the limits of the acceptable (7.1.), while highlighting the minimum, conditions that should be present to work in a correct way. It is followed by a Section on lessons learned and concrete advice from the participants for other foreign workers in similar situations of labour exploitation (7.2.). It concerns suggestions regarding starting conditions, working situations and possible ways to escape labour exploitation. The third and last part details prevention strategies identified by the participants, at the micro (individual), meso (collective) and macro (structural) level.

### 7.1. Limits of the acceptable

To consider different ways towards good work, it is important to understand the key issues for foreign workers – those with regular as well as those with irregular status – to feel better protected against labour exploitation. What are the minimum working conditions needed and what are the reasons (limits) for not accepting a certain job?

**Table 15 Accept the same job today**

Would he/she accept the job today? (Q15)	Total Number	Breakdown by category
No	15/20	6IR, 3D, 3P, 2O, 1IP
Yes	03/20	3IR
I don't know	02/20	1IR, 1O

As Table 15 shows, fifteen out of twenty interviewees would not accept the same job again today as the one in which they were exploited. One participant (domestic worker) would simply not come to Belgium anymore, because she would better inform herself prior to leaving in order to make a well-informed decision. She stated that, in order to make money, she could have worked in the cleaning sector in her home country without going through the experience of labour exploitation.

*“If I could go back in time, I would not come to Belgium.” - “Se eu pudesse voltar no tempo, eu não viria para Bélgica.” (Belgium, female interviewee from Brazil, domestic work, migrant in an irregular situation at the time of exploitation).*

Various interviewees would not work on the black market anymore, because it is too risky, especially with regard to health issues. Some interviewees are of the opinion that decent jobs require written contracts as well as residence and work permits. Others stated that there should be at least respect for fixed working hours, safety clothing (when applicable), (less) workload and (higher) pay.

*“Who would like to work for nothing?” (Belgium, female interviewee from Bulgaria, cleaning (hotel), EU national).*

*“No, that [doing the same job] never again, what has passed, has passed. I would even not dare anymore. I would not even recommend working informally [...] To be in order is better, because there are a lot of risks in working in the black.” - “Non, ça jamais, ce qui est passé, c’est passé. Moi, je n’oserais même plus. Moi, je conseillerais même pas à quelqu’un de travailler en noir [...] Etre en ordre c’est mieux, parce que il y a beaucoup de risques dans le travail noir.” (Belgium, male interviewee from Sub-Saharan Africa, applicant for international*

protection)

Many of the workers who participated in the fieldwork research would not accept a situation of labour exploitation anymore. As stated by one participant: “*Never in my life*”. There is much more to lose than money, such as “*your brain (head) and your health*”. In particular, the relationship with the employer influences the extent to which workers seem to accept precarious working conditions. It is situations such as the lack of respect, the lack of trust, the illusion of a friendly employer, the disenchantment and disappointment and the physical and psychological tax of such a situation, which are difficult to bear, and for little or no money. One participant stated that she would accept being badly paid for a good employer, but that she would not accept being well-paid for a mean employer.

*“The employer. The day you know the employer, he talks well, he does not argue, when you make a small mistake, he says ‘ok no problem’ and you can settle the situation; he talks in a gentle way... Then you will do this work. When the employer is not kind, he argues for small things, in that case no, I will leave this job.” - “Le patron. Le jour où tu connais le patron, il parle bien, il ne dispute pas les choses, quand tu fais une petite faute, il dit ‘ok pas de problème’ et on peut le régler; il parle doucement, il est gentil ... alors tu fais ce travail. Quand le patron n’est pas gentil, il fait des disputes pour des petites choses, alors non, je vais quitter ce travail.”* (Belgium, female interviewee from Morocco, cleaning, migrant in an irregular situation at the time of exploitation).

*“I can accept not having a contract and earning less money. But if it becomes dangerous ... I do not know how to protect people in case of abuse. Sometimes it is unconscious. I remember my boyfriend, for example, he did not understand me, as I had a job and I was making money.” - “Je peux accepter de ne pas avoir un contrat et de gagner moins d’argent. Mais si ça devient dangereux ... Je ne sais pas comment protéger les gens en cas d’abus. Parfois c’est inconscient. Je me souviens que mon copain par exemple, il ne me comprenait pas, comme j’avais un travail et je gagnais d’argent.”* (Belgium, female interviewee, restaurant, EU national).

However, three interviewees stated that they would do the same job again. One of them would require that the conditions are clearly set at the beginning. Another participant was still working at the same place at the time of the interview; he was waiting for the employer’s response to the work accident he recently suffered. Two interviewees did not really know nor did they provide a clear answer. They would prefer not to do the same job again, but did not see many other opportunities to make money.

## 7.2. Converting experiences into learning and advising

The interviewees were asked what advice they would give to other workers who are confronted with similar situations. What lessons have they learned and what advice would they give?

### 7.2.1 Advice on starting conditions

A lot of participants emphasised that they would advise other workers to ensure that all working conditions are clear from the start. This should involve the registration of an agreement (e.g. an audio file of a verbal agreement or a written contract). The conditions to be fixed include the salary, the number of working hours, the moment of payment, the work load and the overall working conditions. Whereas some interviewees stated that it is not really possible to access rights without a contract, others claimed that having a contract is not enough by itself. The contract should be checked by a support organisation to be sure that the workers’ rights are protected by the contract. This was suggested by a posted worker, who experienced human trafficking, even though he had a contract, legal residence and a work permit. Some interviewees also highlighted the importance of being informed. They would advise other

workers to better inform themselves, through support organisations such as OR.CA (amongst others).

*“I would first advise to have a work contract, never to work informally. Working hours and schedules of work have to be fixed on the basis of the salary. To work the legal hours, meaning eight hours a day. And to be respected.” - “Je conseillerais d’abord avoir un contrat de travail, de jamais travailler en noir. Il faut fixer les horaires et les tranches d’horaire du travail en fonction du salaire. Travailler les heures légales, c’est à dire huit heures par jour. Et être respecté.”* (Belgium, male interviewee from Morocco, construction, regular migrant (posted worker)).

*“Before signing the contract, you have to go to PAG-ASA, and you know if the contract is good or not.” “Antes de firmar el contrato, hay que ir a PAG-ASA, y sabes si el contrato está bueno o no.”* (Belgium, male interviewee from Morocco, construction, regular migrant (posted worker)).

### 7.2.2 Advice on how to manage during the work period

Different workers highlighted the importance of having proof of the fact that one is working. They would advise other workers to be careful and to gather proof, in order to be prepared in case of a work accident or other unforeseen circumstances. An interviewee mentioned that she would suggest other workers to have a clear idea about why one is doing a certain job and for what amount of time, in order to have a clear overall strategy and to limit the specific work experience. Various workers would recommend monitoring working hours, safety clothes, salary, overall working conditions and workers’ rights, with special attention for one’s dignity and mutual respect. The attitude of the employer, in particular, should be closely monitored. It should be clear if one is working for a good or a bad employer, if one is treated in a kind way or not.

### 7.2.3 Advice on when and how to leave a situation of labour exploitation

If it appears after a short period of time (e.g. three months) that the working situation is not acceptable, for example regarding payment and/ or working conditions, most workers would suggest their colleagues leave; especially if there are no possibilities of improvement or if the employer starts to promise to pay instead of actually paying. Some interviewees recommended leaving the job immediately, because the longer one stays, the more money will be lost and the more problems will arise. Others were of the opinion that instead of quitting and trying to find another job, it is better to first find another job and then leave, because not working is not possible. Some interviewees would suggest colleagues who experience labour exploitation leave and ask victim support organisations for help.

*“I would advise this person to get away from this job, to not stay there, because there is no benefit [in staying], there are only problems. As time passes, the payment deficits will increase, and problems will increase. The stress, the deception, the disenchantment, all these things.” - “Je conseillerais à cette personne de s’éloigner de cet emploi, de ne pas y rester, parce qu’il n’y a pas d’intérêt, il n’y a que des problèmes. Plus le temps passe, plus les arrières du salaire vont augmenter, et plus les problèmes vont augmenter. Le stress, la déception, le désenchantement, tout ça.”* (Belgium, male interviewee from Morocco, hospitality (snack bar), migrant in an irregular situation at the time of exploitation).

*“I can’t say anything to him. Everyone his own luck, or he falls. I cannot give any recommendation, as he has no choice. I live with my brother, but not everyone is in the same situation.” - “Je ne peux lui dire rien. Chacun sa chance, ou il tombe. Je ne peux pas donner de conseil, comme il n’a pas de choix. Moi j’habite chez mon frère, pas tout le monde est dans la même situation.”* (Belgium, male interviewee from Morocco, construction, migrant in an

irregular situation at the time of exploitation).

### 7.3. The way forward – reflections on strategies of change

In order to improve the working situation, the participants in the research reflected on various strategies on how to better protect foreign workers. They suggested changes in the current situation on various levels of intervention, from the micro to the meso and macro level.

#### 7.3.1 Prevention on micro level

In order to be protected against labour exploitation, most of the interviewees emphasised the importance of being better informed. One should have access to information before leaving the country of origin, as claimed by a domestic worker. Being better informed is also necessary to counter the fear of foreign workers, for example not being afraid of filing a complaint. As mentioned in Section 4 on risk factors, psychological factors also play a key role in the prevention of labour exploitation, especially to be better protected against situations of abuse and manipulation. One of the strategies is having a work contract. Furthermore, having health insurance and other conditions connected to work, are also considered to be very important. Additionally, it is necessary to work on the overall resilience of foreign workers. This could be facilitated by relevant support organisations, such as trade unions, to increase awareness on workers' rights, including those of informal workers. Other interviewees mentioned the importance of having the support of someone, or to provide all workers access to civic integration courses, to ensure that they are better protected against situations of labour exploitation. It is important that the civic integration course is compatible with working hours.

*“Une fois que tu connais tes droit, t'es plus fort.” - “Il s'agit du droit du travailleur. Un travail est un travail.”* (Belgium, female interviewee, restaurant, EU national).

*“When people first come here, they should do a civic integration course [inburgering]. After that, you understand everything. In my opinion, it's the first thing to do. Because, at the civic integration course, we learned everything. Health insurance ... social security ... all those. We went to the police, to ACV. So, you can learn and ask everything. So, to live in Belgium and to be able to stay in Belgium, it is really necessary.” - “Yeni geldikleri zaman insanlar ilk once inburgering'ı cikarmasi gerekiyor aradan. Ondan sonra zaten her sey anliyorsun. [...] Bence ilk yapilmasi gereken o. Cunku biz imburgering'de her sey... saglik sigortalarini, o zikenfonds'lari... sosyal zekering var, sey, sigortalar. Polise gittik, ACV'ye gittik. Yani her sey ogrenip her sey sorabilirsiniz. Yani Belcika'da yasamak icin, Belcika'da durabilmek icin gercekten zorunlu.”* (Belgium, female interviewee from Bulgaria, food industry, EU national).

#### 7.3.2. Prevention on meso level

During the focus groups, as well as during the individual interviews, various participants stressed the need for more solidarity between workers. Amongst others, more solidarity between workers in the informal sector was mentioned. An interviewee underlined more collaboration and confidence between workers; to work together in groups and to develop common strategies (e.g. divide the work and share the daily income) in order to make the work more bearable and feasible.

Various participants in the focus groups and the interviews made references to the tensions between workers in regular and those in irregular situations. Informal workers often feel accused of taking advantage and being a threat to the employment opportunities of formal workers by accepting such precarious working conditions. Whereas actually most of them do not see other opportunities, and feel obliged to work in the black until they have access to regularisation. In the second focus group, participants identified the lack of solidarity between workers as a cause of exploitation as well. The lack of reaction by other (regular) workers in

the case of bad treatment was also mentioned. According to the participants, employers, and more generally the capitalist system, put(s) regular and irregular workers up against each other, for example through the discourse that irregular workers take the jobs of regular workers. Regular workers are angry towards irregular workers because they 'take their jobs' and/or make working conditions worse, by doing the job for a lower salary. The presence of irregular immigrants thus worsens the situation and conditions for regular workers, whereas the attitude and lack of reaction of the latter feeds exploitation. One of the interviewees mentioned that, in a way, workers themselves are responsible for exploitation, as they are the ones who accept to work in these conditions. If nobody would do so, it would not take place.

Furthermore, there should be more sensitisation against the negative image of workers without residence documents. Moreover, the way the work is divided between different people looking for work, has been criticised by various participants. There should be more direct relationships between employers and employees, and less patchwork of different types of intermediaries and subcontracting for there to be less room for labour exploitation to occur.

*"A lot of people are looking for a job and they need a job. There are so many intermediaries. I think all this type of fraud actually happens because there are so many people. It ends up in a chaotic state. And this is how all these, I call them 'mistakes', happen. To prevent that, there is a need for direct contracts."* (Belgium, female interviewee from Bulgaria, cleaning, EU national).

### 7.3.3. Prevention on macro level

At a structural level, all participants were convinced of the need for regularisation strategies. For foreign workers, it is important to be able to obtain a residence permit and a work permit, which allow them to be less dependent on the employer. Without a residence and a work permit, it is very difficult to avoid labour exploitation.

Some participants also referred to the necessity of legal frameworks for irregular workers. They claim that it is necessary for people without a residence permit to also be able to work in good conditions. Furthermore, it should be easier to apply for work permits and regularisation procedures. The latter should be more accessible and create less dependency on the employer. Also, there should be more effective strategies to better protect foreign workers who are employed with contracts. Having a contract is not enough to have one's rights respected. Some participants referred to the need for better inspections, accompanied by overall different migration and labour policies. Furthermore, posted work should be better organised. The fieldwork research showed that despite an official declaration (LIMOSA) and having all necessary (residence and work) permits, posted workers can still end up in situations of severe labour exploitation and human trafficking. In general, the workers considered it difficult and complicated to structurally change the system.

*"The only possibility is for people who work, to do at least one regularisation. [...] This could allow the problem to be solved. The second thing is to raise awareness. Especially amongst the people without residence documents. Even if they know their rights, there is more fear. One should not be afraid to file a complaint." - "La seule possibilité c'est pour les gens qui travaillent, de faire au moins une régularisation. [...] Ça pourrait permettre de solutioner le problème. La deuxième chose, c'est sensibiliser les gens. Surtout les sans-papiers. Même s'ils savent leur droits, il y a plus de peur. Il ne faut pas avoir peur pour porter plainte."* (Belgium, male interviewee from Western Africa, Administration, migrant in an irregular situation at the time of exploitation).

*"In Morocco, I have my freedom, my rights. I am not a prisoner there, as I am here without residence documents. Even if here, even the animals have a national number, medical security, the right to travel, etc." - "En Maroque, j'ai ma liberté, mes droits. Je ne suis pas un prisonnier là-bas, comme je suis ici sans documents. Même si, ici, même les animaux ont des*

*papiers, un numéro national, un sécurité medical, le droit de voyager, etc.” (Belgium, male interviewee from Morocco, construction, migrant in an irregular situation at the time of exploitation).*

*“The best solution to protect people is to let them work regularly with residence papers and a contract.” - “La meilleure solution pour protéger les gens, c’est de leur laisser travailler régulièrement avec des papiers et un contrat.” (Belgium, male interviewee from Morocco, construction, migrant in an irregular situation at the time of exploitation).*

*“To be safe, even without papers, you need a work permit. This would allow people, undocumented migrants, to make a living. If I would have a work permit, people would hire me, and you would be obliged to make a contract. And when you have to sign a contract, people will not treat you like they are treating people without papers now.” - “Pour être en sécurité, même si tu es sans papier, tu as permis de travail. Ça va permettre les gens, les sans-papiers, de gagner leur vie. Maintenant si j’ai permis de travail, et on va m’embaucher, tu es obligé de faire contrat. Maintenant si tous les sans-papiers ont permis de travail...mais bon, maintenant, on est obligé de signer contrat. Et avec contrat que tu dois signer, on ne va pas te traiter comme on traite maintenant les sans-papiers.”*

*“Why did we invent law, and rights? To manage things well. So, the people who are here, we should also manage them well.” - “Pourquoi on a invité la loi, et les droits? Pour bien gérer les choses. Alors, les gens qui sont ici, il faut ici bien les gérer.” (Belgium, male interviewee from Northern Africa, food services, migrant in an irregular situation at the time of exploitation).*

*“It is necessary to return to the source why people come to Europe. Namely, to work. It is because of their country [of origin], where Europe also supports dictatorships. In Morocco, the geography is very good. But there is no development, they do not exploit resources.” “So, what do we have to do to help people if regularisation is not possible? We must invent laws to be able to recruit undocumented people. Instead of capturing them and send them back. They will always come back.” - “Il est nécessaire de retourner a la source pourquoi les gens viennent en Europe. C’est pour travailler. C’est à cause de leur pays, où l’Europe aussi soutient les dictatures. Au Maroc, la géographie est très bonne. Mais il n’y a pas de développement, ils n’exploitent pas les ressources.” “Il faut faire quoi alors pour aider les gens si régularisation n’est pas possible? Il faut inventer des lois pour pouvoir recruter des gens sans-papiers. Au lieu de les capturer et renvoyer. Ils viendront toujours.” (Belgium, male interviewee from Northern Africa, food services, migrant in an irregular situation at the time of exploitation).*

## 8. Conclusion and any other observations

Throughout this study, we described situations of severe labour exploitation faced by foreign workers in Belgium. The participants in this research reported on harsh and often also extreme working conditions, as well as on situations of exploitation, abuse and manipulation. The testimonies of the participants, as described in this study, showed in detail how the workers were ill-treated, and how their rights were severely violated.

Labour exploitation is a complex phenomenon that cannot be reduced into a simple explanation as to why it occurs, how it originates and how it continues to exist. The research focused on the individual and subjective experiences of foreign workers who have been in situations of labour exploitation. In order to understand how workers get stuck in a web spun by dishonest employers, who are often part of a broader chain of exploitation, it is key to understand that people need *money to survive*. They need to cover their own basic needs (food, housing, ...), and often also need to fulfil their family responsibilities. Economic necessity does not leave people a choice: a very bad job is still better than no job at all. Not working is not an option. This line of reasoning applies to workers in an irregular situation as well as to other foreign workers.

Overall, people in an irregular working (and migration) situation consider exploitation as a 'given'. For them, working without having the correct legal documents (a residence permit and a work permit) equals being exploited; there is no escape from it. In the perception of the participants, there might be 'very bad' jobs and 'less bad' jobs; no 'good' options are available. When one is in an irregular situation, one knows for a fact that one will be exploited. This striking finding indicates that labour exploitation is *widespread* rather than exceptional. Moreover, irregular workers appear to be a wanted type of employee, because they can be exploited. People risk falling from one situation of exploitation into the next. Along the same line, the fieldwork revealed that exploitation is not limited to a specific sector. Though certain sectors (such as the construction, cleaning and care sector) seem 'overrepresented' in the accounts on labour exploitation included in the research at hand, exploitation can occur in any sector. Moreover, severe labour exploitation is not limited to 'hidden areas', but happens in jobs where workers are very visible too, including in the public space. In many occasions, this is made possible through a chain of subcontractors and intermediaries.

This study showed how the *vulnerability* of foreign workers, especially those in an irregular situation, gives employers a lot of power, with relationships varying from strong dependency to full control. Apart from the economic necessity, other factors - including being 'foreign', lack of information and limited language skills - adds to the exposure of workers to labour exploitation. Furthermore, fear constitutes a crucial element in understanding how employers manage to exert control and manipulate workers, especially undocumented workers. Workers are afraid of losing their job (thereby creating a large dependency on the employer), and/or of being deported. Workers are only rarely informed about labour rights, and even if they are aware, fear mostly surpasses their realisation of such rights (e.g. not filing a complaint out of fear for social inspection). The research shows that support organisations and trade unions play a crucial role in awareness raising about and guaranteeing access to workers' rights. However, the pathway to those organisations is not self-evident. It is especially in extreme cases (e.g. labour accidents, severe health issues, human trafficking, deportation risk) that workers find their way to victim support organisations.

Employers are aware that workers, particularly those in an irregular situation, have few better employment opportunities and that they need money, and they take advantage of this situation. Employers use the irregular status of a person to their own advantage, which increases the likelihood of *abuse and manipulation*. Apart from clear and visible forms of exploitation - including low pay, unpaid salaries, extreme working hours, and lack of safety protection - manipulation and humiliation are part and parcel of the experience of exploitation. These "subtle" or rather invisible forms of exploitation are often the most difficult ones to bear.

Various participants in the field research testified that they could accept the low pay and the overall precarious working conditions, as it was their own choice to commit to this kind of work over not having an income; they did not, however, want to lose their dignity by accepting humiliation and manipulation. This shows that foreign workers are also active participants who make choices on the limits of what they accept in order to earn money, even if the research shows that choice is relative in this context.

The workers' accounts in this study also highlight the close link between labour exploitation and *health costs*. First, in many cases, the labour is physically taxing (e.g. heavy work, long hours, lack of sleep, ...). This not only is difficult during the work experience, but it also leaves mental and/or physical traces after workers have left the situation of labour exploitation. Second, there is the risk of labour accidents, which is increased by the harsh working conditions and lack of safety measures. Informal working becomes a big issue when a worker has an accident. Especially then, it becomes clear whether workers' rights are respected are not. Labour exploitation thus not only affects workers during the experience, but it can have severe consequences in the long run. In addition to the health situation, labour exploitation often goes hand in hand with *precarious housing and overall living situations*, including an urgent need for food and basic assistance. Currently, basic assistance needs are not sufficiently met.

Vulnerability and injustice is not limited to the work situation. From the workers' perspective, it is followed by *inequality and vulnerability in the judicial system* too. Participants in the fieldwork research reported on impunity of the employers, which is a frustration many workers share. Even if a complaint is filed – in most cases through a support organisation or a trade union – chances of a positive outcome are very small. Based on the accounts of the workers, the findings of this study indicate that legal proceedings are too long (in time) and not effective (in result). Legal cases can take years, and the outcome is usually negative. In many cases, it is difficult for victims of labour exploitation to win a case for many reasons; including lack of sufficient proof, the employer runs away by using different strategies (e.g. declare bankruptcy and start a different firm); or complex legislations and different interests make it difficult to show objectively there was exploitation (e.g. cases of pseudo self-employment). Additionally, workers are often afraid to file a complaint. In the case of undocumented workers, fear of the police also plays a role: fear of deportation impedes reporting to the police, thereby leaving more room for employers to continue exploitation and to escape punishment. However, more generally, the police only play a very small part in this matter (they are not competent for labour law; in the best of cases they will transfer to the labour inspectorate or to a victim support organisation).

In order to identify the way forward, the researchers formulate four *policy recommendations* based on this study's findings.

1. As long as workers do not have a residence and work permit, exploitation will persist, because employers will continue to take advantage of the economic needs of the workers, their lack of alternatives, and their fear of deportation. To stop exploitation, the workers' dependency on the employers needs to be changed. Therefore, the only way to guarantee better protection against labour exploitation, is to change the legal status of the workers. This entails *accessible and adequate regularisation* of workers who are currently in an irregular situation. This study demonstrates how many workers struggled with the complexity and the difficulty – or rather, the almost impossibility – to obtain residence documents in order to access rights, including during the regularisation period of 2009. Moreover, the only effective, preventive and sustainable way to counter labour exploitation, is to provide *legal labour migration channels*, recognising the economic needs of the country, and the fact that migration is not to be stopped but rather to be managed in the best possible way.

2. Action is needed to *stop the current impunity of the employers*. Part of the approach should consist in augmenting the risk for employers to get caught and having to face the consequences. In this regard, it is fundamental to have control and inspection focussing on labour rights, including the rights of informal workers. Work inspection should not carry a risk of deportation for the worker; they need to be able to report situations of exploitation, without having to fear being 'discovered' and expelled. The researchers refer to the idea of a 'firewall', which implies a clear separation (in law and in practice) between filing a complaint on the one hand, and proceedings related to migration on the other hand.<sup>56</sup> Stopping the impunity of employers also implies that sufficient resources are available to investigate complaints, and that workers are offered sufficient protection.
3. *Victim support organisations need more support*. This research has shown that there is a lot of work to do in terms of improving workers' protection and guaranteeing that rights are respected. The situations described by the workers participating in the fieldwork research were truly astonishing, while at the same time also widespread. Such reality is simply unacceptable. As victim support organisations play a quintessential role in protecting workers' rights in terms of prevention and of seeking justice, they should be given much more support. Moreover, these organisations step in when official authorities remain 'out of limit' for the workers, due to fear.
4. Investment in *sensitisation amongst employers, employees and society in general* is necessary. Foreign workers, especially in irregular status, need to be better informed about their labour rights. Also, some participants testified how their colleagues were treated differently, based on nationality (being Belgian, being foreign with differences according to nationality) and legal status (formal and informal workers). Whereas informal workers tend to be perceived as a threat to formal workers' jobs, the latter could play a role in improving working conditions of informal workers. On a more general level, while exploitation is widespread and the Belgian economy even relies on it (some work places or sectors only function on the basis of exploitation of workers without residence permits), it remains invisible to most Belgian citizens. Furthermore, the victims of labour exploitation are often blamed for the exploitation. Therefore, we consider it crucial to increase awareness among Belgian citizens about the labour exploitation occurring in Belgium. In addition to the sensitisation of employees and society, employers must be better informed and involved. Furthermore, the government should introduce structural changes to promote and achieve real change.

Labour exploitation affects people in the most vulnerable position in our society, and most of them lack the platform to fight for their rights and denounce their situation. Nevertheless, every worker has inalienable rights, regardless of their residency and working status, that need to be respected and protected

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<sup>56</sup> As advocated by Picum (2017), this 'firewall' should also apply in routine labour inspections. European Commission Against Racism and Intolerance (2016). [General policy recommendation No. 16 on safeguarding irregularly present migrants from discrimination](#), CRI(2016)16. PICUM (2017). *Undocumented migrant workers: guidelines for developing an effective complaints mechanism in cases of labour exploitation or abuse*. Brussels: Picum.

## ANNEX – desk research

1 LEGISLATION and POLICY				
<p><b>For each question, please place an “X” in the relevant box (“Yes” or “No”) and, under “Supporting information”, provide the following information:</b></p> <ul style="list-style-type: none"> <li>• Name the relevant law;</li> <li>• Provide a brief English translation of the most relevant parts of the relevant provision/definition or give a brief explanation of the contents;</li> <li>• In the reference, please include a link to the electronic version of the text in original language – and if available, to any official or unofficial English translations.</li> </ul>				
		Yes	No	Supporting information
1.1	<p>Based on a review of the information provided in Annex III published by FRA in 2015 – “<i>Criminal law provisions relating to labour exploitation</i>”<sup>57</sup> – have there been any changes to or new legislation in the area of criminal law relating to labour exploitation?</p> <p><b>If yes</b>, please provide information under “Supporting information” (i.e. which law; explanation of relevant provision and reference).</p> <p><b>If no</b>, is there any draft legislation underway?</p>		X	<p>In Belgium, forced labour is punished in the context of human trafficking. Some forms of labour exploitation may be punished as violations of (criminal) labour law. Anyone – Belgian nationals as well as foreigners – can be the victim of human trafficking.<sup>58</sup> The establishment of exploitation suffices to qualify a situation as exploitative. Belgian criminal law thus stipulates that the victim’s consent to (economic) exploitation is irrelevant.<sup>59</sup></p> <p>The relevant Criminal Code provisions related to human trafficking for labour exploitation (Articles 433<i>quinquies</i> and 136<i>ter</i>) were most recently amended in 2013 to transpose the Employers’ Sanctions Directive. The amendments were undertaken through the Law of 29 April 2013 to amend Article 433<i>quinquies</i> of the Criminal Code to clarify and expand the definition of human trafficking,<sup>60</sup> and the Law of 24 June 2013 regarding the punishment of the exploitation of vagrancy and of prostitution, human trafficking and human smuggling as a function of the number of victims.<sup>61</sup></p>

<sup>57</sup> Annex III available at: <http://fra.europa.eu/en/publication/2015/severe-labour-exploitation-workers-moving-within-or-european-union>.

<sup>58</sup> Belgian Criminal Policy Service (*Dienst voor het Strafrechtelijk Beleid / Service de la Politique Criminelle*) (2014), *The fight against trafficking and smuggling of human beings – Policy and approach*, DSB-SPC, p. 4.

<sup>59</sup> Article 433*quinquies* Criminal Code.

<sup>60</sup> Law to amend Art. 433*quinquies* of the Criminal Code to clarify and expand the definition of human trafficking (*Wet tot wijziging van artikel 433quinquies van het Strafwetboek met het oog op het verduidelijken en het uitbreiden van de definitie van mensenhandel / Loi visant à modifier l’article 433quinquies du Code penal en vue de clarifier et d’étendre la définition de la traite des êtres humains*), 29 April 2013.

<sup>61</sup> Law on the punishment of the exploitation of vagrancy and of prostitution, human trafficking and human smuggling as a function of the number of victims (*Wet houdende bestraffing van de exploitatie van bedelarij en van prostitutie, mensenhandel en mensensmokkel in verhouding tot het aantal slachtoffers / Loi portant repression*

				No draft legislation has been identified that could affect the provisions related to forced labour or labour exploitation.
1.2	<p>Are legal provisions or measures in place to ensure that employers convicted of criminal forms of labour exploitation will be excluded from entitlements to public benefits, aids or subsidies, including EU funding managed by Member States?</p> <p><b>If yes</b>, for what time period is such exclusion provided?</p>		X	<p>If the <b>legal entity</b> is convicted, the sanctions include:</p> <ul style="list-style-type: none"> <li>• dissolution of the legal entity;</li> <li>• prohibition on carrying on an activity falling within the scope of the company's business, except for activities that are part of a public service mission; or</li> <li>• closure of one or more establishments, except for establishments where activities are carried out which are part of a public service mission (Article 7bis of the Criminal Code).</li> </ul> <p>In those cases, the legal entity would be effectively prevented from entitlement to public benefits, aids or subsidies.</p> <p>In cases where the employer is convicted as <b>individual</b>, the judge can order for two or more years:</p> <ul style="list-style-type: none"> <li>• prohibition (for a term of one to three years) on exploiting, either by themselves or by an intermediary, certain types of businesses such as an establishment providing beverages, employment agency, entertainment company, rental or sale agency for visual media, hotel, furnished rental agency, travel agency, etc.</li> <li>• temporary or permanent, partial or total, closure of the undertaking in which the crimes were committed (Article 433<sup>novies</sup> of the Criminal Code).</li> </ul>
1.3	<p>Do public procurement procedures ensure that employers convicted of a criminal offence are later excluded from participation in public contracts (work, supply or service contract)?</p> <p><b>If yes</b> – for which crimes? Are criminal forms of labour exploitation among the relevant offences?</p>	X		Article 67 of the Act on public procurement from 17 June 2016 lists the exclusion criteria in respect of applying for public procurement contracts for a period of five years, including having been convicted of human trafficking (including forced labour) or employing irregular immigrants.

	<p><b>If yes</b>, on which legal basis, and briefly explain to what extent (e.g. how often was this done since 2014?). Can such employers also be excluded from acting as a subcontractor in the implementation of a public contract?</p>		<p>In addition, Article 7 provides that economic operators shall respect and ensure compliance by all persons acting as their subcontractors and by any person undertaking any aspect of the contract, with all of the applicable social and labour law established by EU law, national law, collective agreements or by international environmental, social and labour law. Breaches of such obligations shall give be considered breach of the procurement contract, and shall attract the associated measures.</p> <p>There is currently no general database that includes information on the number of times that employers (persons/companies) convicted for human trafficking, have been excluded from public contracts. The Central Databank of Businesses Registered in Belgium (<i>Banque-Carrefour des Entreprises/Kruispuntbank van Ondernemingen</i>) includes information on whether a business prohibition applies to a given company, but not on the motivation of that decision, In practice, it will be the contracting authority that asks potential candidates whether they have been convicted based on article 67 of the Act on public procurement. Discussions are ongoing regarding the establishment of a “criminal record for companies”.<sup>62</sup> Therefore, it is impossible to say how often this article has been used to exclude employers convicted of a criminal offense from participation in public contracts.</p>
1.4	<p>Are legal provisions or measures in place obliging or enabling Member States’ authorities to 1) close an establishment that has been used to commit a criminal offence, <u>and/or</u> 2) to withdraw a licence to conduct a business activity?</p> <p><b>If yes</b> – for which crimes? Are criminal forms of labour exploitation among the relevant offences?</p> <p><b>If yes</b>, how often was this provision used since 2014?</p>	X	<p>Such provisions are in place for the <b>crime of human trafficking</b>, which also covers labour exploitation (Article 433quinquies of the Criminal Code).</p> <p>If the <b>legal entity</b> is convicted, the sanctions include:</p> <ul style="list-style-type: none"> <li>• dissolution of the legal entity;</li> <li>• prohibition on carrying on an activity falling within the scope of the company's business, except for activities that are part of a public service mission; or</li> </ul>

<sup>62</sup> FPS Justice (2017), Information obtained via email on 12 October 2017.

			<ul style="list-style-type: none"> <li>• closure of one or more establishments, except for establishments where activities are carried out which are part of a public service mission (Article 7bis of the Criminal Code).</li> </ul> <p>In cases where the <b>employer</b> is convicted as an individual, the judge can order, for two or more years:</p> <ul style="list-style-type: none"> <li>• temporary or permanent, partial or total, closure of the undertaking in which the crimes were committed (Article 433<sup>novies</sup> of the Criminal Code).</li> <li>• prohibition, for a term of one to three years, on exploiting, either by themselves or by intermediaries, certain types of businesses such as an establishment providing beverages, employment agency, entertainment company, rental or sale agency for visual media, hotel, furnished rental agency, travel agency, etc.</li> </ul> <p>Myria's 2016 Annual Report on human trafficking provides more information on the 93 punishments imposed in respect of human trafficking offences in 2015 (these numbers covers more cases than solely labour exploitation): 88 persons received a prison sentence, 52 received a suspended prison sentence 79 were fined, 32 received a suspended fine there were 50 forfeitures, 52 deprivations of rights, three business prohibitions, and one alternative sanction (hard labour; <i>werkstraf</i>).<sup>63</sup></p> <p>The conviction database includes information on whether or not a business prohibition applies. However, considering that the information in the database is anonymised, it is impossible to connect a business prohibition to the company it applies to.<sup>64</sup> Therefore, it is impossible to say how often article 433quinquies of the</p>
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<sup>63</sup> Myria (2016), [Jaarrapport mensenhandel and mensensmokkel 2016: Bedelaars in de handen van mensensmokkelaars / Rapport annual traite et trafic des êtres humains 2016: Des mendicants aux mains de trafiquants](#), Myria, p. 186.

<sup>64</sup> FPS Justice (2017), Information obtained via email on 12 October 2017.

				Criminal Code has been applied since 2014 to close an establishment used to commit a criminal offense and/or to withdraw a license to conduct a business activity.
2	<b>LABOUR EXPLOITATION AND THE INSTITUTIONAL SETTING</b>			
	<p><b>For each question and each body mentioned under “Supporting information”, please provide the following information:</b></p> <ul style="list-style-type: none"> <li>• Name the body/organisation; indicate whether it operates at national or federal level and the year it began operating; and whether it is restricted to monitoring a particular economic sector or sectors;</li> <li>• Give a brief summary of the legal obligations and mandate of the body;</li> <li>• Indicate the regulatory basis for its work/mandate (legislation, internal regulation, etc.);</li> <li>• Provide a brief (1-3 sentences) description of its mandate and tasks.</li> </ul>			
		<b>Supporting information</b>		
2.1	<p>a) Which authority (or authorities) is tasked by law with monitoring the rights of workers – for example through carrying out inspections?</p> <p>b) For each authority mentioned, is a distinction made between monitoring the rights of:</p> <ol style="list-style-type: none"> <li>1) nationals and EU nationals, and</li> <li>2) Third-Country Nationals?</li> </ol> <p>i.e. Are any specific or different regimes or rules in place?</p> <p>Please name all bodies in cases where multiple bodies are involved – for example, labour inspectorates; specialised police units; trade unions or border guards.</p>	<p>In 1995, an <b>Interdepartmental Coordination Platform for the Fight against Trafficking and Smuggling in human beings</b> (ICP) was established. The ICP is composed of all federal actors – both policy and operational – active in the fight against human trafficking and human smuggling.<sup>65</sup> The ICP is chaired by the Minister of Justice, and Myria acts as its secretariat. The ICP meets two or three times a year. The Bureau of the ICP ffcieis composed of the most important actors<sup>66</sup> and meets monthly to oversee the daily operation of the ICP and to prepare or implement decisions, recommendations and initiatives.</p> <p>The <b>labour inspectorates</b> are responsible for monitoring and carrying out inspections related to the application of labour laws and well-being at work. There are five labour inspectorates in Belgium: one at federal level and four at regional level, covering the Flemish Region (<i>Inspectie Werk &amp; Sociale Economie van het Vlaamse Gewest; IWSE</i>), the Walloon Region, the Brussels-Capital Region and the German Community.</p>		

<sup>65</sup> It concerns representatives of the Prime Minister, the Minister of Justice, the Minister of Internal Affairs, Minister of Employment, Minister of Social Security etc. and their administrations, as well as the Board of Prosecutors General (which has an expertise network on human trafficking and human smuggling), the Federal Public Prosecutor’s Office and Child Focus [the European Centre for Missing and Sexually Exploited Children]. Since 1 September 2014, specialised reception centres and the Financial Intelligence Processing Unit are also included in the ICP. The ICP includes a representative of the Regions and of the Communities. Royal Decree of 21 July 2014 amending Royal Decree of 16 May 2014 concerning the fight against the smuggling and trafficking of human beings (*Koninklijk Besluit van tot wijziging van het Koninlijk Besluit van 16 mei 2014 betreffende de bestrijding van mensensmokkel en mensenhandel / Arrêté royal modifiant l’arrêté royal du 16 May 2004 relatif à la lutte contre le trafic et la traite des êtres humains*), Publication in the Official Journal on 1 September 2014.

<sup>66</sup> The chairmanship of the Bureau is held by the Criminal Policy Service, Myria (secretariat), representatives of the Immigration Office, the Federal Police Central Unit for Human Trafficking, State Security, the Social Inspection Department of the FPS Social Security, the Monitoring of Social Legislation Department of the FPS Employment, Labour and Social Dialogue and of the FPS Foreign Affairs, and the Board of General Prosecutors (observer).

	<p>At the <b>federal</b> level, the <b>Social Inspection Service</b> of the Federal Public Service (FPS) Social Security and the <b>Directorate-General Monitoring of Social Legislation</b> of FPS Employment actively contribute to the fight against human trafficking.<sup>67</sup> Not only do these services participate in the coordination meetings provided for by Col 01/2015,<sup>68</sup> they also carry out targeted controls to verify compliance with social legislation (e.g. checking social papers, labour conditions, employment of foreign workers, pay) to detect human trafficking cases.<sup>69</sup></p> <p>These controls mainly focus on so-called “(high) risk” sectors, such as the building sector, clothing factories, and agriculture. Additionally, FPS Social Security’s Social Inspection Service checks that employers have duly registered their workers and that they have workplace insurance to cover work-related accidents. Absence of one or of both actions could be an indication of a case of human trafficking. The same is true of workers’ status (i.e. false self-employed status can point to human trafficking).</p> <p>Each legal district unit has one social inspection unit under the remit of the Labour Auditor. However, controls can also take place outside of this framework. Local and federal policy services generally assist the social inspection services.</p> <p>The Department for Supervision and Enforcement of the <b>Flemish Department of Work and Social Economy</b> (<i>Afdeling Toezicht en Handhaving van het Departement Werk en Sociale Economie</i>) also conducts inspections in the Flemish Region.<sup>70</sup> Its work encompasses common inspections and notifications, complaints, preventative action, in-depth investigations and entrepreneurial inspections. Different type of inspectorates are thus relevant for this study. For instance, while some focus on the well-being of workers, others focus on the payment of workers. Some focus on EU nationals, others on all workers (such as the system of cleaning services agencies through which both Belgian and foreign workers can be employed).</p> <p>As indicated in the Circular of 23 December 2016 on the establishment of multidisciplinary cooperation with regard to victims of trafficking in human being and/or</p>
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<sup>67</sup> Article 81 of the Law concerning access to the territory, stay, residence and removal of foreigners ([Wet betreffende de toegang tot het grondgebied, het verblijf, de vestiging en de verwijdering van vreemdelingen / Loi sur l'accès au territoire, le séjour, l'établissement et l'éloignement des étrangers](#)).

<sup>68</sup> Ministerial Directive – Col 01/2015 – concerning Investigative and Prosecutorial Procedures on Trafficking in Human Beings (entered into force on 15 May 2015).

<sup>69</sup> Belgian Criminal Policy Service (*Dienst voor het Strafrechtelijk beleid / Service de la Politique Criminelle*) (2014), [The fight against trafficking and smuggling of human beings – Policy and approach](#), DSB-SPC, p. 13.

<sup>70</sup> Flemish Government (2017), [Jaarverslag Toezicht en Handhaving Departement Werk & Sociale Economie](#), Flemish Government, p. 30.

		<p>certain more serious forms of trafficking in human beings, <b>anyone can be the victim of human trafficking</b>, irrespective of gender (male or female), age (adults or minors), or nationality (Belgians, EU citizens and Third-Country Nationals). The presence or absence of a residence permit is also irrelevant.<sup>71</sup></p>
2.2	<p>How and to what extent is such a legal obligation (to monitor the rights of workers) implemented in practice? (e.g. statistics available on number of inspections?).</p>	<p>The Circular of 23 December 2016 on the establishment of multidisciplinary cooperation with regard to victims of trafficking in human being and/or certain more serious forms of trafficking in human beings, established <b>multidisciplinary cooperation</b> between the <b>different partners</b> involved in order to apply the victim protection scheme for victims of human trafficking or more serious forms of human smuggling.<sup>72</sup> The partners in question are: the police, social inspectorates, Immigration Office, prosecutors of the Prosecutor's Office, and the recognised centres specialised in the reception and guidance of victims of human trafficking and certain more serious forms of human smuggling (see Section 3). The Circular sets out the procedures for the identification, referral, reception and assistance of potential victims of human trafficking.</p> <p>In 2001, a protocol was put in place for cooperation between the <b>Social Inspection Service</b> of the Federal Public Service (FPS) Social Security and the <b>Directorate-General Monitoring of Social Legislation</b> of the FPS Employment in respect of the fight against human trafficking.<sup>73</sup> Two national coordinators (one for each service) supervise the correct execution of planned actions in risk-prone sectors. The coordinators are responsible for preparation of actions, contact with the local and federal police, and ensuring safe collection and assistance during actions, briefing, execution,</p>

<sup>71</sup> Circular on the establishment of multidisciplinary cooperation with regard to victims of trafficking in human being and/or certain more serious forms of trafficking in human beings (*Omzendbrief inzake de invoering van een multidisciplinaire samenwerking met betrekking tot de slachtoffers van mensenhandel en/of van bepaalde zwaardere vormen van mensenhandel / Circulaire relative à la mise en oeuvre d'une coopération multidisciplinaire concernant les victimes de la traite des êtres humains et/ou certaines formes aggravées de trafic des êtres humains*), 23 December 2016.

<sup>72</sup> *Ibid.*

<sup>73</sup> FPS Employment Directorate-General Monitoring of Social Legislation (2014), [Activiteitenverslag 2014 / Rapport d'Activité](#), FPS Employment, p. 80.

	<p>debriefing and reporting on actions taken against human trafficking. At local level (by region and district), consultation takes place between both coordinators and the Labour Advisor, the magistrate of the Prosecution Counsel and/or police forces. The persons responsible for the two inspection services at local level jointly decide which undertakings and which sectors must be inspected; they complete summary charts and liaise with the national coordinators. When the social inspectors encounter cases of human trafficking, they cooperate with the federal police in the different sectors. The files are dealt with in consultation with the Labour Advisor, the Prosecution Counsel and the investigating judge. The <b>federal police</b> can take the necessary measures to guide the victims. Each of the <b>inspection services</b> participates within the framework of its competences. For instance, the Directorate-General Monitoring of Social Legislation reports in the case of non-reporting to Dimona, when irregular employees are employed and so on. It also intervenes regarding the payment of the wages of irregular employees.</p> <p>The 2016 Annual Report of the Directorate-General <b>Social Inspection</b> of the FPS Social Security does not include statistics on the number of inspections targeting human trafficking and labour exploitation that were conducted in 2016.<sup>74</sup> The same is true for the activity report of the <b>Directorate-General Monitoring of Social Legislation</b> of FPS Employment, which includes information on the number and type of infringements uncovered, but not on the number of inspections carried out.<sup>75</sup></p> <p>The 2016 Annual Report of the Department for Supervision and Enforcement of the <b>Flemish Department of Work and Social Economy</b> (<i>Afdeling Toezicht en Handhaving van het Departement Werk en Sociale Economie</i>) reports on the number of inspections performed in the last four years: 2,146 in 2013; 2,438 in 2014; 2,815 in 2015; and 2,219 in 2016.<sup>76</sup> In 2016, 572 protocols (<i>processen-verbaal</i>) were drawn up. These included: 189 warnings, 70 warnings with timeframes, 185 Pro Justitia and 128 protocols of information. In 2016, 325 inspection files for cleaning services agencies (<i>dienstencheques</i>) were closed; in 129 of those cases, infringements were established. The same year, 960 migration files (employment of foreign employees; migration became a regional competence following the sixth state</p>
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<sup>74</sup> FPS Social Security (2017), [Jaarverslag Directie-Generaal Sociale inspectie 2016](#), FPS Social Security.

<sup>75</sup> FPS Employment Directorate-General Monitoring of Social Legislation (2014), [Activiteitenverslag 2014 / Rapport d'Activité](#), FPS Employment, p. 153.

<sup>76</sup> Flemish Government (2017), [Jaarverslag Toezicht en Handhaving Departement Werk & Sociale Economie](#), Flemish Government.

		<p>reform<sup>77</sup>) were dealt with: 538 spontaneous and follow-up inspections, 143 at the request of the Department Economic Migration; 238 actions in the framework of the functioning of the District Unit; 26 in requested inspections; and 15 complaints and notifications. The Annual Report provides information on the most frequently used legal grounds for infringements established in the protocols; however, Article 433quinquies is not included among the grounds cited.<sup>78</sup> During the 238 actions executed in the framework of the functioning of the District Unit, 1,744 employers were inspected and 5,827 employees, in a wide range of sectors (including the food service industry, construction, agriculture and horticulture, carwash, cleaning).</p> <p>No similar data are available for the Walloon Region or the Brussels-Capital Region.</p>
2.3	<p>Name any other authorities in a position to learn (or that typically learn) about the situation of workers and their rights? (e.g. in Austria the financial police are the ones who know most about exploitation, even though they have no legal mandate to deal with the rights of workers).</p>	<p>As mentioned (cf. Q2.1), the <b>regional social inspection services</b> are not competent to deal with human trafficking. Sometimes, however, they act as intermediaries in these situations.<sup>79</sup></p> <p>The <b>federal criminal police</b> have a <b>Central Unit for Human Trafficking</b>, which conducts strategic and operational analysis relating to the nature, seriousness, extent and evaluation of the phenomenon, as well as overseeing the sectors at risk.<sup>80</sup> This service cooperates with the local police, the judicial police and the administrative police.<sup>81</sup> It provides varying types of support to local and federal police, such as field assistance, collecting and sharing good practice, giving advice, investigating possible connections between Belgian and international cases, and facilitating the development of partnerships with foreign police services. This Unit acts as the central police contact point for all stakeholders (within and outside the police) and draws up action plans on human trafficking and smuggling.</p> <p><b>All police</b> may encounter cases of labour exploitation in their line of work. In Myria's 2016 Annual Report on human trafficking and human smuggling, it reported a decrease in the numbers of cases of human trafficking</p>

<sup>77</sup> Special Law on the sixth state reform (*Bijzondere Wet met betrekking tot de Zesde Staatshervorming / Loi spéciale relative à la Sixième Réforme de l'Etat*), 6 Flemish Government (2017), *Jaarverslag Toezicht en Handhaving Departement Werk & Sociale Economie*, Flemish Government, p. 61.

<sup>78</sup> Flemish Government (2017), *Jaarverslag Toezicht en Handhaving Departement Werk & Sociale Economie*, Flemish Government, p. 26.

<sup>79</sup> Belgian Criminal Policy Service (*Dienst voor het Strafrechtelijk Beleid / Service de la Politique Criminelle*) (2014), *The fight against trafficking and smuggling of human beings – Policy and approach*, DSB-SPC, p. 9.

<sup>80</sup> Ministerial Directive on the investigation and prosecution policy on trafficking in human beings (*Ministeriële Richtlijn inzake het opsporings- en vervolgingsbeleid betreffende mensenhandel / Directive ministérielle relative à la politique de recherches et poursuites en matière de traite des êtres humains (French version not found online)*), 14 December 2006, p. 5.

<sup>81</sup> Article 44 Law of the Office of the Police (*Wet op het Politieambt / Loi sur la fonction de police*), 5 August 1992.

		<p>for labour exploitation purposes uncovering by the police. This reinforces the notion of a shift towards interventions in labour exploitation by the social inspection services.<sup>82</sup></p> <p><b>Medical staff</b> in Belgian <b>hospitals</b> may also encounter potential victims of human trafficking in their line of work.<sup>83</sup> The Bureau of the ICP, together with FPS Public Health therefore compiled a brochure in 2012 to raise awareness among medical staff and to inform them on means by which they could help victims.<sup>84</sup> One of the recommendations is to refer victims to specialised reception centres (see Section 3: Pag-asa, Payoke and Sūrya) to receive psychological, administration and legal support.</p> <p>The <b>FPS Foreign Affairs and Development Cooperation</b> provides training to its <b>staff</b> to enable them to identify possible cases of human trafficking in visa application procedures.<sup>85</sup> To this end, Belgian diplomatic and consular missions are given information on human trafficking methods.</p>
2.4	<p>Are authorities that carry out inspections or which learn about the situation of workers (referring here to organisations mentioned under both 2.1 and 2.3) legally obliged to report to the police in cases where there is a substantive suspicion of severe labour exploitation?</p> <p><b>If yes</b>, please provide some brief information about the obligation.</p>	<p>In its 2016 Annual Report, the Department for Supervision and Enforcement of the <b>Flemish Department of Work and Social Economy</b> (<i>Afdeling Toezicht en Handhaving van het Departement Werk en Sociale Economie</i>) explained that social inspectors have a certain amount of discretion (a margin of appreciation): when they uncover an infringement, they can chose to draft up a protocol (<i>process-verbaal</i>), give a warning, set out a timeframe within which the offender must remedy the situation, or give information and advice on how the provisions in the legislation can be met.<sup>86</sup> If observations are made on affairs for which the department is not competent, an information report is sent to the competent service.<sup>87</sup></p>
<b>3</b>	<b>VICTIM SUPPORT</b>	
	<p>Name the main organisation(s) tasked with providing assistance and support to potential victims of labour exploitation? Provide very brief information about the types of support</p>	<p><a href="#">OR.C.A</a> (non-profit organisation for undocumented workers; based in Brussels): information on rights of foreign workers, legal advice and support.</p>

<sup>82</sup> Myria (2016), [Jaarrapport mesnenhandel and mensensmokkel 2016: Bedelaars in de handen van mensensmokkelaars](#) / [Rapport annual traite et trafic des êtres humains 2016: Des mendicants aux mains de trafiquants](#), Myria, p. 168.

<sup>83</sup> Belgian Criminal Policy Service (*Dienst voor het Strafrechtelijk Beleid / Service de la Politique Criminelle*) (2014), [The fight against trafficking and smuggling of human beings – Policy and approach](#), DSB-SPC, p. 18.

<sup>84</sup> Interdepartmental Coordination Platform for the Fight against Trafficking and Smuggling in human beings (2012), [Mensenhandel... wat te doen? Advies voor ziekenhuispersoneel / Traite des êtres humains, que faire? Conseils pour les personnel hospitalier](#).

<sup>85</sup> Belgian Criminal Policy Service (*Dienst voor het Strafrechtelijk Beleid / Service de la Politique Criminelle*) (2014), [The fight against trafficking and smuggling of human beings – Policy and approach](#), DSB-SPC, p. 19.

<sup>86</sup> Flemish Government (2017), [Jaarverslag Toezicht en Handhaving Departement Werk & Sociale Economie](#), Flemish Government, p. 30.

<sup>87</sup> These could be: supervision of the social laws, social inspection, Immigration Office, local police, etc.

<p>they provide (e.g. legal advice; psychosocial support, etc.)</p> <p><i>These could be, for example, NGOs, trade unions or other representative bodies (e.g. representing workers and their rights).</i></p>	<p><a href="#">PAG-ASA</a> (non-profit organisation for victims of human trafficking; based in Brussels): provision of shelter and guidance; psychological and medical help; administrative and legal support; authorised to apply for residence documents and extensions of such documents directly to the Immigration Office; can start legal proceedings on behalf of victims of human trafficking. Pag-asa is one of the three recognised reception centre that provides shelter and assistance to victims of human trafficking in Belgium.<sup>88</sup> It covers the whole of Brussels and has a reception centre at a secret location.</p> <p><a href="#">Payoke</a> (non-profit organisation for victims of human trafficking; based in Antwerp): provision of shelter and guidance; psychological and medical help; administrative and legal support; authorised to apply for residence documents and extensions of such documents directly to the Immigration Office; can start legal proceedings on behalf of victims of human trafficking. Payoke is one of the three recognised reception centre that provides shelter and assistance to victims of human trafficking in Belgium.<sup>89</sup> It covers the whole of Flanders and has a reception centre at a secret location.</p> <p><a href="#">Sürya</a> (non-profit organisation for victims of human trafficking; based in Liège): provision of shelter and guidance; psychological and medical help; administrative and legal support; authorised to apply for residence documents and extensions of such documents directly to the Immigration Office; can start legal proceedings on behalf of victims of human trafficking. Sürya is one of the three recognised reception centre that provides shelter and assistance to victims of human trafficking in Belgium.<sup>90</sup> It covers the whole of Wallonia and has a reception centre at a secret location.</p> <p><a href="#">Point d'Appui</a> (local non-profit organisation for undocumented migrants; based in Liège): legal, administrative and social support.</p> <p><a href="#">Filet Divers</a> (local non-profit organisation for people in socially vulnerable situations, among whom are many undocumented migrants; based in Antwerp): social support, language training.</p>
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<sup>88</sup> Belgium, Royal Decree on the recognition of centres specialising in the reception and guidance of victims of trafficking in human beings and of certain more serious forms of trafficking in human beings and on the consent to go to court (*Koninklijk Besluit inzake de erkenning van de centra gespecialiseerd in de opvang en de begeleiding van slachtoffers van mensenhandel en van bepaalde zwaardere vormen van mensenhandel en inzake de erkenning om in rechte op te treden / Arrêté royal relatif à la reconnaissance des centres spécialisés dans l'accueil et l'accompagnement des victimes de traite et de certaines formes aggravées des êtres humains et à l'agrément pour ester en justice*), 18 April 2013.

<sup>89</sup> *Ibid.*

<sup>90</sup> *Ibid.*

		<p><a href="#">Meeting</a> (non-profit organisation that welcomes and supports people without legal residency; covers the Brussels-Capital Region): legal and social support.</p> <p><a href="#">Raiz Mirim</a> (non-profit organisation for Portuguese-speaking migrants; based in Brussels): administrative and language support, socio-educational programmes for children, language courses for adults and children.</p> <p><a href="#">De Tinten</a> (non-profit organisation for refugees, asylum seekers and people without legal residency; based in Ghent): social, medical, food, material, and financial support, legal and other advice.</p> <p><a href="#">Vluchtelingenwerk Vlaanderen</a> – Refugee Work Flanders (non-profit organisation for asylum seekers and refugees; based in Brussels): legal support, reception of asylum seekers.</p> <p><a href="#">Vluchtelingenondersteuning Sint-Niklaas, VLOS</a> – Refugee support Sint-Niklaas (support organisation for refugees and asylum seekers; based in Sint-Niklaas): administrative support in regularisation procedure, material support (emergency reception, food, clothing).</p> <p><a href="#">Myria</a> (Federal Migration Centre, focusing on all migrants, also fighting human trafficking and human smuggling; based in Brussels): legal advice.</p>		
<b>4</b>	<b>RISK MANAGEMENT</b>			
		<b>Yes</b>	<b>No</b>	<b>Supporting information</b>
	<p>Are there any official risk management systems in place to guide monitoring operations/inspections - with a view to detecting severe labour exploitation? (Article 14. of the Employers' Sanctions Directive (2009/52/EC)<sup>91</sup>.</p> <p><i>(e.g. in Belgium (see p.87 of FRA's 2015 report), specialised police units regularly investigate so-called non-risk and new sectors in an attempt to identify possible new risk factors for labour exploitation. They conduct their own research and publish reports showing current trends and advising on problem areas).</i></p>	X		<p><b>Specialised police units</b> regularly investigate so-called non-risk and new sectors to identify possible new risk factors for labour exploitation.<sup>92</sup> These units conduct their own research and publish reports demonstrating current trends and advising on problem areas.</p>

<sup>91</sup> [Directive 2009/52/EC of the European Parliament and the Council of 18 June 2009 providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals](#), OJ L 168/24, 30 June 2009; Article 14 on risk assessment does not mention detection of labour exploitation directly, but “identify[ing] the sectors of activity in which the employment of illegally staying third-country nationals is concentrated” (Article 14 (2)).

<sup>92</sup> FRA (2015), [Severe labour exploitation: workers moving within or into the European Union](#), FRA, p. 86.

	<p><b>If yes</b>, please describe any such systems in place, and include the following information:</p> <ul style="list-style-type: none"> <li>- List the bodies (for example, those described in Section 2) responsible and describe their various roles</li> <li>- Describe the sectors of the economy to which such risk assessments apply</li> <li>- How often is such an assessment carried out?</li> </ul>			<p>The specialised police units investigate and cooperate with other institutions, such as inspection bodies and Europol, on labour exploitation cases.<sup>93</sup></p> <p>They proactively conduct monthly inspections of high-risk sectors, which are led by the auditor or public prosecutor and with which other organisations (such as labour and social inspectorates, and victim support organisations) cooperate.</p>
<b>5</b>	<b>COURT CASES</b>			
		<b>Yes</b>	<b>No</b>	<b>Supporting information</b>
	<p>Since 2014, is there any case law clarifying the criminal law provisions on severe labour exploitation? (i.e. <i>court decisions which clarify basic concepts or categories constituting severe labour exploitation</i>)?</p> <p>If yes, please provide:</p> <ul style="list-style-type: none"> <li>- Decision date</li> <li>- Reference details (name court, case number, link to decision)</li> <li>- Key facts of the case</li> <li>- Main reasoning/argumentation</li> <li>- Key issues (concepts, interpretations) clarified by the case</li> <li>- Results/key consequences or implications of the case</li> <li>- Key quotation in original language and translated into English with reference details</li> </ul>	X		<p>Since 2014, there have been 55 judgments on cases involving severe labour exploitation in Belgium.<sup>94</sup> The five main ones in which the applicable criminal law provisions are clarified are summarised here.</p> <p><b><u>Case 1</u></b></p> <p><u>Date</u>: 27 February 2015</p> <p><u>Reference</u>: Criminal Court of Dendermonde, DE69.98.31150/13, <a href="http://www.myria.be/files/h15-02-27_c_Dendermonde.pdf">http://www.myria.be/files/h15-02-27_c_Dendermonde.pdf</a>.</p> <p><u>Key facts</u>: In 2011, the social inspection services found three Romanian workers during an inspection of a meat processing company. In addition to his own personnel, the Polish manager of the company also used two subcontractors to engage secondary personnel. It was discovered that 17 foreign workers were not lawfully detached from Romania, received very low wages, or were sometimes unpaid, etc. The unqualified employees had to work at least 45 hours per week, for which they were paid €100 per week (€2.22 per hour). The employees first had to pay a deposit, which they would lose if they quit.</p>

<sup>93</sup> *Ibid.*

<sup>94</sup> Some of these concern the same case, e.g. where the judgment of the lower court was appealed. Myria reports on case law on human trafficking on its website. See Myria, [Rechtspraak mensenhandel /Jurisprudence](#) (accessed on 1 September 2017).

			<p><u>Main reasoning:</u> The Criminal Court referred back to a previous decision of the Criminal Court of Ghent (d.d. 11 June 2008; T.G.R. 2009, 128-131), which stated that the employment of foreign employees without a work permit or a residence permit for a minimal and variable salary, without social protection, is equal to forced submission to control by another and should be labelled as human trafficking.</p> <p><u>Key issues:</u> The crime of human trafficking requires a special purpose (<i>bijzonder opzet</i>), namely the employment of the victim in circumstances that are contrary to human dignity.</p> <p><u>Results:</u> The Court convicted the defendant and his company for human trafficking and various infringements of social criminal law. The Polish manager of the company was convicted to a (conditional) four-month imprisonment and a fine of €5.500, of which €1.100 to be paid immediately. The company was also convicted to a fine of €11,000, of which €5.500 to be paid immediately. The judgment is final.</p> <p><u>Key quotation:</u> “Article 433quinquies of the Criminal Code requires a special purpose, in particular, the victim’s employment in circumstances contrary to human dignity [...]”</p> <p>Employing foreign employees for a minimum and variable compensation without there being an employment permit or residence permit and without any social protection, constitutes a forced submission to arbitrariness and can be qualified as human trafficking [...]”</p> <p><i>“Artikel 433quinquies Strafwetboek, vereist een bijzonder opzet met name de tewerkstelling van het slachtoffer in omstandigheden strijdig met de menselijke waardigheid [...].”</i></p> <p><i>Het zonder dat hiervoor een arbeids- of verblijfsvergunning voorligt tewerkstellen van buitenlandse werknemers tegen een minimale, variabele vergoeding zonder enige</i></p>
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			<p><i>sociale bescherming, houdt een gedwongen onderwerping in aan willekeur en is te kwalificeren als mensenhandel [...].”</i></p> <p><b><u>Case 2</u></b></p> <p><u>Date:</u> 13 January 2016</p> <p><u>Reference:</u> Court of Appeal of Mons, 2013/AG/16,  <a href="http://www.myria.be/files/h16-01-13_a_Mons.pdf">http://www.myria.be/files/h16-01-13_a_Mons.pdf</a></p> <p><u>Key facts:</u> Two Belgian nationals exploited a Brazilian couple employed at their horse-riding centre. The husband worked six days out of seven, 10 hours per day to feed and look after approximately 27 boxes and approximately 30 horses. Originally, he was paid €500 per month, which was later increased to €750 per month. The Court estimated his wage per hour to have been between €1.86 and €2.79. In order to complete his tasks within a reasonable timeframe, his spouse helped out without receiving any remuneration</p> <p><u>Main reasoning:</u> Criminalisation does not require the facts to take place within the framework of an employment contract and no relationship of subordination needs to be demonstrated in order to find evidence of a violation of human dignity. The defendants were well aware of the precarious situation of the employees, who were irregularly in the country and who had to provide for their family, meaning that they could not, in fact, quit the job.</p> <p><u>Key issues:</u> “o crimp” is to be interpreted as “to recruit”, which does not imply that the recruited person needs to be asked, nor does it exclude the request for work coming from the employed person himself/herself.</p> <p><u>Result:</u> The Court of Appeal of Mons confirmed the judgment of the Criminal Court of Charleroi (d.d. 26 April 2013) in which two Belgian nationals were convicted of human trafficking for the purpose of economic exploitation, and various infringements of social criminal</p>
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			<p>law. The Court of Appeal nullified the punishments and suspended the verdict for a period of five years from the date of the judgment.</p> <p><u>Key quotation:</u> “Article 433quinquies of the Criminal Code provides, inter alia:</p> <ul style="list-style-type: none"> <li>- A material act, the existence of only one of which is sufficient: to recruit, transport, transfer, harbour, welcome, pass or transfer the control exercised over a person;</li> <li>- A particular purpose of exploitation: in this case, putting a person to work in conditions contrary to human dignity, where said conditions are considered according to the criteria in force in the Kingdom and not in relation to those of the country of origin of the victim.</li> </ul> <p>In the absence of any definition or explanation in the preparatory work, the term “recruit” must be understood in the common sense of “engaging”.</p> <p>That concept does not imply that persons so engaged must be sought for that purpose, nor does it exclude (as in the present case) the application coming from the person engaged.”</p> <p><i>“L'article 433 quinquies du code pénal prévoit, entre autres :</i></p> <ul style="list-style-type: none"> <li>- <i>un acte matériel, dont l'existence d'un seul d'entre eux suffit: recruter, transporter, transférer, héberger, accueillir, passer ou transférer le contrôle exercé sur une personne ;</i></li> <li>- <i>une finalité particulière d'exploitation : en l'occurrence, il s'agit de mettre une personne au travail dans des conditions contraires à la dignité humaine, lesdites conditions contraires à la dignité humaine s'appréciant en fonction des critères en vigueur sur le territoire du Royaume et non au regard de ceux du pays d'origine de la personne victime de traite.</i></li> </ul> <p><i>À défaut de définition ou d'explication dans les travaux préparatoires, le</i></p>
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			<p><i>terme « recruter » doit être entendu dans son sens commun « d'engager ».</i></p> <p><i>Cette notion n'implique pas que la personne ainsi engagée doit être sollicitée à cette fin et n'exclut pas que, comme en l'espèce, la sollicitation vienne de la personne engagée."</i></p> <p><b><u>Case 3</u></b></p> <p><u>Date:</u> 21 April 2016</p> <p><u>Reference:</u> Criminal Court of Mons, 55.L2.13067/08,  <a href="http://www.myria.be/files/Paul_Smith/h16-04-21_c_Mons.pdf">http://www.myria.be/files/Paul_Smith/h16-04-21_c_Mons.pdf</a></p> <p><u>Key facts:</u> A Romanian worker filed a complaint with the police in respect of the working conditions in which he and five of his compatriots were employed and housed after they responded to an advertisement in a Bulgarian newspaper. They had been promised €7 per hour the first month and €8 per hour later on; they were also promised housing, for which they would need to pay €150 monthly. Travel expenses and the first month of rent would be deducted from their salary after the first full month of work. In practice, the workers had to work on construction sites during six days out of seven, eight to 12 hours per day, and they never received their salary. On paper, the workers had the status of working partner (they had to sign a document they did not understand) whereas in fact they only executed tasks under the supervision of one of the accused. Furthermore, the workers were housed in a building that was not suitable for renting (overcrowded and unsanitary) and rental charges were collected repeatedly.</p> <p><u>Main reasoning:</u> The Court considered the Romanian workers to have a clear employment agreement (and were thus not working partners of the company) and that this was a case of human trafficking: the proposed salary was much lower than the minimum wage in Belgium (€11.874 per hour in the first trimester of 2008 and €12.035 for the second trimester of 2008) and the high number of hours worked, together with the non-payment of the salary</p>
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			<p>amounted to circumstances contrary to human dignity.</p> <p><u>Key issues:</u> The Court pointed out that it made little difference that the Romanian workers had agreed to the proposed salary. In their opinion, taking into consideration the well-known poverty in Romania at the time of their decision, the proposed salary must have been considered .substantial.</p> <p><u>Result:</u> The court condemned the defendants for human trafficking and for acting as slum lords (<i>huisjesmelkerij</i>). The plaintiffs present in court were awarded €2,000 in damages for the count of human trafficking. The decision is final.</p> <p><u>Key quotation:</u> “The salary thus proposed, combined with the fact of the number of hours worked and the absence of payment of wages, constitute working conditions contrary to human dignity. It does not matter whether the Romanian workers agreed with this salary (the latter may appear more than satisfactory to them, given Romania’s notorious poverty at the time of the events.”</p> <p><i>“Le salaire ainsi propose, conjugué au fait du nombre d’heures prestées et à l’absence de paiement du salaire, constitue des conditions de travaux contraires à la dignité humaine. Il importe peu que les ouvriers roumains consentent à ce salaire (ce dernier pouvant apparaître plus que satisfaisant à leurs yeux, vu la pauvreté notoire de la Roumanie à l’époque des faits).”</i></p> <p><b><u>Case 4</u></b></p> <p><u>Date:</u> 16 February 2015</p> <p><u>Reference:</u> Criminal Court of Kortrijk, no case number, <a href="http://www.myria.be/files/Paul_Smith/h15-02-16_corr_Kortrijk.pdf">http://www.myria.be/files/Paul_Smith/h15-02-16_corr_Kortrijk.pdf</a></p> <p><u>Key facts:</u> During a social inspection of a mushroom plantation, conducted with the support of the police, 15 workers – most of whom were Bulgarian and among whom was one minor – were found picking mushrooms. They all had</p>
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			<p>a precarious residency status and all declared themselves to be doing an in-service test. They made little money and often did not know how much they would receive. At the time of the inspection, they had not received any payment for some time. They lived in houses owned by the chief defendant and the rent was deducted from their wages. Additional inspections and house searches brought similar facts to light.</p> <p><u>Main reasoning:</u> The Court stressed that the crime of human trafficking has two constituent components: a material element (the recruiting, transporting, transferring, housing, reception, exchange or transfer of control over a person) and a moral element (the goal of employing workers in conditions contrary to human dignity). The incompatibility of the facts with human dignity was derived from the fact that the victims received a salary far below the rate in the sector, that they were illegally working in terrible and life-threatening circumstances, and that they were not paid regularly. Furthermore, they worked many consecutive hours without being paid extra for night and evening work. The Bulgarian workers were also used falsely self-employed in order to allow the exploiters to evade their social and fiscal obligations. Most victims did not have a contract and, if they had one, it was in a language they did not understand.</p> <p>Additionally, the Court emphasised that the “slum lording” (<i>huisjesmelkerij</i>) was inextricably linked to the employment and labour exploitation. The housing was unhygienic and was found to be in a dangerous condition. The victims lived in overpopulated rooms, slept on mattresses on the floor, heated the house with electric fires and there was only limited sanitation. Most victims paid a few hundred euro a month, which was deducted from their wages.</p> <p>The Court ruled that the role played by different companies in the labour exploitation clearly emerged from the searches, the mapping of the properties of the companies, the hearings of the defendants and the</p>
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			<p>coordinated inspections. The companies should be regarded as employers and the facts with which they were charged were intrinsically related to the achievement of those companies' social goals; they transferred the benefits of capital by invoicing different companies.</p> <p><u>Key issues:</u> The Court stressed that the notion of "coercion" (<i>dwang</i>) is not a constituent element but, rather, is an aggravating circumstance of the moral component of the crime of human trafficking.</p> <p>The Court also stated that the fact that the victims' salaries would be adequate in their country of origin [Bulgaria] cannot be used as the standard to decide whether or not this situation in Belgium constitutes employment in violation of human dignity.</p> <p><u>Results:</u> The Court convicted 10 defendants, among them several companies, for human trafficking in view of the economic exploitation, slum lording (<i>huisjesmelkerij</i>) and several infringements of social legislation.</p> <p>The chief defendant was convicted to a three-year prison sentence, with two years suspended, and a fine; the Court also pronounced a forfeiture of €100,000 effectively and €169,637 conditionally. His wife was convicted to 15-months in prison, with nine months suspended. The other eight defendants – including the legal persons – were each convicted to a fine of €16,000, of which €5,500 effectively. Myria (plaintiff claiming damages) received €2,500 compensation.</p> <p>The decision has been appealed (no appeal judgment so far).</p> <p><u>Key quotation:</u> "Therefore, 'coercion' is not required to prove the type of human trafficking of which the defendants have been accused. The legislator even made it clear that consent with the exploitation is irrelevant (see Article 433quinquies, §1, last indent Criminal Code).</p> <p>This should also be made clear from the beginning, that the labour conditions with which the illegal</p>
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			<p>foreigners might have been satisfied in their country of origin, can absolutely not be the standard, in order to be, or not be, able to speak about employment in violation of human dignity here.</p> <p>If this were the case, it would mean that what constitutes clear economic exploitation and distortion of competition (for companies that do respect the Belgian standards, laws and collective agreements) should be allowed as long as there is an improvement compared to the labour conditions in the country of origin – a statement defended (at least implicitly) by the defendants, but with which the court does not agree.</p> <p>The Belgian employment conditions in the broadest sense therefore constitute the criterion for the assessment of the situation of employed illegals.”</p> <p><i>“Dwang’ is derhalve niet vereist voor het bewezen verklaren van de beklaagden ten laste gelegde vorm van mensenhandel. De wetgever maakte zelfs zeer duidelijk dat toestemming met de uitbuiting irrelevant is (zie artikel 433quinquies, §1, laatste lid Sw.).</i></p> <p><i>Het weze ook van meet af duidelijk gesteld dat de arbeidsomstandigheden waarin de illegal vreemdelingen in hun thuisland genoeg zouden moeten hebben nemen absoluut niet de norm zijn om alhier al of niet te kunnen spreken van tewerkstelling in strijd met de menselijke waardigheid.</i></p> <p><i>Het tegendeel beweren zou immers betekenen dat wat hier duidelijke economische uitbuiting en concurrentievervalsing (t.a.v. bedrijven die de Belgische normen, wetten en cao's wel respecteren) uitmaakt door de beugel zou moeten kunnen, zolang er maar sprake is van een verbetering t.a.v. de tewerkstellingsvoorwaarden in het land van herkomst, stelling die door de beklaagden (minstens impliciet) wordt verdedigd, maar door de rechtbank allerminst wordt bijgetreden.</i></p> <p><i>De Belgische tewerkstellingsvoorwaarden in de</i></p>
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			<p><i>meest ruime zin vormen derhalve de maatstaf waaraan de situatie van tewerkgestelde illegalen dient te worden getoetst, zonder meer.”</i></p> <p><b><u>Case 5</u></b></p> <p><u>Date:</u> 25 April 2016</p> <p><u>Reference:</u> Criminal Court of Liège, LI69.98.499-12, <a href="http://www.myria.be/files/Paul_Smith/h16-04-25_c_Liège.pdf">http://www.myria.be/files/Paul_Smith/h16-04-25_c_Liège.pdf</a>.</p> <p><u>Key facts:</u> A Turkish truck driver who resided illegally in Belgium and who had been fired by his employer, filed a complaint with the police. While he had assumed he was working for a company according to Belgian law, the company was, in fact, established under Bulgarian law; the man had, however, never worked in Bulgaria, nor did he ever undertake transports to or from Bulgaria. He worked 17-18 hours per day but was never registered as an employee. At the end of each working day, the two chief defendants forced him to destroy the employment contract of that day, as well as the tachograph records of his work. The man declared that many other drivers illegally resident in Belgium were employed by this company. On a weekly basis, he was supposed to receive an envelope with €500 but he never received full payment for his work. Together with a colleague, the Turkish man declared himself the victim of human trafficking and brought a case for damages. Observations and house searches demonstrated that none of the foreign companies to which respected Belgian transport companies outsourced their transporting activities, were effectively active on the territory in which they were established; it was also proved that the chief defendant managed those companies from his domicile in Belgium.</p> <p><u>Main reasoning:</u> After reviewing the different components of human trafficking, the Court pointed out that, considering that it concerns circumstances in violation of human dignity, this requires a subjective evaluation of the situation on the basis of a series of factors, such as wages,</p>
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			<p>working hours, undeclared work and working conditions. In this case, the Court stated that not declaring for the purposes of social security, and employing illegal workers who do not have a work permit, can – when taken together with other elements – be considered indications of human trafficking, even though, taken separately, they do not sufficiently prove this crime.</p> <p>The wages paid were considered insufficiently low to definitely indicate employment in violation of human dignity. Concerning work time, the Court ruled that the declarations of the two Turkish employees (the plaintiffs) were not uniform: only one declared that he worked every day except for weekends and official holidays, that he drove nine hours per day and that he received only €150 per week; the other driver received €450-500 per week. Moreover, the fact that the international drivers had to sleep in the cabin of their trucks was not considered an additional argument for the charge of human trafficking.</p> <p><u>Key issues:</u> Whether or not human dignity is violated depends on a subjective evaluation of the circumstances.</p> <p><u>Results:</u> The Court concluded that, from the investigation, the components of human trafficking were not sufficiently proven and so the defendants were given the benefit of the doubt. The Court convicted all parties for criminal organisation, except for three defendants (natural persons) and the legal person, who were cleared of this charge.</p> <p>The judgment is being appealed, but there is no decision [yet].</p> <p><u>Key quotation:</u> “As a reminder, the elements constituting the offence of human trafficking are the following:</p> <ul style="list-style-type: none"> <li>- An action: recruiting, transporting, transferring, housing, accepting, passing or transferring the control exercised; “the fact of taking control” was further added by</li> </ul>
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				<p>the aforementioned law of 29 April 2013.<sup>95</sup> Since criminal law is strictly interpreted, a conduct which does not correspond to one of the categories of Article 433quinquies, first paragraph, is exempt from criminalisation;</p> <ul style="list-style-type: none"> <li>- One person (Belgian or foreign);</li> <li>- A purpose: for work or service purposes in conditions contrary to human dignity.</li> </ul> <p>Concerning the conditions contrary to human dignity, this is a subjective assessment of the situation through a series of indicators such as remuneration, working time, non-declaration of work and working conditions.”</p> <p><i>“Pour rappel, les éléments constitutifs de l’infraction de traite des êtres humains sont les suivants:</i></p> <ul style="list-style-type: none"> <li>- <i>Une action : le fait de recruter, transporter, transférer, d’héberger, d’accueillir, de passer ou de transférer le contrôle exercé ; « le fait de prendre le contrôle » ayant été en outre ajouté par la loi du 29 avril 2013 précitée. Le droit pénal étant de stricte interprétation, un comportement ne correspondant pas à l’une des catégories de l’article 433quinquies alinéa 1er échappe à l’incrimination ;</i></li> <li>- <i>Une personne (belge ou étrangère) ;</i></li> <li>- <i>Une finalité : à des fins de travail ou de services dans des conditions contraires à la dignité humaine.</i></li> </ul> <p><i>Concernant les conditions contraires à la dignité humaine, il s’agit d’une appréciation subjective de la situation grâce à un faisceau d’indices tels que la rémunération, le temps de travail, la</i></p>
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<sup>95</sup> It concerns the Law to amend Art. 433quinquies of the Criminal Code to clarify and expand the definition of human trafficking ([Wet tot wijziging van artikel 433quinquies van het Strafwetboek met het oog op het verduidelijken en het uitbreiden van de definitie van mensenhandel / Loi visant à modifier l’article 433quinquies du Code penal en vue de clarifier et d’étendre la définition de la traite des êtres humains](#)), 29 April 2013.

				<i>non-déclaration de travail et les conditions de travail.”</i>
<b>6</b>	<b>PROMISING PRACTICES</b>			
		<b>Yes</b>	<b>No</b>	<b>Supporting information</b>
	<p>Are there any promising practices in relation to any practical measures to tackle severe labour exploitation or support foreign victims?</p> <p>If yes, please provide:</p> <ul style="list-style-type: none"> <li>- Title of practice</li> <li>- Organisation implementing it</li> <li>- Funding body</li> <li>- Brief description, including start (and if relevant, finish) dates</li> </ul>			<p>The Flemish government funds a <b>civic integration programme</b> for newly arrived migrants (“<i>inburgeringscursus</i>”), which is implemented by three government agencies.<sup>96</sup> The programme was put into place by the Decree of 7 June 2013 on Flemish integration and civic integration policy.<sup>97</sup></p> <p>The programme provides information to migrant workers, for instance about the services provided by trade unions, which may help victims of labour exploitation to seek assistance (cf. interview BE/O/1).</p> <p>The programme is free and includes a course in Dutch, a course on life in Belgium (working, living, education, rights and duties ...), guidance to find work or training, and information about sports, culture and leisure. The courses are given in the native language of those taking the course, or in a language they understand.</p> <p>Foreigners with legal residency in Belgium and Belgians of foreign origin (Belgians who are born abroad and with at least one parent was also born abroad), who live in Flanders or in Brussels (official registration with a commune in either Region is required) and who are at least 18 years old are eligible for, and entitled to, civil integration.</p> <p>Foreigners who are not officially registered with a commune (and who are thus not on the population register) are not part of the target group of civil integration (i.e. tourists, diplomats, and foreigners without legal residence). Foreigners who are excluded from the</p>

<sup>96</sup> It concerns: (1) the Integration and Civil Integration Agency (Agentschap Integratie & Inburgering) in Flanders and in Brussels, (2) Atlas in the city of Ghent, and (3) In-Gent in the city of Ghent. Flanders (*Vlaanderen*), [Inburgering in Vlaanderen](#) (accessed on 1 September 2017). Integration and Civil Integration Agency (Agentschap Integratie & Inburgering), [Wie mag of moet inburgeren?](#) (accessed on 1 September 2017).

<sup>97</sup> Flanders, Decree on the Flemish integration and civil integration policy ([Decreet betreffende het Vlaamse integratie- en inburgeringsbeleid](#)), 7 June 2013..

			<p>target group are: asylum seekers whose procedure has not yet been ongoing for four months, and foreigners with a maximum legal residency of one year..</p> <p>Certain groups are obliged to sign up and follow the primary civil integration groups within three months of becoming part of the target group. This relates to:</p> <ul style="list-style-type: none"> <li>- Newly arrived foreigners who formally register with a commune with a residency entitlement of more than three months (family migrant from outside the EU, Iceland, Norway or Switzerland), recognised refugees, persons with the status of subsidiary protection, victims of human trafficking, and persons regularised on humanitarian or medical grounds with a discretionary residence permit;</li> <li>- Newly arrived foreigners who officially registered with a Flemish commune after 28 February 2016 after having been registered for the first time as 18+ in a Walloon or Brussels commune less than five years ago, if they have a residence permit in the framework of a residency status that obliges them to register;</li> <li>- Newly arrived Belgians (people aged 18-65) who became Belgians abroad and who officially register in a Belgian commune for the first time; they must be born abroad and have at least one parent who was also born abroad;</li> <li>- Newly arrived Belgians who officially registered with a Flemish commune after 28 February 2016 after having been registered for the first time as 18+ in a Walloon or Brussels commune less than five years ago; they must be born abroad and have at least one parent who was also born abroad;</li> <li>- Newly arrived people who speak a foreign language when they become 18 years old and have not yet been officially</li> </ul>
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			<p>registered in the Population Register (<i>Rijksregister</i>) for 12 consecutive months; they have a residency entitlement of more than three months;</p> <ul style="list-style-type: none"> <li>- Servants of recognised worship with a residence permit of more than three months.</li> </ul> <p>The following are exempted from the civil integration obligation, despite belonging to one of the groups mentioned above:</p> <ul style="list-style-type: none"> <li>- People above the age of 65 (except for servants of recognised worship);</li> <li>- Citizens of the EU, Iceland, Liechtenstein, Norway or Switzerland and their family members in the strict sense;</li> <li>- Belgians and their family members who enjoyed freedom of movement in the EU;</li> <li>- Persons from outside the EU, Iceland, Liechtenstein, Norway or Switzerland who are long-term residents in an EU Member State and who have already met the integration conditions there. They must still undertake a Dutch language course;</li> <li>- Labour or study migrants (and their family members) (except for servants of recognised worship);</li> <li>- People with proof of a diploma of education in Belgium or the Netherlands (except for servants of recognised worship) or of a complete year of reception education (<i>onthaalonderwijs</i>);</li> <li>- People who are seriously ill or people with disabilities, for whom the following of a civil integration programme is permanently impossible;</li> <li>- People who have already obtained a certificate of civil integration.</li> </ul> <p>Person who fail to fulfill the civic integration obligation, can receive an administrative fine, which may range from €50-5.000 for each infraction. Persons who voluntarily started a civil</p>
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			<p>integration programme but who terminated it prematurely and unlawfully, can receive an administrative fine of €150 (this fine does not apply to people enrolled in the Brussels-Capital Region).</p> <p>Foreigners who apply for certain kinds of residency status from 26 January 2017 onwards are obliged to complete integration efforts after receiving that status.<sup>98</sup> If they do not do so, the Foreigners' Affairs Office can terminate their residency. This federal condition and sanction has been added to the previously existing Flemish civil integration duty, which is also sanctioned with an administrative fine.</p> <p>No similar programme exists in Wallonia.</p>
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<sup>98</sup> Integration and Civil Integration Agency (*Agentschap Integratie & Inburgering*), [Wie mag of moet inburgeren?](#) (accessed on 1 September 2017).