



## **AN INTEGRATED APPROACH TO TRAFFICKING FOR FORCED LABOUR EXPLOITATION: LESSONS FROM THE ILO EXPERIENCE**

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### **Distinguished delegates,**

I am very glad to be with you today, the first time I have had the pleasure of coming to any of the Baltic countries. I know that Lithuania like its neighbours has demonstrated a strong commitment to action against human trafficking. This was recognised for example in the US Government's recent “Trafficking in Persons Report”, issued in June this year, which commended Lithuania for its effective action against trafficking.

While the knowledge base is still weak, trafficking for labour exploitation is increasingly arousing the world's attention. It is a complex subject, on which an increasing number of countries have been turning to the ILO for guidance. I would like to share with participants some lessons of the ILO's experience to date, in the hope that this can be of practical value to the Baltic countries in particular, and that we can jointly identify some areas for future cooperation.

### **ILO Approaches to Trafficking for Forced Labour**

The ILO promotes the eradication and prevention of forced labour, as part of its broader efforts to promote the fundamental principles and rights of work recognized in its 1998 Declaration on the subject (freedom of association and the right to collective bargaining, the elimination of all forms of forced or compulsory labour, the effective abolition of child labour, and the elimination of discrimination in respect of employment and occupation). A Special Action Programme to Combat Forced Labour (SAP-FL) has been active for almost six years within this programme to promote core labour standards.

Many of SAP-FL's activities have sought to respond to demand from both developing and industrialized countries. It has given particular attention to trafficking for forced labour purposes. It has carried out qualitative research and surveys, and is now assisting a number of countries to develop more quantitative assessments of

forced labour and trafficking. This is considered essential, in addition to adequate laws and policy coordination, in order to develop an adequate policy response. Training materials have been prepared for different actors, including legislators and law enforcement. More targeted materials are currently being prepared for, among others, labour inspectors, judges and prosecutors, trade unions, and employers' organizations. Operational projects are also bringing labour institutions together with criminal law enforcement to develop an integrated response to trafficking for forced labour, and also focusing on preventive strategies through local employment creation and improved migration management. Employers' organizations and trade unions have also been harnessed to these activities.

Some lessons of experience to date can be summarised as follows.

### *Research and surveys*

Good research, founded wherever possible on specific case studies, is essential. SAP-FL has issued a series of country case studies on forced labour and trafficking in OSCE countries, so far covering Germany, Russia, France (with a specific focus on Chinese irregular migrants), and Portugal. The most recent of these, prepared together with the Portuguese Ministry of Labour, was distributed this week at an EU conference on trafficking, held in Oporto this week under the Portuguese presidency. Other completed research covers Chinese migrants in Italy and the United Kingdom. An ongoing research project covers Kazakhstan, Kyrgyzstan and Uzbekistan. This assesses secondary data on forced labour incidence in these countries, and the current national and international responses. Its preliminary results suggest that forced labour linked to trafficking is quite widespread in these countries, the response however tends to focus very narrowly on sex trafficking, even though the available evidence suggests that the majority of trafficking cases are for labour exploitation.

Several countries are now participating in a new pilot programme to develop national estimates. This is a complex exercise, with so little official data available; the approach has varied in accordance with the main forms of forced labour believed to exist in the country concerned, and available statistical expertise. In Moldova, the ILO is cooperating with the National Bureau of Statistics to incorporate forced labour and trafficking in its household survey on labour migration, attached to the broader Labour Force Survey. In Georgia, where a recent National Action Plan against trafficking calls specifically for better quantitative surveys, we are working with the Ministry of Economic Development's Department of Statistics (DS) to address forced labour and trafficking in a labour migration module attached to the next Labour Force Survey. A similar approach is now being discussed in Ukraine in the context of an EU supported project.

### *Training and capacity building*

An increasing number of countries now have legislation or national action plans against trafficking which include trafficking for forced labour. The ILO has sought to ensure that Ministries of Labour and other key labour actors are involved in the drafting of legislation, the preparation of national action plans (NAPs) and their subsequent implementation. As a first stage, some key training materials have been prepared. A guidance document on *Human trafficking and forced labour exploitation: guidance for legislation and law enforcement* has been published in Russian, and

widely disseminated through the Russian-speaking countries of the region. A further training manual on *Trafficking for forced labour: How to monitor the recruitment of migrant workers* has been yet more widely disseminated in English, Czech, German, Polish, Romanian, Russian and Rumanian. As a sign of strong demand for this publication, the Czech Ministry of Interior requested ILO permission to issue a version in the Czech language.

An important part of this is clarifying concepts. For many of the OSCE countries the concept of forced labour has been little understood, let alone the further issue of trafficking for forced labour. The ILO has estimated an absolute minimum of 12.3 million persons in forced labour today, over 2.4 million of these as a result of human trafficking. For the ILO, forced commercial sexual exploitation has been considered a form of forced labour. Thus victims of sex trafficking have therefore been included in our figure of 12.3 million<sup>1</sup>. Of trafficked persons, we estimate that some 43 per cent are trafficked into forced labour for commercial sexual exploitation, while approximately one third are trafficked for other forms of forced labour exploitation. The remainder are trafficked for mixed or undetermined reasons.

For the purposes of this estimate, the ILO took the position that the offence of trafficking has the three elements of deceptive or coercive recruitment, movement (though not necessarily across international borders), and forced labour exploitation at the place of destination. For example bonded labourers in South Asia, who had not been moved from their places of origin through deceptive or coercive recruitment practices, were considered to be in situations of forced labour but not victims of trafficking. The ILO accepts that there will be different views on the best conceptual and legal entry points for tackling such coercive practices today, between forced labour, slavery and slavery-like practices, and trafficking for forced labour exploitation. The most important thing is that there be strong laws against coercive exploitation of human beings, backed by vigorous law enforcement, and also strong measures for the protection and rehabilitation of victims.

A more serious point is how to apply the law, when law enforcement may find it difficult to identify and capture trafficking for forced labour, when there are very few prosecutions and convictions and judges have little precedent to which to refer. Moreover it is common wisdom that there is a continuum from the criminal offence of forced labour, through to other forms of labour exploitation which do not involve criminal coercion, and through to decent work conditions safeguarded by national law and international standards. All of this requires clear guidance to labour inspectors, police and prosecutors as to identify the forced labour practices, many of which occur outside recognized workplaces. The above-mentioned ILO guidance manuals set out the various options, between criminal, labour and also civil law for securing penalties for offenders and compensation for victims.

A further challenge is to help countries actually implement policies and action plans against forced labour and trafficking. Since early this year, EU funding has enabled SAP-FL to develop new projects in several countries, mainly from the OSCE region. One project addresses elimination of human trafficking from Moldova and Ukraine through labour market based measures. Addressing gaps in the implementation of current NAPs against trafficking, it seeks to enhance labour market

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<sup>1</sup> For the purpose of the global estimate, forced labour situations were grouped into the three main types of: forced labour imposed by the state; forced labour imposed by private agents for commercial sexual exploitation; and forced labour imposed by private agents for economic exploitation.

information systems in the public service, to train labour inspectors and other Government authorities to better monitor private employment agencies, to improve vocational training curricula and promote entrepreneurship among returned victims of trafficking, as well as the data gathering referred to above.

In Ukraine – from where there is extensive outmigration of an estimated two million persons, both west to Europe and eastwards to Russia – the NAP adequately covers trafficking for forced labour. The project is now providing capacity building for Government officials and other partners in western Ukraine. Under the EU project there is insufficient funding to cover those regions of eastern Ukraine from which there is sizeable irregular migration and trafficking to Russia. In Moldova, the project is working to incorporate labour concerns in the draft NAP, soon to be adopted. It is also using the above-mentioned materials to train Ministry of Labour officials responsible for licensing and monitoring of private employment agencies. A further project is being implemented in Armenia, Azerbaijan and Georgia, together with the OSCE and International Centre for Migration Policy Development (ICMPD) as international partners. While seeking increased prosecutions for trafficking offences, including abusive recruitment practices, it also seeks to raise migrants' awareness of legal channels of migration.

We have also tried to stimulate more cooperation between the sender and destination countries of trafficked persons in Europe, again with a particular focus on labour institutions, but also bringing these together with police and criminal prosecutors, as well as business and trade union partners from the participating countries. A project was implemented between 2004-6 in seven countries of the OSCE region (Germany, Moldova, Poland, Portugal, Romania, Ukraine and the UK). With organizations such as EUROPOL and the International Association of Labour Inspection (IALI) involved in several of the activities, this has involved the sharing of much relevant expertise, and identified the main needs for follow-up training on the forced labour aspects. An expert meeting with the involvement of Chief Labour Inspectors from Europe is planned for next month, to validate training materials and make sure they meet the needs of law enforcement on the ground.

#### *Case law on forced labour and trafficking*

Though there have been few prosecutions to date, the first cases on trafficking for forced labour are now coming before the courts. As the impetus for this grows, judges will need to know how to grapple with the issues. A collection of case law is now being developed, examining how judges in different jurisdictions have interpreted such concepts as force, menace or vulnerability, and also the extent to which the ILO's own forced labour Conventions have been used in judgments. The training materials, covering both common and civil law countries, are to be tested at expert meetings later this year.

#### *Involving employers' and workers' organizations*

On an issue like labour trafficking, it is essential to galvanise business and trade union organizations to action. Employers need to sensitize their members, to regulate their own conduct, to be on guard against abusive recruitment practices such as involuntary servitude or debt bondage for contract and migrant workers, particularly when such abuses can penetrate their own business supply chains. Trade unions need to monitor and denounce such practices, to organize those at risk

of labour trafficking and promote cooperation between unions in sender and destination countries, also to provide direct support to those released from such trafficking,

We began some years ago with a project covering Russia and some Central Asian Republics, through which trade unions from several countries combined their efforts, organizing migrant workers and assisting them to send remittances back to communities and families of origin. A new country for this approach is Kazakhstan, where a start-up meeting was held in August this year to assist trade union capacity and meet the need for further training on means to assist migrant workers. More generally, the International Trade Union Confederation has been assisted to develop a Workers' Alliance against Forced Labour and Trafficking. I just came yesterday from a meeting at our Turin training centre, where we are working together with a number of European trade leaders and global union federations, enabling their key officers to prepare a trade union policy, strategy and action plan against forced labour and trafficking.

In some countries, employers' organizations have also begun to address these concerns more systematically. In Russia, in cooperation with the European Development Bank for Reconstruction and Development, EBRD (which, like the IFC and other financial institutions now seeks to develop safeguards on core labour standards including forced labour for its private sector lending), there has been a particular focus on the forced labour affecting migrants from Central Asia in the construction industry. A survey has been carried out among employers on the demand for migrant labour, the treatment of migrants and the feasibility of self-regulation through an industry-wide code of conduct or similar measure.

**In conclusion**, I hope that some of these ideas can be of value as you all consider follow-up action. I repeat that it is essential to involve labour actors and institutions in anti-trafficking policies and programmes, whether we are talking of sexual exploitation or of other forms of economic exploitation. This can serve to open our eyes to new forms of exploitation which now threaten to blight labour markets even in those countries which have developed apparently solid systems of social protection. The Baltic states are one group of countries where young workers are increasingly on the move, as they sense the opportunity for higher incomes and better livelihoods in Scandinavia and better parts of Europe. It is vital that labour markets and policies operate in such a way as to balance demand of and supply for workers, and that both origin and destination countries monitor their recruitment agencies in order to ensure that traffickers do not exploit the vulnerability of these young persons who are often unaware of the risks incurred through migration outside the established legal channels.

Thank you for your attention.