



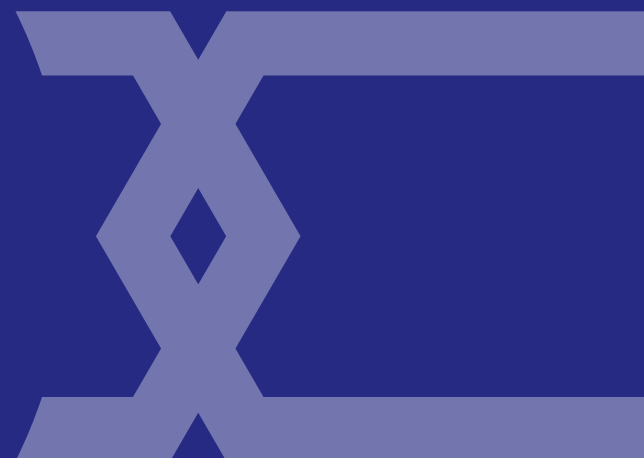
## **Chapter 2. International & European framework on THB – labour exploitation**

Unit-responsible partner: KEMEA

Contributor: ACDD



Co-funded by  
the European Union





Views and opinions expressed are those of the author(s) only and do not reflect those of the European Union or the European Commission (granting authority). Neither the European Commission can be held responsible for them.

## 2. International & European framework on THB – labour exploitation

### 2.1 Introduction

Trafficking for the purpose of labour exploitation as a term is used to differentiate between trafficking for the purpose of sexual exploitation, and trafficking for exploitative purposes in any economic sector, regarding both registered and unregistered employment.

The concept of 'labour exploitation' in the context of human trafficking has been coined and encompasses at a minimum, forced labour or services, slavery or practices similar to slavery, and servitude. The main and common variable of these cases is the involuntary nature of the subject to perform such activities due to coercion, threat, physical and mental abuse, among other contributing factors. These are concepts that are well acknowledged in international law, including in the case law of the European Court of Human Rights, particularly regarding Article 4 of the European Convention on Human Rights ([ECHR](#)), prohibiting slavery and forced labour.

**The European Union is based on the rule of law.** This means that every action taken by the EU is founded on treaties that have been mutually approved in a democratic manner, by its members. EU laws assist in achieving the objectives of the EU treaties and place EU policies into practice.

The common EU principles and values encompassing societies: freedom, democracy, equality and the rule of law, promoting peace and stability.





Views and opinions expressed are those of the author(s) only and do not reflect those of the European Union or the European Commission (granting authority). Neither the European Commission can be held responsible for them.

An EU framework decision is a binding legal instrument that sets out the minimum standards and guidelines for member states of the European Union (EU) to follow in specific areas of cooperation, such as criminal justice or law enforcement.

Every employee in the EU has specified minimum rights relating to: health and safety at work, general rights and obligations, work equipment, specific work hours/day in accordance with the legal framework. To summarise, the rule of law establishes a framework protecting employees and employers from unfair and unequal treatment as well as prevent abusive and illicit dynamics.

Equal opportunities for women and men: equal treatment at work, pregnancy, maternity leave, parental leave.

During this Chapter the most significant international and European legislations and initiatives will be listed and presented.

Reference on EU institutional law is also made and through this chapter, trainees can be guided through the topics of main importance for EU law in general. The main objective of this Chapter is to briefly present the structure of the European Union and the legal base on human trafficking and labour exploitation. Each topic touches upon the foundational principles to help understand the importance of legal frameworks as a baseline for the prevention of Trafficking of Human Beings for labour exploitation.

**Note:** This chapter contains hyperlinks to the relevant legal texts and official documents.



Views and opinions expressed are those of the author(s) only and do not reflect those of the European Union or the European Commission (granting authority). Neither the European Commission can be held responsible for them.

## 2.2 Learning objectives

**Chapter 2** introduces the existing legal framework of THB, focused on Labour exploitation and provides an overview of international frameworks such as the Forced Labour Convention, (1930), as well as European initiatives and how these have been implemented by MS.

After examining this section and in combination with participating in the trainings, trainees are expected to:

- Recognize the importance of the legal framework for police officers to prevent and respond to THB- Labour Exploitation cases.
- Understand the context of the main legal initiatives on International & European level.
- Understand what kind of international standards and legal frameworks exist in Europe.
- Be able to list the most significant international and European initiatives relating to THB with a focus on Labour Exploitation.

## 2.3 Definitions

Definitions and detail are of utmost importance when examining the law. **A definition has the potential to provide clarity.** At their best, definitions act like a compass, providing a 'lost' reader with several potential directions in order to proceed.

The use of common terms and definitions **provide individuals with a basis for a common understanding.** In this way, communication is assisted, transparency in social



Views and opinions expressed are those of the author(s) only and do not reflect those of the European Union or the European Commission (granting authority). Neither the European Commission can be held responsible for them.

programs is improved, and needs are better met through accurate identification and understanding of what people require.

### **International legal definition of forced labour.**

According to the ILO [Forced Labour Convention, 1930 \(No. 29\)](#), **forced or compulsory labour is:** 'all work or service which is exacted from any person under the threat of a penalty and for which the person has not offered himself or herself voluntarily' (ibid).

This definition consists of three elements:

1. **Work or service** refers to all types of work occurring in any activity, industry or sector including in the informal economy.
2. **Menace of any penalty** refers to a wide range of penalties used to compel someone to work.
3. **Involuntariness:** The term 'offered voluntarily' refers to the provision of the informed consent from an employer to accept a job and his or her freedom to quit at any time, willingly. This is not the case for example when an employer or recruiter makes false promises so that a worker accepts a job he or she would not otherwise have accepted.

### **Convention No. 29, in Article 2(2)**

Convention No. 29, in Article 2(2) also provides for exceptions to the definition of forced labour by specifically referring to five situations in which compulsory labour may be imposed:

1. Work of a purely military character exacted in virtue of compulsory military service;



Views and opinions expressed are those of the author(s) only and do not reflect those of the European Union or the European Commission (granting authority). Neither the European Commission can be held responsible for them.

2. Normal civic obligations;
3. Work or service exacted from any person as a consequence of a conviction in a court of law, carried out under the supervision of a public authority;

### **Abolition of Forced Labour Convention No. 105**

The Abolition of Forced Labour Convention No. 105 adopted by the ILO in 1957 primarily concerns forced labour imposed by state authorities. It prohibits specifically the use of forced labour:

As punishment for the expression of political views,

For the purposes of economic development,

As a means of labour discipline,

As a punishment for participation in strikes,

As a means of racial, religious or other discrimination.

### **'Forced labour', 'human trafficking'**

'Forced labour', 'human trafficking' (also called 'trafficking in persons') and 'slavery' are terms that are often used interchangeably. However, while these concepts significantly overlap, they are conceptually distinct and each has a clear definition in international law.

### **What is trafficking in persons?**

The definition of trafficking in persons, provided by the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children,



Views and opinions expressed are those of the author(s) only and do not reflect those of the European Union or the European Commission (granting authority). Neither the European Commission can be held responsible for them.

supplementing the United Nations Convention against Transnational Organized Crime, 2000 ([UN Protocol](#)), in Article 3(a), encompasses three elements:

- Acts: Recruitment, transportation, transfer, harbouring or receipt of persons.
- Means: The means that are used to accomplish one of the prohibited acts; namely, the use of threat or of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person.
- Purpose: Whether this act, using the above means, was conducted for the purpose of exploitation. The UN Protocol provides that 'exploitation' includes 'at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs'.

### What is slavery?

'Slavery' is defined under Article 1(1) of the League of Nations Convention to Suppress the Slave Trade and Slavery ([the Slavery Convention](#)), 1926, as 'the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised' (ibid). Slavery is an institution of complete ownership, in which an individual is subjected to the full control of the slave owner who can make decisions for this individual on education (attending school or not), work (type and conditions) or even private life (who to marry). The prohibition of slavery in international law has achieved 'jus cogens' status, meaning that all states accept it as a principle that cannot be derogated from. Nevertheless, and although slavery is prohibited by law in most countries, the practice or its vestiges remain in certain countries. In most cases, people



Views and opinions expressed are those of the author(s) only and do not reflect those of the European Union or the European Commission (granting authority). Neither the European Commission can be held responsible for them.

subjected to slavery will find themselves in a situation of psychological, economic and social dependence. They have no option than work for their 'master' and will fall under the definition of forced labour provided by the Convention No. 29.

### **Forced commercial sexual exploitation**

Forced commercial sexual exploitation refers to forced labour imposed by private agents for commercial sexual exploitation and all forms of commercial sexual exploitation of children, including the use, procuring, or offering of children for the production of child sexual abuse material.

### **Slavery and slavery-like practices**

Slavery is defined in the [1956 Slavery Convention](#) as the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised. In a later treaty, states agreed that there are also certain 'slavery-like practices': debt bondage, forced or servile marriage, sale or exploitation of children (including in armed conflict), and descent-based slavery (ibid).

### **Debt bondage**

Debt bondage is a status or condition where one person has pledged their labour or service (or that of someone under their control) in circumstances where the fair value of that labour or service is not reasonably applied to reducing the debt or length of debt, or the length and nature of the service is not limited or defined.

### **Forced or servile marriage**

The following are defined as practices 'similar to slavery' in the 1956 Slavery Convention. Any institution or practice whereby (ibid):



Views and opinions expressed are those of the author(s) only and do not reflect those of the European Union or the European Commission (granting authority). Neither the European Commission can be held responsible for them.

- a woman, without the right to refuse, is promised or given in marriage on payment of a consideration in money or in kind to her parents, guardian, family or any other person or group;
- the husband of a woman, his family, or his clan, has the right to transfer her to another person for value received or otherwise; or
- a woman who, on the death of her husband, is liable to be inherited by another person.

## 2.4 International & European legal framework

In the last three decades, the context and forms of forced labour have substantially changed. An increased number of individuals are in forced labour in the private economy, with certain groups of workers – especially migrants – being at higher risk of becoming victims. This has led to the adoption of international instruments to tackle trafficking, forced labour and related practices. This section reviews the main International and European legal instruments addressing labour exploitation.

### International legal frameworks

The International Labour Organization (ILO) is **devoted to promoting social justice and internationally recognized human and labour rights**, pursuing its founding mission that labour peace is essential to prosperity.

**The ILO is a tripartite organization which is part of the United Nations.** It brings together Governments, Employers and Workers Organisations. In addition, it welcomes the contribution of other civil society organisations as observers.



Views and opinions expressed are those of the author(s) only and do not reflect those of the European Union or the European Commission (granting authority). Neither the European Commission can be held responsible for them.

The first international labour standard that dealt with forced labour was adopted by the ILO in 1930. The **Convention No. 29 (Forced Labour Convention, 1930)** defines forced labour as 'all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily'. This definition:

1. applies to all possible forms of forced labour, including slavery and slavery-like practices, debt bondage and trafficking in persons;
2. covers all types of work, service and employment, in any activity, industry or sector, including in the informal economy; and
3. includes all forms of direct or indirect coercion, such as physical violence, psychological threats or non-payment of wages or the loss of rights or privileges.

**ILO Convention No. 105 (Abolition of forced labour Convention, 1957)** deals primarily with forced labour imposed by State authorities. It prohibits the use of any form of forced or compulsory labour as a means of political coercion or education, punishment for the expression of political or ideological views, workforce mobilization, labour discipline, punishment for participation in strikes or discrimination.

It was developed to regulate child labour by setting a minimum age for admission to employment that the signatories are to respect. This Convention came into force on 19 June 1976. The minimum working age was set at 15 years (13 years for light work). For dangerous work, the Convention set the bar for admission to employment at 18 years (16 years under certain conditions) (ibid).

The International Labour Organization (ILO) is the first organisation to regulate child labour. On 26 June 1973, the General Conference of the ILO adopted a legally binding document setting the minimum legal working age at 15 years. **ILO Convention No. 138**



Views and opinions expressed are those of the author(s) only and do not reflect those of the European Union or the European Commission (granting authority). Neither the European Commission can be held responsible for them.

(Minimum Age Convention) allows developing countries, whose economy and educational facilities are insufficiently developed, to temporarily set the minimum age for admission to employment at 14 years. This decision must be thoroughly justified. The ILO has also adopted Recommendation [R146](#) to guide members in the application of this Convention.

The General Conference of the International Labour Organization, considering the need to adopt new instruments for the prohibition and elimination of the worst forms of child labour, as the main priority for national and international action, including international cooperation and assistance, to complement the Convention and considering that the effective elimination of the worst forms of child labour requires immediate and comprehensive action, taking into account the importance of free basic education and the need to remove the children concerned from all such work and to provide for their rehabilitation and social integration while addressing the needs of their families adopted **Worst Forms of Child Labour Convention, 1999 (No. 182)**, a fundamental convention which defines as a 'child' a person under 18 years of age.

It requires ratifying states to eliminate the worst forms of child labour, including all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict; child prostitution and pornography; using children for illicit activities, in particular for the production and trafficking of drugs; and work which is likely to harm the health, safety or morals of children.

The convention requires ratifying states to provide the necessary and appropriate direct assistance for the removal of children from the worst forms of child labour and for



Views and opinions expressed are those of the author(s) only and do not reflect those of the European Union or the European Commission (granting authority). Neither the European Commission can be held responsible for them.

their rehabilitation and social integration. It also requires states to ensure access to free basic education and, wherever possible and appropriate, vocational training for children removed from the worst forms of child labour.

International Labour Office (ILO): [Strengthening action to end forced labour](#), Report (IV)1 (2013), International Labour Conference which provides overview of the international legal framework for the elimination forced labour, and examination of national law and practice concerning national policy and institutions, prevention, victim protection, compensation and enforcement. It includes a questionnaire for member States including proposed Protocol as well as proposed Recommendations, drawn up on the basis of the observations made by governments, employers' and workers' organizations.

### International and European frameworks

In the face of the persistence of forced labour practices across the globe, in 2014 the ILO adopted two new international labour standards on this matter with a view to bringing international instruments against forced labour into the modern era. Together with its accompanying Recommendation, the Protocol to the Forced Labour Convention, 2014 (No. [29](#)) supplements existing international forced labour instruments and establishes the obligation of member States to prevent forced labour, protect victims and provide them with access to remedies (see Box 2).<sup>14</sup> It also emphasizes the link between forced labour and trafficking in persons. In line with ILO Convention No. 29, the Protocol also reaffirms the importance of prosecuting the perpetrators and ending their impunity.

### Legal frameworks in Europe





Views and opinions expressed are those of the author(s) only and do not reflect those of the European Union or the European Commission (granting authority). Neither the European Commission can be held responsible for them.

In Europe, there are several legal instruments that focus on different forms of labour exploitation.

With respect to trafficking for labour exploitation, the 2005 Council of Europe Convention on Action against Trafficking in Human Beings [defines trafficking](#) as to include recruitment and transportation by means of coercion or deception for the purpose of exploitation.

Where coercion is used, the apparent consent of the victim to the exploitation is irrelevant. While the Convention's remit includes trafficking within national borders, much of it is devoted to border control and repatriation. This instrument includes the provision for compensation of victims from perpetrators and requires States to provide accommodation, psychological and material assistance, emergency medical treatment, translation and interpretation services, and advice on legal rights, representation and access to education for children. The **EU Council Directive [2011/36/EU](#)** on preventing and combating trafficking in human beings and protecting its victims (Human Trafficking Directive) focuses on the protection of victims, the Council of Europe comprises 47 member States of the European continent.

The regulatory framework is based on several directives, including the Framework Directive and the Access Directive. These directives set out the general principles and objectives that member states must adhere to when implementing national laws and regulations including provisions for prosecution of traffickers and the prevention of the phenomenon. It sets out minimum penalties for perpetrators and requires support for victims that are not conditional to prosecution. This support should include measures related to subsistence, accommodation, medical treatment, counselling, and information and interpretation services. Although member States must ensure that victims of



Views and opinions expressed are those of the author(s) only and do not reflect those of the European Union or the European Commission (granting authority). Neither the European Commission can be held responsible for them.

trafficking have access to existing schemes of compensation for victims of violent crimes, there are no provisions for compensation for excessive hours of work, unpaid wages or other distress.

Several directives in the area of migration policy call for member States' action against labour exploitation.

In this context and similarly to ILO's Migrant Workers Convention (see Box 3), there are three directives aimed at protecting migrant workers from abuses and exploitation.

The focus of **Council Directive [2009/52/EC](#)** (Employers Sanctions Directive) is the general prohibition to employ third-country nationals who do not have the right to reside in the EU. This Directive recognizes the rights of workers to lodge complaints against employers and receive back payments. It goes beyond illegal migration and includes elements for the protection of workers' rights, such as the right not to be subject to particularly exploitative working conditions.

The **Council Directive [2011/98/EU](#)** (Single Permit Directive) sets down a single application procedure for issuing a single permit for third-country nationals to work in a EU member State and acknowledges the right of third-country nationals, admitted on the basis of the single permit principle, to equal treatment concerning working conditions, including pay, dismissal, occupational safety and health, freedom of association and membership of trade unions.

The **Directive [2014/36/EU](#)** (the Seasonal Workers Directive) determines the conditions of entry and stay of third-country nationals for the purpose of seasonal employment. Seasonal workers have the right to equal treatment in the host country in respect of terms of employment (e.g., minimum working age, pay, dismissal, working



Views and opinions expressed are those of the author(s) only and do not reflect those of the European Union or the European Commission (granting authority). Neither the European Commission can be held responsible for them.

hours, leave and holiday) and safety and health regulations. They have also the right to access certain branches of social security (i.e., benefits linked to sickness, invalidity and old age), training, advice on seasonal work offered by employment offices and other public services.

The **Council Directive [2004/81](#)** deals with residence permits (Resident Permit Directive) issued to third-country nationals who are victims of trafficking. This Directive requires that these permits are subject to the following requirements: (i) the presence of the victim is necessary for the investigation of crimes of trafficking, (ii) the victim has shown a clear intention to cooperate; and (iii) the relations with perpetrators were severed. The Directive also envisages access of victims to accommodation, medical and psychological support and legal aid, when provided under national law.

The **Council Directive [2012/29/EU](#)** on establishing minimum standards on the rights, support and protection of victims of crimes (Victims' Directive) takes a victim-centred approach with provisions to ensure appropriate assistance, support and protection of victims, with special attention to children and victims of gender-based violence. In addition, this Directive recognizes the rights of victims to be informed and given support to participating in criminal proceedings. Adopted by the European Union in 2012, the Victims' Rights Directive (VRD) aims to establish minimum standards on the rights, support, and protection of victims of crime, including victims of domestic violence. It aims to guarantee that victims receive adequate support, information, and protection, irrespective of the crime they have experienced or the member state of EU in which it occurred. The directive outlines several core areas:



Views and opinions expressed are those of the author(s) only and do not reflect those of the European Union or the European Commission (granting authority). Neither the European Commission can be held responsible for them.

- **Recognition of Victims' Rights:** It emphasizes the right of victims to be treated with dignity and respect and to be protected from secondary and repeat victimization.
- **Access to Support Services:** It mandates that member states ensure the availability of support services, including counselling, legal aid, and financial compensation.
- **Information Provision:** Victims have the right to be informed about their rights, the progress of the investigation, and the judicial proceedings.
- **Protection Measures:** The directive includes provisions for protection against intimidation and retaliation, especially for vulnerable victims, such as children or victims of domestic violence.

**Also:**

- The Directive considerably strengthens the rights of victims and their family members to information, support and protection. It further strengthens the victims' procedural rights in criminal proceedings.
- The Directive also requires that EU countries ensure appropriate training on victims' needs for those officials who are likely to come into contact with victims.
- EU countries had to implement the provisions of the Directive into their national laws by 16 November 2015. In 2013, the European Commission issued a [guidance document](#) to assist EU countries in this process.

According to the VRD, victims of crime should be recognised and **treated in a respectful, sensitive and professional manner without discrimination of any kind** based on any ground such as race, colour, ethnic or social origin, genetic features, language,



Views and opinions expressed are those of the author(s) only and do not reflect those of the European Union or the European Commission (granting authority). Neither the European Commission can be held responsible for them.

religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age, gender, gender expression, gender identity, sexual orientation, residence status or health.

In all contacts with a competent authority operating within the context of criminal proceedings, and any service coming into contact with victims, such as victim support or restorative justice services, the personal situation and immediate needs, age, gender, possible disability and maturity of victims of crime should be taken into account while fully respecting their physical, mental and moral integrity.

Victims of crime should be protected from **secondary and repeat victimisation, from intimidation and from retaliation**, should receive appropriate support to facilitate their recovery and should be provided with sufficient access to justice.

Violence that is directed against a person because of that person's gender, gender identity or gender expression or that affects persons of a particular gender disproportionately, is understood as gender-based violence. It may result in physical, sexual, emotional or psychological harm, or economic loss, to the victim/survivor.

This Directive replaces the [2002 Framework Decision on Combating Trafficking in Human Beings](#). This Decision provided a clear definition of trafficking of human beings. In addition, it set the obligation of member States to take the necessary measures to ensure that trafficking was punishable by effective, proportionate and dissuasive criminal penalties.

On **24 June 2020**, the Commission adopted its first-ever [EU Strategy on Victims' Rights \(2020-2025\)](#) to ensure that all victims of all crime in the EU can fully benefit from



Views and opinions expressed are those of the author(s) only and do not reflect those of the European Union or the European Commission (granting authority). Neither the European Commission can be held responsible for them.

their rights. The Strategy provides for actions for the European Commission, Member States and civil society for a period of 5 years.

On **12 July 2023**, the Commission proposed amendments to the Victims' Rights Directive. The revision addresses problems identified in the [evaluation](#) in June 2022. The amendments relate to five main victims' rights: access to information, improved support and protection, improved participation in criminal proceedings and facilitated access to compensation.

On **14 May 2024**, the EU adopted a [Directive](#) on combating violence against women and domestic violence. This is a landmark development, as the Directive constitutes the first piece of EU legislation which specifically addresses these issues<sup>30</sup>. Given that there are no binding treaty provisions at the United Nations (UN) level which refer expressly to violence against women, **the adoption of the new Directive by the EU means that for the first time the EU member states which have not ratified the Istanbul Convention are now subject to legally binding obligations** at an international level which specifically address violence against women and domestic violence.

Similar to ILO Conventions, several EU directives deal with the regulation of work and employment and may be applied to protect workers from labour exploitation and forced labour. More specifically, the **Working Time Directive** ([2003/88/EC](#)) restricts working time to 48 hours per week, entitles workers to a four-week period of paid annual leave and requires daily and weekly breaks between periods of work.

---

<sup>30</sup> Under Article 49 of the new Directive, all EU member states must bring into force all laws, regulations and administrative provisions necessary to comply with the Directive by 14 June 2027.



Views and opinions expressed are those of the author(s) only and do not reflect those of the European Union or the European Commission (granting authority). Neither the European Commission can be held responsible for them.

The **Health and Safety at Work Directive** ([89/391/EEC](#)) covers all workers (not just employees), although it excludes domestic workers.

### National legal frameworks

In respect of labour exploitation of victims of trafficking, several countries of the EU amended their legislative framework and developed action plans against trafficking of human beings with a view to implementing the Palermo Protocol and the 2002 EU Framework Decision in Combating Trafficking in Human Beings (replaced in 2014 by the Human Trafficking Directive). These plans usually contain specific sections on prevention, prosecution and victim protection.

**Denmark**, for example, amended its Penal Code in 2002 to align the definition of trafficking to international and EU principles and introduced a term of imprisonment for up to ten years for perpetrators of human trafficking. Since 2002, it has implemented action plans that are centred on the prevention of trafficking, the identification and protection of victims, the prosecution of perpetrators and the promotion of partnership.

In 2015, **Finland** revised the provisions on human trafficking of its Criminal Code and introduced legal amendments for the assistance for victims of trafficking. These reforms were followed by the adoption of the Government Action Plan against Human Trafficking (2016–2017) focused on outreach to victims and groups at risk; law enforcement; training and awareness arising and cooperation at national level and across borders.

In **Ireland**, the Criminal Law (Human Trafficking) Act of 2008 introduced the crime of human trafficking in criminal law. This legislation provides for penalties up to life imprisonment and an unlimited fine for trafficking of persons for the purposes of labour or sexual exploitation or for organ removal. In 2013, this provision was further amended



Views and opinions expressed are those of the author(s) only and do not reflect those of the European Union or the European Commission (granting authority). Neither the European Commission can be held responsible for them.

to provide for two new forms of exploitation, namely forced begging and trafficking for the purposes of forced criminal activities. The second National Action Plan (2016) builds on the achievements of the first action plan and sets forth non-exhaustive actions in the areas of prevention; protection; criminal justice response and prosecution; partnerships; response to child trafficking; and monitoring and evaluation.

In **Italy**, Law No. 199 of 2016 amended the criminal code to provide for two new offences: (i) unlawful labour intermediation that sanctions anyone who recruits persons for work with third parties in conditions of exploitation; and (ii) labour exploitation, which punishes anyone who uses, recruits or employs workers subjecting them to exploitation. This law identifies the indicators that define labour exploitation (repeated violations of hours of work and rest period regulations; no salary or salaries below those established by collective bargaining agreement; violation of occupational safety and health rules; and degrading living or working conditions).

### **Addressing labour exploitation connected to the recruitment of workers**

#### **Preventing labour exploitation by acting on recruitment and employment agencies**

**Article 5 (1) of the Directive on Temporary Agency Work ([2008/104/EC](#))** establishes the principle of equal treatment and equal pay between agency workers and the regular workforce. Article 6 (3) prohibits charging workers fees in exchange for arranging recruitment or for concluding a contract of employment.

**ILO Convention No. [181](#)**, concerning private employment agencies, dates from 1997 and has been ratified by 13 EU Member States. It establishes the general parameters for regulation of recruitment, placement and employment of workers engaged by private employment agencies, prohibits charging workers a fee and guarantees the protection of



Views and opinions expressed are those of the author(s) only and do not reflect those of the European Union or the European Commission (granting authority). Neither the European Commission can be held responsible for them.

fundamental rights at work, such as freedom of association, collective bargaining, equality of opportunity and treatment for migrant workers recruited or placed in host countries, as well as a system of penalties for fraudulent agencies.

### **Council of Europe**

The Council of Europe Convention on Action against Trafficking in Human Beings was adopted by the Committee of Ministers of the Council of Europe on 3 May 2005, following a series of other initiatives by the Council of Europe in the field of combating trafficking in human beings. The Convention entered into force on 1 February 2008, following its 10th ratification. While building on existing international instruments, the Convention goes beyond the minimum standards agreed upon in them and strengthens the protection afforded to victims.

### **GRETA's work**

The Group of Experts on Action against Trafficking in Human Beings (GRETA) is responsible for monitoring the implementation of the [Council of Europe Convention on Action against Trafficking in Human Beings](#) by the Parties.

The statistics included in **GRETA's** country reports indicate that trafficking for the purpose of labour exploitation has been on the rise and has emerged as the predominant form of exploitation in some countries.

### **ECHR Article 4**

Article 4 of the European Convention on Human Rights holds that no one shall be held in slavery or servitude and that no one shall be required to perform forced or compulsory labour.





Views and opinions expressed are those of the author(s) only and do not reflect those of the European Union or the European Commission (granting authority). Neither the European Commission can be held responsible for them.

In November 2019, the Secretary General [presented](#) to the Committee of Ministers a 'Roadmap on strengthening action against trafficking in human beings for the purpose of labour exploitation'. In accordance with this Roadmap, GRETA adopted, in September 2020, a compendium of good practices in the area of combating human trafficking for the purpose of labour exploitation. The compendium served as a basis for the elaboration of a Guidance Note on preventing and combating human trafficking for the purpose of labour exploitation, which GRETA adopted in November 2020.

### Committee of Ministers' Recommendation

On 27 September 2022, the Committee of Ministers adopted Recommendation [CM/Rec\(2022\)21](#) on preventing and combating trafficking in human beings for the purpose of labour exploitation, which calls on Council of Europe member States to adopt national laws, policies and strategies which address trafficking for the purpose of labour exploitation, following a human rights-based and victim-centred approach. It draws on the monitoring work and guidance of GRETA, the case-law of the European Court of Human Rights, and the conclusions and decisions of the European Committee of Social Rights.

The **Explanatory memorandum** contains a comprehensive package of measures, in the following areas: Prevention Protection Prosecution Partnerships and international co-operation Action to enable corporate responsibility and enforce corporate liability (<https://www.coe.int/en/web/anti-human-trafficking/labour-exploitation>)

### Prevention

- To prevent trafficking in human beings for the purpose of labour exploitation, member States should provide a social rights compliant environment that shields





Views and opinions expressed are those of the author(s) only and do not reflect those of the European Union or the European Commission (granting authority). Neither the European Commission can be held responsible for them.

potential victims from vulnerability and protects them from the risk of falling victim to trafficking.

- Member States should acknowledge that a failure to scrutinise potentially irregular labour market practices prevents effective regulation and enables trafficking in human beings for the purpose of labour exploitation to flourish.

## Protection

- Member States should reinforce and prioritise the detection of cases of trafficking in human beings for the purpose of labour exploitation and the identification of victims.
- Member States should adopt a victim-centred approach in combating trafficking in human beings in which the rights of the victims are guaranteed and prioritised over economic, financial, law enforcement and migration aims.
- According to the United Nations [Basic Principles on the Right to an Effective Remedy for Victims of Trafficking in Persons](#), the right to an effective remedy should include restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition.
- Member States have an obligation to promote, respect and realise children's rights and the principle of the effective abolition of child labour in accordance with ILO's Minimum Age Convention (No. 138) and Worst Forms of Child Labour Convention (No. 182).



Views and opinions expressed are those of the author(s) only and do not reflect those of the European Union or the European Commission (granting authority). Neither the European Commission can be held responsible for them.

## Prosecution

- Due to a lack of knowledge and diverse interpretations of trafficking for labour exploitation, there is confusion between labour law violations and trafficking in human beings for the purpose of labour exploitation.
- The absence of effective workplace inspections can create an inability to secure evidence to identify victims of trafficking for the purpose of labour exploitation, prove offences, and successfully prosecute offenders.

## Partnership & International cooperation

Member States should facilitate and encourage multi-agency and cross border co-operation in the identification and follow-up of cases of trafficking in human beings for the purpose of labour exploitation.

As for **the action to enable corporate responsibility and enforce corporate liability**, businesses have a legal and ethical obligation to guarantee labour rights and to protect persons working for them, whether through direct employment contracts or other arrangements, against exploitative practices, which include trafficking in human beings for the purpose of labour exploitation.

## European Commission

The **European Commission** offers practical guidance in the sector guide relating to employment and recruitment agencies, which implements the [UN Guiding Principles on Business and Human Rights](#). It acknowledges that the lack of effective regulation of employment and recruitment agencies, and low barriers to entry into the business allow unscrupulous companies to proliferate. Such companies range from those that



Views and opinions expressed are those of the author(s) only and do not reflect those of the European Union or the European Commission (granting authority). Neither the European Commission can be held responsible for them.

knowingly profit from poor labour practices to criminal organisations involved in human trafficking and other serious human rights abuses.

On 14 September 2022, the Commission proposed a regulation to ban products made using forced labour, including child labour, on the European Union (EU) internal market. The proposal covers all products made available on the EU market, whether made in the EU for domestic consumption and for export, or imported.

On 19 December 2022, the **European Commission** published a proposal to amend **Directive 2011/36/ EU**. It aims to strengthen protection against trafficking in human beings in the EU and respond to new developments. The obligation to combat forced labour is stipulated in the ILO Convention on Forced Labour (C 29), 1930.

The **European Parliament's** finally recently adopted European Forced Labour Regulation (the Regulation) aims to ban products made with forced labour from the European market, a crucial step toward the European goal of eliminating all forms of forced labour.

### **Fundamental Right Agency (FRA)**

The European Union Agency for Fundamental Rights (FRA) is the EU's centre of fundamental rights expertise. It is an independent EU body, funded by the Union's budget.

Several searches and manuals were published with a focus on THB issues and the way phenomenon affects vulnerable groups. The Russian invasion of Ukraine triggered solidarity from EU governments, local authorities and society as they welcomed more than 7 million people fleeing the aggression. The European Union's rapid response, activating the [EU Temporary Protection Directive](#), offered welcome relief and much-needed support to those in need. It allowed displaced persons the opportunity to quickly



Views and opinions expressed are those of the author(s) only and do not reflect those of the European Union or the European Commission (granting authority). Neither the European Commission can be held responsible for them.

settle and to work, travel and access services across the EU. But other pressing human rights issues had come to the fore and remained high on the EU's agenda, such as human trafficking, sexual and gender-based violence, hate crime and hate-fuelled disinformation. FRA published on 21 October 2022 report entitled [The Russian war of aggression against Ukraine – The broad fundamental rights impact in the EU - Bulletin 2](#) and on 28 February 2023 [Fleeing Ukraine: Displaced people's experiences in the EU](#) followed by another on 29 September 2023 entitled [The Russian aggression against Ukraine – Displaced children finding protection in the EU - Bulletin 3](#)

More recently on 1 August 2024 a report guiding inspectors to identify abuse and protect migrant workers was also published [Six points for workplace inspectors – EU law safeguards for non-EU workers](#) and on 21 November 2024 a manual designed to be used by workplace inspection staff in the Member States was press released entitled [How workplace inspectors can protect third-country workers' rights - Training manual](#). This report was intended to empower workplace inspectors to enforce the protective standards in EU law that safeguard the rights of third-country workers, including seasonal workers, migrant workers with temporary permits and migrants in an irregular situation.

### European Labour Authority

The European Labour Authority's mission is to contribute to ensuring fair and effective labour mobility across the EU and to assist Member States and the European Commission in the coordination of social security systems in the EU.

The European Labour Authority helps to ensure that **EU rules on labour mobility and social security coordination are enforced in a fair and effective way**. The main objective is to make it easier for individuals and businesses to benefit from the internal market of the European Union. ELA coordinates and supports Member States in conducting





Views and opinions expressed are those of the author(s) only and do not reflect those of the European Union or the European Commission (granting authority). Neither the European Commission can be held responsible for them.

cross-border inspections to strengthen cross-border enforcement of EU rules, carries out analysis and risk assessment related to issues of cross-border labour mobility, facilitates cooperation and the exchange of information between Member States and provides mediation services in cross-border disputes between EU Member States.

Beyond aforementioned, ELA **assesses risks** and **carries out analyses** regarding **labour mobility** and **social security coordination across the EU**. This is done in cooperation with Member States and, where appropriate, the social partners and EU services, agencies and networks active in the field of social policy and employment. In this context, ELA:

- Conducts **strategic analysis** on sector-specific challenges and recurring problems, and focused in-depth analyses and studies to investigate specific issues related to labour mobility and social security coordination;
- **Collects statistical data compiled and provided by Member States** and streamlines data collection workflows;
- Provides **analytical support to concerted and/or joint inspections (CJIs) supported by ELA** upon request of national authorities involved; it also supports the **assessment of cases** brought to ELA by social partners organisations;
- Organises **outreach activities and technical workshops** to support **analytical and risk assessment capacities** in national competent authorities and the development of risk assessment capacity on issues of cross-border labour mobility and social security coordination in the EU.



Views and opinions expressed are those of the author(s) only and do not reflect those of the European Union or the European Commission (granting authority). Neither the European Commission can be held responsible for them.

## 2.5 Suggested activity for the chapter

Table 3. Interaction through presentation

Activity Name	Interaction through presentation
Type of Activity	Theoretical / presentation/ interaction with participants using brainstorming procedure.
Duration	30-45 minutes.
Learning Objectives	Suggestion: Use Bloom's taxonomy verbs <a href="https://www.utica.edu/academic/Assessment/new/Blooms%20Taxonomy%20-%20Best.pdf">https://www.utica.edu/academic/Assessment/new/Blooms%20Taxonomy%20-%20Best.pdf</a> .
Materials Needed	Result 3.
Guidelines for the facilitator	Highlight the common legal baseline.
Debriefing	Maybe use of ECHR case involving each country when conducting in national level.



Views and opinions expressed are those of the author(s) only and do not reflect those of the European Union or the European Commission (granting authority). Neither the European Commission can be held responsible for them.

<b>Tips for facilitator</b>	Short reference in international and European Legal framework.
<b>Handouts</b>	e.g. cases studies that should be printed and provided to participants.
<b>Variations for online implementation</b>	None - maybe interaction could be more difficult.
<b>References</b>	Council of Europe/ European Commission/ ECHR Law cases.

## 2.6 Reflections

Trafficking in human beings for the purpose of labour exploitation is one of the most challenging aspects of 'modern-day slavery'. It is challenging on many accounts: because differences arise in practice in the interpretation, application of labour standards and in defining labour exploitation, because victims prefer not to lodge complaints or stand as witnesses as they are often dependent on their traffickers for work and housing, and not least because combating trafficking for the purpose of labour exploitation requires co-ordinated action between the State, civil society, trade unions and the private sector.



Views and opinions expressed are those of the author(s) only and do not reflect those of the European Union or the European Commission (granting authority). Neither the European Commission can be held responsible for them.

## 2.7 References

Clark, N. (2013). *Detecting and tackling forced labour in Europe*. Joseph Rowntree Foundation.

European Union Agency for Fundamental Rights (FRA). (2015). *Severe labour exploitation: workers moving within or into the European Union. States' obligations and victims' rights*. Luxembourg.

Government of Ireland. (2009–2012). *National Action Plan To Prevent and Combat Trafficking in Human Beings*.

Government of Ireland. (2012). *Second National Action Plan to Prevent and Combat Human Trafficking in Ireland*.

International Labour Organization (ILO). (2014). *Strengthening action to end forced labour*. Report IV(1).

Ministry of Children, Gender Equality, Integration and Social Affairs. (2015). *The 2015–2018 Action Plan to combat trafficking in human beings*.

Ministry of Interior. (2017). *Government Action Plan against Human Trafficking 2016–2017*. Helsinki.

Rubio Grundell, L. (2015). *EU Anti-Trafficking Policies: from Migration and Crime Control to Prevention and Protection* (Policy Brief No. 9). Robert Schuman Centre for Advanced Studies.



Views and opinions expressed are those of the author(s) only and do not reflect those of the European Union or the European Commission (granting authority). Neither the European Commission can be held responsible for them.

## Info

Some authors note that the inclusion of trafficking in the category of migration, especially irregular migration, is arguably one of the main reasons for the lack of success of EU anti-trafficking policies. Conversely, these policies should ensure a focus on exploitation and not on the irregular border crossing, the harmonization of penalties and the guarantee that measures regarding protection are made compulsory, non-discriminatory, unconditional and adequate (see Rubio Grundell, 2015).

## Links:

<https://www.ilo.org/>

<https://www.itcilo.org/>

<https://www.coe.int/en/web/portal>

[https://commission.europa.eu/index\\_en](https://commission.europa.eu/index_en)

<https://fra.europa.eu/el>

<https://www.coe.int/en/web/anti-human-trafficking/greta>

