

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

Portugal, 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

INTERVIEWS

Within the sphere of the present study, a total of 31 interviews were held in Portugal, 30 of which were face-to-face and only one carried out by telephone. The telephone interview was owing to the fact that the interviewee was not in Lisbon and when permission came through to grant the interview, the study was already in its final stages. The interviewing was conducted between October 2013 and February 2014 and involved 16 female and 15 male interviewees.

Throughout the field work, contacts were established with the entities listed as per the team's initial list; the purpose of the study was explained to each organisation and a representative willing to be interviewed was requested. Owing to the organisational structure of some of these entities, our request for an interview frequently had to obtain permission from the respective leaderships.

This formal procedure when establishing contact resulted in significant delays in obtaining the answers of the invited organisations, some of which declined to take part in the study. The reasons for refusing to accept our invitation basically lay in their weak or inexistent knowledge about the situation under study.

Given the number of refusals and the lack of replies from some of the organisations initially contacted, the work team found another a dozen and a half entities that would be relevant to include in the study. On the other hand, as the interviews were being conducted, the participants suggested other organisations that might be useful to include. This allowed us to replace the organisations that had declined our invitation, or had not answered, with some of the entities suggested by the different interviewees.

Bearing in mind the number of interviews that had been planned according to their target groups, the interviews that were held were grouped in the following way:

TARGET GROUP	PLANNED	HELD
M	3-6	5
P	3-6	4
S	4-7	8
J	3-6	2
L	1-3	1
R	1-3	2
W	1-3	4
E	1-3	3
N	1	1
-	-	1

Total	30	31
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In most of the cases, the established lower limits for each target group were complied with. However, the upper limit was exceeded with regard to Group S – “Professionals working for victim support services” and Group W – “Representatives of organisations representing migrant workers, or organisations advocating the rights of workers”. In terms of the Public Prosecutor’s Offices and the Judges dealing with this subject, it was only possible to hold two interviews, which is below the required limit. This was, without a doubt, the most difficult group to deal with.

This means that a lot of effort was involved in approaching and applying to all the institutions that were able provide information on the project issues, and getting them to take part in the interviews.

The interviews were conducted in facilities indicated by the various interviewees and were mostly located in their work places. Interviews were held in five different regions of Portugal: the North; the Ribatejo region, the Lisbon area, the Centre and the Alentejo.

Some of the people who were interviewed had quite a few years of experience working with this subject; the average number of years experience was 12.5 with a maximum of 30 years (Groups W and M). On the other hand, some of the interviewees admitted that they had no experience whatsoever in this field (Groups E and J). In terms of this last point, it is important to mention that finding judges to interview was one of the major difficulties in this project.

The interviews lasted an average of 85.5 minutes, which is a lot more than the 45-60 minutes suggested by the FRA. Owing to the experience of the interviewees and the pertinence and quantity of information they transmitted, the interviewers found it hard to cut down the time in some of the interviews. The interview that lasted the longest, reached 165 minutes (Group M) while the shortest lasted 6 minutes (Group R).

Constraints experienced when holding the interviews:

As was mentioned above, the delay in receiving the answers from some of the organisations, together with a complete absence of any reply in a few cases, was one of the problems that complicated and delayed the progress of the study. Apart from this, there were a few problems in recording some of the interviews (two of the interviews were not recorded and others suffered from gaps which meant that more than one tape was used). Furthermore, one of the interviewees refused to allow a recording to be made of the interview.

FOCUS GROUP

The *Focus Group* discussion took place in the CESIS facilities and lasted 171 minutes. Six people, 2 men and 4 women from Groups M, S and P took part in it. All the participants had been previously interviewed. Although Groups L, N and W had been invited to take part in the discussion, they did not show up, despite the fact that two of the people in these Groups had confirmed their presence. Last minute professional engagements were the reasons for not coming.

TG	Representatives
M	2
S	3
P	1
L	-
W	-

The Focus Group discussion was held in a quiet atmosphere which helped to promote an open exchange about this subject among the different participants. Some of the questions raised in the interviews were talked about here. Some of them were controversial and others raised different opinions on the part of the speakers.

One of the questions had to do with inspections and the fact that the employers were forewarned about inspections made on the premises of the work place. Another question focused on weaknesses in the coordination among the various organisations owing to the individual interests each organisation wanted to protect.

Another question referred to the existence of a pressure made by the NGOs thus lending the phenomenon an importance it did not have in reality. On the other hand, the question of present laws and their application was also raised and this led to the discussion of the slow-moving legal system, producing evidence and applying coercive measures.

CASE STUDIES

Eleven Case Studies were collected together thus complying with the minimum required. The eleven cases were indicated by the people who had been interviewed. They were sent by four of the target groups, where one of the organisations in Group S sent two case studies.

TG	Number of cases
S	5 cases
P	1 case
M	2 cases
J	3 cases

The case studies mostly referred to the situation involving labour exploitation in agriculture, mainly in seasonal farm work. Reference was also made to situations in the building industry (1), street vending (1) and domestic work (1).

In terms of the outcomes, two of the cases are still pending investigation and in one of the cases that is presently being tried, it is bound by legal confidentiality.

Four of the situations even reached the law court although their outcomes were different. In one of the cases, the offenders were convicted and some of the money owing the victims was paid. In two cases, the offenders were also convicted but there has been no compensation paid either because it was not entered or it was inadmissible in terms of court procedures. Another of the cases tried at court did not have a positive outcome, as there

was no conviction due to lack of proof and the offenders were freed, with only a conviction based on the possession of an illegal firearm.

The last case that reached the law court did not result in any detention despite all the evidence that had been collected. The supposed employer was let out on bail and subsequently disappeared. This outcome gave rise to a lot of anger on the part of the victim.

Nonetheless, there were also situations that were registered in which no investigation was carried out because the victims did not want to lodge a complaint for fear of reprisals.

The outcome is not known in one of the case studies, only that the person left the house she was working in but continued not to have her documents in order.

2. Legal framework

With regard to the crimes that are at the centre of this study, and taking into account the legal reference framework, the Penal Code and labour laws should always be borne in mind.

The Portuguese Penal Code, in its Article 159, recognises slavery as a crime.¹

In spite of the ratification of ILO Convention 29 and 105 by Portugal, the Portuguese Labour Code² does not criminalise forced/compulsory labour explicitly. Forced/compulsory labour is not deemed a crime in the Portuguese Penal Code. However, the criminalisation of forced/compulsory labour may happen if linked to the crimes of duress (Article 154), slavery (Article 159) or human trafficking (Article 160).³

In considering child labour, the Portuguese Labour Code, in Article 82, criminalises its exploitation. According to the law, the use of child labour is a crime when i) the child is under the age of 16; ii) has not finished his/her compulsory schooling or iii) is not enrolled at school or attending secondary education.

Also according to the Portuguese Labour Code when someone has a child working in his/her service and fails to stop employing him/her after having received written notification by the competent department, it is considered to be criminal contempt.

Child labour is also considered to be a crime involving child abuse in the Portuguese Penal Code, Article 152 – a. Child labour moreover, is one of the elements that leads to the conclusion that the child is classed as being endangered. He/she is indicated as such, when referred to the Committees for Children and Young People at Risk (*Comissões de Protecção de Crianças e Jovens*, CPCJ).⁴ The Committees were set up under Law 147/99 of 1 September which also established their areas of competence(Article 12) which state that they have the duty to promote children's rights and to prevent, or put an end, to situations that may damage their safety, health, training, education and their integral human development.⁵

Article 160 in the Portuguese Penal Code⁶ establishes that human trafficking is a crime (including that of minors). The purposes of trafficking mentioned in the law are sexual exploitation; labour exploitation; removal of organs; and slavery. Labour exploitation and removal of organs were included in the 2007 amendment of the Code; since the last amendment in August 2013, slavery has also been added as a purpose for trafficking in human beings.

¹ Portugal, *Law 60/2013*, Government Gazette, (*Diário da República*), 1st series, No. 162, 23 August 2013, available at: www.dre.pt/pdf1sdip/2013/08/16200/0508805090.pdf.

² Portugal, *Law 23/2012*, Government Gazette, (*Diário da República*), 1st series, No. 21, 25 June 2012, available at: www.dre.pt/pdf1sdip/2012/06/12100/0315803169.pdf.

³ Portugal, *Law 60/2013*, Government Gazette, (*Diário da República*), 1st series, No. 162, 23 August 2013, available at: www.dre.pt/pdf1sdip/2013/08/16200/0508805090.pdf.

⁴ www.cnpcjr.pt.

⁵ Portugal, *Law 147/99*, Government Gazette, (*Diário da República*), 1st series, No. 204, 1 September 1999, available at: www.cnpcjr.pt/preview_documentos.asp?r=313&m=PDF.

⁶ Portugal, *Law 60/2013*, Government Gazette, (*Diário da República*), 1st series, No. 162, 23 August 2013, available at: www.dre.pt/pdf1sdip/2013/08/16200/0508805090.pdf.

Article 185-A in Law 29/2012⁷ of 9 August, which amended and republished Law 23/2007 on the Entry; Sojourn, Exit and Expulsion of Foreign Nationals in National Territory, criminalises the use of foreign workers who are in the country illegally. The penalties are greater if the working conditions are inhuman or degrading or if the worker(s) are victims of human trafficking.

The EU Directive 2009/52/EC on sanctions and measures against employers of illegally staying third-country nationals was transposed into national law by Law 29/2012 of 9 August⁸. Article 185-A (1), (2) and (4) correspond to Article 9(1) c) of the EC Directive; Article 185-A (5) corresponds to Article 9(1) d) and e) of the EC Directive.

In Portugal, the main public actors combating these crimes are:

- The Authority on Working Conditions (*Autoridade para as Condições de Trabalho, ACT*).⁹ Decree 47/2012 of 31 June approves the ACT Organic Law.¹⁰ According to this law, the Authority on Working Conditions is empowered to (Article 2) (a) promote, control and supervise the accomplishment of the legal provisions related to working conditions and, in particular, safety and health at work, following the ILO guidelines. Article 2 (p) refers to preventing and combating child labour in cooperation with other government departments. Article 9 refers the development of awareness-raising campaigns about child labour and health conditions.
- The National Republic Guard (*Guarda Nacional Republicana - GNR*), where trafficking in human beings for the purpose of labour exploitation is concerned. The guidelines followed by the National Guard (GNR) in these matters are found in the National Plans against Trafficking in Human Beings (*Planos Nacionais Contra o Tráfico de Seres Humanos*).
- The Criminal Investigation Police – the Criminal Police (*Polícia Judiciária, PJ*),¹¹ with its National Unit Against Terrorism as laid down in Judiciary Police Organic Law: Law 37/2008 of 6 August.¹²
- The Immigration and Border Service (*Serviço de Estrangeiros e Fronteiras, SEF*) is not specifically or directly empowered in situations involving labour exploitation in conformity with its Organic Law¹³. However, it has been involved in joint operations when illegal immigration is suspected among groups of workers.

Although the focus of attention is not on labour exploitation *per se*, but rather on trafficking in human beings, it is worth pointing out that there are some institutional bodies and

⁷ Portugal, *Law 29/2012*, Government Gazette, (*Diário da República*), 1st series, No. 154, 9 August 2012, available at: www.dre.pt/pdf1sdip/2012/08/15400/0419104256.pdf.

⁸ Portugal, *Law 29/2012*, Government Gazette, (*Diário da República*), 1st series, No. 154, 9 August e 2012, available at: www.dre.pt/pdf1sdip/2012/08/15400/0419104256.pdf.

⁹ www.act.gov.pt.

¹⁰ Portugal, *Decreto Regulamentar 47/2012*, Government Gazette, (*Diário da República*), 1st series, No. 147, 31 June 2012, available at: www.dre.pt/pdf1sdip/2012/07/14700/0395903962.pdf.

¹¹ www.pj.pt.

¹² Portugal, *Lei 37/2008*, *Diário da República*, 1.ª série, n.º 151, 6 de Agosto de 2008, available at: www.policiajudiciaria.pt/PortalWeb/content?id=%7BA91EEC79-DE07-4F89-A4D7-20A9AFE553C6%7D.

¹³ Portugal, *Law 40/2012*, Government Gazette, (*Diário da República*), 1st series, No. 214, 6 November 2012, available at: www.sef.pt/documentos/56/LOSEF.pdf.

mechanisms that are indirectly geared to combating labour exploitation when it is linked to human trafficking.

Therefore, in Portugal the Observatory on Trafficking in Human Beings (*Observatório do Tráfico de Seres Humanos*)¹⁴ was set up by Decree-Law 229/2008¹⁵ that has as its goal, publicising the phenomenon involving human trafficking, and predicting cases, undertaking awareness campaigns about it and combating human trafficking. Labour exploitation is one of the dimensions in which the Observatory intervenes.

At the end of 2013, the 3rd National Action Plan for Preventing and Combating Trafficking in Human Beings (*III Plano Nacional de Prevenção e Combate ao Tráfico de Seres Humanos*)¹⁶ was passed. The Plan considers that labour exploitation is one of the forms of exploitation associated with human trafficking. Portugal is believed to be one of the countries where trafficking for the purpose of exploiting people's labour is on the rise.

Measures laid down in the Plan that have to do with preventing or combating these situations are:

- Stepping up monitoring and inspections (including joint activity) of a preventive nature where a special focus is placed on localities likely to exploit people who are victims of human trafficking.
- Undertaking a study about the new forms of trafficking in human beings according to Directive 2011/36/EU issued by the European Parliament and the Council on 5 April 2011.
- Promoting initial training and follow-up training of the inspectors who monitor working conditions involving trafficking for sexual and labour exploitation.

Within the domain of trafficking in human beings, a Support and Protection Network for Victims of Trafficking (*Rede de Apoio e Proteção a Vítimas de Tráfico - RAPVT*)¹⁷ was set up in June 2013 where the coordinating body is the Portuguese Commission for Citizenship and Gender Equality (*Comissão para a Cidadania e a Igualdade de Género - CIG*). The Network complies with one of the measures coming in the 2nd National Action Plans Against Trafficking In Human Beings (*II Plano Nacional contra o Tráfico de Seres Humanos*). Some of the organisations in the Network, the High Commission for Immigration and Intercultural Dialogue (*Alto Comissariado para a Imigração e Diálogo Intercultural, ACIDI*), the Authority on Working Conditions (*Autoridade para as Condições do Trabalho – ACT*), the Directorate-General of Foreign Policy (*Direção Geral de Política Externa*) are composed of the following entities: the Directorate-General of Health (*Direção Geral da Saúde*), the Institute of Social Security (*Instituto da Segurança Social*), the Observatory on Trafficking in Human Beings (*Observatório do Tráfico de Seres Humanos*), the Criminal Police, the Immigration and Border

¹⁴ www.otsh.mai.gov.pt.

¹⁵ Portugal, *Decree-Law 229/2008*, Government Gazette, (*Diário da República*), 1st series, No. 231, 27 November 2008, available at: www.otsh.mai.gov.pt/cms/files/conteudos/file/Legislacao/OTSH.pdf.

¹⁶ Portugal, *Council of ministers Resolution No. 101/2013*, Government Gazette, (*Diário da República*), 1st series, No. 253, 31 December 2013, available at www.otsh.mai.gov.pt/cms/files/conteudos/Plano%20Nacional%20Tráfico%20Serres%20Humanos%203.pdf.

¹⁷ www.portugal.gov.pt/pt/os-ministerios/ministro-da-presidencia-e-dos-assuntos-parlamentares/mantenha-se-atualizado/20130621-seapi-rapvt.aspx.

Service (*Serviço de Estrangeiros e Fronteiras – SEF*) and 14 NGOs that undertake work in sphere of trafficking in human beings. The Network has been made official by signing an Agreement.

The aim is to get out a manual or handbook on procedures that would allow all the members to follow a common guideline, without forgetting the specific natures of each of the member institutions. The guidelines would help not only in the way to behave but also in terms of referrals.

The fact that the NGOs also take part in this network underlines the role that civil society, particularly some of the immigrant associations and victim support organisations, is playing in combating trafficking in human beings and gradually fighting against trafficking for the express purpose of labour exploitation.

3. Labour exploitation and the institutional setting

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

Where Portugal is concerned, preventing labour exploitation as well as helping victims in their access to justice is mostly realised through the work of the following entities:

- Trade unions

In Portugal, there are two trade union congresses: the General Confederation of Portuguese Workers (*Confederação Geral dos Trabalhadores Portugueses – Intersindical Nacional, CGTP-In*) and the General Association of Workers (*União Geral de Trabalhadores, UGT*). There is no department or programme in either of these organisations that is geared to preventing severe forms of labour exploitation in general, nor when the victims are migrant workers.

Within the domain of the trade unions belonging to either one of these confederations or union-associations, prevention is carried out in first place on the basis of trade union activity, or rather, in the demands and the bargaining process between the parties on the basis of wages/salaries and working conditions. Awareness campaigns targeting the workers are also organised. Examples of such campaigns were mentioned in the interviews conducted with union leaders belonging to the Beja Union of Trade Unions (*União dos Sindicatos de Beja*) and the Oporto Building Workers Trade Union (*Sindicato da Construção Civil do Porto*). It should be mentioned that the campaigns are held in large-scale public works (in particular during the first decade of the 21st century) where a large number of migrant workers were employed, some of them in an illegal situation (as much from the point of view of residence permits as labour permits).

In the case of the Beja Association of Trade Unions at the time, an immigration department was set up with the main aim of unionising migrant workers and including their representatives in the Association itself.

In taking into account the crisis that severely hit the building industry, the Oporto Building Workers Trade Union is increasingly directing its work towards Portuguese worker abroad. In the interview conducted with one of the Union leaders, this Trade Union is the only one working at this level. In order to carry out its task, the Trade Union actively promoted the campaign: “Working Abroad, Get informed before you leave” (*“Trabalhar no estrangeiro: informe-se antes de partir”*)¹⁸ which was launched by the Directorate-General of Consular Affairs and the Portuguese Communities (*Direcção Geral dos Assuntos Consulares e das Comunidades*); the Institute for Social Security (*Instituto de Segurança Social - ISS*); the Employment and Vocational Training Institute (*Instituto de Emprego e Formação Profissional - IEFP*); the Authority on Working Conditions (*Autoridade para as Condições de Trabalho - ACT*), and the Tax and Customs Authority (*Autoridade Tributária e Aduaneira*). On the other

¹⁸ www.act.gov.pt/pt-PT/CentroInformacao/CampanhaTrabalharnoEstrangeiro/Documents/CampanhaTrabalharEstrangeiro.pdf.

hand, within the sphere of the campaign, the Trade Union drew up an Agreement with the Secretary of State and the Communities (*Secretaria de Estado e da Comunidades*) which allowed the Union to contact the workers (abroad) in order to see whether a labour contract had been made.

If a Portuguese worker who was known to be working abroad suffered any kind of abuse, a Union officer would travel to the country in question to see if the problem could be solved. Apart from these initiatives, and if need be, the trade unions provide legal support to unionised workers.

- **Authority on Working Conditions** (*Autoridade para as Condições de Trabalho*, ACT)

As already referred to above, and according to the law, the Authority on Working Conditions (ACT) is empowered to promote, control and supervise the accomplishment of the legal provisions related to working conditions and, in particular, safety and health at work, following the ILO guidelines.

According to one of the interviewees [M(1)], the central axis around which the Authority on Working Conditions turns, is promoting decent labour, which means that workers' rights have to be taken into account whether they focus on working conditions or the safety and health of the workers. Apart from this, and according to the interviewees, preventing and combating labour exploitation takes on vital importance in the Authority's work. Its importance may be seen in the training courses the Authority puts on, which are aimed at the inspectors and in strengthening its cooperation with several other bodies so as to improve its impact in this area.

In the ACT's 2013 Action Plan, one of the strategic objects laid down is "Promoting a culture of prevention and complying with labour laws". On the other hand, an initiative falling within the Action Plan is "*promoting the rights of vulnerable groups: equality and non-discrimination in getting work and on the job; preventing particularly serious conditions and flagging signs of trafficking in human beings for the purpose of exploiting their labour*".¹⁹

As regards labour inspections, they may be carried out as a result of a report that is made by public or private agencies (including the trade unions) or by individual people. The individual reports are made anonymously and may be done by going through the ACT website.²⁰ Apart from this, inspections make an integral part of the Authority in Working Conditions' activity, so much so that in all the interviews there was reference to the ACT's pro-active attitude and its detection of situations where labour exploitation was suspected. One of the interviewees [M(1)] even mentioned that there was an internal information department that scanned the mass media on a daily basis so as to detect possible situations involving exploitation.

With the exception of searching private homes, the Authority on Working Conditions is empowered to carry out inspections in all work places. The inspections are made when there are signs that decent working conditions are lacking. When the ACT is barred from going

¹⁹ Authority on Working Condition (*Autoridade para as Condições de Trabalho* – ACT)(2013), 2013 Action Plan, p.62, available at: [www.act.gov.pt/\(pt-PT\)/SobreACT/DocumentosOrientadores/PlanoActividades/Documents/Plano%20de%20Atividades%202013.pdf](http://www.act.gov.pt/(pt-PT)/SobreACT/DocumentosOrientadores/PlanoActividades/Documents/Plano%20de%20Atividades%202013.pdf)

²⁰ [www.act.gov.pt/\(pt-PT\)/Itens/QueixasDenuncias/Paginas/default.aspx](http://www.act.gov.pt/(pt-PT)/Itens/QueixasDenuncias/Paginas/default.aspx).

into the work premises, it requests police back-up. In the event that a private home needs to be inspected, a court-issued search warrant is needed.

According to one of the interviewees, in the very remote farms as happens in Portugal in the Alentejo and Ribatejo regions, the inspections are frequently carried out together with the National Republican Guard (*Guarda Nacional Republicana - GNR*): “[The farms] are very isolated places ... we also know that there’s an increasingly greater tendency for the people we’re speaking with to be more aggressive, more violent and therefore, we always have to think about protecting and ensuring the safety of the inspection team” (“ São sítios muito isolados... nós também sabemos que cada vez mais há uma maior tendência de dos nossos interlocutores estarem mais agressivos, mais violentos e, portanto, há sempre também que pensar na protecção, e na segurança, dos elementos da inspecção.”) [M(1)].

On the other hand, the participation of other organisations in the inspections is understood to be a sign of growing awareness about the fact that these phenomena have gone beyond the individual field of action of each organisation and have taken on a transversal nature: “At the Authority on Working Conditions we are fully aware that these phenomena don’t end in an intervention carried out by any one of the organisations because they are transversal” (“Na ACT temos consciência plena que estes fenómenos não se esgotam no âmbito da intervenção de qualquer das entidades porque eles são transversais”) [M(1)]. In this sense, apart from the criminal police authorities - the Portuguese Criminal Police, other organisations may be involved such as the immigration and Border Service (*Serviço de Estrangeiros e Fronteiras (SEF)*); the Tax Inspectorate (*Inspeção Tributária*) and the Institute for Social Security (*Instituto de Segurança Social - ISS*).

In the inspections, the first contact is with the owner of the company that is being monitored in order to explain why an inspection is being made of their premises. Sometimes, however, there are situations in which the first contact is with some of the workers. This happens when there is a likelihood of some workers fleeing, or when the workers are suspected of not paying their social security dues [M(1)]. We were also informed that the inspectors are empowered with following different routes of communication with different people according to the positions they hold in the company and the kind of company [M(1)].

It is particularly important to collect any evidence during the inspections as, in the event of a crime, they may be used as proof during the court case. Therefore, besides collecting documentary evidence deemed relevant, photographs are taken (: “I take photographs of everything (...). We have photographs of everything” (“Eu fotografo tudo (...). Nós ficamos com as fotografias de tudo”) [FG(M)]. The stage of gathering together the documentation while the inspection is in progress, may mark the beginning of an investigative procedure.

If the boss is found to be in possession of the workers’ documents, it is one of the signs of a crime that may be followed up during an inspection. When this case arises, the criminal police, which is empowered to investigate crime, is informed and makes the necessary and suitable arrangements to begin investigating the case, mainly by requesting information from the Authority on Working Conditions.

As for less positive aspects connected with the inspections, mention was made of: the scarce human resources in order to carry out these kinds of actions; gaps in inter-organisational intermeshing and the sensation that the exploiters are always two steps

ahead owing to their “innovating” capacity to work out new “survival” strategies when there are labour inspections.

- **The National Republican Guard (Guarda Nacional Republicana – GNR)**

The National Republican Guard also routinely carries out inspections at the work place, on the large landed estates and in small farms. From this point of view, it may be said that this authority plans its activity to prevent cases of labour exploitation particularly when they are associated with trafficking in human beings. More specifically in the region of the Alentejo, it has carried out the ‘Safe Olive Operation’ (*Operação Azeitona Segura*)²¹ which has the target of flagging offenders in the olive production that extends from picking the olives to bottling the olive oil. The Operation may therefore be taken as a pro-active strategem to flag cases of labour exploitation.

The Authority on Working Conditions (ACT) as well as the GNR refer more particularly to the inspections that are carried out on the farms. These operations normally involve more than one authority and obtain the help of organisations such as: the Authority on Working Conditions (ACT), the National Republican Guard (GNR), the Immigration and Border Service (SEF), the Tax Inspectorate (*Inspeção Tributária*) and the Institute for Social Security (ISS).

- **Immigrant Associations**

Some of the immigrant associations have the central aim of gearing their activity to defending migrant-worker rights and this leads to the prevention of labour exploitation and protection of workers who have been affected by the problem. Such associations include *ComuniDária- Integração de Migrantes e Minorias Étnicas* (ComuniDária - Integration of Migrants and Ethnic Minorities)²² which targets women who are working in domestic service, and *Casa do Brasil* (Brazil House)²³ and *SOLIM – Solidariedade Imigrante* (Immigrant Solidarity),²⁴ which has a wider coverage. SOLIM guides its activity to defend immigrant rights in general and seeks to solve the immigrant population’s problems where labour exploitation is only one of the problems.

All these organisations have a public attendance service which also provides legal aid in case it is needed. In most cases, any complaint involving labour exploitation reaches the ears of these organisations through the victims themselves who go to them looking for help: “*the work we do and the solutions we provide for the most of the cases make people spread the word*” (“O trabalho que fazemos e as soluções que encontramos para a maior parte dos casos, levam a que as pessoas espalhem a palavra”) [S(1)]. Only *ComuniDária* has referred to the pro-active work it does to disseminate the Association’s work and well as flag cases in localities that congregate immigrants. It even refers to the fact that “*legal support can be made in the street*” (“apoio jurídico pode ser feito na rua”) [S(1)].

- **The Portuguese Association for Victim Support** (*Associação Portuguesa de Apoio à Vítima – APAV*)

²¹ www.gnr.pt/default.asp?do=241t4nzn5_r52rpnv5/12r4nnp1nCrv610n.

²² www.comunidade.org/.

²³ www.casado brasil.info/.

²⁴ www.solimigrante.org/.

The Portuguese Association for Victim Support (*Associação Portuguesa de Apoio à Vítima – APAV*)²⁵ has a specific department that provides help to victims of crime and/or discrimination. The Victim Support Unit for Immigrants and others suffering from Racial or Ethnic Discrimination (*Unidade de Apoio à Vítima Imigrante e de Discriminação Racial ou Étnica - UAVIDRE*)²⁶ specialises in providing assistance to third-country nationals who are the victims of crimes, and nationals who are the victims of discrimination. It works jointly with the High Commission for Immigration and Intercultural Dialogue (Alto Comissariado para a Imigração e Diálogo Intercultural (ACIDI, IP.) and at the moment is co-funded by the European Fund for the Integration of Third-Country Nationals (*Fundo Europeu para a Integração de Nacionais de Países Terceiros -FEINPT*). Attendance and follow-up of labour exploitation victims is done within the sphere of the Victim Support Unit (UAVIDRE), which also launches awareness campaigns. The Portuguese Commission for Citizenship and Gender Equality (*Comissão para a Cidadania e a Igualdade de Género - CIG*) may also be included here as it helps in victim support, although neither preventing labour exploitation nor dedending workers' rights enter into the CIG's mission.

On the one hand, the Portuguese Commission for Citizenship and Gender Equality (CIG) has been the coordinator of the National Action Plans for Preventing and Combating Trafficking in Human Beings (*Planos Nacional de Prevenção e Combate ao Tráfico de Seres Humanos*) where labour exploitation is one of the subjects included. With the sponsorship of the Secretary of State for Parliamentary Affairs and having the aim of preventing and combating the problem, the CIG has launched some awareness campaigns targeting the general public. The most recent campaign was launched on 18 October 2013.²⁷ It was based on human trafficking and had a marked component that warned (the public) about trafficking in human beings for the purpose of exploiting their labour.

With the exception of the trade unions, most of the organisations mentioned that they work according to a checklist drawn up by the Observatory on Trafficking in Human Beings (*Observatório do Tráfico de Seres Humanos*). According to the national head of the Observatory, a check list based on a 'Trafficking Program Specialist' product produced by the Office of Refugee Resettlement/ U.S. Department of Health and Human Services was adapted to the Portuguese context. Three checklists that were slightly different from one another were produced: one by the National Republican Guard (GNR)), another by the ONGs²⁸ and a third by the Authority on Working Conditions (ACT).

These checklists contain a series of indicators /questions that allow a situation involving human trafficking to be identified (or not) with greater accuracy in a particular situation and to say what the end-purpose of the trafficking is. Apart from this, some of the interviewees (mainly from the monitoring bodies and police groups) referred to the fact that their experience/expertise in the field allows them to identify some of the warning signs: people showing that they are afraid and refusing to point out who the responsible people are. Apart from this, information is cross-referenced with social security data to check whether the workers' contract is legal and if their social security payments have been deducted [P(1)].

²⁵ www.apav.pt/.

²⁶ www.apav.pt/apav_v2/index.php/pt/uavidre/uavidre/quem-somos.

²⁷ www.portugal.gov.pt/pt/os-ministerios/ministro-da-presidencia-e-dos-assuntos-parlamentares/galeria/fotos/20131018-seapi-traffic-humano.aspx.

²⁸ www.otsh.mai.gov.pt/cms/files/conteudos/Cartao%20sinalizacao.pdf.

3.2 Forms and frequency of incidents of labour exploitation encountered by experts in their work; economic areas affected

The answers given to the question about the most frequent forms of labour exploitation encountered are grouped as follows:

Forms of labour Exploitation	N	%
Exploitation of a migrant worker under particularly exploitative working conditions	18	60%
Forced labour, including bonded labour	15	57%
Slavery	15	50%
Trafficking for labour exploitation	14	47%
Child labour	8	27%

When asking about the most frequent forms of labour exploitation encountered (breakdown by professional groups) the answers are:

Forms of labour exploitation according to professional group	S	E	L	R	P	J	M	W	N	Total
Exploitation of a migrant worker under particularly exploitative working conditions (in the terms of the Employers' Sanctions Directive)	6	1	0	1	1	0	4	4	1	18
Forced labour, including bonded labour (e.g. debt bondage)	5	1	1	1	1	1	4	2	1	17
Trafficking for labour exploitation	5	1	0	0	4	0	2	1	2	15
Slavery	4	1	0	1	2	1	3	1	1	14
Child labour	1	1	0	0	1	0	4	1	0	8

Most of the interviewees (60%) referred to the particularly serious working conditions prevalent among migrant workers. In identifying this form of exploitation - as most of the people being interviewed showed, it may be explained by the fact that it goes hand-in-hand with other forms of exploitation. In other words, the working conditions are extremely serious whether in terms of human trafficking for labour exploitative purposes or slavery and forced labour: *Normally this is all linked up (...). It entails not paying what has been agreed upon even if it is a verbal arrangement; it entails long working hours and living conditions that are not at all living conditions*" (Normalmente tudo isto está ligado. Tem um componente do não pagamento do acordado, nem que tenha sido verbalmente, tem uma componente de um excessivo horário de trabalho.") [N(1)].

There is the idea that these sorts of situations are increasing as a result of the economic crisis:

- *"It's very difficult to find a situation that is not abusive. I must admit that this year, I haven't found any that hasn't been abusive"* ("É muito difícil encontrar uma situação que não seja abusiva. Eu confesso que, este ano, não encontrei nenhuma que não fosse abusiva." [FG(M)]).

- *"The problem today comes up (...) when there's no work"* ("O problema hoje coloca-se (...) quando não há trabalho").- " [W(1)].

- *"At the moment, economic interests are behind this [labour exploitation]; they involve huge interests and the national environment (...) favours this. Today, economic interests receive a lot of protection. It's descended into protecting economic interests without any scruples"* ("Atualmente os interesses económicos que estão por detrás disto (da exploração laboral) são muito grandes e mesmo a conjuntura nacional (...) favorece isto. Hoje há uma protecção muito grande do interesse económico. Está-se a cair na protecção do interesse económico sem escrúpulos"). [M(1)].

Apart from the transversal nature of the phenomenon, a certain tendency has been seen where there are particularly serious working conditions in the building trade and in the catering business. Where the building industry is concerned, the end of the 1990s and the first decade of the 21st century witnessed an enormous growth in Portugal of large-scale public works that relied heavily on migrant-labour manpower. During this period reports were received at the trade unions about the presence of organised mafia which exploited labour power: *"we had reports come in about the organised mafias namely from the Eastern European countries which forced workers to give them a part of their income ."* ("tínhamos denúncias de máfias organizadas dos países de leste que obrigavam os trabalhadores a dar-lhes uma parte do seu vencimento.") [W(1)].

The economic slump has had important repercussions for the building sector, and the problem is being transferred to other countries, where many Portuguese workers who were hitherto professionals in this sector are now choosing to emigrate and have become the victims of particularly serious working conditions abroad. Reference was made to the flows of Portuguese workers to Canada and other countries in the EU. When they arrive in these countries, the workers *"don't know anyone and they don't have anything to eat or anywhere to sleep."* ("os trabalhadores não conhecem ninguém e não têm que comer, nem onde dormir") [E(1)].

The organisations working directly with the migrant populations (mainly the Local Support Centres for Immigrant Integration (*Centros Locais de Apoio à Integração de Imigrantes, CLAI*) which was a measure launched by the High Commission for Immigration and Intercultural Dialogue (*Alto Comissariado para a Imigração e o Diálogo Intercultural, (ACIDI)*²⁹) referred to the on-going nature of serious working condition in the catering industry and have badly hit immigrants coming from Brazil: *"People working hours on end for low wages, for very little pay. It hardly covered their expenses"* ("As pessoas trabalham horas sem fim por pouco dinheiro, muito pouco dinheiro. Mal dá para pagar as despesas").[S(1)].

When the work is done by black women, they sometimes have to deal with insults about the colour of their skin: *"I've had some cases involving racism. The bosses say: "Get lost, black-*

²⁹ www.acidi.gov.pt/es-imigrante/servicos/centros-locais-de-apoio-a-integracao-de-imigrantes---claij.

girl, we don't need you around here. You're black, you're only good for a doormat, for cleaning shoes" ("Vai-te embora preta, não fazes falta. És preta, só serves para capacho, para limpar os sapatos"). [S(1)].

Although fewer in quantity (2), the interviewees also referred to serious working conditions in domestic service: 12 hours a day; no rest periods; wages lower than the minimum national salary. The condition of being a woman in domestic service is also an unfavourable factor: *"The condition of being a woman also weighs heavily, as much with sex work as with domestic service. The fact that being a woman creates situations leading to isolation"* ("A condição de ser mulher também pesa muito, tanto no trabalho sexual como no trabalho doméstico. O fato de ser mulher cria situações de isolamento.") [S(1)].

One case study reveals another aspect of exploitation as regards domestic workers, and it may possibly involve people who are well-placed in society and who act as recruitment agents, particularly when they are close to the victim. These two aspects are additional factors leading to the silencing of cases involving labour exploitation.

Domestic service is linked to forced labour that is done by migrant workers from countries lying outside the European Community (Brazil and the African countries speaking Portuguese as their official language). According to the speakers in the Focus Group, this phenomenon is characterised by an even greater invisibility and even the victims mostly seem to accept the situations in which they find themselves. This is why close relations are forged between the victims and the exploiters even though there is a climate of intimidation and pressure exerted upon them.

Some of the interviewees referred to the difficulties of flagging the forms of labour exploitation which they have most frequently dealt with in their professional experience and they were sceptical about the categories defined in the survey. They say that there is more fluidity in the definitions and the borders separating each of the categories have been diluted: *"the criminal phenomenon of trafficking in human beings and slavery go hand-in-hand"* ("Este fenómeno criminal do tráfico de seres humanos e escravidão andam de mãos dadas"). [FG(P)]. People suffering from serious debilities are found among the victims of trafficking so as to exploit their labour as well as among the victims of slavery. Taking into account the experience of the people in the Focus Group, the migrant population shows various signs of serious economic and social vulnerability. These migrant workers may come from other European Union countries (particularly from the so-called East-European countries) where the question is not so much about their being in the country illegally as regards their entry into and residence in Portugal, but rather, about their working illegally without a permit. Some of the case studies illustrate this situation.

At the moment, there have been also many situations registered involving third-country nationals (mainly from Asia). This happens in the centre and the south of the country.

As regards third-country nationals, who are working in Portugal, mainly doing farm work in the south of the country, some of the interviewees raised the question not only about the problem of exploitation that affects them, but how such workers came into the country to begin with:

- *"The people working in these facilities, well... they end up by living in them, working in them. It would be slavery, forced labour; I don't know if there is also trafficking in human beings, I don't know (...). Curiously, it's something that the mass media doesn't speak about!*

From what I understand, we're speaking about a phenomenon that's attained some significance; I don't know if there are hundreds of people involved but the question is: how did they get into the country? That's a question I'll leave [to others]. ("As pessoas trabalham dentro dessas estruturas, enfim... depois vivem lá dentro, trabalham lá. Será escravatura? trabalho forçado? não sei se aqui haverá até tráfico de seres humanos, não sei (...). Pelo que eu percebi, estamos a falar de um fenómeno já com alguma expressão, não sei se são centenas de pessoas mas a questão é: como é que elas conseguem entrar no País? Isso aí é a questão que eu deixo.") [P(1)].

- *"Theoretically, it involves situations that cannot be slotted into these two cases [slavery and forced labour] because they are known about at official level. This means that they involve groups of foreigners who come to Portugal to work in concrete harvesting campaigns. (...) they say that they receive the income that was agreed upon and that they have labour contracts, so that theoretically, none of this applies. Now... nobody believes that this is not slavery! (...)* ("São situações que teoricamente não podem ser inseridas nestes dois casos (escravatura e trabalho forçado), porque são de conhecimento oficial. Ou seja, são grupos de estrangeiros quem vêm para Portugal, para colheitas concretas. (...). Diz-se que recebem o salário que foi acordado e que têm contratos de trabalho, mas nada disto se aplica. Agora...ninguém acredita que não seja escravatura! [E(1)].

In northern Portugal the issue of trafficking for the purpose of labour exploitation / slavery has particularly affected Portuguese emigrants in Spain. They are mostly homeless people recruited in the street or in the institutions: : *"Even the night hostels in Lisbon are excellent sources for feeding the predatory routes of the traffickers who come from the North with the purpose of recruiting victims"* ("Até os albergues noturnos de Lisboa, são uma fonte óptima para alimentar as rotas predadoras dos traficantes que vêm do Norte propositadamente aqui recrutar vítimas" [FG(P)]. Apart from their socio-economic vulnerability, among them are people who have added problems deriving from addictions and cognitive disabilities.

Similar to what has been said about particularly serious working conditions, some of the interviewees also pointed out that human trafficking for labour purposes / slavery was on the rise: *"we all have the idea that this phenomenon is increasing"* ("todos temos a percepção de que este fenómeno está em expansão) [FG(P)]. The interviewees also mentioned that the people committing these kinds of crimes have a large capacity to adapt owing to the pressure exerted by labour inspections and the police authorities. To an increasingly greater extent, there is an attempt to frame activities that foment labour exploitation in a legal setting. The people at the helm of this business are increasingly better informed and receive legal counselling. *"they are heading towards forms that are more and more difficult for us to control"* ("estão a ir para formas que, para nós, são cada vez mais difíceis de controlar"). [M(1)].

The cases of child labour was hardly mentioned. Only one interviewee reported situations that still occur today. One of the cases involved a group of Romanian farm workers in the Alentejo in Southern Portugal where there were also children picking the olives. Nevertheless, after the farm was visited, all cases involving child labour exploitation stopped. [W(1)].

Apart from these cases, all the other cases spoke about the past, more in particular about the north of the country. It was the general opinion that the problem has been solved simply

because a lot of attention was paid to it, as much by the institutions themselves and by society as a whole: *“the society itself doesn’t accept it in the same way that it used to accept it. Therefore, there’s also been progress made here. We have gone beyond being a society that accepted child labour as a normal practice, and have already become a society that doesn’t allow it to happen”* (“a própria sociedade já não a aceita, como aceitava. Portanto, há aqui também uma evolução. Passámos de uma sociedade que aceitava o trabalho infantil, como uma prática normal, para uma sociedade que já não permite que isto aconteça”). [N(1)]. Be that as it may, there is a possibility that the problem will make a come back not only among the migrant-worker communities, but also as a result of increasing economic difficulties among Portuguese families.

The three occupations referred to as being the most frequent among workers who are victims of some kind of labour exploitation are as follows:

- Unskilled and uneducated workers in low-profile jobs – referred to by 60% of the interviewees (meaning 18 answers);
- Farm workers – referred to by 53% of the interviewees (16 answers);
- Service occupations – referred to by 47% of the interviewees (14 answers).

In the activities sector there was a wider range of answers although considering the groups, we may identify the following:

- Agriculture, forestry and fishing. This sector was indicated in 24 interviews (80%). Among them: fruit growing (8) and vegetable growing (market gardening) (5) are the most relevant.
- Construction. 20 interviews (67,7%) referred to this sector. The most frequent activity was building construction (7).
- Accommodation and food service activities. This sector was referred to in 8 of the interviews (26,7%); all the interviews mentioned working in restaurants.

If the situations of labour exploitation are spread throughout the country in the catering business, it is possible to identify the risk territories in agriculture (Alentejo e Ribatejo) and the critical periods which are based on the seasonal nature of the crops. *“A large amount of unskilled labour is needed in seasonal [farming]”* (“[agricultura] sazonalmente precisa de uma grande quantidade de mão-de-obra indiferenciada”) [FG(M)]. This seasonal nature makes it easier to rely on migrant workers and they are ‘contracted’ in conditions that not always comply with the law.

The Alentejo and Ribatejo areas are where all the large landed estates are located and where agriculture is much more intensive - In the Alentejo in particular, there has been a remarkable increase in olive-tree plantations. It is precisely here that more migrant workers in slavery or being trafficked for their labour may be found, and involve men as much as women. In northern Portugal, the situation is frequently the opposite, or rather, what is seen there is the enslavement of national citizens who are recruited and sent to work in Spain, also in the farming areas: *“with regard to these situations, there is no doubt that we are speaking about slavery in the 21st century”* (“Sobre estas situações não há dúvida de que estamos a falar de escravatura em pleno século XXI”) [FG(P)].

In cases where migrant workers are involved in labour exploitation, the five forms of conduct contributing to labour exploitation that were most referred to were:

- Migrant workers do not have a contract written in a language they understand, or do not have a contract at all (20 answers / 66.6%).

In not having a labour contract, it is doubtlessly a factor generating insecurity, dependency and added precariousness. In the meantime, although a labour contract may exist, it is often not complied with.

- Migrant workers are restricted in their movement, either by physical barriers or by practical means, such as withholding travel documents (13 answers / 43.3%).

They are restricted in their freedom of movement and in their ability to communicate with the outside world; this is a constant factor that causes the victims much anger while furthering the climate of intimidation and harassment exerted upon them.

- Employers withhold wages or pay considerably less than what they are obliged to pay; (13 answers / 43.3%).

In the present context in Portugal, this applies increasingly less exclusively to migrant workers and affects most workers. The spreading tendency of these practices (to pay less or not at all) caused one of the interviewees to exclaim: *“It’s a disgrace! Dreadful things are done today taking shelter behind the crisis.”* (“Isto é uma desgraça! Ao abrigo da crise, hoje praticam-se coisas horrorosas.”) [E(1)].

Some of the situations, despite being serious, do not however constitute crimes. For this reason, it is necessary to criminalise some form of labour exploitation that might not be linked to trafficking in human beings or slavery: *“We think measure should be taken in the law to criminalise exploitation itself. In Portugal, labour exploitation is only a crime if it is related to human trafficking or slavery”* (“Pensamos que deveria haver uma preocupação no que diz respeito à criminalização da exploração enquanto tal. Em Portugal, a exploração laboral só é crime quando relacionada com o tráfico de seres humanos ou escravatura”). [S(1)].

Nevertheless, migrant workers seem more vulnerable because on a par with paying low wages, in these cases, it could also mean living in degrading conditions: *“These migrant workers are cannon fodder. They are shot over here to some hole without the least conditions for their welfare in most cases. And they work in exchange for food and a few extra cents with which to buy some packets of cigarettes”* (“Estes trabalhadores imigrantes são carne para canhão. São lançados para ali, para um buraco qualquer, sem condições mínimas de salubridade, na maior parte dos casos. E o que trabalham é em troca da comida e de mais uns centavos para comprar uns maços de tabaco”). [W(1)].

- Parts of what is paid flows back to employers, e.g. for fees which the employer owes the recruiters or for food or services provided by the employer (12 answers / 40%).

The complicity between the recruiting agents and the employers was referred to, whereby their arrangement was to exploit the workers and take a share of the wages due to the workers: *“These people set up such companies very often in collusion with the*

employer, the big farmer with a very large estate, and afterwards they dream up unimaginable schemes. Unimaginable things go on there” (“Estas pessoas criam estas empresas, muitas vezes em conciliação com o patrão, o agricultor, com terras de grande dimensão, que depois fazem esquemas inimagináveis. São coisas inimagináveis que acontecem por aí”) [W(1)].

The fact that some employers refuse to pay the expenses connected with the occupations of their workers means that they break their initial promises: “There are many cases in which they tell the workers that their food and accommodation will be paid for, but afterwards the workers have to pay for them themselves” (“Há muitas situações em que dizem que os trabalhadores vão ter alimentação e alojamento e depois os trabalhadores é que têm de pagar isso”). [W(1)].

- Migrant workers are not properly informed about what they are entitled to as regards wages, working conditions, annual leave, etc. (12 answers / 40%).

A distinction is starting to emerge between the more-informed migrant workers from Eastern Europe and the less-informed African immigrants. Despite this fact, the lack of information is one of the characteristics found among the migrant population in these situations. In this sense, the interventions carried out by the Authority on Working Conditions (*Autoridade para as Condições de Trabalho - ACT*) in diffusing information to the workers and making its services available, is important.

- The employer does not pay his share of the worker’s social security charges (11 answers / 36.7%)

In one of the interviews, the opinion was that these workers do not ‘warrant’ being registered with the social security as they “are here two or three months and then they go back to their own countries and they don’t get to take advantage of the payments they’ve made. The only entity that reaps any advantage is the Portuguese State” (“estão cá dois ou três meses e regressam para a terra deles e não vão usufruir nada destes descontos. A única pessoa que usufrui é o Estado português”) [S(1)].

Withholding the payment of dues to the social security is one of the aspects mentioned in one case study. other interviewees recognised that without social security coverage, it is even more difficult to escape from a situation involving labour exploitation because: “You don’t have any rights, not even to receiving unemployment benefits” (“não têm direito, nem sequer ao subsídio de desemprego”) [S(1)].

According to their professional groups, the answers concerning forms of conduct contributing to labour exploitation are as follows:

Forms of conduct contributing to labour exploitation pointed out	S	E	L	R	P	J	M	W	N	Total
Migrant workers do not have a contract written in a language they understand, or do not have a contract at all	8	2	1	-	3	0	2	4	-	20
Migrant workers are not properly informed about their entitlements as concerns wages, working conditions, annual leave etc.	4	2	1	-	1	0	3	1	-	12

Employers withhold wages or pay considerably less than what they are obliged to pay	4	1	1	-	2	0	2	3	-	13
Parts of what is paid flows back to employers, e.g. for fees which the employer owes to recruiters or for food or services provided by the employer	4	1	0	-	3	1	1	2	-	12
The migrant worker depends on the employer beyond the employment contract, e.g. as concerns accommodation or employment of family members	1	2	0	-	3	0	3	0	-	9
Employer does not pay social security contributions	6	0	1	-	1	0	2	1	-	11
Migrant workers are not allowed to go on annual leave	1	0	0	-	0	0	1	0	-	2
Migrant workers are restricted in their movement, either by physical barriers or by practical means, such as withholding travel documents	4	1	0	-	3	2	2	1	-	13
The employer adds to the migrant worker's isolation by impeding communication e.g. communication to representatives of labour unions or to labour inspectors	2	0	0	-	1	0	1	1	-	5
The migrant worker is subjected to physical violence or to threats of such violence	3	0	0	-	1	0	1	0	-	5
The worker's health conditions are impaired, e.g. through labour-intensive work or long hours	2	1	1	-	1	1	2	2	-	10
Other (please specify)	1	0	0	-	0	1	0	1	-	3
Don't know	0	0	0	-	0	0	0	0	-	0

4. Risks and risk management

4.1 Identification of common risk factors for labour exploitation

The risk factors mentioned by the interviewees giving their own spontaneous ideas, were:

- The workers/victims situations involving poverty and economic vulnerability (15 interviewees)

The condition is first witnessed in the migrant workers' own countries; "*They have a terrible life in their own countries! Anything they can do to help improve their lives just a bit is already very good*" ("Têm uma vida já no país de origem... Péssima!... E tudo o que lhes dá de acréscimo das suas condições já é muito bom") [M(1)]. The fact that the standards of living at home are generally much lower, that they are consistently faced with poverty and unemployment and that they often grow up in less than stimulating environments all help to foment a culture wherein they accept and think that hard, precarious working conditions are the norm. On the other hand, the wages they are paid at home are so low that what is paid in Portugal seems to be generous even if they are being exploited.

Some of the interviewees (3) referred to extremely vulnerable situations in particular when talking about Portuguese victims working in Spain. In these cases, economic hardship is aggravated by psychological problems and cognitive incapacity mostly due to addictions and homelessness. "*In this concrete case, they didn't have any work, they had been ex-drug addicts or ex-alcoholics. They were living far from their families, one of them would be living in an institution in Lisbon). They are relatively easy victims, easily seduced*" ("Neste caso concreto, não tinham trabalho, tinham sido ex-toxicodependentes ou ex-alcoólicos, estavam afastados das famílias, um deles estaria a viver numa instituição, em Lisboa. São vítimas relativamente fáceis; facilmente aliciáveis." [J(1)].

The economic vulnerability that is seen in the migrant-workers' homelands is transferred in the migratory process to the host country. But here, their financial hardship is often aggravated by the absence of support from the family network which makes the task of accepting anything that comes their way even more urgent: "*Those who need money mostly don't look at the working conditions*" ("Aqueles que precisam de dinheiro na maioria dos casos, não olham para as condições de trabalho") [S(1)].

It was also mentioned that the need (and the urgency) to earn money and the lack of means for their survival, apart from what they get for doing paid work, helps to perpetuate their exploitative conditions, and then comes the fear that they will lose the little they have.

The link between poverty and labour exploitation is, moreover, patent in all the case studies collected as part of the research. In one case study, specific reference is made to it: "*It may be said that advantage was taken of a situation involving extreme poverty.*

Owing to the fact that the victim had been unemployed for a long time and was very needy, a friend of the 'boss' lent him some accommodation to live in (an empty shop). In knowing about the victim's desperate plight, the two men invited him to work on a building that was being constructed in the Alentejo in exchange for the salary agreed upon: 500 euros/month. Given his needy condition and the fact that he already knew the 'boss', the victim accepted these terms."

- The economic crisis in Portugal (9 interviews)

The fear of losing the little they have is also connected with the economic crisis that Portugal is presently going through where unemployment rates have reached all-time highs and where *"there are no jobs"* ("Não há trabalho"). [S(1)]. On a par with rising unemployment, job instability is also on the rise, as is the informal economic sector, where both national and non-national workers go without labour contracts. The lack of employment in Portugal and a political agenda that encourages young people to emigrate and to satisfy their aspirations of a better life elsewhere, are reasons that criss-cross each other and lead more and more Portuguese workers to seek work abroad, regardless of the working conditions and guarantees that are offered.

The economic crisis, in the interviewees' opinions, exerts a heavy influence in the efficacy of the measure to combat labour exploitation. The predicament in which many companies find themselves in Portugal has rendered any awareness campaigns that might be made inefficient, and has opened the way to questionable practices from the point of view of entrepreneurial ethics. As an example, the case involving a Portuguese firm was mentioned; in order to keep its building costs down it resorted to the international market and recruited cheap labour from the Philippines. *"These workers were here for three days, they worked 24 hours a day and cost one third of the price. They arrived, and everything was so fast that they left as soon as they had come so nobody inspected them, nobody asked if they had a contract! How did it happen? All of a sudden, an aircraft lands that's full of man-power and nobody asks anything? And afterwards, it's rumoured that these people came over, earned 4€ or 3€, an hour, where 3€ is 10 times more than what they earn in their own country. So they're happy. What's going on here? It's all very strange!"* ("Estas pessoas estiveram cá a trabalhar 3 dias, trabalharam 24 h por dia e custaram um terço do custo. Vieram e tão depressa vieram como se foram embora e ninguém fiscalizou, ninguém perguntou se tinham contrato! Como é que é?! De repente chega um avião cheio de mão-de-obra e ninguém pergunta nada? E depois ouve-se dizer que estas pessoas vêm para aí, ganham 4€, ou 3€, à hora ou 3€ o que é 10 vezes mais do que ganhariam na terra deles. Portanto estão satisfeitos, Como é que é?...É muito estranho!") [E(1)].

- Low levels of schooling among the migrant-worker population (8 interviewees)

The workers' low educational levels were pointed out as being a factor making it easier for the recruiting agents to entice them with job offers:

- *"The recruiting agent knows where he is going to recruit. He's not going to recruit any old body, He's going to recruit people with little schooling, persons of a very low social standing"* ("Quem recruta sabe onde é que vai recrutar. Não vai recrutar qualquer

pessoa, vai recrutar pessoas muito pouco letradas, pessoas de uma condição social muito baixa”). [M(1)].

- “*the lower their educational level, the more they are likely to be manipulated by others*” (“quanto menor for a instrução mais possibilidades terão de ser manipulados por outros”) [P(1)].

- The migrant-workers' lack of information (12 interviewees)

The migrant-workers' lack of information (which in a certain way, is connected to their low levels of schooling) is reflected at several levels:

- Accepting the absence of a labour contract;
- Less demanding about their rights;
- Lack of information about the organisations that can help them to become independent of their employer.

- The condition of being an immigrant who is in the country illegally (7 interviews)

In agreement with a number of the interviewees (7), the fact that a non-national does not have his/her papers in order frequently leads to illegal labour. And this in turn favours the following:

- making them work under abusive conditions;
- being afraid of the employer's reprisal if the situations were reported and the utmost fear of being repatriated;

The following reasons were also voiced, although by fewer interviewees:

- Not knowing how to speak the host country's language;
- The fact that they are not unionised;
- Feeling ashamed about the situation in which they find themselves. This is felt most keenly when comparing their initial expectations upon first setting out on the migratory process;
- Police corruption in their own countries;
- The invisibility of the phenomenon involving labour exploitation;
- The condition of being a female immigrant;
- The negative role the recruiting and posting agencies play, above all placing them in the informal economy;
- Labour laws that are neither clear nor sufficiently well known on the part of the employers;

- The absence of a fast-moving justice system and the fact that the burden of proving that a crime has been committed has to be done during the trial when the victims, who are the main witnesses, are so vulnerable.

When answering the closed questions in the interviews, and still dealing with the factors that increase the risk of migrant-workers' labour exploitation, the interviewees answered as follows:

- As regards the legal and institutional framework, the 3 factors that were most often mentioned, were:

- Low risk to offenders in having to compensate exploited migrant workers (23 answers / 76,6%).
- Low risk to offenders of being prosecuted and punished (22 answers / 73,3%).
- Lack of institutions effectively monitoring workers' situations in sectors of economy where labour exploitation occurs (12 answers / 40%).

In the question concerning the category "Other", there were 12 answers. Apart from being varied it seems important to try and group them. The interviewees mentioned:

- the lack of resources the institutions had to grapple with, including the organisations responsible for carrying out monitoring and inspections;
- the likelihood of the offenders being convicted not for crimes of trafficking in human beings for the purpose of exploiting their labour, but for interconnected crimes that are related to the following issue;
- difficulties in proving human trafficking for labour purposes in a court of law;
- the slow-moving justice system.

According to their professional groups, the answers are as follows:

Factors adding to the risk that migrant workers may be exploited - legal and institutional setting	S	E	L	R	P	J	M	W	N	Total
Low risk to offenders of being prosecuted and punished;	7	2	0	0	4	2	4	2	1	22
Low risk to offenders of having to compensate exploited migrant workers;	7	2	1	0	4	1	5	2	1	23
Lack of institutions effectively monitoring the situation of workers in sectors of economy where labour exploitation occurs;	4	1	1	0	1	1	2	2	0	12
Corruption in the police;	1	0		0	0	0	0	0	0	1
Corruption in other parts of administration;	0	0	1	0	0	0	0	0	0	1
Other (please specify)	3	0	0	1	2	0	3	1	2	12
Don't know	0	1	0	0	0	0	0	1	0	2

- Where the personal characteristics of the victims were concerned, the following opinions were voiced:

- Migrant worker does not know the language of the country of workplace (22 answers / 73,3%).

- The migrant worker has a low level of education (14 answers / 46,6%).

- The migrant is not allowed get a job if he/she does not have a residence permit. Not having this permit means it is more difficult to get a job in the formal (legal) market (10 answers/ 33,3%).

According to their professional groups, the answers are as follows:

Factors adding to the risk that migrant workers may be exploited - personal characteristics of the victims	S	E	L	R	P	J	M	W	N	Total
Migrant worker has a low level of education;	3	2	0	1	4	1	1	2	0	14
Migrant worker does not know the language of the country of workplace;	5	2	1	1	3	1	3	4	2	22
Migrant is not allowed to enter into employment;	4	1	0	1	1	0	3	0	0	10
Worker comes from a country the nationals of which are often exploited in the destination country;	1	0	0	0	0	0	1	2	1	5
Worker is prone to discrimination on behalf of their race or through their identification as belonging to a national minority (such as Roma, Dalit or sub-Saharan African)	4	0	0	0	0	0	1	1	1	7
Worker is prone to discrimination on behalf of their sex	1	0	1	0	0	0	1	1	0	4
Worker has experienced extreme poverty at home;	3	0	1	0	2	0	2	0	0	8
Other (please specify)	2	1	0	0	0	2	1	1	2	9
Don't know	0	1	0	0	0	0	0	0	0	1

- As regards the migrant workers' work place, factors adding to the risk that migrant workers may be exploited most commented were:

- The migrant worker is not directly employed by the business/organisation for which he/she works (16 answers / 53,3%).

- The migrant works in a sector of the economy that is particularly prone to exploitation (15 answers / 50%).

- The migrant works in precarious or unstable employment (15 answers / 50%).

- The migrant works in relative isolation with few contacts with clients or with people outside the firm (14 answers / 46.7%).

- The migrant is a seasonal worker (14 answers / 46.7%).

According to their professional groups, the answers are as follows:

Factors adding to the risk that migrant workers may be exploited - as regards the migrant workers' work place	S	E	L	R	P	J	M	W	N	Total
The migrant works in a sector of the economy that is particularly prone to exploitation;	4	0	0	1	2	1	3	2	2	15
The migrant works in relative isolation with few contacts to clients or to people outside the firm;	2	1	0	1	2	2	3	2	1	14
The migrant worker is not a member of a trade union;	1	0	1	0	0	0	1	4	0	7
The migrant works in a precarious or insecure situation of employment, e.g. formally not employed but self-employed;	5	0	1	1	2	0	3	3	0	15
The migrant worker is not directly employed by the business/organisation for which they work, e.g. agency workers, or employees of cleaning or security companies;	5	3	1	0	4	0	1	1	1	16
The migrant worker is employed as a posted worker by a foreign company;	0	1	0	0	0	0	1	0	0	2
The migrant is a seasonal worker;	4	2	0	0	2	1	3	0	2	14
Other (please specify)	1	0	0	0	0	0	0	0	0	1
Don't know	0	0	0	0	0	0	0	0	0	0

The role the recruiting and placement agencies have played is basically perceived as negative. This means they have helped to cement and further the existence of labour exploitation, and they have applied new mechanisms with an ever-growing capacity to adapt the legal instruments (and therefore escape them). The roles of the recruiting agencies was referred to in the open question about the risk factors. Again the agencies are implicitly involved as a risk factor when associated with the migrant worker and the work place, and the fact that the migrant worker is not directly employed by the business/organisation for which he/she works .

By heeding the interviews it is possible to make a distinction between a posting agency, a recruiting agency and a company offering temporary work. These three agencies have appeared with the liberalisation of the market economy in the human resources area and they form employment exchanges in the private sector. The temporary employment firms need to have a licence and are registered at the Employment and Professional Training Institute (*Instituto de Emprego e Formação Profissional - IEFP*), which should monitor their dealings. On the other hand, there is an Ombudsman of Entrepreneurial Ethics and Temporary Labour (*Provedor da Ética Empresarial e do Trabalho Temporário*) who mediates between the worker and the employer in the sense of solving possible problems. However, there does not appear to be any kind of monitoring or follow-up of the recruiting or placement agencies and they do not need to be registered to exercise their activities, thus relegating them into what are called “grey companies” that few get to know about.

It is therefore a market that is permeated by people who are untrained and have no knowledge or experience in the field of human resources. The informal economy is very much present in this sector. One of the interviewers [R(1)] referred to the existence of

“pseudo recruitment agencies” (*“pseudo agências de colocação”*) which are not legal [i.e. unregistered]. The visible face of such firms are often called ‘recruiters’ – they are the people who go to places where vulnerable manpower usually congregates and they make their labour recruitment in these spots promising them conditions that later prove to be false.

The labour inspectors view these agencies with great concern: *“One of our overriding concerns was precisely these sources of recruitment. They are the first ones to get in touch with the worker and through them, comes labour exploitation. They are the ones that channel people into particular situations. Therefore, it’s vital to check whether all their procedures are legal”* (“Uma das nossas grandes preocupações foi precisamente essas fontes de recrutamento. Elas são o primeiro contacto com o trabalhador e é através delas que chegam às formas de exploração laboral. Elas é que encaminham as pessoas para determinadas situações. Portanto, é fundamental a verificação da legalidade de todos os seus processos”) [M(1)].

For the trade unions, the temporary work companies are in themselves factors that facilitate precariousness on the job and labour exploitation:

- *“I think that these [temporary labour] companies (...) want huge profit margins; they receive a commission for each worker. I believe that the precariousness has got worse due to the question of temporary workers, or rather, it has seriously aggravated the exploitative situation”* (“Eu acho que essas empresas (trabalho temporário) (...) Elas querem níveis de rentabilidade muito grande; recebem uma comissão por cada trabalhador. Acho que a precariedade piorou com a questão dos trabalhadores temporários, ou seja, agravou-se muito mais esta situação de exploração”) [W(1)].

- *“(...) there are agencies that recruit workers by offering them wages below the amount that has been stipulated in terms of the contract. So, I don’t support any of these agencies”* (“(...) há agências que recrutam trabalhadores a ganhar abaixo do salário que está instituído em termos contratuais. Portanto, essas, eu não apoio”) [W(1)].

It is also these kinds of agencies that ‘innovate’ ways of recreating themselves so that they can keep on doing what they are doing, by-passing the law and evading the authorities’ control:

- *“In one of the inspections we held in a place in the north of Portugal, we discovered an illegal employment and recruitment agency that demanded money from people, but which failed to pass them on and when it did so, they were sent to very doubtful venues (...) Next week, we are going to have an inspection at a company, also a recruitment agency, which we imagine, will have the same people as the ones who opened a new business under another name”* (“De uma intervenção que tivemos, num local no norte de Portugal, verificámos a existência de uma agência de trabalho e de colocação, ilegal, que cobrava dinheiro às pessoas, mas depois não as encaminhava e, quando encaminhava, era para situações duvidosas (...) Para a semana vamos ter uma intervenção junto de uma empresa, também de colocação, que, supomos, ser das mesmas pessoas que abriram novo negócio com outro nome”) [M(1)].

- *“This is a game. Many are Community companies, they are registered in other countries and they’re not registered in Portugal. Well, they know that even if I intercept their activities, I don’t have any legal power in Romania for example. Consequently, everything I do is*

worthless, and they're not even obliged to answer me" ("Isto é um jogo. Muitas são empresas comunitárias, têm registo noutros países e não estão registadas em Portugal. Ora eles sabem que, mesmo que eu os intercepte nas suas actividades, não tenho poder jurídico na Roménia, por exemplo. Por conseguinte, tudo o que eu faça não tem valor nenhum, nem são obrigados a dar-me resposta") [M(1)].

- *"Sometimes, they are not even companies: they may have an office, a service supplier but they are outside the law, they do the recruiting of the workers"* ("Às vezes nem são empresas: pode ser um escritório, uma prestação de serviços mas que, à margem da lei, vão fazer a colocação de trabalhadores"). [M(1)].

The interviews also reveal a certain call for a more ethical stance on the part of the recruiting agencies:

"It's very important to get these recruitment agencies to adopt another attitude, an attitude of directing human beings to decent work places. Well, what we very often have – what we have here – are these so-called 'recruiters' who drum up man-power, go and fetch them in their countries of origin and bring them to us in trucks and buses, just like that!" ("Era muito importante conseguir dessas agências de colocação uma outra atitude, uma atitude de encaminhar os seres humanos para locais de trabalho dignos. Ora, muitas das vezes o que nós, o que nós temos aqui são os tais 'engajadores', ou angariadores de mão-de-obra, que vão buscar ao país de origem, em carrinhas e autocarros e transportam-nos, assim!"). [M(1)].

- *"If I were a recruitment agency, I would not be able to draw up a contract with a company, send off the worker and say afterwards: 'he was placed in an abusive situation but I don't know anything about it; I wash my hands of it'. No, the law is there precisely to punish this sort of situation. The worker has to be followed up; he's a person not a piece of merchandise"* ("Se eu for uma agência de colocação não posso estabelecer um contato com uma empresa, enviar um trabalhador e depois dizer 'foi colocado em situação degradante mas eu não sei de nada, limpo aqui as minhas mãos'. Não, a lei vem precisamente punir esse tipo de situações. Tem que haver um acompanhamento da pessoa; é uma pessoa, não é uma mercadoria") [R(1)].

Questions were also raised about the reasons leading entrepreneurs (in this case, reference was made to the large-scale farmers) using the services of these agencies to pay the wages due the workers: - *"The farmers pay the amount that is due. The problem resides in the recruiting agencies that take advantage of the situation. We have to get to the bottom of the question and understand why this happens. Why do the farmers seek the services of this type or agency?"* ("Os agricultores, pagam o valor devido. O problema está em organizações de angariadores que depois tiram proveito da situação. Ora temos que ir ao fundo da questão e perceber porque é que isto acontece. Porque é que é que os agricultores recorrem a este tipo de organizações.") [S(1)]. The same interviewee attempted to explain the demands connected with contracting workers (salary scales; deductions to the social security) which places the economic profitability of the enterprise in danger: - *"The demands made on the employers when they contract the worker directly, very often jeopardises the feasibility of earning a profit from the farm, and so they resort to this kind of temporary work agency"* ("As exigências que são feitas aos empregadores, quando fazem diretamente a contratação do trabalhador, tornam muitas vezes inviável a rentabilidade da

exploração agrícola e daí que também recorram a este tipo de organizações de trabalho temporário”) [S(1)].

Nevertheless, for the other interviewees, there is no doubt that there are powerful economic interests behind the phenomenon of labour exploitation and this is a business venture for both parties - the employer and the recruiters come out winning: *“They earn piles of money. It’s highly lucrative (...) The heart of the matter is that the Alentejo today is a market for exploitation and it will continue to be because it is expanding. The market is substantially fed by the farmers. In doing so, their costs are greatly reduced, it’s easier, cheaper to contract service suppliers indirectly than to contract workers directly themselves”* (“Eles ganham montes de dinheiro. Isto é altamente lucrativo” (...). O cerne da questão é que o Alentejo é hoje mercado para a exploração, e vai continuar a ser porque está em expansão. E este mercado é alimentado, substancialmente pelos agricultores. Com isto eles têm custos mais reduzidos. É mais fácil, e mais barato, contratar a prestação de serviços indiretamente do que se contratarem os trabalhadores diretamente.”) [FG(M)].

- Furthermore: *“It’s an activity that brings in a lot of profit and the one who reaps the most profit is the agricultural entrepreneur”* (“Esta é uma atividade que traz grandes lucros e o grande aproveitamento dos lucros é feito pelo empresário agrícola”) [FG(P)].

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

The following organisations apply measures to prevent and reduce the risks of labour exploitation:

- The Authority on Working Conditions (*Autoridade para as Condições de Trabalho -ACT*).

This organisation basically undertakes activity to provide information targeting workers and also employers and entrepreneurial associations.

- Entrepreneurial Associations: Portuguese Confederation of Commerce and Services (*Confederação do Comércio e Serviços de Portugal - CCP*); the Association of Companies in the Building, Public Works and Services Sector (*Associação de Empresas de Construção e Obras Públicas e Serviços - AECOPS*) and the Portuguese Association of Companies in the Private Employment Sector (*Associação Portuguesa das Empresas do Setor Privado de Emprego – APESPE*).

These organisations also hold information and awareness campaigns aimed at the enterprises which are their members.

- The Association of Companies in the Building, Public Works and Services Sector (AECOPS) carries out joint work with the Institute of Employment and Professional Training (*Instituto de Emprego e Formação Profissional*) in the campaign “Working Abroad, Get

informed before you leave” («*Trabalhar no estrangeiro, informe-se antes de partir*»)³⁰ directed at Portuguese emigrants.

- One E group interviewee indicated that the person of the Ombudsman of Entrepreneurial Ethics and Temporary Labour (*Provedor da Ética Empresarial e do Trabalho Temporário*)³¹ acted as a mechanism to prevent and reduce labour exploitation risks .

- The Portuguese Commission for Citizenship and Gender Equality (*Comissão para a Cidadania e a Igualdade de Género– CIG*) and the Observatory on Trafficking in Human Beings (*Observatório para o Tráfico de Seres Humanos*)

The initiatives held by these two organisations are, above all, nationwide campaigns based on following the guidelines in the National Action Plans for Preventing and Combating Trafficking in Human Beings (*Planos Nacionais de Prevenção e Combate ao Tráfico de Seres Humanos*). Concrete reference was made to a campaign that was launched by the CIG together with the Secretary of State for Parliamentary Affairs and Equality (*Secretária de Estado dos Assuntos Parlamentares e da Igualdade*) on 18 October 2013³² called “*Não deixe que o tráfico escreva o seu destino*” (“Don’t let trafficking write your destiny”). The campanha centred on combating trafficking in human beings and as such, contained a serious warning against labour exploitation. The information comprising the campaign may be considered as protecting workers’ rights.

Regarding these kinds of campaigns, there are voices that query their efficiency, explaining that the forms of dissemination and arriving at target publics needs to be improved: : “*Making posters and brochures has it merits, but do they effectively get to the people they are aimed at?*” (“Fazer posters e brochuras tem mérito mas será que efectivamente chega a quem de direito?”). [N(1)].

In the sense of improving things, the Observatory on Trafficking in Human Beings working in partnership with the Portuguese Commission for Citizenship and Gender Equality (*CIG*) plan to strengthen awareness campaigns and provide training targeting the social networks in certain areas of the country, mainly in the Alentejo.

- The Trade Unions

Preventing labour exploitation is taken to be a primary reference framework for trade union activity. However, as one trade union representative (W group) mentioned, there is no specific strategy to prevent labour exploitation among migrant workers. At local level, however, the trade unions spoke about practices that takes into account the particular situations of the migrant workers.

The Beja Association of Trade Unions (*União dos Sindicatos de Beja*) has a large-scale public project under construction in the area (the Alqueva Dam). During this period (2000-2009) the Association set up a ‘mobile delegation’ with the aim of carrying out union work in close proximity with the workers labouring on these public works. Informative leaflets were produced specially aimed at the migrant worker.

³⁰ www.iefp.pt/noticias/Paginas/TrabalharNoEstrangeiroInformeSeAntesDePartir.aspx.

³¹ www.provedortt.org/.

³² www.portugal.gov.pt/pt/os-ministerios/ministro-da-presidencia-e-dos-assuntos-parlamentares/galeria/fotos/20131018-seapi-traffic-humano.aspx.

One interviewee referred to the Oporto Civil Construction Trade Union (*Sindicato da Construção Civil do Porto*) as the only trade union to intervene on behalf of Portuguese workers abroad. In order to carry out its task, the Trade Union actively promoted the campaign: “Working Abroad, Get informed before you leave” (*“Trabalhar no estrangeiro: informe-se antes de partir”*)³³. Within the sphere of the campaign, the Trade Union drew up an Agreement with the Secretary of State and the Communities (*Secretaria de Estado e da Comunidades*) which allowed the Union to contact the workers (abroad) in order to see whether a labour contract had been made. On the other hand, if a Portuguese worker who was known to be working abroad suffered any kind of abuse, a Union officer would travel to the country in question to see if the problem could be solved: “we don’t solve everything but it has helped (...) so that there is less suffering, less pain, less exploitation of the workers, our compatriots” (“não resolvemos tudo, mas temos contribuído (...) para que haja menos sofrimento, menos dor e menos exploração dos trabalhadores, nossos compatriotas”) [W(1)].

Promising practice

Trade Union widens the scope of its activity and follows up with migrant workers abroad.

Through an Agreement between the Oporto Civil Construction Trade Union (*Sindicato da Construção Civil do Porto*) and the Secretary of State and the Communities (*Secretaria de Estado e da Comunidades*) the Union follows up the situations of workers in the building sector and offer help in solving abusive situations. In the event of need, the Union may activate a fund to pay for repatriation expenses.

- Some of the organisations in civilian society: the Portuguese Association for Victim Support (*Associação Portuguesa de Apoio À Vítima -APAV*); ComuniDária - Integration of Migrants and Ethnic Minorities (*ComuniDária -- Integração de Migrantes e Minorias Étnicas*); the Beja Diocesan Caritas (*Cáritas de Beja*); *Casa do Brasil* (Brazil House) ; ‘Saúde em Português’ (“Health in Portuguese”- Association of Primary Health Care Workers in the Portuguese-Speaking countries) and the Family Planning Association (*Associação para o Planeamento da Família - (APF)*).

The work carried out with the migrant workers is common to all these organisations: providing information and clarification. On the other hand, they have a special role when it comes to dealing with victims. According to the interviewees, their intervention tries to enable and empower the victims so that they themselves make changes in their own lives. This sort of intervention is confined to the attendance rooms located in these organisations.

Apart from this, some projects were mentioned that may reach other kinds of targets in preventing labour exploitation:

³³www.portal.iefp.pt/pls/gov_portal_iefp/docs/PAGE/EURES/EURES_PAG_PORTUGUES/FOLHETO_TRABALHAR_NO ESTRANGEIRO.PDF.

- **The Briseida Project.**³⁴ This is a project aimed at combating human trafficking that is used for labour exploitative purposes. It is running between September 2013 and August 2015. The sponsor is the Portuguese Association for Victim Support – APAV, which has national partnerships with the Authority on Working Conditions (*Autoridade para as Condições de Trabalho - ACT*); the Immigration and Border Service (*Serviço de Estrangeiros e Fronteiras - SEF*); the General Confederation of Portuguese Workers (*Confederação Geral dos Trabalhadores Portugueses - CGTP*); and the Observatory on Trafficking in Human Beings (*Observatório do Tráfico de Seres Humanos - OTSH*). It has international partnerships with organisation in Sweden, Romania and the United Kingdom. The project proposes to launch a series of initiatives seeking to enhance the awareness of employers and the general public about the issue. It also intends publishing a handbook in which there are a set of procedures leading to improved interventions involving victims of human trafficking for the purpose of exploiting their labour.

- **The Shelter Project: Am I here now?** (*Projeto Acolhida: Estou aqui e agora?*)³⁵ This Project is organised by *Casa do Brasil* in Lisbon and the Active Citizenship Programme (*Programa Cidadania Ativa*) and funded by EEA Grants. It is targeted at Brazilian immigrants in Portugal with low foreign language skills, computer skills and very little knowledge of how the Portuguese institutions work, all of which complicates their joining the labour market. Despite the fact that the project does not say how it will prevent labour exploitation, its aims contain an initiative that may be interpreted as a measure in itself.

- **Project Human Merchandise** (*Projeto Mercadoria Humana*).³⁶ This project was launched by the *Saúde em Português* Association and it ran between 2010 and 2012. By using several artistic means, the project sought to pinpoint, inform and sensitise people about the problem of human trafficking for the purpose of sexual exploitation.

In terms of information campaigns aimed at people who want to emigrate, most of the people who were interviewed knew about the existence of the campaign that was already mentioned above: “Working Abroad, Get informed before you leave” (“*Trabalhar no Estrangeiro: informe-se antes de partir*”)³⁷. It was launched by the Directorate-General of Consular Affairs and the Portuguese Communities (*Direcção Geral dos Assuntos Consulares e das Comunidades*); the Institute for Social Security (*Instituto de Segurança Social - ISS*); the Employment and Vocational Training Institute (*Instituto de Emprego e Formação Profissional - IEFP*); the Authority on Working Conditions (*Autoridade para as Condições de Trabalho - ACT*), and the Tax and Customs Authority (*Autoridade Tributária e Aduaneira*). The campaign sought to warn people who wanted to go abroad to work about the need to get themselves informed and get themselves ready. The campaign was composed of the following materials; a poster, information leaflets that dealt with aspects about looking for a job, a labour contract, getting health care, and finally, a brochure with more detailed material.

Initiatives directed at emigrants were thought to be very important; above all at this present stage of new emigration flows: “*Portugal is still a country of immigrants but more and more*

³⁴ www.apav.pt/proj/pages/briseida.html.

³⁵ www.projetoacolhida2014.wix.com/projeto-acolhida-cbl.

³⁶ <http://gch.cm-coimbra.pt/2011/05/02/mercadoria-humana-%E2%80%93-projeto-de-sensibilizacao-em-traffic-de-seres-humanos/>.

³⁷ http://portal.iefp.pt/pls/gov_portal_iefp/docs/PAGE/EURES/EURES_PAG_PORTUGUES/FOLHETO_TRABALHAR_NO ESTRANGEIRO.PDF.

people are going away. This is a very critical situation. It should be stopped... The Portuguese are leaving their country and are vulnerable to these situations” (Portugal é ainda um País com imigrantes mas cada vez mais as pessoas estão a sair. Isto é uma situação muito crítica. Devia haver prevenção. Os portugueses estão a sair do país e são vulneráveis a estas situações”). [S(1)].

In terms of the standard setting /certification mechanisms, there was a feeling of scepticism about them. This opinion was voiced above all by the trade unions, even though they recognised the general importance of the companies that were pursuing practices that were guided by an ethic of social responsibility: *“Look, about this question of Social Responsibility where the enterprises are concerned, I think that it’s all a bluff (...) trade union intervention has helped to improve practices (...) but there should be greater responsibility on the part of the employers”* (“Olhe, esta questão da Responsabilidade Social, em relação às nossas empresas, eu acho que é um bluff (...) a intervenção do sindicato tem ajudado na melhoria das práticas (...) mas que por parte das entidades patronais deveria haver maior responsabilidade”). [W(1)].

- *“These mechanisms exist, but they exist on paper. Afterwards, when they’re applied, they sometimes don’t work as they should”* (Esses mecanismos existem, mas existem no papel. Depois, na prática, às vezes não funcionam como deve ser.”). [W(1)].

For some of the State bodies, the mechanisms of standard-setting and accreditation were deemed important as they take into consideration rules about non-discrimination and they could help to foment socially critical attitudes towards certain brands. Reference was made to the likelihood of setting up future partnerships.

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

Taking into account the interviews and the Focus Group, the general idea that emerged was that the victims are treated as such by the police: - *“He’s a victim. Without any doubt at all, it’s to protect him, protect him. (...) I’m speaking for the National Republican Guard. The first thing is that people are okay”* (“É uma vítima. Sem dúvida nenhuma, é proteger, proteger. (...) Eu falo pela Guarda Republicana. A primeira coisa é que as pessoas estejam bem”). [P(1)].

It was pointed out that widening membership in the European Union to other countries resulted in fewer people being in an irregular situation as far as their papers were concerned. On the other hand, the Immigration Law³⁸ offers protection and residential status to all those people who have been classed as victims of human trafficking and who are helping the police in their enquiries [P(1)].

³⁸ Portugal, *Lei 23/2007* amended by Law 29/2012, Government Gazette (*Diário da República*), 1st series, No. 159, 9 August 2012, available at: www.dre.pt/pdf1sdip/2012/08/15400/0419104256.pdf.

Thus, the idea is (and it would be worth spreading) that the police are not the enemy and that their task is to protect the victims. This notion emerges not only in the talk of the interviewees speaking on behalf of the police authorities, but it is also evident in the talk of the inspectors working for the Authority on Working Conditions (ACT) as well in the discourse of some of the NGOs which provide victim support.

-*"The police shouldn't be viewed as another aggressor, should they? The police come to defend them. Defending also means safeguarding the person"* ("A polícia não pode ser vista como outro agressor, não é? A polícia vem para defender. Defender implica também salvaguardar aquela pessoa"). [M(1)].

-*"The Immigration and Border Service has paid quite a lot of attention to these questions of migrant-workers and labour exploitation. It's a phenomenon that has increased a great deal in Portugal and it is increasingly impossible not to notice it"* ("Tem havido bastante atenção por parte do SEF a estas questões da migração e da exploração laboral. É um fenómeno que tem aumentado bastante em Portugal e torna-se cada vez mais torna-se impossível não reparar nele"). [S(1)].

Meanwhile, the police authorities' tendency to view the victims of labour exploitation as victims regardless of whether they are in Portugal illegally in terms of their residential status, is seen to be a recent positive development. According to one interviewee from victim support services, about 10 years ago, the police tended to penalise the victim. Nowadays, the police lean more towards punishing the offenders. [S(1)]

Holding training courses and awareness-creating sessions are factors that all help towards fomenting this progressive change in attitude: *"(...) I had to deal with a situation in the North of the country where an agent from the Republican National Guard (GNR) arrested a non-Portuguese national because he was driving without any car papers. What did he see first? He saw a crime being committed. By chance (...) he had received some training and he later understood that there was a story behind it that indicated another sort of situation involving the trafficking of human beings"* ("(...) tive uma situação no Norte do país em que um militar da GNR prendeu um indivíduo, que não era português, porque estava a conduzir sem documentos. O que é que ele viu, em primeiro lugar? Viu que tinha ali um crime. Por acaso, (...) porque recebeu formação, percebeu mais tarde que toda a história, por trás, que poderia indicar uma outra situação de crime de tráfico de seres humanos." [FG(S)].

It was recognised, however, that these recent police attitudes towards victims who do not have their papers in order is not uniform and different attitudes due to a combination of factors may emerge, where some of the factors are listed below.

- the police agent's training in matters to do with human trafficking for labour exploitative purposes, as referred to in the example above;
- the aims of the operation under way;
- the kind of authority involved. According to the interviewees, it is curious to note that the officials from the Immigration and Border (Service o *Serviço de Estrangeiros e Fronteiras - SEF*) were best trained to consider that the absence of personal documents was a secondary matter and that they gave priority to the possibility that they were dealing with a victim [S(1)].

Notwithstanding, there was disagreement voiced by the immigrant associations which complained of an absence of protective attitudes: : *“There is no culture of victim protection”* (“Não há uma cultura de proteção da vítima”). [S(1)]. Furthermore, they allege that victims are first treated as illegal immigrants: *“There are many cases in which the victim is treated like a criminal who is working illegally and he/she is processed through the system as a criminal and not as a victim”* (“Existem muitas situações em que a vítima é tratada como sendo um criminoso que está a trabalhar de forma ilegal e é processado no sistema enquanto criminoso e não enquanto vítima”). [S(1)].

In following this line of thought, a criticism was directed at the behaviour of the Immigration and Border (Service o *Serviço de Estrangeiros e Fronteiras -SEF*): *“We need prevention but we also need that SEF obeys the law. If a person is working irregularly, that person who is a victim has to be immediately legalized. If a person hasn't a contract or discounts for Social Security, it is not his/her fault; it is because of the infringer employer. The victim of exploitation should not be criminalized. (...). He/she should be protected efficiently. If the Portuguese authorities allow this, this means they go along with slavery”*. (“Precisamos de prevenção mas também precisamos que o SEF atue de acordo com a lei. Se uma pessoa está a trabalhar numa situação irregular essa pessoa que é vítima precisa de se legalizar imediatamente. Se uma pessoa não tem contrato, não desconta para a Segurança Social não é por culpa sua é sim por culpa do empregador infrator. A vítima de exploração não deve ser criminalizada; devia ser protegida de modo eficiente. Se as autoridades portuguesas permitem isso, tal significa que estão de acordo com a escravatura”). [S(1)].

In other words, what is in cause here, are mainly the procedures falling within steps to legalise personal statuses and the lengthy delays in the justice system, specified as follows:

- in order to obtain their residence permits, the third country non-national needs to have a labour contract which is not at all easy to obtain;
- the authorities do not offer any help during the procedure to legalise one's personal situation: *“If people can't find an association to help them, their illegal status continues and they might fall victim to yet another exploitative situation”* (“Se as pessoas não encontram uma associação que as possa ajudar elas continuam ilegais e podem cair noutra situação de exploração”). [S(1)];
- the time it takes to see the legalisation process through does not conform with people's needs: *“We have people who've been working for about 6 years with no documents. The Immigration and Border Service (SEF) knows about it. It seems that there is no deadline for legalising one's situation. Six years in order to obtain legal status is absurd. They haven't committed any crime”* (“Temos pessoas que estão a trabalhar há 6 anos sem documentos. O SEF sabe disso. Parece que não há um tempo limite para a legalização. 6 anos para uma legalização é um absurdo. As pessoas não cometeram nenhum crime”). [S(1)]

As is known, when there is information that certain operations will involve immigrants, the Immigration and Border Service (*Serviço de Estrangeiros e Fronteira - SEF*) is called in. In these interventions, the SEF is usually joined by other authorities, mainly the Social Security. At the scene of the inspection, a first investigation is carried out and the first witnesses are

registered. It has already happened that a criminal trafficking network has been dismantled just on the basis of these witness statements.

In general terms, an investigation may be composed of the following steps:

- Removing the people from the situation in which they find themselves, provided they agree that they do not want to continue living there, in the presence and under the control of the offenders.
- Referral and guidance to the victims, so that they receive assistance in a safe place.
- Informing the Public Prosecutor's Office about the case and the measures taken.

If there is any danger of the offenders fleeing, the Border and Immigration Service can make an arrest in terms of the information going to the Public Prosecutor's Office. [P(1)].

Nevertheless, it is necessary to point out that the criminal investigation is carried out by the criminal police department in the shape of the Judiciary Police, which is equipped to use special means to obtain proof that may lead to dismantling criminal networks – this being the goal of the Judiciary Police:

- *"The Criminal Police's job is not preventing crime but combating organised crime that engages in this sort of crime"* ("A missão da PJ não é prevenção criminal, é combater as organizações criminosas que se dedicam a este tipo de crime"). [P(1)].

- *"(...) our mission is basically to dismantle criminal networks that are dealing in this sort of activity. As you may imagine, we don't only concentrate on that locality. We have to resort to a series of special means – which are covered by law - to obtain the proof (...) follow-up measures, surveillance, telephone tapping, under-cover operations (which have fortunately now been authorised) and agents infiltrated in activity on human trafficking."* ("(...) a nossa missão fundamental é desmantelar as redes criminosas que se dedicam a este tipo de actividade. Como deve imaginar, não nos ficamos só por aquele local. Temos que recorrer a uma serie de meios especiais de obtenção de prova – que estão previstos na lei (...) os seguimentos, as vigilâncias, as interceções telefónicas, o as acções encobertas (que felizmente agora já são permitidas) e os agentes infiltrados nas acções de investigação sobre tráfico de seres humanos") [FG(P)].

Once the evidence has been collected, the next stage is seizing the material and monetary assets of the people involved in these criminal networks: *"(...) when we reach the stage at which we have accumulated enough to go ahead with the case, either for that concrete case or for other cases that are being investigated and that may or may not be grouped together in a single case, and there's enough evidence on which to detain suspects and bring them before a judge for a criminal hearing, then we advance to the operational stage that consists of making arrests, and not only, making searches and seizing means and confiscating property that has been obtained, something that I never neglect to do in my investigations. 'Take it all' as the English say, taking everything from them. Because the aim is property, the aim is property"* ("(...) quando chega a hora que consideramos estar carregada para o processo, para aquele processo em concreto ou para os processos que estão a ser investigados e que depois podem ser incorporados, ou não, num só, os indícios probatórios são suficientes para deter os indivíduos e apresentá-los a um juiz de instrução criminal avançamos para aquela fase operacional que consiste em detenções e não só, buscas e

apreensões dos meios e arrestos dos bens patrimoniais obtidos, coisa que eu nunca abduco nas minhas investigações. Take it all – como dizem os ingleses, tirar-lhe tudo. Porque o objectivo é o património”) [FG(P)]

Opinion shows that the investigations have usually been successful in the sense that they have prevented on-going situations. On the hand, although the investigations as a rule result in the collection of a lot of evidence, owing to the fact that there seems to be a vicious circle whereby the victims fear for their own security thus leading them not to take the witness stand, there are few convictions, and situations involving exploitation are repeated:

- *“Sometimes the criminal police authorities even give us information. They know where it is; who it is; they try and find witnesses, but afterwards the witnesses don’t want to make their testimony official. (...) It’s obvious that if the victims feel more protected and if they feel that the work [to help them] is more effective, they would also give more testimonies and we would have more convictions. So what we have here is a little like a vicious circle”* (“Às vezes os órgãos de polícia criminal até acedem à informação. Sabem onde é; sabem quem é; tentam encontrar as testemunhas, mas depois as testemunhas não querem oficializar o testemunho. (...) É óbvio que se as vítimas se sentissem mais protegidas e sentissem que o trabalho é mais efetivo, também testemunhavam mais e aí nós tínhamos mais condenações. Portanto, isto aqui é um bocadinho um ciclo vicioso”) [S(1)].

- *“Sometimes the investigation leads up a cul-de-sac because there is no proof, there are no witnesses and the cases are dismissed”* (“Muitas vezes a investigação acaba em becos sem saída, porque não há provas, não há testemunhas e os processos são arquivados”) [S(1)].

One case study also bears witness to the difficulties in proving charges in a court of law by means of witnesses’ testimonies because the witnesses are usually found to be in a very frail condition: *“in order to lodge a criminal complaint at court, it was stipulated that the testimonies of the six victims can be heard. Notwithstanding, only one victim showed up and his testimony proved incoherent owing to his diminished cognitive capacities.”*

Where this problem is concerned, one interviewer commented that: *“[there’s] is long way to go still”* (“um longo caminho a percorrer”) [S(1)]. It should not be forgotten that the crime of trafficking in human beings for the purpose of exploiting their labour is a relatively recent inclusion in the law - *“These things demand time for there to be any jurisprudence, to have punishment, to develop a whole culture of punishing”* (“Estas coisas requerem tempo para haver jurisprudência, para haver punição, para haver toda uma cultura de punição”). [P(1)]

More importantly, according to the same interviewee, much more should be done to apply a charge of coercion / intimidation which in most cases, would lead to imprisonment. One of the things seen is that, if the exploiting parties are allowed bail until the trial, they continue to intimidate, threaten the victims and their families; very often they commit more crimes using other people / victims because trafficking and exploiting people is their *modus operandi*: *“apart from be very profitable, they don’t know any other way”* (“além de ser altamente rentável não conhecem outro”). [P(1)]

Where the efficiency of the system is concerned, it should be mainly pointed out that the support services come to the aid of the victims immediately, whereas the punishments of the offenders is another question altogether:

- *“Efficiency, what we actually see, lies only in solving things so as there’s an immediate solution, or rather, in providing decent conditions for people: managing to get them meals, medical assistance, thinking about an alternative way to extricate themselves, returning home to Brazil, getting a job. But when it comes to efficiency in punitive terms....”* (“A eficácia, aquilo que nós vemos, é só na resolução destas consequências imediatas, ou seja no criar as condições dignas para as pessoas: conseguir que elas tenham refeições, assistência médica, pensarmos numa alternativa para sair desta situação, regressar ao Brasil, arranjar um trabalho. Mas a eficácia em termos punitivos...”)[S(1)].

As regards referrals of victims to the support services, there are different forms of doing so:

- in some cases , the police gets in touch with the shelters directly;
- in other cases, the referral is made by the Social Security – Emergency Welfare Call line 144 – as this is the organisation that knows where all the shelters are located and it supervises the vacancies existent;
- yet in other cases, the Police contacts the Family Planning Association (*Associação para o Planeamento da Família - APF*) because it is responsible for the multidisciplinary support teams within the sphere of the SOS Trafficking in Human Beings (*SOS Tráfico de Seres Humanos – SOS TSH*);³⁹
- finally, one of the interviewees mentioned that the Police should contact the National Coordinator of the Action Plan Against Trafficking In Human Beings (*Coordenador Nacional do Plano Nacional Contra o Tráfico de Seres Humanos*) which then activates the Family Planning Association’s multidisciplinary support teams.

The interviewees mentioned that: *“there are many things that are not perceptible there”* (“há muita coisa aí que não é perceptível”) [S(1)]; the relative ignorance and inconsistency in ways of handling the cases indicates the need to improve the circuits: *“this is what we have to work on now”* (“é isso que nós agora estamos a trabalhar”) [S(1)].

In the Focus Group, mention was made that the SOS TSH Project, with its multidisciplinary support teams, had recently been extended to the whole country. This could be a positive contribution to clarifying some of the procedures and to speed up certain aspects in them.

Other features that show that the system is not working as well as it should, are the low numbers of cases based on trafficking in human beings that are registered at the Observatory on Trafficking in Human Beings (*Observatório do Tráfico de Seres Humanos*). Despite this fact, the interviewee referred to the fact that it is not the system that is to blame for making the problem less visible, but it lies in the nature of trafficking itself [S(1)].

However, there is also the positive perspective that indicates that the right path is being followed because it is noticeable that the organisations are increasingly flagging more cases.

³⁹ www.apf.pt/index.php?area=000&tipo=noticias&id=CNT5242cacf936b0.

This is the outcome of training undertaken and well as the different activities based on enhancing awareness. [N(1)].

5. Victim support and access to justice:

5.1 Victim support, including available support services

A first remark needs to be made about the fact that there is no formal victim support system for victims of of labour exploitation even if they are migrant workers - “*There is no victim protection system, a capable organised public system*” (“Não há um sistema de proteção vítima, um sistema público capaz e organizado”) [S(1)]. This absence of an organised support system has caused at least one interviewee to mourn the fact that: “*it’s very hard for a victim of labour exploitation to be protected as such*” (“muito difícil a uma vítima de exploração laboral ser protegida enquanto tal”. [S(1)].

Nevertheless, there is a group of organisations that intervenes in favour of the immigrant populations and there are services aimed at catering to victims, particularly victims of trafficking in human beings for the purpose of exploiting their labour.

Therefore, on the basis of field work carried out to establish groups of people / organisations to interview, and on the basis of the interviews themselves and research work undertaken, the following services and organisations may be said to operate in support of victims of labour exploitation:

- The Portuguese Association for Victim Support (*Associação Portuguesa de Apoio à Vítima – APAV*). This Association is directed at promoting a whole range of work with victims in general. It has a specific department that provides help to victims of crime and/or discrimination.
- The Victim Support Unit for Immigrants and others suffering from Racial or Ethnic Discrimination (*Unidade de Apoio à Vítima Imigrante e de Discriminação Racial ou Étnica - UVIDRE*)⁴⁰ specialises in providing assistance to third-country nationals who are victims of crimes and nationals who are victims of discrimination. It works jointly with the High Commission for Immigration and Intercultural Dialogue (Alto Comissariado para a Imigração e Diálogo Intercultural (ACIDI, IP.) and at the moment is co-funded by the European Fund for the Integration of Third-Country Nationals (*Fundo Europeu para a Integração de Nacionais de Países Terceiros - FEINPT*). Attendance and follow-up of labour exploitation victims is done within the sphere of the Victim Support Unit (UVIDRE), which also launches awareness campaigns.
- Immigrant Associations. The work done in these associations is very diverse and depends upon a series of factors (people involved, funding, localities). Organisations that work to legalise the situations of third-country nationals and integrate them into the job market include SOLIM – *Solidariedade Imigrante* (SOLIM – Immigrant

⁴⁰ www.apav.pt/apav_v2/index.php/pt/uavidre/uavidre/quem-somos.

Solidarity);⁴¹ *Casa do Brasil* in Lisbon; ⁴² and *ComuniDária - Integração de Migrantes e Minorias Étnicas* (ComuniDária - Integration of Migrants and Ethnic Minorities).⁴³

- SOLIM – Immigrant Solidarity has an information service and a legal support office; it provides support and follows up workers who are trying to solve their labour conflicts; it makes available its services to help immigrants join the labour market by working in partnership with the Institute of Employment and Professional Training (*Instituto de Emprego e Formação Profissional - IEFP*); it also organises various kinds of courses.

- *Casa do Brasil* has an information and guidance office. It also has a legal aid office; a vocational integration office that operates in partnership with the Institute of Employment and Professional Training (*Instituto de Emprego e Formação Profissional (IEFP)*); a psychological counselling department and organises various cultural initiatives. At the moment it is running the project called: *Acolhida Estou aqui e agora?* (The Shelter Project: Am I here now?)⁴⁴, which was referred to above in 4.2.

- *ComuniDária - Integração de Migrantes e Minorias Étnicas* (ComuniDária - Integration of Migrants and Ethnic Minorities) – this association is particularly directed at women working in domestic service. It provides information and undertakes awareness campaigns targeting the general public.

When the Focus Group talked about these associations and the way they attended the non-national public, they were considered to be “in the front line” giving “person-to-person” attendance (“*corpo a corpo*”) [FG(S)].

Despite everything, it cannot be said that these associations have the wherewithal to handle victim support: “*there are migrant associations but they are not equipped to deal with victim support*” (“há associações de imigrantes mas não têm a dimensão do apoio à vítima”) [S(1)].

Nevertheless, the work that they do led to the statement that they consider the needs of the migrant workers and they fill in some of the gaps in the “public system”, above all when it comes to following up cases: “*the associative movement fills some of the gaps, it does not give up on the court cases and is insistent with the authorities*” (“movimento associativo vai preenchendo alguma lacunas não desistindo dos processos e insistindo junto das autoridades”).) [S(1)].

- Local Support Centres for Immigrant Integration (*Rede de Centros Locais de Apoio à Integração de Imigrantes – CLAI*).⁴⁵ This network has almost one hundred offices scattered around the country where they give personalised attendance by duly qualified personnel some of whom are immigrants themselves. This allows for cultural and linguistic bridge-building with the clients and thus makes the integration process easier. Personalised attendance may take the form of legal aid and providing information and follow-up according to each case’s needs. Like the immigrant

⁴¹ www.solimigrante.org/.

⁴² www.casadobrasil.info/.

⁴³ www.comunidaria.org/.

⁴⁴ www.projetoacolhida2014.wix.com/projeto-acolhida-cbl.

⁴⁵ www.acidi.gov.pt/es-imigrante/servicos/centros-locais-de-apoio-a-integracao-de-imigrantes---claij.

associations, the Local Support Centres also include a section that helps victims as such.

Among the different private non-profit making institutions that act in the field of victim support, there are two organisations that specifically help victims of human trafficking for exploitative purposes.

- The Family Planning Association (*Associação para o Planeamento da Família*, APF) which runs a shelter in the north of Portugal for women who are the victims of human trafficking and their children. The centre, called Reception and Protection Centre for Victims of Trafficking in Human Beings (*Centro de Acolhimento e Proteção a Vítimas de Tráfico de Seres Humanos - CAP*) was set up with the help of the Equal Community Initiative. At the end of 2013, the SOS TSH Norte Project⁴⁶ with its multidisciplinary teams helping victims of human trafficking, was extended to the regions of Lisbon, the centre of the country and the Alentejo. The teams play a vital role in attending to and following-up victims of trafficking, where some of them are also victims of labour exploitation. The SOS TSH Project was the outcome of an Agreement drawn up among the Family Planning Association, the Social Security Institute (*Instituto de Segurança Social, IP- ISS*), the Portuguese Commission for Citizenship and Gender Equality (*Comissão para a Cidadania e a Igualdade de Género - CIG*), the Ministry of Internal Affairs and the Ministry of Justice. It receives Community funding (the Human Potential Operational Programme / National Strategic Reference Framework (*Programa Operacional Potencial Humano, POPH/ Quadro de Referência Estratégico Nacional, QREN*)).
- As of May 2013, the organisation *Saúde em Português – Associação de Profissionais de Cuidados de Saúde dos Países de Língua Portuguesa* (“Health in Portuguese”: Association of Primary Health Care Workers in the Portuguese-Speaking countries)⁴⁷ runs a Shelter (*Centro de Acolhimento e Proteção*) for men who are the victims of human trafficking. In these cases, men are also victims of labour exploitation.

Taking into account all these organisations, we may say that:

- if victims of labour exploitation are not victims of trafficking as well, then there is no specific service or institution to which they may go for help;
- if the victims are men and need to have help in the way of accommodation, there is only one shelter that will take them in the centre of the country, that is run by the *Saúde em Português* Association;
- if the case involves groups of people, as has happened in the Alentejo region, then there are problems in rapid-response solutions where accommodation is involved: “None of the institutions had the capacity to take in that number of victims quickly, so that a provisional solution had to be found: an army campaign tent was put in the Red Cross’s facilities; measures were taken to provide meals and guarantee safety. In other words, the authorities’ response was good, within limitations” (“Não havia nenhuma instituição que

⁴⁶ www.apf.pt/index.php?area=000&tipo=noticias&id=CNT5242cacf936b0.

⁴⁷ www.saudeportugues.org/.

tivesse capacidade para acolher rapidamente aquele número de vítimas, pelo que teve que se criar uma resposta provisória: montou-se uma tenda de campanha nas instalações da Cruz Vermelha; foi providenciada a alimentação e todos os cuidados de segurança. Ou seja, a resposta das entidades tem sido boa, dentro das limitações.”) [P(1)]. This sort of cooperation among the different institutions in the sense of solving concrete situations is mentioned in a case study.

All the victim support services were considered to be accessible, even though the victims did not have all the papers needed to legalise their status as immigrants. Shelter, food, and general care is provided as well as all the support required to satisfy any other needs that arise – *“Irrespective of his/her situation, whether it is regular or irregular, we taken in any person. We help everyone, we don’t make any type of distinction”* (*“Independentemente da sua situação, regular ou irregular, nós acolhemos qualquer pessoa. Ajudamos qualquer pessoa, não fazemos qualquer tipo de distinção”*). [S(1)].

The exception to the rule is access to the national health service, whether that means receiving emergency hospital treatment or primary health care administered in the State-run Health Centres or Clinics. There is a tiered user-fee attached to all the services they offer which everyone has to pay. In order to be exempted from these payments, the Immigration and Border Service (*Serviço de Estrangeiros e Fronteiras - SEF*) has to issue a Declaration stating the patient is a victim of human trafficking for exploitative labour purposes.

If there is no trafficking involved, it is not clear if the victim-patient is exempt or not from paying this user fee. It was mentioned that some of the State Health Centres refused to attend immigrants who were in the country illegally, although such situations are not very frequent. If the third-country national does not have a residence permit, this fact could also cause a problem in obtaining state-subsidised legal aid in the form of a lawyer appointed by the Social Security.

For example, when an illegal immigrant has health expenses, they are sometimes paid for by the institutions themselves, without getting reimbursed or helped by the State. The problem often lies in the migrant worker accessing information about what services are on offer: *“sometimes the victims may not know that this type of assistance is available”* (“por vezes as vítimas podem é não ter conhecimento que existe esse tipo de apoio”) [S(1)].

Despite everything, and even if some of the interviewees said that the victim support services were not very systematic, they considered that generally, they were *“working well”* (“funcionando bem”). [S(1)]. These opinions were carefully heeded owing to the fact that the interviewees were invited to express their opinions particularly about the way the support services and the type of responses given to victims of trafficking (possibly for exploitative purposes) were coping.

The victim support services were thought to be particularly positive as regards their capacity to *“get the entities to speak to one another”* (“põe as entidades a comunicar”). [S(1)]. On the other hand, the ability of the organisations to give answers adjusted to the victims’ needs was commented upon thus: *“The system is, I should say, always improving in the way of acting in the victim’s higher interests. It is the victim that concerns us”* (“O sistema está sempre, diria eu, a melhorar no sentido da atuação e do superior interesse da vítima. É isto que nos preocupa”). [N(1)].

Nevertheless, some less positive aspects were mentioned:

- not enough intermeshing to bring the authorities in closer touch with the associations;
- feedback that the associations fail to receive ;
- the fact that at the Authority for Working Conditions (*Autoridade para as Condições de Trabalho - ACT*), there is no department only dealing with cases of extreme labour exploitation.

5.2 Access to Justice and other mechanisms to empower victims

Generally speaking, the Justice System was considered to be cumbersome / slow moving where the lengthy handling of court cases put in check the efficiency of the system; it was understood that this tardiness was a factor favouring repeat crimes.

- *"Our justice system is not efficient in any of the cases ... it takes years!"* ("O nosso sistema de justiça não é eficaz em todos os casos... demora anos!"). [S(1)].

- *"But what we have been witnessing is a repeat of the crime by the same traffickers who are allowed to go free while the procedure is open and it takes 2, 3, 4 or 5 years to come to trial. Let me tell you that a case being judged at court right at this moment at the Oporto Criminal Court was closed by the Criminal Police in March 2009. The court case began 2 or 3 months ago, We're in 2014"* ("Mas aquilo a que temos vindo a assistir é à prática reiterada, pelos mesmos traficantes, que continuam em liberdade enquanto os processos correm e demoram 2, 3, 4 ou 5 anos a chegar a tribunal. Deixe-me dizer-lhe que um processo que está, neste momento a ser julgado, nas varas criminais do Porto, foi encerrado pela Policia Judiciária, em Março de 2009. Começou o julgamento há 2 ou 3 meses atrás. Estamos em 2014") [FG(P)].

Another question emerges with particular clarity from the interviewees' discussion, and it concerns the difficulty of proving things in court which has led to a low number of convictions (for instance, this was the case as referred to in one case study:

- *"during the investigation proof is collected, a lot of evidence is gathered, but afterwards at the trial, it is not constituted as evidence"* ("há prova na investigação, muitos indícios são recolhidos mas depois em julgamento não tem sido feita prova."). [J(1)].

"The victim vanished, as if by magic! So, when they disappear, there's no proof. The Penal Code rules are, therefore, like this and they're the same for every case (...) If the [victim's] whereabouts are not known, then nothing is known" ("A vítima desapareceu, como que por encanto! Portanto, elas desaparecendo não há prova. As regras do código são assim e são iguais para todos os casos (...) Se não se sabe o paradeiro, não se sabe nada"). [J(1)].

Mention was made of the need to review the Code of Criminal Procedure (*Código do Processo Penal*) in terms of what it states about the evidence which is only valid when produced only in the trial itself: *"(...)in our Code of Criminal Procedure everything that is done during the enquiry stage is worth zero. It's not a little, it's zero, my dear lady! It's worth zero in the trial. Zero. What counts is what is produced during the trial being judged..."* ("(...)

no nosso Código do Processo Penal tudo o que é feito durante o inquérito vale zero. Não é pouco, vale zero, minha senhora! Vale zero em julgamento. Zero. O que conta é o que se produz durante a audiência do julgamento...”. [FG(P)]. The matter is particularly serious in these kinds of procedures where the victims, by definition, are characterised by their severe debilities, even their debilities in appearing before others and having to express themselves.

As a result of their debilities, the Focus Group referred to the way the victims are treated in court, where their statements are under-estimated because they cannot speak fluently: “*The have a lot of complaints (...) they can’t speak coherently, isn’t that so? It has to do with the very nature of the crime they have suffered, the abusive situations in which they had been caught up in. As the Police inspector here was telling us, that the evidence is only given in a court of law, everything falls flat on its face when the victims / witnesses are not in the least bit coherent. And he/she is not given due value*” (“Elas têm imensas queixas(...) não têm um discurso coerente, não é? Tem a ver com o próprio crime que sofreram, e as situações de abuso em que estiveram envolvidas. Como estava aqui a dizer o inspetor que a prova só se fazia em tribunal, tudo cai por terra quando o discurso das vítimas / testemunhas não é minimamente coerente. E não é valorizado.” [FG(S)].

On the other hand, the system’s weaknesses are well-known owing to the fact that there are few convictions which causes the crime to be repeated. Some interviewees said that there is a certain incapacity on the part of the justice system to eradicate the crime: : “*the offenders are always going to carry on doing this to new people. Non-punishment reproduces exploitation*” (“os infractores vão sempre reproduzindo isso com novas pessoas. A não punição reproduz a exploração”). [S(1)].

In the interviewees’ opinions, added to the difficulty of proving things in a court case are the punitive measures taken against the traffickers/exploiters which are thought to be too light for these kinds of crimes normally in cause. In not applying dissuasive measures against such offenders, the investigation process itself may inclusively hang in the balance, leaving the field wide open for them to intimidate the victims themselves during this period:

- “*It’s necessary to understand that there are particular coercive measures that allow an investigation to go on efficiently right up to the end and keep in mind what the victims demand, which is that justice be done or rather that a conviction is had*” (É preciso perceber que há que determinar algumas medidas de coação que permitam que a investigação seja levada até ao fim, com eficácia e perspectivando aquilo que as vitimas clamam, que é por justiça, ou seja, condenação” [P(1)].

- “*And what could work better is also applying punitive measures that deprive the traffickers of their freedom. On the one hand, it would stop them from repeating [the crime] and prevent them from making new victims, thus allowing us to work in peace and duly investigate without any interference. Mainly the pressure exerted on the victims, denying what they say, manipulating them and making them fearful so that they don’t help the police with their enquiries*” (E o que poderia funcionar melhor também era a aplicação das medidas de coação privativas de liberdade para os traficantes o que permitiria, por um lado, que eles não reiterassem nem fizessem novas vítimas e permitia-nos paz para investigar devidamente sem interferência. Nomeadamente, as pressões que exercem junto das vítimas para desdizer e para as manipular e para as amedrontar para não colaborarem com as autoridades policiais.” [FG(P)].

-“They stay in jail for a set time and then they are released (...). Afterwards they go back to doing exactly the same thing (...). I don’t know if the sentence should be more severe, isn’t that so?” (“Ficam presos um determinado tempo, depois são libertos. (...) depois voltam outra vez ao mesmo. (...). Eu não sei é se a pena não devia ser mais severa, não é?”). [S(1)].

One case study is also revealing in that it shows the weak relationship between the sentences handed down and the seriousness of the crimes that have been committed. The case study says: “the expectation was that he (the perpetrator) would be remanded into pre-trial custody owing to the seriousness of his crimes, the amount of evidence collected against him, the fact that he was a non-national citizen (where there was a danger of his escaping to his own country) and the fact that he had a criminal record in Spain for the same sort of crimes (which indicated that he would continue to pursue his criminal career). However, he was not remanded and was merely ordered to pay bail to the sum of 1,000 (one thousand) euros.”

Regarding access to and payment of compensation that is due, only rarely do such cases happen: “In the cases I know about, I have not heard of any where anything owed has been paid back” (“Nos casos que conheço aqui não conheço nenhum que tenha sido restituído aquilo que lhe era devido”). [S(1)].

Some reasons were given for this situation:

- Lack of information about compensation

According to one of the interviewees, in Portugal there is a compensation fund reserved for victims of violent crimes where the victims of trafficking for the purposes of labour exploitation are also included. Nevertheless, only now is there any mention of this fund, and it is used more to compensate victims of domestic violence. This resource has clearly not been used by the legal system and until very recently, the NGOs knew nothing about it. [N(1)].

One person added: “The majority of the police working in the Criminal Police don’t know that a Declaration about the victim’s status can bring him/her certain rights and benefits” (“A maior parte das polícias judiciárias não sabia que a declaração de vítima atribuía determinados direitos e benefícios”) [S(1)].

- The victims have a certain sense of justice that does not include personal compensation

“They don’t usually ask for compensation because they were victims. It’s their choice! They don’t usually ask. I think that these victims want, at very least, to remake their lives (...) they feel that the compensation isn’t worth anything and they’re much more concerned about the accusation; it’s their idea of justice” (“Não costumam pedir a indemnização por serem vítimas. É uma opção delas! Não costumam pedir. Eu acho que estas vítimas querem ao mínimo reviver as suas situações. (...)elas sentem que a indemnização de nada lhes vai valer e estão muito mais preocupadas com a acusação, é o seu sentimento de justiça.”) [S(1)].

- Difficulties in obtaining the necessary legal aid

Firstly, in order for any compensation to be paid, the victim has to show a pro-active attitude in the way of seeking the services of a lawyer, even if it is an appointed lawyer who legal aid may be requested from the Social Services. Taking into account the frailties of the victims, this pro-active attitude is not often found. On the other hand, the demand for compensation has to be made through the lawyer.

In the opinion of the interviewees, receiving compensation is made more easily if the victim is unionised: *“if they are not unionised, if they don’t come to see us ...”* (“Se não estão sindicalizados, se não vêm ter connosco...”), then it’s more difficult. [W(1)].

The costs associated with a court case were also discussed and once again the victims are limited because they are not unionised: *“if they were unionised, then by going through the Social Security, the trade union would manage to get them legal aid. But if they are not connected with the trade unions, if they lodge their complaint alone, if they don’t know the delegate from the Public Prosecutor’s Office that works at the Labour Court, if they don’t know about a series of procedures that are necessary, then they won’t have any access. They won’t be able to activate the legal means (...), The Public Prosecutor follows up the cases but the problem is getting there “.* (“Se tiverem sindicalizados, o sindicato consegue através da segurança social, que eles tenham apoio judiciário. Mas se não tiverem ligados aos sindicatos, se apresentarem queixa isoladamente, se não conhecerem o delegado do ministério público que funciona no tribunal de trabalho, se desconhecerem uma série de procedimentos que são necessários, não têm acesso. Não conseguem acionar os meios judiciais.(...) O Ministério Público acompanha os casos mas o problema é lá chegar!”) [L(1)].

On the other hand, the fact that some of the situations involving labour exploitation have happened to migrant workers who do not have their papers in order, is responsible for fewer people seeking out the law courts: *“if the immigrant is here illegally, he/she won’t consent to go to court. If he/she is isolated, he/she won’t know whether there are any people and who they are, who can take their case to court”* (“se o imigrante está ilegal não acede aos tribunais. Se está isolado, desconhece que existem e quem são as pessoas que podem levar o seu caso à justiça.”). [W(1)].

- Procedural complexities attached to demands for compensation and indemnizations

The judges who were interviewed referred to the very demanding procedures when asking for compensation. The conditions include deadlines for lodging a demand, using the right sort of language and backing up the demand. A court case was mentioned where the judge had to decide on a demand for compensation: *“it was formulated in incorrect procedural terms. It was not accepted but whatever the reason, I think it is very complicated”* (“estava formulado em termos que são processualmente inadmissíveis. Não foi aceite mas, de qualquer das formas, acho muito complicado”). [J(1)].

Apart from the limitations pointed out as regards the working of the judicial system and in the victim's access to justice, the issue was raised of the need to train and sensitise judges about the question and close the gap between the judicial power and the victim's reality: *“Because it’s one thing to speak about and see the traffickers, it’s another thing to go to the locality and see the victims, to go out into the field and understand what has happened to them, and hear them for hours on end and understand them”* (“Porque uma coisa é a gente

falar e ver os traficantes, outra coisa é ir ao local e ver as vítimas, é ir aos terrenos, é perceber o que lhes aconteceu, é ouvi-las durante horas e percebê-las”) [FG(P)].

With regard to the relationship between the court case and the criminal justice system, the rule, so it was decided, is that in a criminal court case, the civil part of the case may be joined to it when it is being tried. In other words there should only be one trial, one judgement and one sentence [J(1)]

Any person may lodge a complaint about the crime of slavery and trafficking in human beings for labour exploitative purposes because they are public crimes. The Focus Group noted that here, the few reports which are made are made by the NGOs: “*Whenever I give a training course or take part in training with the people carrying out interventions in your area, in the social area, I refer to the fact that I never receive any reports from you. Which is a paradox: why doesn’t anyone who works in the field and deals with the victims ever report these situations?*” (“Sempre que eu dou formação ou participo em ações de formação junto de intervenientes na vossa área, na área social, eu faço referência ao facto de não ter recebido nenhuma denúncia vossa. O que é um paradoxo: quem está no terreno e lida com as vítimas porque é que não denuncia?” [FG(P)]. The argument explaining this fact was that the institutions, and especially the smaller ones, were afraid to do so.

The same fear of reprisals against third parties was reflected in the absence of reported cases in the on-line complaints form which may be filled in about trafficking in human beings and where people may report situations anonymously. Very often, though, people do not lodge a complaint out of fear, mainly for fear of reprisals against themselves and against third parties. [N(1)].

In terms of the mechanisms that facilitate lodging a complaint, the following suggestions were put forward:

- More training of the police authorities

The need for on-going training aimed at members of the police authorities was raised so as to enhance the correct identification /referral of cases.

One of the interviewees mentioned a possible case involving trafficking for the purpose of labour exploitation which illustrates the need to train the police authorities better: “*A woman comes up to a policeman in the street. She is nervous and seems afraid. She tells him that she is running away from her job and that she wants to see her son. The policeman asks her for her identity papers but she says she does not have any, that the boss has them. So then he asks her: ‘What’s the boss’s phone number so I can phone him?’. Everything points to trafficking and the policeman asks for the boss’s phone number? I mean to say ... you just can’t do these things!*” (“Uma senhora, na rua, aborda um polícia. Está nervosa, aparenta medo. Relata uma história de fuga do local de trabalho e diz que quer ver o filho. O agente da autoridade pediu-lhe a documentação e ela disse que não tinha, que estava com o patrão e perante isto ele pergunta-lhe: ‘Qual é o contacto do seu patrão para eu depois lhe ligar?’ Tudo indica que é uma situação de tráfico e o agente de autoridade pede o telefone do patrão? Quer dizer...isto não se faz!”) [N(1)].

- Improving the operational conditions of the Authority on Working Conditions (*Autoridade para as Condições de Trabalho - ACT*)

Suggestions were:

- set up a specific department within the Authority on Working Conditions ACT;
- provide more means and resources for undertaking inspections: - *“I would provide more means, more human resources and also speedier monitoring.* (“Eu punha era mais meios, mais meios humanos e uma fiscalização mais célere também”.) [W(1)].

6. Attitudes

- **Do experts believe that interventions into situations of labour exploitation, generally speaking, serve the interests of the migrant workers concerned?**

The interviewees referred to the fact that generally speaking, the interventions carried out when labour exploitation was suspected, serve the interests of the migrant workers: *“I believe yes, I’m convinced yes and I make an effort for this to happen”* (“Eu acredito que sim, tenho convicção que sim e faço um esforço para que isso aconteça”) [M(1)].

However, in a couple of (2) interviews, there was reference to the fact that such interests were not taken into account when illegal immigrants were involved: *“Those who are illegal are put aside”* (“Aqueles que estão ilegais são postos de parte”) [S(1)].

The reason for this was that it is very difficult to obtain legal status and on the other hand, the fact that residence permits are not held either, is an important factor because an undocumented migrant is more likely to get involved in an exploitation situation [S(1)].

However, there is an even stonger opinion whereby one interviewee thinks that the interventions need not be specifically targeted at migrant workers and their interests. Many investigations end up detecting situations involving labour exploitation by mere chance rather than being the result of taking action against these specific targets. [S(1)].

Other interviewees stressed the relative factor in complying with migrant worker interests; in other words, cultural reasons could lie at the bottom of other reference frameworks that are distinctly different from the values espoused by the services [M(1)], so that the interventions carried out do not match up with what people actually want.

On the other hand, the trade unions mentioned that when the victims finally get in touch with the unions, they are often exhausted, almost to the limit of their endurance. Therefore their expectations are very low and their interest is at a minimum [L(1)].

- **According to experts, why do more migrant workers who are victims of labour exploitation not come forward and seek a way out of their situation?**

The factors that were raised to explain why the immigrants failed to come forward and thus seek a way out of their situation involving labour exploitation, are given as follows:

- The lack of support for the migrant worker in the host country
- The exploiters exerting an intimidating climate

The people who have committed the crimes do everything in their power to create an atmosphere of fear and intimidation. It is achieved by applying psychological pressure, violence, restricting the victims freedom of movement and blackmailing the victims themselves and their families: *“Very often, the traffickers controlling them [the immigrants] come from the same country, the same area, the same village, they are known”* (“Muitas vezes os traficantes que os (imigrantes) controlam são oriundos do mesmo país, da mesma zona, da mesma terra, são conhecidos.”) [P(1)].

All of this sets up a very inhibiting climate that paralyses action:

- A feeling of fear among the victims

The pressure applied also generates a feeling of fear in the victims:

- *“Fear of their aggressors, fear that they’ll get beaten up, thrown out, abused.”*
(“Medo dos agressores e medo de serem batidos, expulsos, maltratados.”).. [S(1)].

- *“She was greatly afraid. And we tried to help her but her fear.... because her family was there. The trafficker had a certain power (...) and also a political influence and he had dealings with her family back home. The woman was extremely inhibited in her actions”*(“O medo dela foi enorme. E a gente tentou apoiá-la, mas o medo... porque a família estava lá. A traficante tinha um certo poder, (...) e uma influência também política e de relações com a sua família na origem. Esta mulher ficou extremamente inibida nas suas ações”) [FG(S)].

This fear increases when a person does not have a legal status: *“People know that when they are [in Portugal] illegally they may be expelled and when they are expelled, they lose everything”*(“As pessoas sabem que quando estão ilegais podem ser expulsas e quando são expulsas perdem tudo.”) [P(1)].

Fear added to what the victims think about the police authorities, viewing them as enemies and not putting any faith in the justice system. This is aggravated when corruption is a reality in their own countries: - fear of the police owing to police corruption in their home countries:

- *“Police corruption in the countries they come from (...) it's a weighty factor”* (“a corrupção policial nos países de onde vêm (...) é fator que pesa.” [FG(P)]; “);

- *“They’re all instrumentalised to regard the Portuguese authorities as being out to get them and (...) and they’re only there to hinder them. And that’s why their first reaction is to run away”* (“Eles estão instrumentalizados para olhar para as autoridades portuguesas como alguém que os está a prejudicar e (...) e que só serve para os estorvar. E daí a reação deles primeira é fugir”) [FG(M)].

Fear associated with their irregular situation as an immigrant is mentioned in one case study: *“The victim did not have his legal status in Portugal duly regularised. He had been homeless and living on the streets since 2007. His situation was extremely precarious. This state of affairs and his fear caused him not to wish to report the situation. He was threatened with firearms (together with other co-workers) and told not to continue demanding his rights.”*.

- The fact that the victims are living in serious deprivation

The victims are found in very precarious economic states, and lodging a complaint could mean that they lose their only source of income:

- *“lodging a complaint against the boss means that you are completely stripped of economic support”* (“apresentar queixa contra a entidade patronal significaria ficar completamente despojado a nível económico”) [J(1)].

- *“Eles podem ficar sem aquele trabalho é isso é pior do que trabalhar em condições de exploração.”* [P(1)].

- *“Ainda que eles percebam que é um trabalho sazonal, mas desse dinheiro dependerá a ajuda a outros, à família no país de origem.”* [P(1)].

- Cultural reasons

There is a certain «culture» associated with immigration and that makes immigrants feel as if they're heading towards a better life after having gone through great deprivation. On the other hand the victims frequently come from societies where living standards are generally very low and where their rights are not considered. This causes some of them to adopt an extremely tolerant view of difficult situations which they consider to be normal as against their own conditions of subsistence.

- *“Sometimes migrant people think that labour exploitation is part of the migration project, meaning that to get a better future they have to go through a less positive situation. They have a big tolerance to those behaviours, as well”* (“Por vezes as pessoas migrantes pensam que a exploração laboral faz parte do seu processo migratório, o que significa que para alcançar um futuro melhor têm que passar por situações menos positivas. Têm, também, uma grande tolerância a este tipo de comportamentos”). [S(1)].

- *“Sometimes their own cultural origins don't allow them to exercise their rights because they were not used to it in their home country (...) The combination of his culture and a strange environment, outside his country, might lead the person not understanding the country she is in, and not exercising their rights”*. (“Às vezes as suas próprias raízes culturais não permitem o exercício dos seus direitos pois também não estavam habituados no seu país de origem (...) a combinação da cultura com o estarem num ambiente estranho, fora do seu país, pode levar a que uma pessoa não perceba o país em que está e que não exerça os seus direitos”). [E(1)].

Apart from the interviews, the phenomenon of a certain 'culture' is also mentioned in one case study.

- Lack of information

The victims are not sufficiently informed about the host country's laws; they do not know how to communicate in the host country's language and they do not know about the organisations and mechanisms that are able to help them. They are: *“Ignorant of the law, ignorant of the rights they have and the protection they can get as victims of these crimes”* (“Desconhecimento da lei, desconhecimento dos direitos que têm e da proteção a que têm acesso enquanto vítimas desses crimes”). [S(1)].

- Coping mechanisms

In being confronted with all the different factors as mentioned above, the victims do not have the means to solve their own problems and they adapt themselves to their environment: *“They use coping mechanisms and people end up by adapting to their situations. It's a question of survival”* (“São os mecanismos de coping e as pessoas acabam por se adaptar às situações. É uma questão de sobrevivência”) [S(1)].

- Few associations work with this subject

The fact that there are few associations aimed at supporting victims when they do want to make a complaint was also discussed. For one of the interviewees, some of the existing organisations were not set up with this in mind – they were not meant to solve migrant workers’ problems but rather they were established with more personal goals in mind.

- Trade unions do not tag immigrants as their priority – immigrants are regarded as potential competitors, competing with Portuguese workers
- Particular victim profiles

Some of the features in a victim’s profile were referred to as inhibiting factors working against pro-active attitudes: low education levels, cognitive disabilities and habit-forming addictions (illegal drugs and/or alcohol). These sorts of characteristics evident in the victims were mentioned in two of the case studies: *“the victim was homeless and slept at night in derelict railways station. He survived on small odd-jobs, working in mobile food and drinks vans.”*; *“The victim was a self-employed car-park attendant. He was a homeless person living alone and seemed to be an alcoholic.”*

- **Breakdown and discussion of the most relevant factors that significantly account for the fact that not many migrant workers who have been exploited severely come forward, seek support or report to the police**

Referring to the closed questions, the reasons that were mostly given by the interviewees to explain the fact that not many migrant workers who have been exploited severely come forward, seek support or report to the police, are as follows:

- Victims fear retaliation from the offenders who act against them or against their family members (20 answers);
- Victims fear that if their situation became known to the authorities, they would have to leave the country (13 answers);
- Victims perceive being jobless as worse than working in exploitative conditions (12 answers);
- Victims are not aware of their rights and of support available to them (10 answers);
- Victims believe that speaking to the authorities is not worthwhile or they would not benefit from subsequent proceedings (10 answers).

According to the professional groups, the answers were as follows:

Factors that significantly account for the fact that not many migrant workers who have been exploited severely come forward, seek support or report to the police according to professional groups	S	E	L	R	P	J	M	W	N	Total
Lack of effective monitoring of relevant areas of economy	0	-	0	-	0	1	0	0	0	1
Lack of targeted support service provision available to victims	4	-	0	-	0	0	0	1	0	5

Victims are not aware of their rights and of support available to them	0	-	0	-	3	1	4	1	1	10
Victims fear retaliation from the side of offenders against them or against family members	5	-	1	-	4	1	4	3	2	20
Victims suffer from feelings of shame	1	-	0	-	1	0	0	0	0	2
Victims believe that speaking to authorities is not worthwhile or they would not benefit from subsequent proceedings	5	-	1	-	1	1	0	1	1	10
Victims believe that proceedings are too bureaucratic and costly	0	-	0	-	0	0	0	0	0	0
Victims fear that if their situation became known to the authorities, they would have to leave the country	4	-	0	-	2	1	3	2	1	13
Victims do not trust that the police in particular would treat them in a sympathetic manner	2	-	0	-	0	0	1	0	1	4
Victims perceive being jobless as worse than working in exploitative conditions	3	-	1	-	1	1	3	3	0	12
Other-please specify	0	-	0	-	0	0	0	0	0	0
Don't know	0	-	0	-	0	0	0	0	0	0

- **Breakdown and discussion of the three most important factors to migrant workers who are victims**

The factors considered to be important were:

- Being safe and being protected against further victimisation (14 answers);
- For their family to be safe (14 answers);
- Being in a position to support other family members economically (14 answers).
- Receiving compensation and back pay from employers (9 answers)

In addition, according to professional groups:

Factors important to migrant workers who are victims	S	E	L	R	P	J	M	W	N	Total
To be safe and to be protected against further victimisation	3	-	0	-	2	1	5	2	1	14
For their family to be safe	4	-	0	-	3	1	2	2	2	14
To be able to stay and to make a living in an EU country	4	-	0	-	0	0	1	1	0	6
To see that offenders are held accountable and that justice is done	0	-	0	-	3	1	0	0	0	4
To be respected and to see that their rights are taken seriously	1	-	0	-	0	0	1	1	1	4
To be in a position to economically support other family members	5	-	1	-	3	0	3	1	1	14
To receive compensation and back pay from employers	5	-	0	-	1	0	2	1	0	9

To be able to return home safely	2	-	0	-	0	0	1	0	1	4
Other (please specify)	0	-	0	-	0	0	0	0	0	0
Don't know	0	-	0	-	0	1	0	1	0	2

- **Do experts believe that enough is being done in the country to address severe forms of labour exploitation?**

The measures applied were considered to be positive. The opinion is that there has been a positive development mainly in the system offering support to victims of human trafficking for the purpose of labour exploitation. There was general recognition that here, progress was being made: *“I think we are travelling along a sustained, well-made path”* (*“Acho que se está a fazer um percurso sustentado e bem feito”*). [M(1)].

Nevertheless, when viewing the problems of labour exploitation from a wider perspective, that is, one that is not exclusively connected with trafficking in human beings, the opinions tend to differ. On the one hand the public institutions and some of the NGOs said they had done a lot considering the scarcity of human and materials resources:

- *“Taking into account the country's circumstances when we don't have the basics, such as a printer at work in the police station, a lot has been done if you want to know. Under the country's circumstances where we don't have the basics with which to work on a daily basis”* (*“Atendendo às circunstâncias do país, quando falta o básico, como uma impressora para trabalhar na polícia, está a ser feito muito, se quer que lhe diga. Nestas circunstâncias do país em que não temos o básico para trabalhar no nosso dia-a-dia...”*) [FG(P)].
- *“When we don't have any petrol so we can go out, we have limitations on the amount of fuel, on allowances...”* (*“Quando nem temos combustíveis para sair, temos limitações de combustíveis, de ajudas de custo...”*) [FG(M)].
- *“I repeat, we need more funding going to the authorities so that they are able to take action in this field. This is the big problem”* (*“Volto a dizer, precisamos de mais orçamento para as entidades poderem agir neste domínio. É esse o grande problema”*). [R(1)].

On the other hand, the trade unions stated more categorically that the fact that not enough was being done stems from the limitations imposed on this problem. According to one of the interviewees [L(1)], the trade unions are over-burdened with problems and it is impossible to do what should be done to fight against the problem. The feeling is that the trade unions are alone in their struggle to defend labour rights.

With this in mind, the unions view the successive amendments to the labour laws in Portugal as encouraging labour exploitation:

- *“Everything that's being done, namely the changes made to the Labour Code, so as to make [working condition] more precarious, lowering the price of labour, making it easier to dismiss the worker ends up by the worker becoming less protected. Therefore an atmosphere is set up where nationals, and not only, are the victims in this society, which is*

increasingly less fair” (“Tudo quanto está a ser feito, designadamente as alterações verificadas ao nível do código do de trabalho, ao precarizar, ao tornar mais barato o preço do trabalho, ao facilitar o despedimento, está a tornar os trabalhadores cada vez mais desprotegidos. E portanto, cria-se todo um ambiente propício em que nacionais e, não só, sejam vítimas desta sociedade, que é cada vez mais injusta”). [W(1)].

- *“In a situation where national workers are themselves the victims of labour exploitation (...) the environment has been set so that non-nationals from the outside are doubly or triply exploited. So, what I mean is, the atmosphere of complying with the labour laws is conducive to exploitation”* (“Numa situação em que os próprios nacionais são vítimas da exploração (...) está criado um ambiente para os que vêm de fora sofrerem em duplicado ou triplicado. Portanto, quer dizer, o ambiente de não cumprimento da legislação laboral é propício à exploração”). [W(1)].

In the focus group, the participants referred to the absence of a political commitment to see that other measures are activated. In particular, measures that might endanger the profits associated with some criminal practices involving trafficking in human beings for the purpose of exploiting their labour.

Regardless of a more or less critical stance in terms of whether there are enough measures and if they are efficient, there is a general recognition that more and better work needs to be done: *“if the situation exists, it's because we never do enough”* (“se a situação existe é porque não se faz o suficiente”). [E(1)].

Some suggestions have therefore been made:

- Strengthen mechanisms to protect victims in particular during the investigation stage;
 - Integrate the migrant-worker population in the labour market better;
 - Increase the number of shelters mainly geared to accepting large groups of victims.
- *“When the first flaggings began indicating the trafficking of manpower, we were really frightened because all of a sudden we had to deal with groups of 40 people. When we have a large number of flagged situations, we can't respond by sheltering them”*. “Quando começaram as primeiras sinalizações de situações de tráfico de mão de obra estávamos verdadeiramente assustados, porque tivemos que lidar, de repente, com um número de 40 pessoas. Quando temos um grande, número de sinalizações não há uma resposta de acolhimento.” [S(1)].
- Channel more funds to the institutions, particularly the authorities which monitor situations:
 - *“I repeat, we need more funding going to the authorities so that they are able to take action in this field. This is the big problem”* (“Volto a dizer, precisamos de mais orçamento para as entidades poderem agir neste domínio. É esse o grande problema”). [E(1)].
 - Get out more information aimed at the general public: *“they are never enough”* (“nunca são suficientes”). [M(1)]. However, apart from making more campaigns, it is

necessary to think about what type of campaign should be launched: “*not only making leaflets*” (“que não é apenas fazer folhetos”). Closer contact should be established with people, not only with the workers but also with the employers. “*It’s necessary to tell both of them not what they should do, but also what they shouldn’t do and what they shouldn’t allow others to do to them*” (“É preciso dizer, tanto a uns como a outros não só o que deve fazer mas também o que não pode fazer e não deve deixar que lhe façam”). [E(1)].

- Still in terms of informing other groups of people, such as young people and the long-term unemployed, they should be told about the former migration routes that the Portuguese population followed, and the fact that these routes are undergoing change so that, more so than in the past, it is necessary to have a signed labour contract.
- Better coordination among the institutions in order to clarify the responsibilities of each of the different organisations and get them to understand that the responsibility of identifying and flagging is a collective task:
 - “*There are no agreements or cooperation among us. When it is possible, we follow-up situations but we don’t have any common procedures*” (“Não há protocolos nem uma cooperação conjunta. Quando é possível fazemos um acompanhamento das situações mas não temos procedimentos comuns”). [S(1)].
 - “*This behaviour shouldn’t allow us to stay within our own circles and at times, I have noted a certain lack of intermeshing*” (“Isto é uma atuação que não admite defesa de capelinhas e às vezes eu noto alguma falta de articulação”) [FG(M)]
 - “*Without all the organisations pulling together, we won’t be able to make any progress. There are small nothings that sometimes don’t mean anything to an organisation, but which pooled with other information that I already have, could mean a lot more*” (“Sem haver articulação entre todas as entidades não se progride nisto. Há pequenos nada que às vezes para uma entidade não é nada, mas aquele nada juntando à informação que eu já tenho já pode representar muito”) [FG(M)].
 - “*What matters is getting the mechanisms and the authorities to work properly. We have the authorities; now we have to empower them*” (“O que importa é fazer com que os mecanismos e as instituições possam funcionar. Temos instituições; agora, temos que as capacitar”). [R(1)].
- Hold more training courses aimed at various professionals and not only at the police authorities: “*There’s a big gap in terms of training. People don’t know what this phenomenon is all about, they don’t know; they don’t know how to identify it; they have great difficulty in knowing what to do when it drops into their laps*” (“Existe uma grande lacuna em termos de formação. As pessoas não sabem o que é este fenómeno, não conhecem; não sabem identificar; têm muita dificuldade em saber o que fazer quando isto lhes aparece nas mãos”). [S(1)].
- Where the police are concerned, making better use of the evidence collected for future reference. This is a mechanism that triggers future fact-finding which may help

to prevent the lack of proof in a trial [J(1)]. According to some of the interviewees [P(1)], the way the evidence is presented at court causes the victim to be: “*doubly victimised when he/she is heard during the course of the trial*” (“revitimizada em audiência de julgamento”) [P(1)], with the successive cross-examinations and the fact that the victim has to be available for years on end [waiting for the trial] and relive the whole situation that he/she had hoped to leave behind.

- **Breakdown and discussion of the three measures which would mostly improve the way labour exploitation is addressed in the country**

In conformity with what has been referred to above, the three measures which would mostly improve the way labour exploitation is addressed, are as follows:

- More effective coordination and cooperation among the labour inspectorates, the police and other sectors of the administration as well as victim support organisations and the criminal justice system (14 answers).
- Measures to ensure that all workers know their rights (13 answers)
“*The “world” beyond the trade unions denies fundamental rights*” (“o mundo para além dos sindicatos nega os direitos fundamentais”) [L(1)].
- More training of police, labour inspectors and other authorities (6 answers).

“*The laws exist; access to the law is not made by improving the law; access is accomplished by the knowledge people have acquired about the laws*” (“A legislação existe, o acesso não é feito a partir da melhoria da legislação, o acesso é feito a partir do conhecimento que as pessoas possam ter da legislação”). [N(1)]

According to the professional groups, the answers were as follows:

Three measures that would mostly improve the way labour exploitation is addressed in the country	S	E	L	R	P	J	M	W	N	Total
Improve legislation against labour exploitation and its implementation	2	0	0	0	1	0	1	3	1	8
Improve legislation to allow better access to justice and compensation	3	1	0	0	0	1	2	0	0	7
More effective monitoring of the situation of workers in the areas of economy particular prone to labour exploitation	1	0	0	1	0	0	3	0	0	5
Measures to ensure that all workers know their rights	3	1	1	1	2	0	2	3	0	13
Measures to ensure that all workers have access to labour unions	0	0	0	0	0	0	0	1	0	1
More effective coordination and cooperation between labour inspectorates, the police and other parts of administration	4	1	1	0	1	1	3	1	2	14

as well as victim support organisations and the criminal justice system										
Setting up of specialised police units to monitor and investigate labour exploitation	2	1	0	1	1	0	0	0	0	5
Regularising the situation of certain groups of migrant workers with an irregular status	4	1	0	0	1	0	1	0	0	7
Regularising the situation of migrant workers once they have become victims of severe labour exploitation	2	0	0	0	0	0	0	0	0	2
Measures addressing corruption in the administration	0	0	0	0	0	0	0	0	0	0
More training of police, labour inspectors and other authorities	2	1	1	0	0	0	1	0	1	6
Police and courts taking labour exploitation more seriously	0	0	0	0	2	0	1	0	0	3
Don't know	0	0	0	0	0	0	0	0	0	0

7. Conclusion and any other observations, including contentious issues from interviews/focus groups

As a result of this study, we are able to state that in Portugal, there is no formal system providing support to victims of labour exploitation as such. Support going to victims only happens in a more structured way when labour exploitation is connected with trafficking in human beings. Most of the training offered has been with this guideline in mind.

Apart from this fact, it is possible to point out the following aspects:

- The invisibility of the phenomena involving labour exploitation continues to persist, even when it is linked to human trafficking. This invisibility is all the greater when the exploitation happens on the domestic front.
- There are changes witnessed in trafficking in human beings: the purpose of sexual exploitation is gradually giving way to exploitation involving labour.
- Rising unemployment in Portugal triggers labour exploitation of Portuguese emigrants abroad (among the young and the long-term unemployed).
- The present economic crisis and changes in the labour laws help towards making a backdrop for more and more labour exploitative practices.
- The progressive erosion of police resources and inspection /monitoring authorities have resulted in limiting inspections and criminal investigations.
- There is a close connection linking trafficking for labour exploitation purposes, poverty and illegal immigration.
- The employment agencies are greatly responsible for deteriorating situations involving labour exploitation.
- Labour exploitation has emerged as a multidimensional problem (its causes and outcomes) which lacks a multidimensional approach in intervention measures.
- There is a discretionary quality presiding over many operations to detect cases of labour exploitation, mainly because there are no internal agreements that standardise procedures and attitudes. Owing to this, many things are dependent upon the individual experts in the organisations – his/her personal profile, training in the area, etc.
- There is an on-going need for training the different actors involved (and to be involved) in intervention measures in this area.
- Making victims testify in court leads to difficulties which have resulted in unsatisfactory testimonies during the court case, and a subsequent drop in the number of convictions.
- Difficulties are experienced in inter-organisational work.
- There is a notion that labour exploitation is a crime and a frequently violent crime that has different kinds of repercussions for the victim.