

Social Fieldwork Research (FRANET)

Severe forms of Labour Exploitation

Supporting victims of severe forms of labour exploitation in having access to justice in EU Member States

Finland, 2014

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Categories of interviewees:

Nine categories of experts working in the context of labour exploitation took part in the interviews and focus groups:

M – Monitoring bodies (such as labour inspectorates, health and safety bodies)

P – Police and law enforcement bodies

S – Victim support organisations

J – Judges and prosecutors

L – Lawyers

R – Recruitment and employment agencies

W – Workers' organisations, trade unions

E – Employers' organisations

N – National policy experts at Member State level.

FG – Focus Group

Throughout this report, references to these groups as 'M', 'P' etc. are to be understood as referring to the above-named 9 categories.

Where [M(X)] appears, this denotes the group from which the referenced interviewee came, in addition to the number of interviewees from that group referenced (for example, if a statement is supported by references to three interviewees from the M group, two from the S group and one from the J group, the reference will read '[M(3); S(2); J(1)]'. Likewise, if a statement is supported by statements from interviewees who participated in focus groups (in the following example, a lawyer), the reference will read '[FG(L)]'.

For data protection reasons, no names of interviewees have been mentioned.

1 Introduction

In Finland, the fieldwork of the project *Severe forms of labour exploitation* was conducted between September 2013 and January 2014. The sample includes 30 individual interviews, one focus group discussion and ten case studies.

The individual interview sample was composed in accordance with the FRA guidelines, so that all professional groups were covered: J (6), M (5), P (5), W (3), S (4), L (3), E (2), R (1) and N (1). The child/youth welfare organisation representatives contacted were of the opinion that labour exploitation of children is almost inexistent in Finland and these organisations don't have expertise on the matter. Thus, no representatives of these organisations were included in the sample, whereas trade unions were well represented in the sample, because they hold an important place in the Finnish society when it comes to labour markets and promoting workers' rights.¹

The individual interviews were held between 9 October 2013 and 13 January 2014. There were 17 females and 13 males interviewed. The majority of the interviewees (19) work in the metropolitan area, four interviewees work in Pirkanmaa region, three in Southwest Finland or Ostrobothnia and four in Southeast or Eastern Finland. The work experience of the interviewees in relation to labour exploitation extended from 1,5 years to 35 years: half of the interviewees had 6 to 10 years of experience, 7 interviewees had up to 5 years of experience and the rest (8) had over 10 years of experience of which half more than 20 years.

Half of the interviews lasted between 45-60 minutes, 7 interviews took between 60-75 minutes, 6 interviews more than 75 minutes and 2 interviews under 45 minutes. Only one interview was held via phone, all the rest (29) were conducted face to face.

The focus group discussion had 7 participants altogether (5 females, 2 males) representing the following professional groups: P (2), S (2), W (2) and M (1). No additional themes were proposed for discussion at focus group.

The ten case studies were provided by target groups: M (3), S (4), L (1) and two case studies were selected and filled independently by the NFP. These two case studies were brought up in interviews but the interviewees did not have time to fill in the case study template. The case studies include the following economic sectors: restaurant work (2), transportation (1), cleaning (4), agriculture/greenhouse farming (2) and one case on health and social work activities (elderly care). In half of the cases the victims succeeded accessing justice, in three cases they did not succeed, there was no information available on one of the cases and one case is still in the process.

¹ In 2012, 3 out of 4 employees were trade union members. (Ministry of Employment and the Economy / Working life barometers presented by Findicator website: www.findikaattori.fi/fi/36.)

2 Legal framework

Severe forms of labour exploitation, such as trafficking in human beings and extortionate work discrimination, have been criminalised in Finland since 2004, partly due to the increase of migrant workers in the beginning of the decade 2000. Moreover, the provision on trafficking in human beings has been mainly influenced by the Palermo Protocol and Council Framework Decision 2002/629/JHA of 19 July 2002 on combating trafficking in human beings.²

The Finnish Criminal Code (*Rikoslaki, Strafflag*, 39/1889)³ has provisions on trafficking in human beings and aggravated trafficking in human beings. Moreover, in the Criminal Code there are offences categorised as “resembling human trafficking” which are relevant to labour exploitation. These offences include aggravated pandering (Criminal Code 20:9a), aggravated arrangement of illegal entry (Criminal Code 17:8a), and extortionate work discrimination (Criminal Code 47:3a). Furthermore, the offences of work discrimination (Criminal Code 47:3), employment agency offence (Criminal Code 47:6), unauthorised use of foreign labour (Criminal Code 47:6 a), usury (Criminal Code 36:6) and aggravated usury (Criminal Code 36:7) are also connected to labour exploitation.⁴

The Finnish Criminal Code doesn't include a provision on suppression of slavery or forced labour. However, the fundamental rights guaranteed in The Constitution of Finland (*Suomen perustuslaki, Finland's grundlag*, 731/1999)⁵ are seen to cover this area unequivocally.⁶

2.1 Trafficking in human beings

The Finnish Criminal Code defines trafficking in human beings as follows (Chapter 25 Section 3): A person who (1) *by abusing the dependent status or vulnerable state of another person*, (2) *by deceiving another person or by abusing a mistake made by that person*, (3) *by paying remuneration to a person who has control over another person*, or (4) *by accepting such remuneration takes control over another person*, recruits, transfers, transports, receives or harbours another person for purposes of sexual abuse (referred to in chapter 20, section 9, subsection 1) (1) or comparable sexual abuse, forced labour or other demeaning circumstances or removal of bodily organs or tissues for financial benefit shall be sentenced for trafficking in human beings to imprisonment for at least four months and at most six years. Also a person who takes control over another person under 18 years of age or recruits, transfers, transports, receives or harbours that person for the purposes mentioned in subsection 1 shall be sentenced for trafficking in human beings even if none of the means referred to in subsection 1(1) –(4) have been used.

² Jokinen, Anniina, Ollus, Natalia and Viuhko, Minna (2009): *Ehdoilla millä hyvänsä, Työperäinen ihmiskauppa ja ulkomaalaisten työntekijöiden hyväksikäyttö Suomessa*, 32, 42. European Institute for Crime Prevention and Control, affiliated with the United Nations.

³ www.finlex.fi/fi/laki/ajantasa/1889/18890039001, Unofficial translation available at www.finlex.fi/en/laki/kaannokset/1889/en18890039.pdf.

⁴ Jokinen, Anniina, Ollus, Natalia and Viuhko, Minna (2009): *Ehdoilla millä hyvänsä, Työperäinen ihmiskauppa ja ulkomaalaisten työntekijöiden hyväksikäyttö Suomessa*, 32. European Institute for Crime Prevention and Control, affiliated with the United Nations.

⁵ www.finlex.fi/fi/laki/ajantasa/1999/19990731; Unofficial translation available at: www.finlex.fi/fi/laki/kaannokset/1999/en19990731.pdf.

⁶ Jokinen, Anniina; Ollus, Natalia and Viuhko, Minna (2009): *Ehdoilla millä hyvänsä, Työperäinen ihmiskauppa ja ulkomaalaisten työntekijöiden hyväksikäyttö Suomessa*. European Institute for Crime Prevention and Control, affiliated with the United Nations.

The vulnerable state of a victim mentioned in the legislation is further explained in the Government bill (*Hallituksen esitys/ Regeringens proposition 34/2004*)⁷. The vulnerable state can refer to a person's difficult economic situation, homelessness, serious illness, substance abuse, young age or asylum seeker status. Moreover, the dependent status can refer among other things to a dependency through family relations, illegal status, debt bondage, work relationship or another person being in possession of the victim's important documents such as passport. According to the same Government bill (*Hallituksen esitys/ Regeringens proposition, 34/2004*) "other demeaning circumstances" can include for example debt bondage.

The deceiving of another person or abusing a mistake made by that person is further explained in the Government bill (*Hallituksen esitys/ Regeringens proposition 34/2004*), for example a minor variation to the promised salary cannot be considered as deceiving as described in the Criminal Code. However, in accordance with the Palermo Protocol (2002) the original consent given by the victim is not valid if the consent has been gained for example by means of deception. Nevertheless, this point has not been explicitly added to the Finnish Criminal Code, but according to the same Government bill (*Hallituksen esitys/ Regeringens proposition, 34/2004*) this principle is included in the basis of the Criminal Code.⁸

Aggravated trafficking in human beings is defined in the Criminal Code (Chapter 25 Section 3a) as follows: If, in trafficking in human beings, (1) *violence, threats or deceitfulness is used* instead of, or in addition to, the means referred to in section 3 (trafficking in human beings), (2) *grievous bodily harm, a serious illness or a state of mortal danger or comparable particularly grave suffering* is intentionally or through gross negligence inflicted on another person, (3) *the offence has been committed against a child younger than 18 years of age or against a person whose capacity to defend himself or herself has been substantially diminished*, or (4) the offence has been committed within the framework of a *criminal organisation* (referred to in chapter 17, section 1a, subsection 4) and the offence is aggravated also when considered as whole, the offender shall be sentenced for aggravated trafficking in human beings to imprisonment for at least two years and at most ten years. Also a person who enslaves or keeps another person in servitude, transports or trades in slaves shall be sentenced for aggravated trafficking in human beings if the act is aggravated when assessed as whole.⁹

In the Government bill (*Hallituksen esitys/ Regeringens proposition, 34/2004*) "deceitfulness" can refer for example to a situation in which a person has been deceived to travel abroad to be a domestic worker, but in the end is forced to work as a prostitute. Moreover, the comparable particularly grave suffering can refer also to mental suffering.

Forced labour is not defined in the Finnish legislation. In the Government bill (*Hallituksen esitys/ Regeringens proposition, 34/2004*) reference is made to ILO conventions: Forced Labour Convention (1930) and Abolition of Forced Labour Convention (1957). Moreover, the definition of forced labour has been referred to in the Government bill (*Hallituksen esitys/ Regeringens proposition, 94/1993*)¹⁰: the forced labour can mean a permanent state in which the employee doesn't have the usual rights to decline from the work task, to resign and get paid.

⁷ www.finlex.fi/fi/esitykset/he/2004/20040034.pdf.

⁸ Jokinen, Anniina; Ollus, Natalia and Viuhko, Minna (2009): *Ehdoilla millä hyvänsä, Työperäinen ihmiskauppa ja ulkomaalaisten työntekijöiden hyväksikäyttö Suomessa*, 41. European Institute for Crime Prevention and Control, affiliated with the United Nations.

⁹ [www.finlex.fi/fi/laki/ajantasa/1889/18890039001?search\[type\]=pika&search\[pika\]=rikoslaki](http://www.finlex.fi/fi/laki/ajantasa/1889/18890039001?search[type]=pika&search[pika]=rikoslaki). Unofficial translation available at www.finlex.fi/en/laki/kaannokset/1889/en18890039.pdf.

¹⁰ www.finlex.fi/fi/esitykset/he/1993/19930094.

2.2 Work discrimination

In the Finnish Criminal Code in Chapter 47 *Employment offences*, work discrimination is stipulated as follows (section 3): An employer, or a representative thereof, who when advertising for a vacancy or selecting an employee, or during employment without an important and justifiable reason puts an applicant for a job or an employee in an inferior position⁽¹⁾ because of race, national or ethnic origin, nationality, colour, language, sex, family status, sexual preference, inheritance, disability or state of health, or (2) because of religion, political opinion, political or industrial activity or a comparable circumstance shall be sentenced for work discrimination to a fine or to imprisonment for at most six months.

Extortionate work discrimination (section 3a) is defined as follows: If in the work discrimination an applicant for a job or an employee is placed in a considerably inferior position through the use of the job applicant's or the employee's economic or other distress, dependent position, lack of understanding, thoughtlessness or ignorance, the perpetrator shall, unless a more severe penalty is provided for the act elsewhere in the law, be sentenced for extortionate work discrimination to a fine or to imprisonment for at most two years. (Please see 4.1.1. p.16-17, and the case studies)

In assessing whether discrimination has taken place and whether the victim has been put into inferior position, there is a need for comparisons. In the Government bill (*Hallituksen esitys/ Regeringens proposition*, 151/2003), it is stated that the inferior position can come up for example as being paid considerable lower wages. In many cases the migrant workers are the target of discrimination and one can compare their conditions with the Finnish employees.¹¹

In the Government bill (*Hallituksen esitys/ Regeringens proposition*, 151/2003) it is stated that extortionate work discrimination can apply to cases in which the ignorance or status of a foreign worker has been abused when deciding on the terms of employment. Ignorance can result for example from the lack of language skills. Moreover, in practice, even if the employer and the employee are from the same country/culture, it is possible to assess the case as work discrimination.¹²

What has been said about dependent and inferior position in connection with trafficking in human beings can, to a large extent, be applied to extortionate work discrimination. Usually the extortionate work discrimination involves underpayment or bad terms of employment, which as such don't fulfil the essential elements of forced labour associated with trafficking in human beings. However, in severe cases the extortionate work discrimination comes close to elements of trafficking. In practice, the line between extortionate work discrimination and trafficking in human beings is not clear and easy to draw. The extortionate work discrimination involves specific discrimination, whereas trafficking is a violation of personal freedom. In practice extortionate work discrimination might be easier to assess than trafficking, therefore it can come up more often in investigations. Moreover, the essential elements of aggravated usury resemble elements of trafficking in human beings and extortionate work discrimination.¹³

¹¹ Jokinen, Anniina; Ollus, Natalia and Viuhko, Minna (2009): *Ehdoilla millä hyvänsä, Työperäinen ihmiskauppa ja ulkomaalaisten työntekijöiden hyväksikäyttö Suomessa*, 44. European Institute for Crime Prevention and Control, affiliated with the United Nations.

¹² Jokinen, Anniina; Ollus, Natalia and Viuhko, Minna (2009): *Ehdoilla millä hyvänsä, Työperäinen ihmiskauppa ja ulkomaalaisten työntekijöiden hyväksikäyttö Suomessa*, 46. European Institute for Crime Prevention and Control, affiliated with the United Nations.

¹³ Jokinen, Anniina; Ollus, Natalia and Viuhko, Minna (2009): *Ehdoilla millä hyvänsä, Työperäinen ihmiskauppa ja ulkomaalaisten työntekijöiden hyväksikäyttö Suomessa*, 47. European Institute for Crime Prevention and Control, affiliated with the United Nations.

2.3 Legislation on employment

The Ministry of Employment and the Economy drafted a new chapter, 11 a (Employers' joint responsibility when employing illegal residents in the country), for inclusion into the Finnish Employment Contracts Act (*Työsopimuslaki, Arbetsavtalslag 55/2001*)¹⁴, laying down provisions on special matters relating to the Employers' Sanctions Directive's scope of application. The Government bill (*Hallituksen esitys/ Regeringens proposition, 3/2012*)¹⁵ was passed by Parliament in July 2012, and the amendment entered into force on 1st August 2012. However, the new chapter does not contain new provisions regarding the requirements under 9(1) c, 9(1) d or 9(1) e of the Directive. According to the bill (HE 3/2012) the provisions of the Criminal Code already cover the unauthorised use of foreign labour which was considered to encompass the provisions of the Directive.

The Young Workers' Act (*Laki nuorista työntekijöistä, Lag om unga arbetstagare 998/1993*) contains provisions applying to work done by a person under 18 years of age. Among other things the act contains provisions on the working hours of young workers and their occupational safety and health.¹⁶

2.4 Recent developments

The Ministry of the Interior appointed a working group for the period of 1st February 2012 to 31st December 2013 for preparing a separate act concerning the National Assistance System for Victims of Human Trafficking.¹⁷ However, the working group was rescheduled in March 2013 and according to The Finnish National Rapporteur on Trafficking in Human Beings some content changes were also made and the idea about a separate act was lost. The National Rapporteur left the working group due to these developments in April 2013.¹⁸ Nevertheless, the working group gave its suggestions on developing the national assistance system on 19 November 2013 among which it brought up that the place of domicile (in a municipality) in Finland shouldn't be relevant to the person being accepted in the system. The government bill on the national assistance system and human trafficking is scheduled to be submitted to the Parliament by the end of 2014.¹⁹

In November 2011, the Ministry of Justice appointed a working group to assess the need to amend the Criminal Code to remove overlapping penal provisions on human trafficking and pandering as well as strengthen the legal status of those subjected to pandering by granting them the status of an injured party in the criminal procedure. In September 2012 the working group submitted its proposal for a government bill to Parliament concerning legislative amendments relating to pandering and human trafficking offences and extortionate work

¹⁴ www.finlex.fi/fi/laki/ajantasa/2001/20010055. Unofficial translation available at www.finlex.fi/en/laki/kaannokset/2001/en20010055.pdf.

¹⁵ www.finlex.fi/fi/esitykset/he/2012/20120003.

¹⁶ www.finlex.fi/fi/laki/ajantasa/1993/19930998. Unofficial translation available at www.finlex.fi/en/laki/kaannokset/1993/en19930998.pdf.

¹⁷ Finland, Kansallinen ihmiskaupparaportti (2012), Kertomus 2012. Helsinki: Vähemmistövaltuutettu, 7-10, available at www.ofm.fi/download/38665_Ihmiskaupparaportti_FI_2012_pdf.pdf. Available in English at www.ofm.fi/download/39494_SM_ihmiskauppa_uk_web.pdf.

¹⁸ Finland, Kansallinen ihmiskaupparaportti (2013), Kertomus 2013, 51-52 Helsinki: Vähemmistövaltuutettu, [/www.ofm.fi/download/48449_Ihmiskaupparaportti_2013.pdf?fc04d0d7adb4d088](http://www.ofm.fi/download/48449_Ihmiskaupparaportti_2013.pdf?fc04d0d7adb4d088). Available in English: www.ofm.fi/download/48451_Ihmiskaupparaportti_2013_englanti_nettili.pdf?d2aca1d7adb4d088, p. 53.

¹⁹Finland, The Ministry of the Interior: www.intermin.fi/fi/ajankohtaista/uutiset/1/1/sisaisen_turvallisuuden_ministeriryhma_hyvakysyi_johtopaatokset_ihmiskaupan_uhrien_auttamisjärjestelman_kehittämiseksi.

discrimination.²⁰ The government bill is scheduled to be submitted to the Parliament in early 2014.²¹

²⁰ Finland, Kansallinen ihmiskaupparaportti (2012), Kertomus 2012. Helsinki: Vähemmistövaltuutettu, pp. 7-10, available at www.ofm.fi/download/38665_Ihmiskaupparaportti_FI_2012_pdf.pdf. Available in English at www.ofm.fi/download/39494_SM_ihmiskauppa_uk_web.pdf.

²¹ Finland, The Ministry of Justice, <http://oikeusministerio.fi/fi/index/valmisteilla/lakihankkeet/rikosoikeus/oikeusministerionhallinnonalanihmiskauppalainsaadannontarkastelu.html>.

3 Tasks of institutions involved in preventing labour exploitation and in enabling victims to access justice

3.1 Institutional mechanisms in place at the national level to prevent and fight against labour exploitation

This section summarises and discusses the interviewees' answers mainly to the questions on the institutional mechanisms. These questions were posed to all 30 interviewees.

3.1.1 The law enforcement officials

The mandate of the law enforcement officials is provided in the legislation Police Act (*Poliisilaki / Polislag*, 493/1995)²², The Criminal Investigations Act (*Esitutkintalaki/ Förundersökningslag*, 805/2011)²³ and Coercive Measures Act (*Pakkokeinolaki / Tvångsmedelslag*, 806/2011)²⁴. Moreover, other relevant legislation to labour exploitation include the Aliens Act (*Ulkomaalaislaki, Utlänningslag*, 301/2004)²⁵

In accordance with The Criminal Investigations Act (*Esitutkintalaki, Förundersökningslag*, 805/2011) pre-trial investigation in Finland can be carried out by the police. Moreover, the border guard, customs and military are pre-trial investigation authorities. Furthermore, the prosecution takes part in pre-trial investigations.

The Police and the Immigration Service

The National Bureau of Investigation (NBI) is the national centre for intelligence. Its activities focus on serious and organised crime. The NBI investigates crimes, carries out inspections, cooperates on national and international level and counsels other authorities (as well as local police departments).

One interviewee [P(1)] said that The Finnish Immigration Service handles residence permit applications of workers, students, and people entering on the basis of marriage. When a person has come to Finland on a residence permit based on employment, the conditions of the permit are reviewed when the person applies for permit extension. At this point, the Finnish Immigration Service assesses the application and makes a decision. At this stage, the Immigration Service also tries to figure out any irregularities in the employment situation, and if there are some alarming signs, they notify the police or the Occupational Safety and Health Authorities.

The interviewee further explained that when an applicant hands in the first application in the country of origin for a residence permit based on employment in Finland, the Immigration Service in Finland assesses the application, and the Finnish Embassy in the country of origin interviews the applicant in case there is a need for further clarification, or in case there is something suspicious about the employment in Finland.

²² [www.finlex.fi/fi/laki/ajantasa/2011/20110872?search\[type\]=pika&search\[pika\]=poliisilaki](http://www.finlex.fi/fi/laki/ajantasa/2011/20110872?search[type]=pika&search[pika]=poliisilaki), Unofficial translation available at: www.finlex.fi/en/laki/kaannokset/1995/en19950493.pdf.

²³ www.finlex.fi/fi/laki/alkup/2011/20110805.

²⁴ [www.finlex.fi/fi/laki/ajantasa/2011/20110806?search\[type\]=pika&search\[pika\]=pakkokeinolaki](http://www.finlex.fi/fi/laki/ajantasa/2011/20110806?search[type]=pika&search[pika]=pakkokeinolaki).

²⁵ [www.finlex.fi/fi/laki/alkup/2004/20040301?search\[type\]=pika&search\[pika\]=ulkomaalaislaki](http://www.finlex.fi/fi/laki/alkup/2004/20040301?search[type]=pika&search[pika]=ulkomaalaislaki), Unofficial translation available at: www.finlex.fi/en/laki/kaannokset/2004/en20040301.pdf.

According to this interviewee, the residence permits are not tied to a certain employer, but to an occupational field. It was said that there are very few employer-specific permits, which are usually only granted for specific work projects. The Finnish Immigration Service contacts the police in urgent situations and the Occupational Safety and Health Authorities in non-urgent cases, who then make an inspection of the workplace. If the police has an on-going investigation, the Immigration Service cannot handle an application before they get information on the case. However, the police is unable to provide information on an on-going investigation.

One police officer [P(1)] said that there is an immigration investigation unit, where the officers investigate immigration related cases in addition to their other work. The interviewee stated that the rights of the police officers include the use of force, but in order to use force, the police needs to have a reason to suspect an offence. Use of force is understood here broadly; the interviewee said that, for instance, they cannot enter restaurant's kitchen or staff area and document the situation without a reason to suspect an offence. The interviewee compared the situation of the police with the Occupational Safety and Health Authorities, and noted that these authorities can inspect a work place, enter a backroom and ask for staff lists etc. without a reason to suspect an offence, whereas the police cannot. An interviewee from the border guard brought up the same theme:

EN: "We don't do any inspections just for fun, we usually have a hunch, already. There are not that many of us either, so... our actions in preventing crime or investigating crime need to make sense. We go where we know there is something to be found."
[P(1)]

FI: " Me ei tehdä huvikseen mitään tarkastusta vaan kyllä meillä yleensä on siinä joku huntsi valmiina jo. Koska ei meitäkään ole mitään ihan älyttömiä määriä. Pitää sen kuitenkin olla järkevää se meidän rikostorjunta, tai rikostutkintatyö. Mennään sitten sinne mistä tiedetään että löytyy suurin piirtein jotakin. "[P(1)]

The police have decided to establish an expert network that operates under centralised coordination. The competencies will be disseminated throughout the various police units via the expert network. Furthermore, in 2012, guidelines were published by the National Police Board concerning response to trafficking in human beings and corresponding crime and provision of assistance to victims of trafficking in human beings.²⁶

In addition to crime investigation and inspections the law enforcement officials interviewed said that they advise victims of labour exploitation, as well as do some advocacy work.

The Border Guard

According to a respondent [P(1)], the Finnish Border Guard investigates crimes that are related to border crossings, usually crimes that are attached to arrangement of illegal immigration; in relation to labour exploitation, this usually means trafficking in human beings and extortionate work discrimination. Thus, the titles of an offence that the border guard investigate can be basically anything; it only has to be connected to border crossings. The interviewee said that nowadays the police doesn't have expertise to investigate crimes related to arrangement of illegal immigration, thus they want the border guard to lead these investigations. Even when there is no illegal crossings/immigration concerned, the border

²⁶ Finland, Kansallinen ihmiskaupparaportti (2012), Kertomus 2012. Helsinki: Vähemmistövaltuutettu, 7-10, available at www.ofm.fi/download/38665_Ihmiskaupparaportti_FI_2012_pdf.pdf. Available in English at www.ofm.fi/download/39494_SM_ihmiskauppa_uk_web.pdf.

guard might assist the police in the investigations, for example in cases that involve forgery of documents.

In addition to investigation, the border guard advises the victims of labour exploitation. Moreover, a respondent [P(1)] said that as pre-investigation officials the border guard discusses with the prosecution and the judges. Furthermore, the interviewee mentioned that these cases are complicated, because they involve people and therefore one has to arrange accommodation etc., therefore cooperation is required between the judge, prosecution and pre-investigation officials/authorities. The judges are involved from the beginning of the case, because force (incarceration, travel ban etc.) is used. The interviewee said that the judges are not very familiar with these kinds of cases and they might ask advice on the titles of an offence.

One interviewee [P(1)] said that a few times a year there is an organised inspection of workplaces together with the border guard and other officials such as the Tax Administration and Regional State Administration Agencies (Occupational Safety and Health Authorities). The heads of police departments and border guard choose the places of inspection.

3.1.2 Monitoring bodies

The five regional Occupational Safety and Health Authorities, based in the Regional State Administrative Agencies, monitor occupational safety and health at work places in Finland.

The mandate of the Occupational Safety and Health Authorities is provided in the Act on Occupational Safety and Health Enforcement and Cooperation on Occupational Safety and Health at Workplaces (*Laki työsuojelun valvonnasta ja työpaikan työsuojeluyhteistoiminnasta, Lag om tillsynen över arbetarskyddet och om arbetarskyddssamarbete på arbetsplatsen, 44/2006*)²⁷. Other relevant legislation include the Employment Contracts Act (*Työsopimuslaki, Arbetssavtalslag, 55/2001*)²⁸ and the Working Hours Act (*Työaikalaki, Arbetstidslag, 605/1996*)²⁹. Furthermore, the Aliens Act (*Ulkomaalaislaki, Utlänningslag, 301/2004*)³⁰ regulate how the Occupational Safety and Health Authorities should monitor foreign workforce and their employers. A few interviewees of the professional group M brought up that they have the obligation to report employers, who use illegal labour, and employees, who do not have valid working permits.

Trafficking in human beings is not listed in the mandate of Occupational Health and Safety Authorities, however they do cooperate with police and prosecutors in cases related to human trafficking.

The monitoring activities of the Occupational Safety and Health Authorities is directed at the operation of employers. However, during inspections, inspectors specialised in the use of foreign labour have a role in identifying potential victims of exploitation as well as evaluating the working conditions at the workplace. Moreover, they provide information to workers, for instances about the minimum wage and collective agreement. If the Occupational Safety and Health Authorities deem that the working conditions violate the prohibitions provided in the Criminal Code, they can forward the case to the police for investigation.

²⁷ www.finlex.fi/fi/laki/ajantasa/2006/20060044. Unofficial translation available at: www.finlex.fi/fi/laki/kaannokset/2006/en20060044.pdf.

²⁸ [www.finlex.fi/fi/laki/ajantasa/2001/20010055?search\[type\]=pika&search\[pika\]=ty%C3%B6sopimuslaki](http://www.finlex.fi/fi/laki/ajantasa/2001/20010055?search[type]=pika&search[pika]=ty%C3%B6sopimuslaki). Unofficial translation available at: www.finlex.fi/en/laki/kaannokset/2001/en20010055.pdf.

²⁹ [www.finlex.fi/fi/laki/ajantasa/1996/19960605?search\[type\]=pika&search\[pika\]=ty%C3%B6aikalaki](http://www.finlex.fi/fi/laki/ajantasa/1996/19960605?search[type]=pika&search[pika]=ty%C3%B6aikalaki). Unofficial translation available at: www.finlex.fi/fi/laki/kaannokset/1996/en19960605.pdf.

³⁰ [www.finlex.fi/fi/laki/ajantasa/2004/20040301?search\[type\]=pika&search\[pika\]=ulkomaalaislaki](http://www.finlex.fi/fi/laki/ajantasa/2004/20040301?search[type]=pika&search[pika]=ulkomaalaislaki). Unofficial translation available at: www.finlex.fi/en/laki/kaannokset/2004/en20040301.pdf.

The Occupational Safety and Health Authorities have monitoring guidelines³¹ concerning the foreign labour force. These guidelines cover issues such as right to work, wages and other minimum terms of employment, accident insurances, E-1 documents (EU-citizens), occupational health care, annual leaves, working hours, work discrimination, extortionate work discrimination and reports to the police. Moreover, one interviewee from the professional group M said that they have an annex concerning human trafficking (revealing human trafficking, identifying the victims and referring possible victims to national assistance system).

The inspections can be carried out on the strength of tip-offs, in addition, there are themed inspection together with other officials. An interviewee from the professional group M said that one inspector conducts around 90-100 inspections annually. The respondent said that inspections are targeted at economic sectors that have a lot of migrant workers.

After the inspections, an audit report is drawn and the officials give either instructions or improvement notices to the employer. There is a post-monitoring carried out to see whether the employer has obeyed the instructions/notices. If they suspect a crime, the Agency's lawyer takes the case forward to the pre-investigation officials.

An M group interviewee said that if the Agency goes into more depth during the inspection, the resting times and overtime work are checked too. Moreover, the interviewee said that the employees are interviewed at the workplace. Thus, information about the actual pay is obtained from the workers themselves.

The Posted Workers Act (*Laki lähetettyistä työntekijöistä/ Lag om utstationerade arbetstagare, 1146/1999*)³² is also relevant to the tasks of Occupational Safety and Health Authorities. However, a respondent from the professional group W said that they don't remember a single case in which this Act would have been valid or benefitted the employee.

A respondent [M(1)] said that the inspecting of the employers of posted workers differs from other inspections. The inspectors cannot go into anyone's home to carry out an inspection and therefore they have to ask the employer to come to their office. In those cases they inspect the documents and they do not meet the worker. However, another respondent [M(1)] said that they do visit the workplace and interview the posted workers, but the documents of the employer are inspected afterwards, when the employer delivers them to the Occupational Health and Safety Authorities.

There seems to be quite a lot of cooperation between different officials in relation to inspections and monitoring. The Occupational Safety and Health Authorities cooperate with several other authorities at different stages: the Police, the Finnish Immigration Service, the Finnish Border Guard, Prosecutor's offices, The Employment and Economic Development Offices, Tax administration, The National Assistance System for Victims of Trafficking and Reception centres.

³¹ The guidelines are available in Finnish:

www.tyosuojelu.fi/upload/Valvontaohje_2_2012_Ulkomaisen_tyovoiman_valvonta.pdf.

³² [www.finlex.fi/fi/laki/ajantasa/1999/19991146?search\[type\]=pika&search\[pika\]=Laki%20%C3%A4hetetyist%C3%A4%20ty%C3%B6ntekij%C3%B6ist%C3%A4](http://www.finlex.fi/fi/laki/ajantasa/1999/19991146?search[type]=pika&search[pika]=Laki%20%C3%A4hetetyist%C3%A4%20ty%C3%B6ntekij%C3%B6ist%C3%A4). Unofficial translation available at: www.finlex.fi/en/laki/kaannokset/1999/en0000.pdf.

3.1.3 The National Rapporteur on Trafficking in Human Beings

The Act on the Ombudsman for Minorities and the National Discrimination Tribunal (*laki vähemmistövaltuutetusta ja syrjäntälautakunnasta / lag om minoritetsombudsmannen och diskrimineringsnämnden*, 660/2001)³³ provides that the duties of the National Rapporteur on Trafficking in Human Beings are to monitor phenomena relating to human trafficking, the fulfilment of international obligations and the effectiveness of national legislation; issue proposals, recommendations, opinions and advice relevant to the fight against human trafficking and to implementing the rights of victims, keep in contact with international organisations, provide legal advice and assist victims as necessary, and report regularly to the government and parliament on human trafficking and related phenomena.

Moreover, one interviewee said that the mandate of the National Rapporteur on Trafficking in Human Beings is wider than human trafficking since the National Rapporteur tries to identify victims of trafficking, gaps in providing assistance to victims and does preventive work.

3.1.4 Workers' and employers' organisations

Collective Agreements Act (*Työehtosopimuslaki; Lag om kollektivavtal*, 436/1946)³⁴ obliges the workers' and employer' unions/organisations to supervise the adherence of the agreement. In practice, however, there is no monitoring right or duty provided in legislation for these unions, but their actions are targeted at their members. A respondent [E(1)] said that they supervise their member companies and if there are problems for example with salaries and working hours they intervene. Usually they hear about misconducts through trade unions (workers' unions), so in this way they are both involved in the supervision.

A W group respondent said that there is no legislation giving the organisation the authority to monitor collective agreements, but they do have the right to take industrial action against companies who do not comply with the collective agreement. The interviewee considers this as an international right for the worker's unions, and says that it has been evaluated in the judiciary system in Finland.

3.1.5 The Employment and Economic Development Offices

An interviewee said that the Employment and Economic Development Office grants work permits, and according to the Aliens Act (*Ulkomaalaislaki, Utlänningslag*, 301/2004),³⁵ their duties include monitoring the terms of employment before granting work permits and handling extension applications. When workers apply for extensions to their permit, the office monitors working conditions among other things, or inspects the terms of employment. Inspections are based on documents and the interviewee's organisation rarely meets their customers. If they see something suspicious in the documents, it affects the admission of extension application. In addition, they forward the information to other competent authorities (e.g. Occupational Safety and Health Authorities and the police), who have the jurisdiction to look into it more closely. An interviewee from the R group said that Employment and Economic Development

³³ www.finlex.fi/fi/laki/smur/2001/20010660, Unofficial translation available at: www.finlex.fi/en/laki/kaannokset/2001/en20010660.pdf.

³⁴ Collective Agreements Act; Unofficial translation available: www.finlex.fi/en/laki/kaannokset/1946/en19460436.pdf.

³⁵ [www.finlex.fi/fi/laki/alkup/2004/20040301?search\[type\]=pika&search\[pika\]=ulkomaalaislaki](http://www.finlex.fi/fi/laki/alkup/2004/20040301?search[type]=pika&search[pika]=ulkomaalaislaki). Unofficial translation available at: www.finlex.fi/en/laki/kaannokset/2004/en20040301.pdf.

Offices offer advice, but it is very limited as they are unlikely to even see the people before they send in their application.

(The role of NGOs in fighting labour exploitation and supporting victims is discussed in sections 4.2. and 5.1.)

3.1.6 Key themes

The police and the border guard investigate cases of labour exploitation. The border guard is usually involved when the case includes border crossings. Moreover, the police and the border guard take part in some (themed) inspections together with the Occupational Health and Safety Authorities, but they don't have the authority to inspect a workplace on their own, if there is not a reason to suspect an offence. The Tax Administration might also take part in these inspections.

The monitoring of the Occupational Safety and Health Authorities is directed at the operation of employers. However, during inspections inspectors specialised in the use of foreign labour have a role in identifying potential victims of exploitation as well as evaluating the working conditions at the workplace. Moreover, they provide information to workers, for instances about the minimum wage and collective agreement. After the inspections an audit report is drawn and the officials give either instructions or improvement notices to the employer. There is a post-monitoring carried out to see whether the employer has obeyed the instructions/notices. However, there seems to be some discrepancies in how posted workers are monitored.

If the Occupational Safety and Health Authorities deem that the working conditions violate the prohibitions provided in the Criminal Code, they can forward the case to the police for investigation.

Immigration Service and Economic Employment and Economic Development Offices monitor migrant workers and their employers through permit applications. Moreover, the employers' unions supervise their member, which means that if they get to know of misconduct (usually they are informed by the workers' unions) they intervene and give recommendation to their member organisations.

Among the main duties of the National Rapporteur on Trafficking in Human Beings is to monitor phenomena relating to human trafficking and the fulfilment of international obligations and the effectiveness of national legislation.

3.2 Forms and frequency of incidents of labour exploitation encountered by the interviewees

This section summarises and discusses the interviewees' answers on the forms of labour exploitation they have encountered and their opinions on the frequency of occupations and economic sectors of migrant workers.

3.2.1 Breakdown of forms of labour exploitation encountered

When asked about the different forms of labour exploitation involving migrant workers that the interviewees have come across in the course of their professional life, almost all (24/30) mentioned *trafficking for labour exploitation*. Moreover, 20 interviewees had encountered forced labour. Furthermore, 20 interviewees selected the option (five) on other exploitative

working conditions and almost all of them referred to work discrimination, especially to extortionate work discrimination. The professional group M chose the option 2 (forced labour) only once, whereas all of them selected option 5. Slavery was only chosen by four interviewees and child labour by two interviewees. The focus group participants were of the opinion that one of the most common forms of labour exploitation is underpayment: employees are not paid the wage they should be paid in Finland. A respondent [M(1)] said that underpayment as such is not an offence, and one must assess if it could be work discrimination.

Some interviewees pointed out that labour exploitation cases are more often prosecuted as extortionate work discrimination than trafficking in human beings. The focus group participant also discussed this theme:

EN: "I think that at the moment the prosecutors and the judiciary are too strict about what is human trafficking. A lot of things that have even been investigated as cases of human trafficking, the prosecutor will then not prosecute them as such. The offence is usually then extortion." [FG(M)]

"And in cases where the employer has taken away their passports and, limited their movement, forbidden them from contacting. There's been violence, they've threatened them with debt. And it's called extortionate work discrimination in court. If a case like that is not human trafficking, what is?" [FG(M)]

FI: "Tällä hetkellä syyttäjillä ja oikeuslaitoksella on vähän liian korkeella se rima ihmiskauppaan. Monet asiat, joita on jopa tutkittu ihmiskauppana, niin sitten syyttäjä ei kuitenkaan syytä. Se on kiskonta yleensä se." [FG(M)]

"Tapauksissa joissa työnantaja on vienyt passit pois, ja todella rajoittanut liikkumista, kieltänyt yhteydenpidon, on ollut väkivaltaa, velalla uhkailemista. Kiskonnantapainen työsyryntä on se nimike jolla se menee oikeuteen. Jos tollanen tapaus ei ole ihmiskauppaa niin mikä sitä sitten on?" [FG(M)]

3.2.2 Three most frequent occupations of exploited migrant workers and three most frequent economic sectors

Occupations

The interviewees hold quite similar views of the three most frequent occupations of exploited migrant workers. Almost all of the interviewees (23/30) mentioned *restaurant worker* as an occupation in which migrant workers are often exploited, especially cooks were brought up by most of these interviewees. Almost half (10/23) of the interviewees that chose this option said that there are predominantly male workers in the restaurant field. The restaurant workers were mainly classified as "semi-skilled workers" and some (for example waiter) were reported as service occupations and a few occupations in this area as "unskilled worker". All of the professionals in groups M, L and J listed restaurant worker as one of the three most frequent occupations. However, the professional group W didn't mention restaurant workers at all. The representatives of the professional group W didn't include service sector trade unions, which were interviewed in the group L.

The second most frequent occupation brought up by the majority (17/30) of the interviewees was *cleaner*, especially the professional group P (4/5) mentioned this option. However, only 2/6 interviewees of the professional group J chose cleaner as one of the three most frequent

occupations. Cleaners were mainly classified as “unskilled workers”. The interviewees said that both men and women work in this field.

The third most frequent occupation was *agricultural worker* such as pickers, farm workers and garden workers³⁶. None of the interviewees in the professional group L chose this option. Moreover, only the one interviewee of the professional group W listed this option. Thus, it seems that this line of work isn't strongly represented by the trade unions (workers' unions) and remains somewhat hidden to them. The “agricultural workers” were mainly classified as “farm workers” and some as “unskilled workers”. According to the interviewees there seems to be a bit more male workers in the field than female.

In addition, almost one third of the interviewees (9/30) listed construction worker as a frequent occupation to migrants.

The participants of the focus group discussion pointed out that it is impossible to estimate in which fields the labour exploitation in fact is most typical, and one has to talk about cases that have been identified. In their opinion, this might not reflect reality in a reliable way, since often labour exploitation remains hidden. Nevertheless, the focus group participants also discussed the possible occupations that are prone to exploitation and brought up similar points to the ones in the individual interviews:

“I'm sure the sectors are such where language skills are not needed. For example in retail, it would be difficult to exploit workers too much. Because the... often with things like cleaning, where the people are sort of invisible and, places like that, those are more susceptible in a way.”[FG(L)]

”Ne on varmaan ne sektorit lähtökohtaisesti sellaisia, missä ei tarvita kielitaitoa ollenkaan. Jos ajattelee esimerkiksi jotain kauppaa niin siellä olisi aika vaikea sitä työriistoa ihan kauheesti harrastaa. Niin kuin joku siivous, missä ollaan vähän näkymättömissä, ja tñn tyyppiset paikat niin ne on varmaan niin kuin herkempiä.” [FG(L)]

Economic sectors

The three most frequent economic sectors of exploited workers mentioned by the interviewees follow the same lines with the three most frequent occupations. Restaurant sector (code 64) was mentioned by almost all of the interviewees (24/28). Only one representative of the professional group W selected the restaurant field as one of the three most frequent sectors.

Construction (code 43), cleaning (code 68) and agriculture (code 1) were mentioned by almost the same number of interviewees. Cleaning was listed as one of the three most frequent economic sector by 13/28 interviewees, agriculture by 12/28 interviewees and construction by 11/28 interviewees. The cleaning sector was yet again only mentioned by 2/6 representatives of the professional group J. Moreover, none of the representatives of the professional group W listed it, even when 2/3 of them had identified cleaners as one the three most frequent occupations of migrant workers. In the answers of the group W construction sector was emphasised.

None of the representatives of the group L listed agriculture sector as one the three most important ones, their answers followed the same lines with the question on most frequent occupations. Moreover, only 2/6 of the interviewees in the group J chose this option.

³⁶ The amount was calculated by taking into account only one option related to this field per interviewee.

3.2.3 Key themes

Trafficking for labour exploitation, extortionate work discrimination and forced labour were the main forms of labour exploitation that the interviewees had encountered. This reflects the earlier discussion (legal framework) about the close relationship between trafficking in human beings and extortionate work discrimination in the Finnish legislation. Moreover, forced labour is not defined in the Finnish legislation, but it is included as one of the elements of trafficking in context of labour exploitation.

For the most part the interviewees hold similar views about the three most frequent occupations: cleaner, agricultural worker, restaurant worker and the three most frequent sectors: cleaning, agriculture and restaurant work of migrant workers. Moreover, construction work and workers were mentioned by one third of the interviewees as the three most frequent occupations/sectors of migrant workers. Furthermore, there seems to be a bit more male than female workers in restaurant and agriculture work.

4 Risks and risk management

4.1 Identification of common risk factors for labour exploitation

This section summarises and discusses the interviewees' answers on the common risk factors to labour exploitation. These questions were posed to all 30 interviewees. Moreover, the questions on the role of recruitment agencies were presented to all interviewees except the professional group P and S.

4.1.1 General views on risk factors

This chapter is based on the answers given by the interviewees to the question on important risk factors leading migrant workers into situations of labour exploitation. The lack of language skills is mentioned by the majority of the interviewees as a risk factor for labour exploitation which accounts among other things for unawareness about one's own right and the difficulty of seeking help. Moreover, the low level of education or the lack of awareness for example about workers' rights in Finland is considered a risk factor by most of the interviewees.

One case study is a representative example of an exploitative situation in which the employer took advantage of the workers' lack of awareness about the terms and conditions of work in Finland. The employer took advantage of the workforce and denied paying any additions to their wages. Many foreign workers were employed by the same cleaning company, but only the victim in this case agreed to testify against the employer in court. Due to this, he was put in a worse situation: given less work hours than his colleagues, and shut outside the community. The case has been investigated as human trafficking. The decision was made about extortionate work discrimination and aggravated usury, the injured party has filed a complaint.

The majority of the interviewees listed person's difficult economic situation as a risk factor. A few interviewees said that if the difference between the wage in the country of origin and departure is major, then the victim doesn't necessarily understand or even care about being exploited. However, the representatives of the professional group E didn't bring up economic situation as a risk factor, whereas all interviewees in the professional group W found it important. This can be seen to reflect the historical positioning of the trade unions emphasising the inequality created by the economic structures. On the other hand, the group W didn't emphasise the lack of language skills as a risk factor, whereas the group E gave them importance.

Approximately one third of the interviewees said that the close relationship, same cultural/ethnic background or other connection between the employee and the employer or the person arranging the employment raises the risk of being exploited. For example, this can be due to the person arranging the employment/employer knowing the situation in both countries and being able to use that knowledge to exploitative purposes. Moreover, a respondent [N(1)] said that the employee might fear losing face, another respondent [M(1)] said that it is more difficult to report a crime when the offender is somebody that the victim is closely connected to.

EN: Not being able to speak the language. And big wage gaps between their country of origin and the destination country. [...] Of course, it [offender] being a relative or a friend, it makes it more difficult to report things. [M(1)]

FI: Kielitaidottomuus. Ja sitten isot tuloerot sen lähtö- ja tulomaan välillä. [...] Tietysti se että [tekijä] on sukulainen tai ystävä, niin tietysti tätä ilmoittamiskynnystä nostaa. [M(1)]

Moreover, a few interviewees mentioned that the geographical distance between the countries of origin and destination increases the risk of exploitation, for example due to the costs of travel.

Approximately one quarter (7) of the interviewees mentioned the debt bondage between the employee and the employer or the employment agency/person arranging the employment as an important risk factor. The bonded labour was also brought up by the participants of the focus group discussion and the participants felt that it is very common. According to the participants, it is normal that migrants have to pay something in order to get a residence permit in Finland and this results in debt bondage. Being related to the exploiters creates a form of interdependence, which can be described as bondage.

One case study reflects the problem of debt bondage. (However, it must be noted that this case is currently being prosecuted as extortionate work discrimination and the facts given represent the view of one professional working on labour exploitation. No convictions have been given yet on the case.) A Finnish entrepreneur in the cleaning sector and his Philippine wife recruited workers from the Philippines to work as assistants in care of the elderly. Each worker had paid about 8,000 euros for the job and taken a loan to fund it. In practice, they had only part-time job, despite their contract promising full-time work. After the rent, they were only left with a few hundred euros, which they sent home in order to pay their debts. Part of the loan had remained unpaid and the workers were afraid that they would never be able to pay it back if they lost their jobs.

Approximately one quarter (7) of the interviewees listed the unofficial/unstable residence or work permit status as a risk factor accounting for exploitation. Moreover, three of these interviewees mentioned that this unstable status creates a dependency with the employer, because the employee is dependent on the employer on the work contract to renew the work permit. Furthermore, according to the interviewees, the residence permit is often tied to the employment. However, contradicting information was given by one interviewee familiar with the Immigration Service procedures. The respondent said that the residence permits are not tied to a certain employer, but to an occupational field. Moreover, the respondent mentioned that there are very few employer-specific permits, which are usually only granted for specific work projects.

4.1.2 Legal and institutional settings

Almost all of the interviewees concurred about the three most important factors adding to the risk that migrant workers may be exploited from the viewpoint of legal and institutional settings. The three most important risk factors listed were option (1) *low risk to offenders of being prosecuted and punished* (27/30), option (2) *low risk to offenders of having to compensate exploited migrant workers* (25/30) and option (3) *lack of institutions effectively monitoring the situation of workers in sectors of economy where labour exploitation occurs* (25/30). Many interviewees came to this conclusion by excluding the options concerning corruption by stating that there isn't much or no corruption in Finland. Thus, the result doesn't tell only about the

importance of the three chosen options, but also about the unimportance of the remaining ones.

The third option aroused the most comments among the interviewees. Some interviewees stressed that there is monitoring but it is not very effective. Three interviewees were of the opinion that the inspections should be better targeted and one interviewee said that they should be made real-time, so that the employer doesn't get a chance to profit from the exploitation. One interviewee [E(1)] was especially critical of the Occupation Safety and Health Authorities that carries out the monitoring. The interviewee said that the monitoring officials have to inspect a certain number of companies, therefore they might pick the easier ones, even when everybody knows where the problems are; for example, the black economy concentrates on "pizza-kebab"-places.

EN: I must say it in Finnish [directly], that in our field of business the sort of companies in which both the employer and employee are from somewhere else than Finland, so there the problems culminate, well it's like that when everybody comes from a different culture, so then a kind of own rules are developed [...] But the problem is that the monitoring officials find it hard to go to such a place where A. they don't understand the language, even the employer doesn't want to understand it, you cannot demand a working hour list, when the other person doesn't understand what you are asking, and if you know already that everything is a mess [E(1)]

FI: Kyllä se on vaan sanottava ihan suomeks, että meidän toimialalla sellaset yritykset joissa sekä työnantaja että työntekijät ovat jostakin muualta kuin Suomesta niin siellä ne ongelmat kärjistyy, että siinä on vähän kun kaikki tulee niinku erilaisista kulttuureista, niin sinne tulee sitten vähän omat säännöt [...] Mutta täs on se ongelma, ett valvontaviranomaisen on myös ikävä mennä semmoseen paikkaan missä A ei ymmärretä kieltä, siis työnantajakaan ei halua ymmärtää, ei voi vaatia työvuorolistaa, kun toinen ei ymmärrä mitä pyydetään, ja jossa tiedetään jo valmiiks että kaikki asiat on sekaisin.

However, only 2/5 representatives of the group M itself were of the opinion that there is a lack of institutions effectively monitoring the situation of workers in sectors of economy where labour exploitation occurs. Thus, the answers partly reflect the professional group that the interviewees represent.

One case study is an example of inefficient monitoring carried out by the Occupational Safety and Health Authorities. The exploitation took place in the restaurant field and there were several victims of Vietnamese origin. In the end the defendants were found guilty of human trafficking and extortionate work discrimination. However, the case was taken forward only after the victims contacted the police. The Occupational Safety and Health Authorities had made multiple inspections to the workplace but did not find any signs of exploitation.

Approximately one third (9) of the interviewees chose the option "other", however many of these answers can actually be fitted into the first three options, for example four interviewees listed the lack of resources in the investigation as an important risk factor, which might for example affect the willingness of the police to investigate. A few interviewees said that there is incapability of authorities to identify victims of labour exploitation.

4.1.3 The personal characteristics and the initial situation of the migrant worker

When focusing on the personal characteristics and the initial situation of the migrant worker, three most important factors adding to the risk that migrant workers may be exploited according to most of the interviewees were option (1) *migrant worker has a low level of education* (17/30), option (2) *migrant worker does not know the language of the country of workplace* (24/30) and option (7) *worker has experienced extreme poverty at home* (20/30). One expert [P(1)] said that the recruitment and exploitation is easy when the difference in salary is big between the country of departure and destination:

EN: The recruitment is probably rather easy in the home country, and it is a fact that even though the paid salary is very small according to Finnish standards and legislation, it is however rather big compared to what they earn in the home country. And if there is no work available in the home country, then the recruitment is quite easy. [P(1)]

FI: Et se rekrytointi on varmaan siellä kotimaassa aika helppoa, ja tosiasia on kuitenkin se, että vaikka se palkka on Suomen mittapuun ja lainsäädännön mukaan mitätön, niin kuitenkin sit siihen mitä siellä kotimaassa saadaan, niin siihen nähden se on varmaan sitten aika iso. Ja jos kotimaassa ei oo yhtään työtä tarjolla, ni aika helppoahan se on se rekrytointikin. [P(1)]

Moreover, the option 3, *migrant is not allowed to enter into employment*, was mentioned quite often (12/30) especially by professional groups L, P and S. It is probable that these professionals, in particular the police and the victim support organisations, encounter persons without valid permits more often than others. Moreover, two of the interviewees in the professional group L were familiar with the service sector where there are many workers outside the EU, for example a respondent [L(1)] said that they have many cases that involve employees from Turkey and China.

The dependency of the employee on the employer was brought up again in connection with this question. A few interviewees mentioned that the close relationship or acquaintance between the employer and the employee adds up to the dependency of the employee on the employer and therefore raises the risk of exploitation. A few interviewees connected the dependency on the lack of language skills of the employee. Moreover, the lack of language skills accounted for the difficulty to seek help and question one's treatment.

Only three interviewees chose option 5 on discrimination. One respondent from the professional group W considers Finland a racist and withdrawn country where foreigners are treated badly and as inferior. Moreover, the interviewee said that the double nature of the labour market makes migrants vulnerable to exploitation. For example, the interviewee said:

EN: The employer might say: "a Russian passport, a Russian wage – a Finnish passport, a Finnish wage". [W(1)]

FI: Työnantaja voi sanoa et "venäläinen passi, venäläinen palkka - suomalainen passi, suomalainen palkka. [W(1)]

4.1.4 The situation of migrant workers at their workplace

When asked about the three most important risk factors adding to the risk of migrant workers being exploited in connection with their situation at their workplace, the interviewees most frequently listed the options 1, 2 and 4. The option (2) *the migrant works in relative isolation with few contacts to clients or to people outside the firm* (27/30) was mentioned by almost all of the interviewees. One interviewee said that this happens particularly in “ethnic restaurant” business:

EN: The most blatant [cases] have happened in these Chinese restaurants or such, because there they know how to isolate outside of the society also in other ways than via accommodation or such, that they are really isolated. [M(1)]

FI: Ihan nää räikeimmähän on juuri näis kiinalaisravintoloissa tai vastaavissa tapahtuneet, koska siellä sit osataan sulkea muutoinkin yhteiskunnan ulkopuolelle sen asumisen kannalta ja näin, että sä oot tosiaankin erityyksissä. [M(1)]

Approximately half of the interviewees (14/30) mentioned the option (4) *the migrant works in a precarious or insecure situation of employment, e.g. formally not employed but self-employed*. However, neither the representatives of the professional group W nor E listed this option among the three most important ones, this is probably due to the fact that they don't encounter self-employed persons that much. Moreover, only 2/6 interviewees of professional group J mentioned this option, so it seems that these persons don't enter that frequently into the judicial system.

More than half of the interviewees (17/30) considered the option (1) *the migrant works in a sector of the economy that is particularly prone to exploitation* as an important risk factor. However, only one of representatives of the professional group M mentioned this option. A respondent [M(1)] said that none of the economic sectors in itself is prone to labour exploitation, but it is about the conditions on the background. Another respondent [M(1)] said that the sector does not affect labour exploitation particularly, because there are a lot of good employers in every sector.

Approximately one third of the interviewees considered the option (6) *the migrant worker is employed as a posted worker by a foreign company* (9/30) as a risk factor; almost all of these respondents belong either to professional group M or W. A respondent [M(1)] said that at the moment it seems that the foreign companies with posted workers escape the grip of the law. The respondent adds that the cases don't move as fast as they should and the foreign companies manage to leave the country before they do. The respondent most probably refers to the current case on labour exploitation in the nuclear plant Olkiluoto 3 where charges were waived by the prosecution due to lack of evidence. Moreover, the trade unions have raised this topic recently, so therefore it probably reflects from the answers of the representatives of the group W. Neither the representatives of the group J nor S mentioned this option. This might be due to the point mentioned by the interviewee from the group M that the cases rarely go to court.

The option (7) *the migrant is a seasonal worker* (8/30) was mentioned by approximately one third of the interviewees. However, none of the representatives of the professional group M listed this option, which can reflect the mandate of this group as mentioned by one of the interviewees: They only monitor employers not employment agencies that don't act as employers. The seasonal workers, such as berry-pickers, might fall through the net, as their role as employees has not been clear, for example they have been considered as a kind of “self-employed” that work on tourist visa and have come to the country via a recruitment

agency that operate from abroad. This “self-employed” approach has been widely criticised by the trade unions.

4.1.5 Role of recruitment agencies

The role of employment, placement and recruitment agencies was discussed with 21 interviewees from professional groups [M(5); N(1); J(6); W(3); E(2); L(3); R(1)]. In addition, one police officer [P(1)] was asked this question as they had raised it themselves.

The majority of the interviewees were critical of recruitment agencies in general and saw their role more as creating labour exploitation than preventing it. A few interviewees said that the agencies are involved in exploitation as they charge the employees commissions that create a debt bondage.

EN: Often the exploitation starts with that exactly, that they take an enormous commission for finding the work. In Finland it's against the law to do so but they're not under Finnish legislation, if it's done in Thailand or in Ukraine. It can be as much as one month's pay, the commission fee. I think that's one big factor within exploitation.
[M(1)]

FI: No useinhan se riisto alkaa just siitä että otetaan se joku valtava työnvälityspalkkio. Et Suomessahan se on laitonta ottaa, mut ne ei kuulu Suomen lainsäädännön piiriin, kun se otetaan esimerkiksi Thaimaassa tai Ukrainassa. Se välityspalkkio voi vastata esimerkiksi kuukauden ansiota. Se on mun mielestä yksi iso tekijä tässä riistossa.
[M(1)]

Moreover, one respondent [W(1)] said that the agencies can be involved in human trafficking.

The majority of the interviewees did not know of any institution that would have a mandate to monitor the activities of recruitment or employment agencies. Moreover, the role of Occupational Safety and Health Authorities in monitoring seemed to be a bit unclear even to the representatives of the professional group M themselves. A respondent [M(1)] said that the Occupational Safety and Health Authorities do not have the mandate to intervene. Another interviewee from the same group said that if they get to know of some flaws, they report them to the police, however the respondent was not quite sure how recruitment agencies are monitored.

One expert [M(1)] gave a more comprehensive picture of the role of Occupational Safety and Health Authorities in monitoring recruitment and employment agencies. The expert said that they monitor temporary agency work (the leased labour) companies, but if the company acts as an employment agency and it only passes the workers on to another company and doesn't pay their salaries as an employer, then these companies don't fall under their mandate. Furthermore, the respondent said that nobody monitors these kinds of companies and it could be useful to have an instance to monitor them when one considers the problems that seasonal workers, for example berry-pickers, face in Finland.

A case study shows the difficulties of finding recruitment agencies liable for labour exploitation. One case concerned a Finnish recruitment company that recruited dozens of cleaning workers from the People's Republic of China to work in Finland for a Finnish cleaning company. There was also a Chinese recruitment company involved in the process, and the Chinese company collected recruitment fees from the workers. The defendants in the case were Finnish nationals. The prosecuted crimes were extortionate work discrimination and aggravated usury.

The prosecution failed and the charges against the defendants were dropped, as the recruitment company was found not to have acted on behalf of the employer and not enough evidence on aggravated usury was found.

Approximately one third of the interviewees said that monitoring recruitment agencies is difficult and sometimes even impossible since they operate from abroad. A respondent [E(1)] criticised the European officials for how they conduct their efforts in cooperation on the issue, as there is nothing planned on a concrete level – simply exchanging information between authorities that won't result in anything unless someone has access to the actual work place and the actual employer.

A few interviewees mentioned subcontracting in connection with this question. They said that subcontracting is widespread, especially in construction. One respondent [W(1)] even went on to say that the exploited workers in the construction industry are all posted employees sent in from abroad, and the companies that send them are the ones exploiting them. The interviewee adds that these companies do not have a role in preventing exploitation, as in their opinion, they've been set up to exploit workers.

A respondent from professional group E said that tax administration tries to monitor foreign temporary agency workers in construction sector. These workers are required to declare themselves to the tax authority. However, the respondent is not convinced that this works: If asked from the tax authorities, they have not received many declarations. The problem is that nobody can control who should be declared. Still, the legislation exists that the tax authority should be informed about them.

Approximately one third of the interviewees saw a need for an institution that would monitor recruitment agencies. Moreover, a few interviewees think that it would be useful, but conclude that the monitoring is very difficult in practice as the agencies operate from abroad. Furthermore, three interviewees said that there is no real need for a monitoring institution.

A few interviewees saw the role of recruitment agencies more as preventing the phenomenon than creating it. However, it must be noted that these interviewees discussed mainly the official employment offices based in Finland. Two interviewees said that the recruitment and employment agencies don't have a big role in creating labour exploitation in Finland.

One interviewee [M(1)] said that the activities of employment offices are important in distributing information about Finnish working life. Moreover, one interviewee from professional group J saw employment agencies as a better option to employment through relatives etc. Furthermore, a few interviewees think that the Employment and Economic Development Offices could prevent exploitation, because they check the background of the employers. A representative [R(1)] said that the state funded Employment and Economic Development Offices check whether the employer has paid taxes and insurances. Moreover, this interviewee said that if the company operates from abroad, they contact the local authorities in the country of origin.

A few interviewees noted that there needs to be more follow-up checks. One interviewee from the professional group M said that the co-operation between Occupational Safety and Health Authorities and Employment and Economic Development Offices is important, so that it is possible to see the difference between what has been agreed and what is the reality and to act on basis of that.

A representative of the professional group R saw both good and bad examples of recruitment offices. The respondent said that agencies play essential role especially among Asian workers. (This view is shared by the police officer that this question was also presented to.)

The respondent mentioned as a positive example Filipino nurses, who have come to Finland as temporary agency workers and afterwards the company (of the workplace) has hired them directly. However, he mentioned as a negative example for example in the cleaning and metal industry “local businessmen” in China and Philippines who have brought workers to Finland. Another interviewee from the professional group L said that there aren’t necessarily any agencies involved, but there can be “middlemen”.

4.1.6 Key themes

The interviewees concurred about many factors adding to the risk that migrant workers may be exploited.

Lack of awareness about one’s rights was considered a risk factor by most of the interviewees and it was connected especially to lack of language skills and education. Moreover, the difficult economic situation was considered an important risk factor.

Many interviewees said that the close relationship, same cultural/ethnic background or other connection between the employee and the employer or the person arranging the employment raises the risk of being exploited for example due to the person arranging the employment/employer knowing the situation in both countries and being able to use that knowledge to exploitative purposes. Some interviewees pointed out that the dependency of the employee on the employer is also connected to the lack of language skills of the employee.

Most of the interviewees found the precarious and insecure situation of employment of the migrant workers as a risk factor. Moreover, the unofficial/unstable residence or work permit status was also emphasised as a risk factor by creating dependency, for example the employer is able to control the person’s work and residence permit via employment

Almost all interviewees were of the opinion that the limited contacts and isolation of the migrant worker adds to the risk of exploitation. Other important risk factors brought up by the interviewees were the debt bondage, the status of posted worker/seasonal worker and sectors that are prone to exploitation.

Almost all of the interviewees concurred about the most important factors adding to the risk that migrant workers may be exploited from the viewpoint of legal and institutional settings. The three most important risk factors listed were low risk to offenders of being prosecuted and punished, low risk to offenders of having to compensate exploited migrant workers and lack of institutions effectively monitoring the situation of workers in sectors of economy where labour exploitation occurs. Some interviewees emphasised that there is lack of effective monitoring, not of monitoring as such.

Role of recruitment agencies

The majority of the interviewees were critical of recruitment agencies in general and saw their role more as creating labour exploitation than preventing it. However, a few interviewees said that official Employment and Economic Development Offices in Finland could prevent exploitation, because they check the background of the employers.

Approximately one third of the interviewees were of the opinion that monitoring recruitment agencies is difficult and sometimes even impossible since they operate from abroad. Most of the interviewees didn’t know any institution that would have a mandate to monitor the activities of recruitment or employment agencies. Moreover, the role of Regional State Administrative

Agencies in monitoring recruitment/employment agencies seemed to be a bit unclear even to the representatives of the professional group M themselves.

4.2 Prevention measures aimed to reduce the risks of labour exploitation and the obligations of specific organisations in this area

The question concerning the prevention measures aimed at preventing labour exploitation in general and of migrant workers especially was presented altogether to 16 interviewees from professional groups [M(5); S(4); R(1); W(3); E(2); N(1)].

The representatives of the professional group M, Occupational Safety and Health officials of the Regional State Administrative Agencies, carry out inspections to the workplaces. During the inspections they provided information to workers, for instances about the minimum wage and collective agreement.

EN: If I ask the worker, "how much are you paid per hour", an Estonian worker for example will often reply that it's confidential, they won't tell me. Then I often ask, "do you know how much you're entitled to get in Finland". If they say no, then I tell them what the minimum wage for that sector is in Finland according to the collective agreement. [M(1)]

FI: Et usein, jos mä kysyn vaikka työntekijältä "paljonko sulle maksetaan tuntipalkkaa", sit esimerkiksi virolainen työntekijä usein sanoo, et se on niinku luottamuksellista, et hän ei suostu kertomaan. Niin sit mä usein saatan kysyy sitten, et "tiedätkö sä mitä sulla on oikeus Suomessa saada". Ja sit jos hän sanoo että ei, niin sit mä kerron mikä sen alan TES:n mukainen vähimmäispalkka on Suomessa. [M(1)]

A respondent [M(1)] said that the inspection reports are always given also to the employees of the workplaces for information. Moreover, the Occupational Safety and Health Authorities, provide general advice for workers who contact them and there is information available on their website too. Furthermore, one interviewee [M(1)] said that their organisation is preparing a guide on employment legislation.

The representatives of the professional group M said that they do some advocacy work, for example they try to influence legislation. Two interviewees mentioned that they offer trainings, for example to employers and industrial/occupational safety delegates, which can be understood as some kind of advocacy work.

The interviewees in the professional group S include three representatives of NGOs and one state official. One interviewee [S(1)] said that The National Assistance System for Victims of Trafficking advises and gives guidance to victims, organises trainings and cooperates for example with trade unions relating to preventative projects. Moreover, the interviewee mentioned that the national assistance system contacts organisations and companies directly and sometimes they are contacted for advice. Furthermore, the national assistance system employees give interviews to media and speak about trafficking openly.

One interviewee [S(1)] talked about the projects HAPKE 1 and HAPKE 2 that the Finnish Immigration Service is carrying out. These projects particularly try to improve the asylum seekers' situation. Through the projects, preventative material on work-related exploitation is produced and training to personnel and clients of the reception centres on the identification of the victims/exploitation is organised. Furthermore, the projects provide information on the

rights and duties of the employees. There is also a website that offers information on trafficking and it is partly updated through the projects.

The representatives of the NGOs said that they provide information to their target groups, such as migrant women, on different themes including employment. Their preventative work concentrates on advocacy, for example they take part in working groups on legislation renewal concerning human trafficking. A respondent [S(1)] said that they promote the interests of the victims of crime.

The representatives of the professional group W, the trade union officials, said that they offer information to workers, for example on their websites and on print. A respondent [W(1)] familiar with the construction sector mentioned that labour unions visit construction sites. There is a network of shop stewards handing out information, but there are some problems for example with regard to language, and workers are afraid to talk about their issues. A respondent from the same group familiar with the forestry sector said that sometimes the labour union representatives even leave information leaflets to windscreens of the cars in forest areas. In addition to giving advice, the trade unions do advocacy work to prevent labour exploitation, for example they influence legislation renewals. Moreover, a respondent [W(1)] said that sometimes they take the cases of non-members to court, because these cases serve the interests of members too.

EN: More and more often the unions also take these cases to court. [...] Many unions previously had this view, that they won't take these into court, but nowadays they do, and regardless of the victims being a member or not. It's justified by how the foreigner come here and dump prices, and that affects the general level of wages. At the moment it is the case that the wages in the cleaning sector have diminished in Southern Finland. [W(1)]

FI: Yhä useampi liitto on vienyt myös oikeuteen näitä tapauksia. [...] Aika moni liitto on aikasemmin ollut sillä kannalla, et he ei vie näitä juttuja oikeuteen, mut nykyisin he vie, ja riippumatta siitä onks nää jäseniä vai ei. Sitä perustellaan sillä, että kun nyt ulkomaalaiset tulee tänne polkemaan hintoja ni se vaikuttaa yleiseen hintatasoon. Nythän on siivousalalla palkat täällä Etelä-Suomessa laskenu. [W(1)]

However another interviewee from the group W said that since the amount of migrant workers has continuously risen, a stricter policy has been defined, so that the union doesn't go into court easily if the case doesn't concern a member.

A representative [N(1)] said that their organisation does advocacy work (takes part in legislative processes and cooperates with different stakeholders) and offers information, training (for example on identifying victims) and does awareness raising campaigns.

Two representatives of the professional group E were interviewed. One [E(1)] said that if they get to know that their member business/company is not complying with the common agreement, the association tells the employer/company how they should correct their actions and they usually act according to these suggestions.

Both interviewees [E(2)] mentioned that they do advocacy work directed at preventing black economy. One of them said that black economy is linked to labour exploitation / work discrimination as the salaries are not paid according to the regulations. Moreover, the interviewee brought up that their organisation cooperates with the Tax administration, alcohol monitoring officials, Occupational Safety and Health Authorities and food hygiene officials on these matters.

A representative [E(1)] familiar with the construction sector described in detail the prevention measures aimed at black economy. The respondent mentioned a new tax number practice in the construction business as a recent improvement, and explained the changes that will take place in July 2014 that oblige among other things that in every construction site the main contractor must maintain a list of workers and declare all workers who have worked in the site monthly. Moreover, the interviewee told about other up-coming developments in this area, for example, a monitoring system that would oblige every worker to have an identity card with taxation information in order to access the construction site. The interviewee said that sometimes it has been difficult for victims of labour exploitation to identify their employer and the new system will help also in this regard. A respondent [W(1)] familiar with the construction sector also mentioned the recent monitoring improvements.

A representative [R(1)] said that they offer information to foreign workers as far as they are able, but it is difficult since they rarely meet them. They have information that is targeted at foreign workers, and information is available in different languages as printed booklets and on their website. Moreover, the interviewee said that they also do advocacy work, for example, tell the employers beforehand that in Finland you have to follow the Finnish collective agreements and the labour legislation. Furthermore, the respondent mentioned that their monitoring is related to admission of extension application. If the employer/company has not fulfilled the terms of employment, it will be difficult to get a new permit, unless they corrects their actions.

4.2.1 Pre-departure information programmes

The question on interviewees' awareness of pre-departure programmes put in place by the government to prevent labour exploitation was presented to 11 interviewees from professional groups [S(4); R(1); W(3); E(2); N(1)]. Most of the interviewees were unaware of any pre-departure programmes, a few interviewees said that there are programs, but they don't have further details on them.

A few interviewees said that Finnish embassies offer information in the countries of departure about employment in Finland, for example there is a booklet by the Ministry of Foreign Affairs that includes information about the terms of employment and the rights of workers in Finland. Moreover, a respondent [S(1)] said that the material of HAPKE-projects have been distributed to the Finnish embassies.

A few interviewees said that more pre-departure information is needed, for example two interviewees mention berry-picking as an area where more information and clearer rules should be established. In the focus group discussion it was also brought up that more pre-departure actions are needed, for example not enough information is given when applying for a permit about the conditions of working life in Finland.

A respondent [W(1)], working in a trade union, said that they have cross-border co-operation with Estonia. The goal of the cooperation is to give people correct information about working in Finland before they leave Estonia.

4.2.2 Mechanisms of standard-setting and accreditation

The question on mechanisms of standard-setting and accreditation at national and international level was presented altogether to 7 interviewees from professional groups [R(1); W(3); E(2); N(1)].

Only one interviewee [W(1)] could give further details on standards and accreditation in relation to labour exploitation. The respondent said that their organisation (trade union) works with international forestry standards, FSC and PEFC. The respondent's organisation has taken part in the development of the PEFC standards, and has managed to include a new section on how the employer is responsible on informing the employee about the work life and rights and obligations in Finland. Moreover, the respondent's organisation has tried to raise awareness on such standards and inform the public authorities about how they should consider the standards when choosing sub-contractors and using foreign labour. Furthermore, the respondent believes that the standards give leverage when discussing issues with the employers, as if they do not comply, they might lose the standards.

4.2.3 Key themes

Monitoring is mainly carried out by the Occupational Safety and Health Authorities who work in the Regional State Administrative Agencies. The inspections are directed at the employers and workplaces. The Employment and Economic Development Offices conduct some monitoring directed at employers, mainly by checking documents. There have been quite a lot of developments targeted at prevention of labour exploitation, especially in the construction sector.

Advocacy work is carried out by many instances, for example by the Occupational Safety and Health Authorities, the National Assistance System for Victims of Trafficking, the National Rapporteur on Trafficking in Human Beings, NGOs, trade unions (workers' unions) and employers' unions (directed at black economy). All of these instances, except the employers' unions, offer information to workers and victims of labour exploitation. Moreover, especially the National Rapporteur on Trafficking in Human Beings and the National Assistance System offer training on labour exploitation.

Most of the interviewees were unaware of any pre-departure programmes, a few interviewees said that there are programs, but they don't have further details on them. Some interviewees said that more pre-departure information about the working conditions in Finland is needed.

Only one interviewee [W(1)] could give further details on standards and accreditation in relation to labour exploitation and the respondent had a positive image of their impact.

4.3 Protection against (repeat) victimisation: actions undertaken by the police to protect victims against the risk of repeated victimisation, including how the police conduct investigations

4.3.1 How the victims are perceived in connection with a raid

When asked about how the police would perceive the victims of labour exploitation who are in the country without valid permits, the interviewees' opinions were quite divided. The question was presented to 21 interviewees from the professional groups [M(5); P(5); S(4); J(3); L(3); N(1)]. Approximately half (9/21) of the interviewees could not clearly decide between the two options; around one third (7/21) thought that victims are primarily seen as being illegally in the country; whereas approximately one quarter (4/21) were of the opinion that they are seen more as victims.

A few interviewees said that it depends on the individual police officers how the victims are perceived. Moreover, some interviewees were of the opinion that the perception and actions of the police depends on the situation they encounter. A few interviewees, including two police officers, said that the police must consider both options in the described situation. The other one of them said that these kinds of issues are frequently dealt within the training of the police. The respondent added that both aspects of the case should be recognised and taken into account, but practices vary. Some cases are dealt with as illegally staying in the country and some cases are dealt with as labour exploitation. Furthermore, the interviewee said that inspections are not random and police are prepared to find labour exploitation since inspections are targeted on the basis of tip-offs or other intelligence, which helps identifying victims. However, a respondent [J(1)] said that the police have been criticised for seeing migrant workers as illegally staying in the country, although the recommendations states that they should be treated primarily as crime victims. Nevertheless, the interviewee believes that practices of the police are changing as the issue is brought up.

A respondent from the professional group S brought up the fact that they had heard of victims of labour exploitation who have been directed to detention centres. The respondent said that this implies that they are not considered as victims, but they are waiting to be expelled.

EN: I have also heard about this through detention centre unit, that persons who have clearly a kind of labour exploitation or human trafficking –like exploitation in a labour context in the background have also been directed to the detention centre unit, so that implies that they are not identified at least not to the extent that they would genuinely be directed to somewhere else than out of the country. [S(1)]

FI: Oon kuullut myös tästä säilöönottoyksikön kautta siitä, että sinnekin ohjautuu ihmisiä, joilla on selkeästi tämmöistä työriistoa tai ihmiskaupankaltaista hyväksikäyttöä niinku työkontekstissa taustallaan, niin heitä päätyy säilöönottoyksikköön, niin se viittaa nyt siihen, ettei heitä tunnisteta ainakaan siinä määrin, että heitä sitten aidosti niinkun ohjattaisiin johonkin muualle kuin ulos maasta. [S(1)]

A border guard interviewed said that the police would consider the persons in the described situation as victims, but implies that the victims are mainly important because they are needed as witnesses in court.

Only one police officer was of the opinion that the police sees workers primarily as victims in a described situation. The respondent said that they acknowledge the possibility of labour exploitation or human trafficking within their police district and not having work or residence permit is not relevant in the beginning of the process, but at later stages the police will find out whether the persons have ever had a permit. However, a respondent from the professional group L said that police checks the work permits first. Moreover, two representatives from the professional group M said that the police inspects the rights to work typically straightaway at the workplace. Furthermore, in the focus group discussion it was brought up that there are police officers who focus on the lack of valid permits that might partly be due to unawareness about labour exploitation.

Two interviewees [S(2)] said that the identification of victims has improved in recent years. However, some answers given by the interviewees imply that the identification is not at a high level, as two interviewees said that there needs to be very evident proof of exploitation, such as the victims being starved, so that the police would see them as victims.

4.3.2 Actions taken by the police to put an end to the situation of labour exploitation

The question on the actions taken by the police to put an end to the situation of labour exploitation and to protect the victim was presented to 21 interviewees from the professional groups [M(5); P(5); S(4); J(3); L(3); N(1)].

More than half of the interviewees mentioned the National Assistance System for Victims of Trafficking in relation to the actions taken. Most of them said that the police will contact the national assistance system and/or direct victims there, but some of the interviewees said that it depends on the individual police whether in practice it is so, for example a respondent from the professional group S pointed out that the police is obliged to tell the victims about the national assistance system, but the respondent isn't sure whether the officials always act accordingly. In addition to the assistance system, a few interviewees mentioned that the victims are offered support, for example they can be directed to shelters. Thus, the assistance system for victims of trafficking was seen as the principal support system, this interpretation was supported too by the participants of the focus group.

According to one respondent, the police has instructions on how to handle the cases of trafficking or refusal-to-entry and how to cooperate with the national assistance system. If the police notices indications of trafficking or related crime, they contact the national assistance system in connection with a raid or after it. The interviewee said that if the police has had a certain place under surveillance, the personnel of the national assistance system has also participated in the raid. In those situations the national assistance system personnel take care of the victims and remove them from the situation and the police takes care of their own role. The reception centre personnel tell the victim about the assistance system. However, the interviewee said that not all police officers recognise trafficking.

A respondent [P(1)] said that the actions of the police depend on the how the victim acts. Victims are offered help, but in case they are not willing to accept it, the police may focus on other aspects of the case, such as illegal stay or lack of permits. A few interviewees said that the migrants without permits might be expelled from the country.

One J group interviewee said that if the victims stay, they might find same type of work and end up in a similar situation again, and become victims once again. But if the victims are in the national assistance system for victims of human trafficking, they should receive the kind of support and guidance, which helps to prevent further victimisation. Moreover, a few

interviewees mentioned that the victims of trafficking will probably be granted a reconsideration period to their residence permit.

A few interviewees pointed out that the national assistance system only serves the victims of trafficking. Thus, the victims of other kind of exploitation fall through the net. A respondent from the professional group P said that when you remove a person from the exploitative situation, you usually also need to provide him/her with accommodation which basically means directing the person to a reception centre to wait for a decision about the acceptance to the national assistance system. Moreover, the expert said that the national assistance system is very bureaucratic and there should be another system to help the victims of labour exploitation. The officials should provide accommodation from another locality and preferable a job and also other kind of help and training. The national assistance system is tightly connected with the on-going crime investigation and the victim is tied to the system, the support might stop after the victims have testified.

EN: Of course this person is interested in knowing what is going to happen to him/her [...] If we say it directly that well you are going to enter a sort of that assistance system for [victims of] trafficking, that you are driven to 400 km away to a forest and then you are going to stay there and after you go and testify you are on your own. We don't have anything to offer. We have to have something else. [P(1)]

FI: Tottakai ihmistä kiinnostaa tietää mitä hänelle tapahtuu. [...] Jos me sanotaan suoraan, että joo sä lähdet tommoseen ihmiskaupan auttamisjärjestelmään, ett sut ajetaan 400 km päähän tonne mettään ja oot sitte siellä ja käyt todistamassa ja sit oot omillas. Eihän meil oo mitään tarjottavaa. Meil on pakko olla jotakin muuta. [P(1)]

Furthermore, one interviewee [FG(S)], said that the legislation governing the operations of the assistance system is terribly vague and confusing and there are different interpretations.

A respondent [N(1)] said that there is a difference between how police should act and how they actually do in practice. The concrete actions depend on the individual police officer, and in areas where cases of human trafficking and labour exploitation have been identified, the police is able to understand the position of the victim better and victims are referred to the system of assistance. An L group interviewee brought up an important issue. The respondent said that in investigating labour exploitation, the police has not been active in protecting other workers at the same workplace.

A respondent [P(1)] said that police needs to deliberate how urgent the situation is: Do they need to take the victim out of the situation right away, or can they let the situation to continue a bit longer, so that the police can gather more proof which would improve the chances of success in the court. A respondent [J(1)] said that if the situation is really bad, there is no other option than to take the victims away from the work place, as the employer can affect their statements if they are left behind.

A respondent [J(1)] mentioned that victims can get a legal counsel already during the pre-trial investigation. Furthermore, if the situation is severe, the police can arrest the suspects, which in practice stops the activities of the firm.

4.3.3 The referral of victims to support services

Questions on referral were presented to 16 interviewees from the professional groups [P(5); S(4); J(3); L(3); N(1)].

One expert [N(1)] said that the police and the Occupational Safety and Health Authorities have instructions on how to refer victims to the national assistance system. The interviewee said that the police has improved their actions and victims come to the assistance system mainly through the police.

Three representatives from group P said that they do not routinely or automatically refer victims to support organisations, the need for support has to be assessed individually, with the victim. Two of them assessed that the referral system works fine. However, one police officer said that not everybody is aware of the national assistance system and there are not many other support services that the victims of severe exploitation could be directed to. Two representatives from group P said that the threshold for accepting persons to the national assistance system cannot be too low, so that the system doesn't get exploited. However, one of them also brought up that it is very difficult to make the victims understand that they have been exploited.

All the representatives of the professional group S said that there are problems in referring victims to support services. One of them mentioned that there are geographical differences in directing the victims, for example in many locations in Finland there are no shelters. Even in Southern Finland, there are not enough available places in the shelter homes. One of the interviewees said that the Ministry of Interior has published a report about victims of trafficking which suggests that more support should be offered to the victims of trafficking when they are yet not officially recognised as such, and for example psycho-social support should be offered. Moreover, the respondent said that the victim should be able to consider his/her options with somebody else than the pre-investigation officials, for example when it comes to the assistance system.

A respondent [L(1)] said that the police does not offer much support. The interviewee said that the referral of victims to the support services in general does not work, and that there is not enough cooperation in Finland between the different authorities. In contrast, two interviewees [J(2)] said that in the cases they know of, the assistance system has worked well.

Approximately one third (5/16) interviewees didn't want to estimate the effectiveness of the referral system.

4.3.4 The effectiveness of investigation and prosecution

The question on the effectiveness of the investigation and prosecution was presented to a total of 18 interviewees from the professional groups [P(5); S(4); J(6); L(3)]. The majority of the interviewees were of the opinion that the investigation and prosecution could be carried out in a more effective way. Approximately one quarter of the interviewees said that the police especially could act more effectively and there are attitude problems in the police towards labour exploitation cases, e.g. two interviewees [J(2)] mentioned that as the labour exploitation cases are concentrated in the economic crime department, the investigators are more interested in "traditional economic crime" than labour exploitation. One of them said that, for example, in the cleaning business the victims of labour exploitation are heard as witnesses not as victims.

One third of the interviewees (6/18) said that the investigation and prosecution or both take too long, two interviewees [J(2)] emphasised that the labour exploitation cases get statute-barred quickly³⁷ which hinders the judicial process. Especially the representatives of the professional group L were critical about the police handling labour exploitation cases and said that the investigations take far too long. They all agreed that the prosecutor acts more efficiently than the police.

Two interviewees pointed out that when the suspects are not caught, the process might take a long time; however one prosecutor said that if the victims are in the national assistance system for victims of trafficking, the process is sped up. Moreover, three interviewees said that it is important that the defendants and the victims stay in the country, because witnesses are especially important to the investigation and the judicial process. Furthermore, one prosecutor said that the processes take long when one tries to cooperate with the officials from some other countries.

A few interviewees emphasised that it is hard to prosecute the labour exploitation cases. A respondent [P(1)] said that the prosecutors might even be afraid of these cases, because they centre on witnesses and there are many risk factors with witnesses, such as they are too afraid to testify.

Approximately one quarter of the interviewees brought up the lack of resources in the police and prosecution or both. However, one border guard interviewed said that the respondent can get all the resources needed to investigate these cases.

Two representatives from the J group said that there is geographical variation in the effectiveness of investigation and prosecution. The cases and the expertise are concentrated in some areas in Southern Finland. Moreover, two interviewees [J(2)] brought up the language problem and the lack of interpreters in relation to the effectiveness of the investigation and prosecution.

Two S group representatives said that it depends on the individual investigator/prosecutor how the cases are taken forward. Moreover, two interviewees said that the cases are not often taken forward as trafficking in human beings.

EN: We have often found that in these human trafficking cases, or cases with implications toward human trafficking... well maybe because of the judgements given, and the Finnish legislation that is very complicated, the prosecutors are a little wary in prosecuting human trafficking. Even if we think that there are features that implicate that it would be worth prosecuting. Often they change into extortionate work discrimination, or some other title of an offence. [P(1)]

FI: Me ollaan monesti törmätty näissä ihmiskauppajutuissa, jutuissa, mis on viitteitä ihmiskauppaan... johtuen varmaan näistä annetuista tuomioista ja siitä, että täälainsäädäntö on Suomessa vaikeesti kirjoitettu, et syyttäjät on vähän arkoja lähtee syyttään ihmiskaupasta. Vaikka meidän mielestä ois semmosia piirteitä että kannattas lähtee syyttään. Monesti tää vaihtuu sit tohon kiskonnan tapaseen työ syrjintään tai johonki muuhun rikokseen. [P(1)]

³⁷ In accordance with the Criminal Code the right to bring charges is time-barred if charges have not been brought, within five years, if the most severe penalty is imprisonment for over a year and at most two years, and within two years, if the most severe penalty is imprisonment for at most a year, or a fine or a summary penal fee. The maximum penalty for work discrimination is 6 months imprisonment, whereas the maximum penalty for extortionate work discrimination is 2 years imprisonment. (The Criminal Code of Finland www.finlex.fi/fi/laki/ajantasa/1889/18890039001, Unofficial translation available at www.finlex.fi/en/laki/kaannokset/1889/en18890039.pdf.)

4.3.5 Key themes

The interviewees mainly talked about the national assistance system for victims of trafficking when asked about the actions that the police would take to put an end to the situation of labour exploitation. Approximately one third of the interviewees said that the police direct victims of trafficking there. However, the national assistance system for victims of trafficking does not cover all victims of labour exploitation as pointed out by a few interviewees. Thus, a part of the victims of labour exploitation fall through the support network.

All the representatives of the professional group S said that there are problems in referring victims to support services, for example there are geographical differences in the availability of services. Moreover, most of representatives of the professional group P said that the police do not routinely refer victims to support services, but the situation has to be assessed individually.

The majority of the interviewees were of the opinion that the investigation and prosecution could be carried out in a more effective way, for example the police could act more effectively. Moreover, according to some interviewees, there are attitude problems in the police towards labour exploitation cases. The interviewees' opinions about how the police primarily sees the victims of labour exploitation were varied. However, only four interviewees clearly stated that the police sees the victims more as victims than illegally staying in the country. Thus, this seems to reflect the attitude problems and the lack of understanding of the position of the victim. One third of the interviewees (6/18) said that the investigation and prosecution or both take too long. Moreover, a few interviewees emphasised that the labour exploitation cases get statute-barred quickly which hinders the judicial process. Furthermore, it was brought up that labour exploitation cases are tricky, because the victims/defendants might leave/or be expelled from the country, and witnesses are essential to the case moving forward successfully.

5 Victim support and access to justice

5.1.1 Victim support

Questions concerning victim support were presented to professional groups [P(5); S(4); W(3); N(1)].

In general the interviewees stated that the victim support services, such as the National Assistance System for Victims of Trafficking, are open to victims despite of their legal status or formal recognition as victims and they are free of charge. However, the representatives of the professional group S pointed out that the situation differs depending on the support form in question, for example two respondents from the group S said that the third sector services are available regardless of the status of the migrant, but the services provided by the authorities, such as social services, are not necessarily. Moreover, the other one of these interviewees noted that it is not enough that people have the right to the services, they also have to have the capability to use them. Thus, there should be more low-threshold services offered in a language that the victim can understand and the information has to be given in a comprehensive way. Another interviewee [S(1)] said that for example in order to access shelter homes one needs to have a paying commitment from the municipality and they are not available to paperless migrants. Almost all representatives of the group S said that more resources are needed for the support organisations.

The interviewees mentioned the following NGOs offering services to victims of labour exploitation: Victim Support Finland, Monika-Multicultural Women's Association (Monika-naiset) and Pro centre Finland (Pro- tukipiste). Monika-Multicultural Women's Association targets services to migrant women, they give advice for example in relation to employment. Victim Support Finland gives guidance and information to victims of crime, assists them in finding legal aid counsels, and helps to make a report of an offence to the police or to contact the monitoring authorities. Moreover, there are support persons offered for victims of crime. Pro centre Finland's basic functions are low-threshold social and health services and advice for sex workers. They direct clients to the right service providers. Their employees know many languages and encounter migrants in a culture-sensitive way.

One interviewee [S(1)] said that there are certain criteria that the victim has to fulfil in order to be accepted in The National Assistance System for Victims of Trafficking, but there doesn't need to be a full proof of trafficking. Moreover, according to another interviewee [N(1)], the suspicion or doubt of victimisation in trafficking in human beings is, at the moment, enough to be accepted in the system.

A respondent said that if the title of an offence changes during the judicial process for example from trafficking to battery or fraud, then the victim is dropped out of the assistance system. On the other hand, in crimes related to trafficking such as extortionate work discrimination, one must wait and see what the actual title of an offence is going to be, therefore these persons are usually accepted in the system in the beginning of process and further consideration is needed later in the proceedings. The title of an offence can change when the case moves from the police to the prosecution. Moreover, it might change during the proceedings and the court is not bound by the title of the offence presented in the charge.

After the victim has been accepted to the assistance system, he/she gets a general medical check-up, but some discretion is used whether he/she needs further social or health services. Basic services, such as judicial assistance, livelihood and safe accommodation, are offered to everyone. The services are free of charge. However, another interviewee, familiar with the national assistance system, said that not all municipalities are willing to cooperate with the

assistance system, therefore the services that the victims actually receive differ between the municipalities they are settled in.

As a rule, the trade unions (workers' unions) provide assistance and legal aid to their members. The representatives of the trade unions discussed the services provided by them for non-members. Two interviewees said that if the case is significant, it can be taken forward even if the victim is not a member of the union. However, one interviewee said that since the number of migrants has risen, the union has a sticker policy to helping non-member migrants.

EN: Now that the situation has continued for so long, and will continue, for the foreseeable future, we've had to define a policy where we don't go into court too easily if it doesn't concern a union member. Our legal aid is provided to members, who have been paying members for six months. If they haven't done that, legal aid will not be provided, in practice nowadays. [W(1)]

FI: Nytte kun tää tilanne on jatkunu niin pitkään ja tulee jatkumaan hamaan maailman tappiin, kyllä me ollaan semmonen linjaus tehty, ettei oikeutta lähetä käymään kyllä kovin herkästi jos ei oo liiton jäsen. Meillä oikeusapu edellyttää jäsenyyttä ja kuuden kuukauden jäsenmaksuja. Jos ei tätä oo tehny ni oikeusapu käytännössä jää nykyään saamatta. [W(1)]

5.1.2 Key themes

The third sector support services are available to migrants regardless of their legal status, however the services provided by municipalities are not necessarily available to irregular migrants. As a rule the trade unions offer legal assistance to members only, however some exceptions are made.

The National Assistance System for Victims of Trafficking is open to migrants regardless of their status, however the system is only targeted at all victims of labour exploitation (as discussed in section 4.3.5). Nevertheless, the suspicion of such victimisation is enough to be able to access the system.

As already discussed in section 4.3.5, there are problems in referring victims to support services, for example there are geographical differences in the availability of services. Moreover, the police doesn't automatically direct victims to support services. Furthermore, the support providers don't have enough resources available for their work.

5.2 Access to Justice and other mechanisms to empower victims

The interview questions on access to justice were answered by five groups of interviewees: the representatives from victim support organisations, the judges and the prosecutors, the lawyers, the trade union representatives, and the national policy experts. This section summarises and discusses the views of these 17 interviewees on the effectiveness of the civil justice system, the possibility of dealing with civil law claims in the criminal justice system, complaints lodged by a third party, and mechanisms to empower migrant victims of labour exploitation in Finland.

5.2.1 Claiming compensation and back pay of denied wages: Effectiveness of the civil justice system and civil law claims dealt with by the criminal justice system

This section focuses on claims for compensation and back pay of denied wages, and summarises the interviewees' opinions on the effectiveness of the civil justice system and whether civil law claims can be dealt with by the criminal justice system.

Civil claims are increasingly dealt with in connection with criminal proceedings in Finland, although these two can also be separate processes. The interviewees have quite different opinions on how often the civil law claims are in fact a part of the criminal proceedings. Six interviewees said that civil claims are usually handled in the criminal justice system. Four interviewees said that this happens sometimes, and five that it happens rarely. Two refrain from answering as it is not their area of expertise. The answers highly depend on the professional group of the interviewee.

Two representatives of group S said that civil law claims are handled in the criminal justice system only if the evidence is strong, and that it depends on the prosecutor and their level of specialisation whether they are willing to take civil claims forward. In the J group two interviewees, a judge and a prosecutor from the metropolitan area, said that these claims are rarely handled in the criminal court. All others in this group agreed that usually, civil claims are handled during criminal proceedings. Two interviewees from trade unions said that civil law claims are usually not dealt with in the criminal justice system. One of them explained that there are very few labour exploitation cases that are actually brought to criminal justice, for example in the construction sector it only happens once a year or even more rarely. However, many claims are made in civil courts.

All three lawyers said that sometimes civil law claims are handled as part of the criminal process, sometimes not. A private lawyer from the metropolitan area said that if a case is extensive and there is a lot of denied wages, it is not handled by the criminal justice system. However, this contradicts the statement of another lawyer who works for a trade union who claimed that when there are a lot of unpaid wages and the sums are high, it is difficult to settle the case outside the court. A trade union lawyer said that claims for denied wages are usually handled in the civil law system because the police is unwilling to investigate them unless the victims themselves file a police report. Civil justice proceedings are much faster than criminal justice proceedings, and the interviewee thinks that often it is better to just handle a case as a civil law case, as the police's unwillingness to investigate makes the end result uncertain on the criminal justice side.

Possibly the reason for the differences between the professional groups' responses on whether civil law claims are dealt with by the criminal system depends on their professional experience and the type of cases they face in their work. Judges and prosecutors in the criminal field rarely deal with civil proceedings, thus it is understandable that they do not have accurate knowledge on these. Overall, labour exploitation cases are rarely taken to the criminal court, as it is difficult to prove that the essential elements of a crime are met. Thus many cases are taken forward as civil cases, and this often benefits the employee as well, as the proceedings are not as long and it is easier to get the compensation and back payment of wages when there is no need to present evidence of a crime. Officials and lawyers in trade unions see a large number of these civil cases and help victims to take them forward, and from their point of view, the majority of cases are not taken to criminal courts at all. These cases handled by trade unions typically concern claims for the payment of denied wages and unpaid supplements. However, of the labour exploitation cases that go to the criminal court, a large portion seems to include civil law claims as well.

Most interviewees from the groups S, L and W were of the opinion that it is difficult for a victim to navigate the legal system in order to get compensation and denied wages. A skilled lawyer is always required, and a victim must have some level of language and cultural skills to find out how the legal assistance system works and to enter the judicial process. Furthermore, the legal processes are lengthy, and migrant workers are rarely willing to stay in the country for their duration solely for the legal process if their employment has ended. Trade unions are essential in providing quotes for the amount of denied wages. Trade unions provide legal assistance for their members, but many migrant workers are not member in a union. Furthermore, a support person mentions that back pay of wages for sex services performed cannot be claimed in Finland.

Four interviewees from the J group said that claims for compensation and back pay of denied wages are a natural part of the criminal proceedings, and that as long as the victim has a legal counsel, there should be no problems. One judge said that it is easy to claim unpaid wages, since the process is smooth and the legal actors all know their role in it: the police applies for legal assistance and the trade unions provide quotes for the amount of claims to be made. Legal assistance for a person with low income is covered by the state, but as one judge says, it is difficult for a person to enter the legal process if they do not know about this.

It is interesting to notice that the answers by the judges and prosecutors (group J) are very different from the opinions of the representatives of the group L. The group J predominantly believes that the judicial system works well, but all three representatives of the group L interviewed think that it is not easy to get compensation or back pay of unpaid wages. The victims who are members of trade unions are better covered than those who are not, since the union will take the risk of losing and having to pay the expenses of the other party in the case. Migrant victims might not be aware of the possibilities of getting legal assistance and are rarely union members.

5.2.2 Mechanisms that would facilitate the lodging of complaints against employers

This section summarises and discusses the interviewees' answers to questions on the possibility of lodging complaints by third parties and mechanisms facilitating lodging of complaints against the employers in situations labour exploitation.

In Finland, complaints cannot be lodged through third parties. The interviewees mentioned that this is true unless the crime is an offense subject to public prosecution (as opposed to the offenses in which the prosecution rests with the injured party), when the crime can be reported by anyone and the police has the duty to investigate and take the case forward. In labour exploitation cases, such crimes would be extortionate work discrimination and human trafficking. Many interviewees mentioned that a third party can tip the Occupational Safety and Health Authorities or the police about a possible crime, although they cannot file a complaint. The trade union officials interviewed all consider it a problem that complaints cannot be lodged by third parties, as it would make it easier for them to address the issue of labour exploitation. The trade unions have advocated for the right to lodge collective complaints for years. Moreover, two interviewees [N(1)] and [S(1)] interviewed also said that a right to collective complaints would ameliorate the situation of victims of labour exploitation. Moreover, the support person thinks that it would be beneficial that complaints could be filed anonymously, without the employer's knowledge about who filed a complaint.

Seven interviewees suggested that some kind of comprehensive, low threshold support and assistance service should be established. The low threshold instance could provide advice on

employment in Finland, workers' rights and collective agreements, coordinate and provide specialist information on legal assistance, and provide information on accommodation, health care, and society. Four think that providing information and raising awareness on a general level or some kind of initial education financed by the employer or the Occupational Safety and Health Authorities, organised by a neutral outsider would facilitate the lodging of complaints. However, one respondent [N(1)] pointed out that informing victims about their rights has not always been useful, since the victims don't realise that this is an issue that concerns them when they come to Finland. Moreover, even when the victims have knowledge and are informed, it is difficult for them to act on the information.

The difficult permit situation of the migrants was yet again brought up in connection to this section. Two lawyers said that the residence permit system should be developed so that the victims would be safeguarded their right to stay in the country. A residence permit should not be tied to one employer, but an economic sector, so that the employee wouldn't be dependent on one employer.

Other themes brought up by the interviewees were for example the interpretation problems. An interviewee [J(1)] said that it should be ensured that a skilled interpreter is always present at the inspections, as now the employer often acts as an interpreter during inspections. Moreover, the chain of contractors was mentioned by a trade union employee, who said that a main problem is that commissioners are not held responsible for exploitation or unpaid wages of their sub-contractors, and making them so would help victims lodge complaints.

5.2.3 Key themes

The interviewees hold quite different opinions of what the relationship between the civil law claims and criminal proceedings actually is in these cases and whether civil law claims can be dealt with in the criminal court. It seems that the labour exploitation cases are rarely taken to criminal court. Thus, the civil cases were emphasised by the interviewees.

Many interviewees were of the opinion that it is difficult for the victim to navigate the legal system in order to get compensation and denied wages. The representatives of the professional group L in particular shared this opinion. On the other hand, the representatives of the group J predominantly believed that the judicial system works well in this sense.

The victims who are members of trade unions are as a rule in a better position, since the union will take the risk of losing and having to pay the expenses of the other party in the case. Migrant victims might not be aware of the possibilities of getting legal assistance and are rarely union members.

In Finland, complaints cannot be lodged through third parties. The trade unions have advocated for the right to lodge collective complaints for years. There are crimes that are subject to public prosecution that have to be taken forward by the authorities, even without the consent of the injured party. In labour exploitation cases, such crimes are extortionate work discrimination and human trafficking.

Many interviewees concurred about the need for a low-threshold support centre that would help victims of labour exploitation.

6 Attitudes

6.1 Interviewees' opinions on whether interventions into situations of labour exploitation serve the interests of the victims

This section summarises and discusses the interviewees' answers to the question, "Do you believe that interventions into situations of labour exploitation, generally speaking, serve the interests of the migrant workers concerned?" The interviewees' opinions can be divided in three categories: firstly, that the interventions usually or for the most part serve the interests of the migrant workers; secondly, that the interventions benefit migrant workers without reservations; and thirdly, that the interventions do not generally serve the interests of the migrant workers.

Approximately half of the interviewees (14/30) believe that interventions usually for the most part serve the interests of the migrant workers. The answers falling in this category were often justified by a belief that on a general level, the interventions have a positive effect, but in an individual case, they might actually cause more harm than benefit to the migrant worker. Interventions often cause the employment to end, and can have negative social and financial consequences to the victim as explained in the next section. In the opinion of one W group interviewee, the migrant workers who do file complaints and take their exploitation cases forward are pioneers, as their processes serve the interests of others but they themselves do not benefit from them. The interviewees also believe that it is always wrong to exploit workers, and the society should protect people from such exploitation, even when the individual workers themselves are content with the situation.

Twelve interviewees believe that interventions do benefit migrant workers without reservations. This positive view toward interventions was especially common within the groups P and J: four interviewees in both groups gave answers that fall in this category. The answers in this category were generally more concise than and not as elaborate as the other answer categories. However, many mentioned how they believe that interventions have a positive effect on a general level in the society, they raise awareness and stir public discussion, thus preventing further exploitation. This is actually in line with the views of the interviewees whose answer was that the interventions only partly serve the interests of the workers: the interventions do positively affect the society at large, but individual workers who fight their case might suffer as a result.

Only four interviewees were of the opinion that the interventions into situations of labour exploitation do not serve the interests of the migrant workers. Interestingly, two interviewees out of the five in the group M believe that the interventions are not beneficial to the victims. Possibly their role as monitoring bodies grants them an understanding of the whole of the proceedings that follow from an intervention. This is in contrast with the views of police, the prosecutors and the judges, who tend to have an opposing view, but they follow the case only to a limited extent: they follow the case during the preliminary investigation or until a court hearing, but rarely know what happens after the criminal proceedings end. Furthermore, these professionals in the groups P and J only handle cases that have been reported to the police or have been prosecuted, whereas monitoring bodies are aware of a wider spectrum of labour exploitation cases.

Five interviewees mentioned that the victims of labour exploitation are in a vulnerable position when it comes to the grounds of their residence in Finland. Their residence permit is often tied to the employment during which the exploitation has taken place. Interventions to exploitation often lead to termination of the employment, and as a consequence, the victims risk losing their residence permit and in the end having to leave the country against their will. This uncertainty can also be very stressful mentally, especially for a person who has recently experienced exploitation. A lawyer interviewed considers that these problems with residence permits should be seen as a failure of the system to protect the victims of exploitation:

EN: The problem is, that these persons, they often have problems with their residence permits, or at least problems appear after [lodging a complaint]. Our system is problematic when it comes to residence permits, since people wait for trial without any residence permits. Or granting the permit is pending, but they are not able to work, and have nothing to do. [...] I would say, that the situation where they wait for these things, can actually cause more mental problems than the situation in employment which might have been short. [L(1)]

FI: Ongelma on se, että nää henkilöt, heillä usein siinä vaiheessa on jo ongelmia oleskelulupien kanssa, vähintäänkin tulee sen jälkeen niitä ongelmia. Niin meidän järjestelmä tällä hetkellä oleskelulupien suhteen on todella ongelmallinen, koska nää henkilöt sitten odottelee näitä pitkäksi venyneitä asian käsittelyjä, ilman että heillä on täällä mitään oleskelulupaa. Tai oleskelulupa on vireillä, mutta heillä ei ole työnteke-oikeutta eikä mitään tekemistä. [...] Uskaltais jopa väittää, että se tilanne, jossa he odottaa näitä asioita, voi aiheuttaa heille tosiasiaa enemmän henkisiäkin ongelmia kuin tilanne siinä työsuhteessa, joka on saattanut olla verrattain lyhytkin. [L(1)]

A few interviewees from the professional group J brought up (in connection with other questions) that the victims perception about themselves as not victims and can be confusing for the legal professionals.

An interesting point of view was raised by a representative of the Finnish Border Guards. In the respondent's view, the essential task of authorities is fighting the black economy and trying to uphold a welfare state, and as a result it is their duty to intervene in a case of exploitation even when it does not benefit the victim. The interviewee is critical of these kinds of situations, but does however acknowledge that they do occur – there are situations in which the interests of the society override the interests of a victim of exploitation.

6.2 The reasons for underreporting in labour exploitation cases

This section summarises and discusses the interviewees' opinions on why there is underreporting of labour exploitation of migrants in Finland. All 30 interviewees were asked the question, "why do more migrant workers who are victims of labour exploitation not come forward and seek a way out of their situation?" The majority of interviewees, 60% (18/30), believe that the migrant workers' lack of knowledge and awareness is a main reason in not coming forward with their case of exploitation. They mentioned inadequate language skills and lack of awareness about the Finnish system as well as lack of knowledge about workers' rights in Finland. This is somewhat contradictory to their views about the consequences of an intervention. Most experts believe that the consequences of an intervention for an individual

worker are or can be mostly negative, and awareness of this is unlikely to encourage exploited workers to come forward with their case.

The lack of cultural and linguistic competence is related to another factor that prevents workers from coming forward with their case: the workers' dependence on their employer, which can be mental, social or physical. This was mentioned by 11 interviewees, 37 %, and was also a topic of discussion in the focus group where it was mentioned that the lack of language skills also makes the victims more vulnerable in face of losing their job, as their chances of finding another form of employment are very slim. Some of the interviewees explained the dependence by the workers' cultural background, as the interviewees believe that the cultural understandings of an employer-employee –relationship as hierarchic make it difficult for some to challenge their employer even in an exploitative situation.

Sixteen interviewees mentioned fear of negative consequences as a reason for not coming forward. The feared consequences can mean having to leave the country or losing one's residence permit, something bad happening to the family, termination of the employment, or blackmailing by the employer. Victims who are third country nationals are often indebted either in the country of origin or to their employers. They often have social ties to the employer that are endangered if they come forward with the exploitation, and they risk "losing face" in their social community, as one interviewee from group N put it. A few interviewees also mentioned that the sheer uncertainty of what will happen after coming forward makes some people too fearful to seek help. In the focus group discussion, it was mentioned that employers sometimes scare the employees on purpose, feeding them disinformation and claiming that they have broken the law, in order to make the employees afraid to contact authorities in fear of ending up in prison.

Thirteen interviewees explain workers' unwillingness to expose the exploitation by the great economic inequality between the country of origin and Finland. If the situation in the home country has been worse than the exploitative situation in Finland, the employees consider themselves better off even exploited. When the wage level is considerably lower in the country of origin, as is the case in many Eastern European countries, the unlawfully meagre earnings in Finland are still fine compared with what could be earned back home. For this reason, the exploitation can seem like a normal circumstance for a person coming from a country with different standards of work conditions, whereas a professional working with labour exploitation considers the situation absolutely untenable, as explained by an interviewee from the group W:

EN: "They do not necessarily even think that the situation is as severe as we think it is. We think that an injustice has been committed, and we say to them that you should not be treated in that way, but they do not consider themselves as victims at all. It is terribly common."[W(1)]

FI: "He ei välttämättä edes nää niitä tilanteita niin vakavina ku me nähdään. Me pidetään niit ihan vääryytenä, ja me sanotaan niille ihmisille, et teit ei saa kohdella tolla tavalla ja he itse ei koe uhriutuvansa. Se on hirveen yleistä."[W(1)]

Five interviewees believe that debt is a reason not to report: the worker is often either indebted to the employer or someone back in the country of origin, and is either in a debt bondage situation or has no other choice than to continue working since returning home unable to pay the debts there is not an option. Furthermore, four interviewees believe that one reason not to report is the feeling that one has to bear the current situation and hope that things will change in the future. Some said that this fatalistic approach is especially common among workers of Asian origin.

Reasons for underreporting mentioned only two or three times include shame or humiliation, fear of authorities or belief that contacting them will not help, lack of resources or being too tired from overworking to act, or with regards to workers without valid permits, the avoidance of contact with authorities.

Many migrant workers might have most of the reasons mentioned by the interviewees for not reporting their case. A support person interviewed well-phrased the mental and financial strain that many migrant workers face when they continue living in exploitative circumstances. There are many intertwined reasons for the victims to keep on putting up with the situation, even when from outside it seems intolerable:

EN: Fear. Fear and uncertainty, what will happen if I tell? Shame, I just have to cope with the situation. They are so tied to the situation, they need to send money home, money that is acquired by any means. Or use it to provide for themselves. The situation of life just doesn't allow, it's about surviving. Fear, shame and uncertainty about their own rights. [S (1)]

FI: Pelko. Pelko ja epä tieto siitä, mitä tapahtuu jos kerron. Häpeä, että nyt vaan niinku täytyy sinnitellä. On niin sidoksissa siihen tilanteeseensa, pitää lähettää rahaa, miten tahansa hankittua rahaa kotiin. Tai käyttää sitä omaan elämiseensä. Että elämäntilanne ei vaan niinku salli, on kysymys niinku selviämisestä. Pelko, häpeä ja epä tietoisuus omista oikeuksista. [S(1)]

One case study is a striking example of a situation in which the workers had a number of reasons not to report on their case. The case concerned greenhouse workers from Thailand, recruited in 2008 through the relatives or acquaintances of one of the employers. The workers were very dependent on their employers culturally, socially, mentally, financially and physically. Many of them were indebted to their employer. The employees lacked linguistic and cultural skills and were isolated from the general society. When the case was found out by the Occupational Safety and Health Authorities and brought to court, the perpetrators were only charged and condemned of work discrimination and ordered to pay a relatively small amount of fines and damages to the exploited employees. In retrospect, the employees had a lot at stake and gained little.

6.3 The three factors that account for the fact that not many victims come forward, seek support or report to the police

This chapter presents and discusses the findings of the question on “the three most relevant factors that significantly account for the fact that not many migrant workers who have been exploited severely come forward”. Twenty-four of the total of 30 interviewees answered this question, choosing the most relevant factors from the alternatives presented to them. Two interviewees could not decide between the options and ended up choosing four instead of three that they deemed most relevant.

Consistently with the answers to the open question on why more migrant workers who are victims of labour exploitation do not come forward and seek a way out of their situation, 18 (75 %) of the interviewees chose the option 3, “Victims are not aware of their rights and of support available to them”. This was the most commonly chosen option among the 11 alternatives

given. Interviewees seem to have a strong belief in knowledge and information as a key factor in reducing under-reporting and encouraging people to come forward with their cases.

However, the second most common answer was number 8, “Victims fear that if their situation became known to the authorities, they would have to leave the country”. This was chosen by 17 (71 %) interviewees, which is again consistent with the interviewees’ answers to the question as to whether interventions into situations of labour exploitation generally serve the interests of the migrant workers concerned. It is interesting to find that the two most commonly chosen alternatives are so different: on the other hand, people are not aware of their rights and do not seek support or help because of this, but on the other hand they do not come forward as they fear that they would have to leave the country. As explained in the previous chapter, this is a fear based on reality, as the workers may very well lose their residence permit during the proceedings following after they come forward with their case. This is also considered a major flaw in the system, as reflected in the answers to the question ‘Is enough being done in your country to address severe forms of labour exploitation?’ discussed below.

The third common option chosen by the interviewees was number 6, “Victims believe that speaking to authorities is not worthwhile or they would not benefit from subsequent proceedings”. This was mentioned by 12 interviewees or half of the total of 24 who answered the question. This answer is akin to the next most common choice, number 10, “Victims perceive being jobless as worse than working in exploitative conditions”. This was mentioned by ten interviewees. Both options can read between the lines to suggest that in fact there might be negative consequences for the victim from coming forward and seeking help: if they do benefit from the work they do financially, even if much less than they lawfully should, they might be better off than if they lost their job as a result of a complaint process.

Option number 4, “Victims fear retaliation from the side of offenders against them or against family members”, was chosen by eight interviewees, a third of the ones who answered this question. The interviewees said that the retaliation feared by victims can be loss of their job or even violence.

The interviewees were quite consistent that the most appropriate alternatives were the five mentioned above (3, 4, 6, 8 and 10), and only one or two interviewees mentioned each of the six remaining options (alternatives 1, 2, 5, 7, 9, or 11). There are no significant differences between the professional groups as for the most popular answers in this question: alternative eight is among the three most often mentioned factors in all groups, alternative three in all groups except for the group P, and alternatives four and ten in three professional groups each.

6.4 The three most important factors to migrant workers who are victims

Interviewees (25/30) were asked to name the three most important factors to migrant workers who are victims. Two of these 25 interviewees, one judge and one police, did not want to answer this question, as they do not think that they have enough expertise on the issue.

A majority of the interviewees, 56 % (14), believe that it is important to “be able to stay and to make a living in an EU country” (option 3). Almost as many, 48 % (12), think that safety of the migrant workers’ families is among the three most important factors to them. Third most popular answers, chosen by eleven interviewees (44 %) each, were to “be respected and to see that their rights are taken seriously” (option 5), “to be in a position to economically support other family members” (option 6) and “to receive compensation and back pay from employers”

(option 7). Furthermore, seven interviewees (28 %) chose option 1, “to be safe and to be protected against further victimisation”.

Many interviewees mentioned that it is difficult to say what the migrant workers deem important, and were slightly reluctant to answer this question. Two interviewees from the criminal justice field declined to answer altogether. Answering this question requires the interviewee to empathise with the victims of exploitation to some extent, and professionals looking at the issues from a strictly authoritative or judicial perspective perhaps prefer to keep themselves at a distance from the personal situation of an exploited migrant.

When looking at the answers by professional group, the groups J and S actually chose the same alternatives most often: numbers six, three and two. This does not support the view that professionals working in the criminal justice system would have a different view from those working in other, more victim-centred professions. These were the only two groups with the same three most popular choices among the interviewees. Groups M, W and L all had the option number 7, “to receive compensation and back pay from employers”, as their most often mentioned factor. However, the variation between professional groups’ answers is not high due to the groups’ small sample, and thus it is not feasible to draw conclusions based on the answers by group.

6.5 Do interviewees believe that enough is being done in Finland to address severe forms of labour exploitation?

This section summarises the interviewees’ answers to the question on the effectiveness of the measures taken in Finland to fight against labour exploitation and on what could be improved. This question was answered by all the 30 interviewees. Almost all interviewees believe that more should be done in Finland to address labour exploitation. Only three of them (10 %), think that enough is being done and that there is nothing much to improve in the way severe labour exploitation is handled at the moment. These three interviewees are all from different professional groups (E, J and P), thus it is safe to say that their opinions are more likely personal views that do not reflect the general opinion in their respective professional groups.

The most often mentioned area of improvement according to the interviewees is the lack of awareness about and difficulties in recognising the problem and, related to the aforementioned factors, identification of the victims. Eight interviewees (27 %) mentioned these as a problem in Finland. It would be important to raise awareness on labour exploitation among the professionals, but also among the general public, so people would be able to recognise exploitation victims in their everyday life and report it to the authorities. The awareness of the general public about labour exploitation was also recognised by the focus group discussion participants as an area of improvement. This view of the general public as essential is connected to the lack or deficiency of monitoring, mentioned by five interviewees: sufficient and real-time monitoring would make the authorities less dependent on the tips from the general public, as cases of exploitation would be found out at early stages. One interviewee from group W even believes that the political climate in Finland is such that it does not condemn exploitation of migrants, and that their exploitation is considered to benefit the Finnish society, and as such is not a problem to be tackled.

A support person interviewed [S(1)] believes that the fundamental problem in addressing the issue of labour exploitation in Finland is the denial of the problem: Finns do not want to believe

that such things can happen in their country. Labour exploitation and exploitation of migrant workers is still understood as something foreign that other countries struggle with. When a problem is not recognised, it cannot be addressed, and it would be important to raise awareness on the issue of exploitation in Finland:

EN: The kind of mind-set, that [labour exploitation] occurs somewhere else, but not here in Finland, is still very dominant. We should wake up and realize that the same things that are happening anywhere else happen here in Finland just as well. [S(1)]

FI: Meillä on hirveen yleisesti vielä vallalla sellainen ajattelu, että tämmöistä [työriistoa] tapahtuu jossain muualla, ei meillä Suomessa. Et me niinku havahduttaisiin siihen, et kyllä meillä Suomessa tapahtuu ihan samanlaisia asioita kuin missä tahansa muualla. [S(1)]

Twelve interviewees mentioned lack of resources as an area of improvement in different fields. Seven interviewees thought that more resources should be allocated to the police or the prosecution to investigate cases of labour exploitation. Four interviewees said that resources should be directed toward victim support services, for example to make them regionally available throughout the country, and one interviewee mentioned that there should be resources for the use of interpreters to ensure that competent interpretation is available throughout the proceedings. It was a general opinion among the focus group discussants that the lack of resources is a cross-cutting concern among all public authorities and NGOs.

Improving legislation on labour exploitation is an area mentioned by six interviewees. There are very specific suggestions as to legislative amendments, but many brought up that the concepts of labour exploitation are not well clarified in the legislation, and that this makes it difficult to apply the legislation. Such concepts to be clarified are human trafficking, forced labour, and bonded labour. Two interviewees said that the activities of recruitment agencies and their monitoring should also be covered by legislation. One interviewee mentioned that victim support services should also have legislation regulating their provision. Two interviewees [W(2)] mentioned the right to file collective complaints as a possible legislative development that would help addressing labour exploitation.

Six interviewees said that sanctions for labour exploitation should be more severe. Currently, these crimes get time-barred too fast and the police does not even investigate some cases because of this. A judge explained that the maximum penalty for work discrimination is only six months of imprisonment, and it becomes time-barred in two years, and extortionate work discrimination becomes time-barred in five years. Furthermore, three interviewees considered it a problem that currently, underpayment is not criminalised.

Three interviewees mentioned problems concerning the mandate of different authorities and actors. The judicial and public authority system is complicated, and the different actors have limited authorisation to perform certain tasks that would, according to the interviewees, make it easier to address labour exploitation. Examples of this given by the interviewees were the authority of the police to make inspections without evidence of a suspected crime, and the right of the Occupational Safety and Health Authorities to fine the exploiters and even file police reports in addition to just inspecting the work places.

Furthermore, three interviewees mentioned that there should be more specialisation in different professions and more training to authorities. The participants of the focus group discussion also recognised the need for more training, especially for the police and the prosecutors, and the need for a specialised unit to investigate human trafficking cases. Two interviewees think that there are problems regarding the legal proceedings after the labour

exploitation case is brought forward: the processes take too long, even years, and are too complicated. One judge interviewed suggested that the hearings of the victims could be videotaped the first time, so that they wouldn't have to be heard at every stage of the proceedings, and that they could for example exit the country during the proceedings if need be.

6.6 Breakdown and discussion of the three measures which would most improve the way labour exploitation is addressed in Finland

All 30 interviewees answered the question relating to “the three measures which would mostly improve the way labour exploitation is addressed” in Finland. Many interviewees had already talked about a number of measures in the list when answering the previous question.

A clear majority of the interviewees (67 %, 20) think that more effective monitoring in areas prone to labour exploitation, option three, would improve the situation in Finland. The second most common answer, chosen by half of the interviewees (15), was 4, “Measures to ensure that all workers know their rights”. This is especially interesting when contrasted with the most common answer to the question about what should be done in Finland, which was to raise the awareness on labour exploitation among the professionals and the general society. However, the exploited migrants themselves were not mentioned when answering the previous question, suggesting that the interviewees do not actually consider them as members of the Finnish society.

Thirteen or a third of the interviewees think that it would be beneficial to “improve legislation against labour exploitation and its implementation” (option 3). Eleven chose the option 6, “more effective coordination and cooperation between labour inspectorates, the police and other parts of administration as well as victim support organisations and the criminal justice system”. The fifth most popular choices were options number 7 and 11, “setting up of specialised police units” and “more training of police, labour inspectors and other authorities” respectively, both chosen by seven interviewees. Six interviewees believe that legislation should be improved to allow better access to justice and compensation (option 2) and five interviewees think that it would be important to regularise the situation of migrant workers once they have become victims (option 9).

6.7 Key themes

The interviewees generally agreed that interventions into situations of labour exploitation do benefit the victims. However, many were aware of the vulnerability of the migrant victims in these situations. On a general level, the interventions have a positive effect, but in an individual case, they might actually cause more harm than benefit to the migrant worker. Taking labour exploitation cases forward and holding the culprits responsible is considered to have a positive effect on the society and the labour market in general, but the consequences for an individual victim can also be negative. Especially problematic is the fact that, for most victims of labour exploitation who are also third country nationals, the residence permit is tied to their employment. If their employment ceases as a consequence of an intervention, their residence permit is not renewed. Only in cases of human trafficking can the victim be accepted in the national assistance system for victims of trafficking and granted a residence permit as part of the assistance system.

The main reason for not coming forward with their case of labour exploitation is considered to be lack of awareness. The interviewees have a strong belief in that knowledge about the society and workers' rights, and information on judicial proceedings are key factors in reducing under-reporting and encouraging people to come forward with their cases. At the same time, many experts think that the consequences of an intervention are negative for many victims of exploitation. It would seem that the interviewees mainly focus on the workers' awareness on their rights and the Finnish society on a more theoretical level – on what they would be entitled to according to the law, even if they, in reality, do not have a possibility to enter lawful employment in Finland.

The interviewees were almost unanimous in their belief that more should be done in Finland to address labour exploitation of migrant workers. Labour exploitation is not considered an issue that touches upon the Finnish society, and the general society is not aware of the exploitation of migrant workers in Finland. Professionals also lack knowledge about labour exploitation, the criminal concepts of labour-related crimes are still unclear or inadequately defined by legislation, and there is not enough specialisation in labour exploitation in the criminal field. Lack of resources was mentioned as a problem, and it affects the amount of specialisation and training in different professions, such as the police and the prosecutors. Sanctions for labour exploitation should be more severe and the monitoring more comprehensive, as the risk of getting caught is considered to be relatively low and the possible sanctions too mild to work as a deterrent. The financial gains currently derived from exploiting migrant workers should be combatted with corresponding financial losses when the cases are revealed and prosecuted.

7 Conclusions

In Finland major legal development on labour exploitation took place in 2004, when trafficking in human beings and extortionate work discrimination were criminalised. Moreover, in 2006 the National Assistance System for Victims of Trafficking began its operations. At the moment, a decade later, both the Criminal Code sections on labour exploitation as well as the National Assistance System for Victims of Trafficking are under reassessment and subject to some legislative reform in the near future. For this reason, the conducting of the SELEX country report at this stage was an interesting and fruitful project.

In Finland 30 professionals on labour exploitation representing different occupational fields were interviewed. In general, the interviewees hold quite similar views on the situation of labour exploitation in Finland. Trafficking for labour exploitation, extortionate work discrimination and forced labour were the main forms of labour exploitation that the interviewees had encountered, which reflects the close relationship between these three types of labour exploitation. In the Finnish legislation forced labour is not defined, however it is tied to the essential element of trafficking for labour exploitation. Moreover, there is a fine line between trafficking in human beings and extortionate work discrimination in the Finnish legislation and judicial practice.³⁸ However, previous research and the judicial custom indicate that it is easier to investigate and prosecute cases as extortionate work discrimination than human trafficking. Furthermore, this view was backed by some of the interviewees involved in criminal proceedings and victim support.³⁹ However, it seems that in general cases of labour exploitation don't often go to criminal court and many cases are handled as civil law claims.

The interviewees concurred about the three most frequent occupations and economic sectors of exploited migrant workers. The most common occupations/economic sectors were cleaner (cleaning sector), agricultural worker (agriculture sector), and restaurant worker (restaurant work sector). Moreover, construction worker/construction sector were mentioned by one third of the interviewees as the three most frequent occupations/sectors of migrant workers. Furthermore, according to the interviewees, there are more males than females working in agriculture sector and especially in the restaurant sector. The consistent answers on occupations and economic sectors are also reflected in the views that the interviewees hold on the risk factors. The majority of them saw some economic sectors as more prone to exploitation than others. In addition, one third of the interviewees brought up that working as a posted worker or seasonal worker as a risk factor accounting for exploitation.

The interviewees were of the same opinion about many factors adding to the risk that migrant workers may be exploited. Unawareness about one's rights was considered a risk factor by most of the interviewees and it was connected especially to lack of language skills and education. Moreover, the migrants' difficult economic situation was mentioned by the majority of the interviewees as a risk factor. Furthermore, most of the interviewees were of the opinion that the limited contacts and isolation of the migrant worker adds to the risk of exploitation.

According to the interviewees other significant factors relating to the risks of migrant workers being exploited were the precarious or insecure situation of employment that they hold and the unofficial/unstable residence or work permit status, for example due to the employer being able to control the person's work and residence permit via employment. Furthermore, the close relationship, same cultural/ethnic background or other acquaintance between the

³⁸ There are cases which have been investigated by the police as trafficking in human beings or prosecuted as such, but the court has decided on extortionate work discrimination. See 4.1.1. and case studies.

³⁹ Jokinen, Anniina; Ollus, Natalia and Viuhko, Minna (2009): *Ehdoilla millä hyvänsä, Työperäinen ihmiskauppa ja ulkomaalaisten työntekijöiden hyväksikäyttö Suomessa*, 47. European Institute for Crime Prevention and Control, affiliated with the United Nations.

employee and the employer or the person arranging the employment was seen as a significant risk factor accounting for exploitation.

Almost all of the interviewees concurred about the most important factors adding to the risk that migrant workers may be exploited from the viewpoint of legal and institutional settings. The three most important risk factors listed were low risk to offenders of being prosecuted and punished, low risk to offenders of having to compensate exploited migrant workers and lack of institutions effectively monitoring the situation of workers in sectors of economy where labour exploitation occurs. Some interviewees emphasised that there is lack of effective monitoring not monitoring as such.

The interviewees, for the most part, were critical of recruitment agencies and saw their role more as creating labour exploitation than preventing it. Moreover, many interviewees were of the opinion that monitoring recruitment agencies is difficult and sometimes even impossible since many of them operate from abroad.

In Finland the monitoring of employers and workplaces is mainly carried out by the Occupational Safety and Health Authorities. However, it seems a bit unclear even to the professionals themselves, which (if any) instance is responsible for monitoring employment/recruitment agencies. It seems that if the agency doesn't act as the actual employer who pays the workers' wages, monitoring by the Occupational Safety and Health Authorities is not possible.

The interviewees mainly discussed the National Assistance System for Victims of Trafficking in relation to the actions that the police would take to put an end to the situation of labour exploitation. However, the national assistance system doesn't cover all victims of labour exploitation, only the victims of trafficking, as pointed out by the interviewees. Thus, a part of the victims of labour exploitation fall through the support network, which was perceived as a significant gap in the Finnish system. Many interviewees concurred about the need for a low-threshold support centre that would help victims of labour exploitation. It might be difficult for the victims to come forward with their case of labour exploitation for example due to lack of awareness.

The representatives of the victim support organisation saw problems in referring victims to support services, for example there are geographical differences in the availability of services. Moreover, most of the law enforcement officials were of the opinion that the police doesn't routinely refer victims to support services, but the situation has to be assessed individually. The interviewees' opinions about how the police primarily sees the victims of labour exploitation, in connection with a raid, were varied. However, only a few interviewees clearly stated that the police sees the victims more as victims than illegally staying in the country.

Some interviewees pointed out that the third sector support services are available to migrants regardless of their legal status, however the services provided by municipalities are not necessarily available to irregular migrants. As a rule the trade unions offer legal assistance to members only, however some exceptions are made. Nevertheless, migrant victims might not be aware of the possibilities of getting legal assistance and are rarely union members.

Many interviewees were of the opinion that it is difficult for the victim to navigate the legal system in order to get compensation and denied wages. Moreover, in Finland complaints cannot be lodged through third parties. The trade unions have advocated for the right to lodge collective complaints for years.

The interviewees generally agreed that interventions into situation of labour exploitation do benefit the victims. However, many were aware of the vulnerability of the migrant victims in

these situations. Taking labour exploitation cases forward and holding the culprits responsible is considered to have a positive effect on the society and the labour market in general, but the consequences for an individual victim can also be negative. Especially problematic is the fact that for most victims of labour exploitation who are also third country nationals, the residence permit is tied to their employment. If their employment ceases as a consequence of an intervention, their residence permit is not renewed. Only in cases of human trafficking can the victim be accepted in the national assistance system for victims of trafficking and granted a residence permit as part of the assistance system.

The interviewees brought up many problems in regard to how labour exploitation cases are handled in Finland and what should be improved. Labour exploitation is not considered an issue that touches upon the Finnish society, and the general society is not aware about the exploitation of migrant workers in Finland. Moreover, the majority of the interviewees were of the opinion that the investigation and prosecution could be carried out in a more effective way, some said that especially the police could act more effectively and there are attitude problems in the police towards labour exploitation cases. Furthermore, the interviewees brought up that the professionals' lack of knowledge about labour exploitation, the criminal concepts of labour-related crimes are still unclear or inadequately defined by legislation, and there is not enough specialisation in labour exploitation in the criminal field.

Lack of resources was brought up as a problem by the interviewees, and it affects the amount of specialisation and training in different professions. Sanctions for labour exploitation should be more severe and the monitoring more comprehensive, as the risk of getting caught is considered to be relatively low and the possible sanctions too mild to work as a deterrent. Moreover, the interviewees pointed out that the investigation and prosecution takes too long and a few judicial experts brought up that the labour exploitation cases due to the mild sanctions get statute-barred quickly. Furthermore, as the cases involve migrant workers and employers (and companies operating from abroad), it would be important to handle the cases before the parties to the proceedings leave the country.

The interviewees were almost unanimous in their belief that more should be done in Finland to address labour exploitation of migrant workers.