# FAQS: TRAFFICKING FOR LABOUR EXPLOTATION – TACKLING GROUP CASES

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## FAQ: What is labour trafficking?

Labour trafficking includes the recruitment, transfer, harbouring or receipt of persons, by the use of deception, fraud, threat, use of coercion, abuse of power or of a position of vulnerability – for the purpose of labour exploitation, including forced labour.[1] Forced labour is "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."[2]

## FAQ: What are group cases in the context of trafficking in human beings?

These are cases in which a bigger group of persons is exploited as a result of human trafficking – simultaneously (e.g., a group of workers at the same time) or consecutively (e.g., individual workers exploited by the same perpetrator(s) over a period of time). To assist them, looking for a solution for the whole group, in particular in relation to any compensation claim, may be a better option rather than to look for a solution for each of the affected person's individually. Groups can vary in sizes – from smaller groups of three to four persons to groups of – in extreme cases – several hundred persons.

## FAQ: How do people get trafficked?

Often recruitment is undertaken in another country and people are deceived about the conditions of work. In other cases initial employment conditions seem all right but they deteriorate over time. There are cases where workers sign contracts without understanding the language in which they are written and find out that their job is not a real job but is, for example, an apprenticeship and not remunerated. Also, a common tactic includes requiring workers to pay various recruitment and subsistence costs (such as charges for the job offer, travel, food, housing, administrative fees, etc.) such that the wages actually paid approach zero or keep workers in a growing debt bondage. Also, many unscrupulous companies operate under a system where sub-contractors directly exploit the trafficked workers and the general contractors plead lack of knowledge of abuses in order to isolate themselves from liability.

## FAQ: Why don´t they simply leave?

There are many variations in the ways people are trapped in trafficking situations, but unpaid wages, debt, restrictions on freedom of movement, threats and the use of violence are among the most common. Workers may be locked up; they may be guarded by intimidating security staff or made subject to threats about what will happen to them or their families when they leave the situation. They may also be constrained by the contracts they have signed, debts or other engagements they entered into before they knew what was awaiting them.

## FAQ: In which sector do these cases take place?

Generally, in sectors with high occurrence of sub-contracting, posting, temporary agency work and seasonal work. Such sectors include construction, cleaning, forestry, agriculture, logistics, domestic work, manufacturing.

1 The international recognised definition of trafficking in persons is contained in Article 5 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime. It is also repeated in Article 4 of the European Anti-Trafficking Convention (adopted by the Council of Europe) as well as by Article 2 of the EU Anti-Trafficking Directive 2011/36.
2 The internationally recognised definition of forced labour is contained in Article 2 of the ILO Forced Labour Convention No. 29 (1930) and its Protocol (2014).

## FAQ: Who is affected and most at risk?

In principle everyone could be affected. In practice, persons particularly vulnerable often include migrant workers (both EU citizens and workers from outside the EU), posted workers, temporary agency workers, self-employed and seasonal workers. In any case, workers' status, their lack of knowledge, and their exclusion from the protection of labour laws of the host country make them specifically likely to be exploited.

## FAQ: What can be done to prevent this from happening?

There are several options: to strengthen the awareness of deceptive recruitment, to seek the protection of the labour inspection, to prosecute the perpetrators, to ensure that all workers have the right to join and form trade unions and to ensure that workers are compensated for unpaid wages or other damages they might have suffered.

## FAQ: How can cases of group trafficking be detected?

Labour inspection can play an important role in detecting and sanctioning cases of labour trafficking of groups. Civil society, be it individuals or groups, NGOs, trade unions and churches have in many instances played an important role in detecting group cases and bringing them to broader attention. Last but not least, the media have in some cases played an important role in investigating what happened.

## FAQ: Does the criminal justice system help in any way?

Labour trafficking is a crime. All the EU countries criminalise labour trafficking. With the permission of the workers – victims of trafficking – cases can be referred to the police. Criminal justice mostly focuses on punishing the perpetrators. It can help where the facts of the case are well evidenced but it has limitations. Cases are often not brought to courts, or the courts are very reluctant to respond. Often, sentences are disappointing and they do not lead to compensate workers.

## FAQ: Does labour justice help in any way?

Trafficking situation can be brought to the attention of the labour inspectorate. Inspectors can visit workplaces, check working conditions and issue fines. With the permission of workers concerned, cases can be referred to the labour court. While the court will not deal with criminal prosecution of the abusers, it can award compensation, e.g., for unpaid wages. This way workers at least get the money they deserve or parts of it.

## FAQ: Are there other ways to rectify these cases?

In some cases, civil suits for damages may be more appropriate, at least as far as back payments are concerned. Another way of claiming back the money can be giving publicity to the case and involving local civil society: often the employers in question may be motivated to agree settlements to avoid negative publicity. However, psychological and sometimes physical damage remain. Trade unions can also bargain on behalf of exploited workers with the employer or with an organisation of employers to which a company concerned is affiliated. In this way, without starting court proceedings, the case can be at least partially rectified by steps taken in order to remedy exploited workers.

## FAQ: What kind of support do the victims of group cases need?

This depends on the exact circumstances under which they were exploited. Often it starts with simple things like housing and food. Often medical care is needed. Victims need advice on immigration status, employment rights and compensation routes. Legal support would equally be important. In some cases the persons will need to regularise their residence status. In addition, there may be the need for further psychological support.

## FAQ: Are there specialised support structures in place?

Unfortunately, there are only few specific support structures for groups of trafficked persons. In a number of countries, NGOS and trade unions have recently set up so-called "drop-in centres", where workers can turn to in case of encountering difficulties – irrespective of their residence status. However, resources of the centres are often too scarce to allow for truly full support to all workers in need. As a consequence, many of the trafficked persons go unassisted. It is nevertheless important to know that each EU country is obliged to ensure protective measures for victims of trafficking and that public administration has duties in this area.[3]

3 Articles 11-16 of the EU Anti-Trafficking Directive 2011/36.

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