



POLITIET

KRIPOS - NCIS NORWAY

HUMAN TRAFFICKING IN NORWAY – CRIMINAL ACTORS

A SITUATIONAL PICTURE BASED ON POLICE SOURCES



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PREFACE

With this report NCIS Norway would like to add to existing insight about human trafficking and the actors involved in this criminal activity in Norway today.

We hope that our growing understanding of this phenomenon will contribute to a greater awareness about the issue among the general public, NGOs, business and industry, the police and other institutions and supervisory agencies. In order to tackle human trafficking it is vital that we join forces against this serious type of crime, and try to stem the demand for services in which people are exploited. We also need more effective preventive tools to detect, investigate and convict more criminal actors.

The police are key players in society's fight to prevent and tackle human trafficking – today's slavery. The police's objective is to prevent crime, fight the criminal actors' activity, protect the victims and safeguard a regulated job market and the freedom and integrity of the individual.

NCIS, 11 December 2017

Ketil Haukaas

A handwritten signature in blue ink, appearing to read 'Ketil Haukaas', with a long horizontal flourish extending to the right.

Director General

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EXECUTIVE SUMMARY

This report is mainly based on the police's own sources. Recently, there have been advances in the police's understanding of human trafficking, which is, however, still inadequate.

Human trafficking (or "Trafficking in Human Beings", hereinafter referred to as THB) is a serious type of crime which impacts society as a whole. It takes place in public, in private homes and in work places. It is often combined with and borders on other criminal activities such as economic crime, labour market crime, social dumping and people smuggling. THB can have serious repercussions not only for individuals, but also for society by undermining both the welfare state and market mechanisms.

Human trafficking exploits some of the most vulnerable among us. The actors do not necessarily have to resort to violence or even threaten to do so when their victims are in a desperate situation with few other options. This lack of options may be due to low age, disability, deprivation, debt, and limited access to education and legal work. This makes the victims even more vulnerable to the criminals' promises of income, marriage, or other relations, or threats against their families. In these situations, vulnerable people can easily be exploited just because they have few other real or acceptable options.

Intelligence, investigations and judgments suggest that children are being exploited for THB in Norway and by perpetrators residing in Norway. Whereas the number of children who are said to be potential victims of human trafficking in Norway is falling, numbers in Europe are alarming and increasing in Sweden.

THB in Norway is affected by a number of factors. The large number of vulnerable people in Europe, the mobility within the Schengen area, the purchasing power, the public welfare and digitalisation in Norway, and above all, new technological tools will affect the development of THB and add to the capacity and will of the criminal actors to commit this type of crime and challenge society's countermeasures.

Over the last years, the police have gained insight into the actors' MOs (*modus operandi*). Traditionally, the police have detected mainly THB for prostitution and other types of sexual exploitation, but they are currently devoting more attention to exploitation for labour and services. The police do not have information indicating that people in Norway are exploited for forced war service or illegal organ trade.

Crime prevention is supposed to be the main strategy for all crime areas. Revealing, investigating and prosecuting THB can be a very complex and time-consuming task, something which makes it even more important for the police to demonstrate that they are willing and able to tackle and prevent the actions of cynical and adaptable actors. Some of the measures required in this respect demand close cooperation between business and industry, NGOs, the press and general public, the police and other public sector services to protect vulnerable people against potential human trafficking.

- // THB in Norway is carried out by individuals and organised groups alike.

- // Criminals often exploit people who are vulnerable due to poverty, debt, low age, poor education, unemployment or disability. Their victims often have few alternatives when it comes to earning a living. We see exploitation of vulnerable people in a number of businesses, e.g. car and refurbishing services, construction firms, grocery shops, cleaning services, agriculture, and for prostitution or other forms of sexual exploitation.

- // The high purchasing power in Norway in combination with public and private customers' demand for cheap goods and services pave the way for labour exploitation.

- // Children are exploited for various purposes. Norwegian nationals have the possibility to facilitate and pay for trafficking of children in other countries, often poor countries, via the internet.

- // Human trafficking often go undetected. The police need more information about possible human trafficking. Please send any tip-offs to the police email address: tips@politiet.no.

1. INTRODUCTION

This chapter starts by outlining the background for and purpose of the report. The outline is followed by a presentation of the penal provisions regulating human trafficking and slavery, Norway's international commitments to prevent and combat THB as well as an overview of crime reports the last two years. Finally, the report's source material is listed.

1.1 Background and purpose

THB violates fundamental human rights and is a serious form of crime which is harmful to both victims and society. It is often committed as part of other organised crime. *The police budget allocation letter 2017* and *the Director of Public Prosecutions guidelines no. 1/2017* consider combating of THB a national priority.

In 2016 and 2017 the Director of Public Prosecutions pointed out that more THB cases must be detected. The police have to be more proactive in their approach to this type of crime and cannot wait for crime reports from the victims. They have been instructed to strengthen their competence with regard to this crime field, to actively uncover environments responsible for THB and to carry out more targeted financial investigations.¹

In December 2016, the Norwegian government presented a new action plan against THB,² in which a demand for the restructuring of the police and their priorities was presented. In the 2017 national budget, NCIS Norway was granted NOK five million to intensify their fight against THB. The extra funding has among other things contributed to the elaboration of this report.³

In *The National Police Directorate's framework and guidelines for the establishment of new police districts* a standardised entity devoted to the fight against THB is described and will be established in all police districts in Norway. This function will provide a coherent approach to preventive measures and to the investigation of all types of exploitation.⁴

The purpose of this report is to present a picture of THB in Norway today and of the actors responsible for this type of crime, based on police sources. We have based our analysis on the following key questions:

- What are the driving forces affecting THB in Norway today?
- Who are the actors responsible for THB in Norway?
- What types of crime is THB related to?
- What is the current status with regard to the various types of exploitation?
- To what extent are children exposed to THB?

This report is intended as a supplement to the insight of NGOs, business and industry and other institutions and supervisory agencies, and as a contribution to a shared interpretation of the situation and to society's joint effort against THB.⁵

1 The Director of Public Prosecutions Guidelines no. 1/2017. *Riksadvokatens mål og prioriteringer for straffesaksbehandlingen*.

2 The Ministry of Justice and Public Security. 2016. *Regjeringens handlingsplan mot menneskehandel*.

3 In the 2018 state budget NCIS was also granted NOK 5 million to fight THB.

4 National Police Directorate. *Rammer og retningslinjer for de nye politidistriktenne, versjon 1.2. 2016*.

5 For NCIS' previous public analysis of THB, see NCIS. 2015. *Trend report 2016. Organisert og annen alvorlig kriminalitet i Norge*. NCIS has also contributed to the preparation of parts of the report issued by the Coordinating Unit for Victims of Human Trafficking (KDM). 2017. *Rapport fra Koordineringsenheten for ofre for menneskehandel 2016*. This report focuses on the victims of THB.

Section 257. Human trafficking

Any person who by violence, threats, taking advantage of a vulnerable situation or other improper conduct forces, exploits or deceives another person into

- a) prostitution or other sexual services,
 - b) labour or services, including begging,
 - c) active military service in a foreign country, or
 - d) consenting to the removal of one of the person's internal organs
- shall be punished for human trafficking with imprisonment for a term not exceeding six years.*

The same penalty shall be applied to any person who

- a) facilitates such force, exploitation or deception as specified in the first paragraph by procuring, transporting or receiving the person,
- b) otherwise contributes to the force, exploitation or deception, or
- c) provides payment or any other advantage to obtain consent for such a course of action from a person who has authority over the aggrieved person, or who receives such payment or advantage.

Any person who commits an act as specified in the first or second paragraph against a person who is under 18 years of age shall be subject to punishment regardless of whether the act involved violence, threats, taking advantage of a vulnerable situation or other improper conduct. Any person who was ignorant of the fact that the aggrieved person was under 18 years of age shall be subject to a penalty if he/she may be held to blame in any way for such ignorance.

Section 258. Aggravated human trafficking

Aggravated human trafficking is punishable by imprisonment for a term not exceeding 10 years. In determining whether the violation is aggravated, particular weight shall be given to whether the person subjected to the act was under 18 years of age, whether severe violence or force was used and whether the act generated significant proceeds.

Any person who was ignorant of the fact that the aggrieved person was under 18 years of age shall be punished if he/she may be held to blame in any way for such ignorance.

1.2 Penal provisions and international obligations

Human trafficking and aggravated human trafficking are regulated by the Norwegian Penal Code Chapter 24 *Protection of personal freedom and peace*.⁶ A separate provision was first dedicated to the crime of THB in 2003. THB is punishable under the 2005 Penal Code sections 257 and 258. These provisions are based on the 1902 Penal Code section 224 subsection one to three. The Penal Code of 1902 (hereinafter PC1902), has been replaced by the Penal Code of 2005. With the new penal code, the maximum penalty was raised to 6 years' imprisonment. The PC1902 section 224 fourth subsection on aggravated human trafficking is included in the 2005 Penal Code (hereinafter PC2005) in a separate provision, section 258, with a maximum penalty of imprisonment of up to 10 years. If the offence is committed as part of the activities of an organised criminal group, the custodial sentence may be extended by up to 6 years, cf. section 79 of the same act. Contribution to THB is punishable by section 15.

The due care requirements in the PC1902 section 224 third and fourth subsections relating to the exploitation of persons under the age of 18 years was reinforced by virtue of act of 30 June 2006 no. 48, according to which ignorance of age does not exempt from punishment unless "there is no negligence in this respect". The basis for the amendment is described in Parliamentary bill no. 50 (2005–2006). This due care requirement is particularly strict, and it is sufficient that the defendant display the lowest degree of negligence to be held responsible for his/her ignorance. The due care requirement in sections 257 and 258 is to be interpreted similarly,

⁶ The inclusion in this chapter is commented in a judgment passed by the Supreme Court in Norway in 2006 (Supreme Court Reports Rt. 2006-222-A and 2206-111), see link as at 13.11.2017: <https://lovdata.no/pro/#document/HRSTR/avgjorelse/hr-2006-222-a?searchResultContext=1129>.

though it is formulated differently, cf. Parliamentary Bill no. 22 (2008–2009) Chapter 16.7, remarks to section 307.

The PC1902 section 224 originally included a more severe punishment for deprivation of liberty in certain cases. The provision was amended in 2003 to include a general prohibition against THB. The legal basis for the amendment to the act was Norway's adherence, of 13 December 2000, to the UN Convention of 15 November 2000 on transnational organised crime⁷, including the so-called Palermo Protocol on human trafficking.⁸ In some respects, the Norwegian provisions are more far-reaching than the commitments contained in the Protocol in that they also target the persons actually carrying out the exploitation, not only the organisers.

Norway is a signatory to the Council of Europe Convention on Action against Trafficking in Human Beings. The Convention's aim is to prevent and fight national and international THB, to protect and help the victims, ensure efficient prosecution of the organisers and enhance international co-operation to that effect. To ensure an efficient implementation of the Convention's articles, a specific monitoring mechanism has been established: Group of Experts on Action against Trafficking in Human Beings (GRETA). The Convention commits the police to cooperating across borders in THB cases.⁹ Article 26 of the Convention instructs the signatories not to unduly prosecute victims of THB. Norway is also a signatory to the EU Directive on prevention and combating trafficking in human beings and protect-

ing its victims¹⁰, the UNCRC's Children Convention and the UN's Sustainable Development Goals.¹¹

Recorded cases of human trafficking

In 2016, 42 cases of trafficking in human beings were reported to the police, a 24 % decrease compared to 2015, when 55 cases were reported. 4 cases of aggravated THB were reported in 2016, compared to 7 in 2015.¹² The majority of the reports pertain to exploitation for prostitution or other sexual purposes.

In 2017, 32 offences of THB were on record by 1 October, as compared to 31 during the same period in 2016.

What these cases often have in common is that the exploitation has lasted for a relatively long time. 10 of the cases are consequently recorded as violations of the PC1902, as the criminal activity commenced before the new penal code had entered into force. Of these 32 cases, there were 20 of exploitation for prostitution, 5 of aggravated THB, 9 of labour exploitation and 3 of facilitation of THB.¹³

Today's slavery

THB is often called the "slavery of our times", or "modern slavery". This designation is used by Norwegian authorities, the UN and several Western

7 United Nations Convention Against Transnational Organized Crime. 2000.

8 Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children. The Palermo Protocol supplements the UN Convention against transnational crime and implies that the signatories are committed to criminalising trafficking in human beings, cf. article 5 no. 1. See Appendix, Ch. 5.

9 The Norwegian police cooperate with a number of states and organisations in the fight against THB, e.g. Europol, Eurojust and Interpol.

10 The directive is binding for all EU Member States.

11 Abolition of modern slavery and trafficking in human beings is part of goals 5, 8 and 16. See attachment. Link as at 23.10.2017: https://www.regjeringen.no/no/tema/utenrikssaker/utviklingssamarbeid/sdg_oversikt/id2505654/. Norway is also a signatory to the UN Convention on Women, the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (entered into force on 1.11.2017) and the Council of Europe Convention on Protection of Children against Sexual Exploitation and Sexual Abuse (not yet entered into force)

12 The National Police Directorate. 2017. *Anmeldt kriminalitet og straffesaksbehandling 2016. Annotated STRASAK figures.*

13 STRASAK figures as at 22.10.2017.

states.¹⁴ In 2015, Britain adopted an act against modern slavery which also covers THB.¹⁵ In Norway's PC2005 a distinction is made between slavery and THB. Under section 259, which carries a maximum penalty of imprisonment up to 21 years, bringing another person into slavery, conducting slavery or transporting slaves or persons destined for slave-trading are all criminal offences.

If somebody is turned into a slave as part of an extensive or systematic attack against a group of civilians, the offence is deemed a crime against humanity and punished accordingly, cf. the PC2005 section 102 first subsection letter c. Exploitation for labour which is not such that it can be considered slavery, may be punishable under section 257 first subsection letter b.

1.3 Sources

This report is mainly based on the following police information sources in the period from 1.1.2016 to 2.10.2017:

- Police reports and intelligence summaries from the police districts
- Information from the police districts and the specialist agencies reported to the national human trafficking project in the police intelligence database

- Reports from specialist agencies, the Police Directorate and the National Interagency Analysis and Intelligence Centre (NTAES)
- Reports from the Coordinating Unit for Victims of Human Trafficking (KOM)¹⁶
- The police's database of criminal cases
- Court decisions in the period from 1.1.2016 to 31.8.2017.

The police districts have contributed information and knowledge in various ways, for example to the national expert group against trafficking in human beings. Nevertheless, several police districts state that they have not prepared any analyses of the THB in their district. NCIS Norway lacks information from some districts, several of which respond that they lack relevant data and skills.

The source material encompasses reports and information from international police sources, e.g. Europol, Eurojust and Interpol, and Norwegian and international NGOs.

Statistics are only a small part of the source material. The police record fewer THB offences in Norway than what is to be expected.¹⁷ A new penal code that entered into force in Norway in October 2015 included a new code set, which led to a discontinuation of the statistical series.

14 See for example the Ministry of Justice and Public Security. 2016. *Regjerings handlingsplan mot menneskehandel*, US Department of State <https://www.state.gov/j/tip/what/>, ILO http://www.ilo.org/global/publications/books/WCMS_575479/lang-en/index.htm pr 4.11.2017, Australia's General of Public Prosecutions <https://www.ag.gov.au/consultations/pages/modern-slavery-in-supply-chains-reporting-requirement-public-consultation.aspx>, and the Salvation Army <https://www.salvationarmy.org.uk/spot-signs-modern-slavery>, all links as at 4.11.2017.

15 See link as at 4.11.2017: <http://www.legislation.gov.uk/ukpga/2015/30/contents>

16 The Coordinating Unit for Victims of Human Trafficking (KOM) at the National Police Directorate elaborates an annual situational report on human trafficking in Norway. The report maps the number of possible victims receiving assistance from authorities and through various support schemes. It also presents an overview of criminal cases, highlights challenges and suggests measures for improvement.

17 Cf. *Straffesaksbehandlingen i politiet i 2016 – The Director of Public Prosecutions' annotations*.

Due to this, only figures from 2016 and 2017 appear in the statistics. Since the total case load recorded is small, several factors may determine whether there is an increase or decrease from one year to another.

Judgments are also included in the sources. Since the implementation of the ban on THB in 2003 and until 1 July 2017, a total of 46 convictions have been pronounced. One of them is not final and enforceable.¹⁸

The relative scarcity of information in police databases is challenging. The police's insight is partly contingent on their effort, which in turn depends on political decisions and is subject to targeted resource management. However, the police have gained more insight into the field of THB and have come to understand that this activity also takes place in Norway. Nevertheless, as already mentioned, the number of crime reports and convictions is low, and so is the number of investigated and prosecuted cases.

Inadequate information is a common denominator for THB in general and for all forms of exploitation, including trafficking of children. There may be several reasons: It might reflect the police's efforts. It might be that the victims do not dare or wish to report the case to the police or that they are not in a position to do so. It might also be that due to lack of evidence, cases investigated as THB are listed under other penal provisions, as the trafficking element is difficult to prove.¹⁹

The police districts stress that their main challenge when trying to fight this criminal activity is their struggle for resources and their lack of competence. THB has not received sufficient police attention.²⁰ So far, the Norwegian police have had more experience with THB for prostitution, than with sexual exploitation over the internet or exploitation for labour or services.

¹⁸ For an overview of judgments, see the Coordinating Unit for Victims of Human Trafficking (KOM). 2017. *Report from the Coordinating Unit for Victims of Human Trafficking (KOM) 2016*.

¹⁹ National Police Directorate. 2017. *Anmeldt kriminalitet og straffesaksbehandling 2016. Annotated STRASAK figures*.

²⁰ See the Coordinating Unit for Victims of Human Trafficking (KOM). 2017. *Report from the Coordinating Unit for Victims of Human Trafficking (KOM) 2016*.

2. FACTORS AFFECTING HUMAN TRAFFICKING IN NORWAY

In this chapter we will describe a number of factors which, in different ways, have an impact on human trafficking in Norway. First, we will give a brief summary of THB on the international level. Then we will pinpoint a number of drivers which may affect future development. Finally, we will describe the relationship between human trafficking, social dumping and labour market crime and between human trafficking and human smuggling.

2.1 An international perspective

Human trafficking has existed for a long time. It takes place across borders and within the borders of a state. The UN's Office for Drugs and Crime (UNODC) considers human, firearms and drug trafficking the top three illegal markets globally. Human trafficking and people smuggling are among the criminal activities which attract most organised crime groups. However, available figures do not always tell the same story. Human trafficking is considered one of the most lucrative illegal activities in Europe, and UNODC has estimated that criminal groups have an annual profit of about USD 3 billion globally.²¹ A recent estimate suggests that more than 40 million people were exploited for human trafficking worldwide in 2016.²² Almost all regions and countries are affected, either as countries of origin, transit countries or as destinations.

Europol considers THB a stable criminal market based on the considerable profit it generates, but also in terms of the already tested and well-functioning MOs and transportation routes, and the steady demand in the market.²³

THB has become more complex over the last years. Ten years ago, the victims of THB were primarily foreign women who were transported to wealthy countries for prostitution.²⁴ Today, the traditional flow of victims from Eastern Europe to Western Europe has been replaced by new and more complex flows in Europe. This form of crime appears to be more complex in terms of criminal actors, forms of exploitation and victims.

The most common form of exploitation in Europe and globally is still prostitution, but the number of victims of labour exploitation is on the rise in Europe. In Western and Southern Europe, 30 % of all identified victims are exploited for labour, while this is the most common form of exploitation of identified victims in Eastern and Central Europe, North Africa, the Middle East and Africa south of Sahara.²⁵

The victims' profiles have changed. Over the past years, the number of identified male victims has risen. It has not been established whether this is a result of a change in the crime picture or in the police's efforts. Although most of the identified victims are still women, children and men constitute a larger group than only ten years ago.

21 UNODC link as at 23.10.2017: <https://www.unodc.org/toc/en/crimes/human-trafficking.html>

22 ILO & Walk Free Foundation. 2017. *Global estimates of modern slavery: Forced labour and forced marriage*.

23 Europol. 2015. *Exploring tomorrow's organised crime*.

24 UNODC. 2016. *Global report on trafficking in persons 2016*.

25 *ibid.* and Europol. 2017. *Serious and organised crime threat assessment. Crime in the age of technology (SOCTA)*.

Globally, children make up 28 % and men 21 % of identified victims.²⁶ The same trend has been observed in Europe.

In 2016, 158 states had criminalised most forms of human trafficking in accordance with the Palermo Protocol, compared to 33 states in 2003. This is a big leap in the right direction despite the fact that in many countries the legislation regulating this crime field is relatively recent, and the number of convictions correspondingly low. It takes time and resources to establish legal systems with sufficient experience and competence to detect, investigate and prosecute actors committing THB.

2.2 Drivers

A number of drivers, such as social factors in and outside the country, can encourage or obstruct THB in Norway. Some of the most important factors are described below. They are not listed in order of priority.

The criminal actors' capacity and will

Criminal actors have the will and capacity to commit THB in Norway. This activity is carried out by individuals as well as more organised groups and networks. Individuals engaged in THB often have a limited network, especially when they exploit a small number of victims, and when the exploitation takes place in a limited geographical area.²⁷

Criminal groups involved in this form of crime are often characterised by a loose structure predicated on familial or ethnic links.

They appear to be flexible, since they often move their activities to countries where the potential for profit is high and the risk of being exposed and investigated low. They often operate in independent cells, each of which is responsible for different parts of the activity, e.g. recruitment, transportation or the exploitation itself.²⁸

These groups are often relatively small, but they still manage to handle several victims and transport them within and between countries for exploitation. They have fixed bases for transportation, and they have contacts both in countries of origin, transit countries and destinations.

Some networks and groups also move their victims between continents. These actors appear to be organised. Transcontinental activity requires more planning as well as personnel with different tasks that are often undertaken in several countries. It is likely that these organised actors do not restrict themselves to narrow offending categories. The most relevant are people smuggling, document forgery and money laundering and exploitation of victims for other forms of crime such as drug production, property crime or violation of social security legislation.

The criminal actors use both false and genuine documents to get victims registered in EU countries. They often resort to the use of criminal facilitators within various sectors and professions such as financial and legal institutions. These professional facilitators take on the role as reliable third parties, to enable the criminal organisation to evade control measures, for instance with respect to money laundering.²⁹

²⁶ UNODC. 2016. *Global report on trafficking in persons 2016*.
²⁷ Europol. 2016. *Situation report. Trafficking in Human Beings in the EU*.

²⁸ Europol. 2017. *Serious and organised crime threat assessment. Crime in the age of technology (SOCTA)*.
²⁹ *ibid.*

Additionally, loopholes in the legislation in EU and EEA countries are being exploited to obtain legal work permits, often with the use of fronts, false medical certificates and work-related documents and through recruitment of victims who have already been granted residence in other EU countries.³⁰

Criminal actors often operate by owning or infiltrating businesses and by using them as a cover for illegal activity or to exert pressure against employees. Hotels, cafés and massage parlours may serve as covers for exploitation for prostitution.

Criminal actors return their criminal proceeds to their country of origin on a regular basis.³¹ Money is transferred both electronically and physically. Europol has reported a tendency where victims are being used to transfer and transport criminal proceeds on behalf of criminal groups. By means of electronic transfers, smaller sums of money are often sent to a number of recipients to conceal the links between the criminals and to avoid suspicion. The actors often fraudulently use the victims' identities for these transfers by establishing bank accounts, registering fronts, hiring premises or paying invoices in the victims' names. Couriers are used for physical transfer of money, for example by plane or car.

Additionally, the criminal groups implement a number of measures to minimise the risk of being caught, e.g. frequent changes of vehicles, cash payment, relocation of victims, transfer of criminal proceeds before they are returned to the country of origin. They also use digital surveillance systems, corrupted facilitators, false IDs and physical and psychological violence against their victims.

Victims may also be forced to apply for asylum in the transit country or to give a false statement to the police.

The perpetrators are both men and women. In 2016, men made up more than 70 % of the persons suspected of, indicted for and convicted of THB in Western and Southern Europe.³² Female perpetrators often have less important, but more visible roles.³³ They often seem to be responsible for recruitment in the country of origin, collection of profits from the victims, booking of flights or advertisements on the internet, and for the control of younger victims. Female actors are often known from cases where there is close contact between the perpetrator and the victim, or where the perpetrator and the victim are related. In such cases, the fact that the victim and the perpetrator are of the same sex makes it easier to gain the victim's trust.

Often the criminal actors enter into some sort of a business relationship with the potential victims. In many cases the victim is aware of the nature of the labour they are supposed to carry out, but not of the extent of the exploitation.

The traffickers target vulnerable people and children living under financially and socially strained conditions, with mental problems or with physical disabilities, as well as persons suffering from alcohol abuse or drug addiction.³⁴ The criminal actors are likely to continue transporting their victims to EU countries where there are ample opportunity for sexual and labour exploitation.

³⁰ *ibid.*

³¹ Europol. 2016. *Situation report. Trafficking in Human Beings in the EU.*

³² UNODC. 2016. *Global report on trafficking in persons 2016.*

³³ An exception is Nigerian networks, in which women have a predominant role.

³⁴ Europol. 2017. *SOCTA.*

The perpetrators operating in destination countries such as Norway are often of the same nationality or have the same nationality as the victims.³⁵ The perpetrator and the victim often speak the same language and have the same ethnic background. The perpetrator often exploits what they have in common to gain trust. In 2016, victims from 42 different countries were identified in Norway. They were mainly from Nigeria, Romania, Pakistan, Bulgaria, the Philippines, Morocco and India.³⁶ It is likely that perpetrators from these countries are among the criminal actors who operate in Norway most frequently.

Vulnerable people in Europe

These days there is a large and increasing number of people, both European and third country nationals, who are looking for a better future for themselves and their families. Consequently, criminal actors have access to a large number of vulnerable people in Europe.

This vulnerability is a result of a difficult socio-economic situation in some of the EU countries. The harsh realities of life in such countries may yield limited freedom of choice and expose persons and groups to pressure, deception and coercion. Many of these deprived individuals consider Norway an attractive destination with a potential for a better income and life conditions.

Another vulnerability factor is the influx of migrants, refugees and asylum seekers in Europe who have fled from deprivation, crises, war and conflicts in Afghanistan, Syria and Iraq.

During the autumn of 2015, Europe saw the largest influx of migrants and refugees for years, something which has given criminal actors access to many potential victims, including children and young people. According to Europol, the migratory crisis has not had any notable effect on labour exploitation in the EU. However, some studies suggest that traffickers increasingly target their activity towards irregular migrants and asylum seekers in the EU for exploitation.³⁷

Conflicts in countries such as Syria and recruitment campaigns by terrorist organisations such as ISIL and Al-Shabaab may, in future, escalate the potential trafficking of Norwegian nationals for war service abroad.

Demand in Norway

Norway is a wealthy country with high purchasing power, where both private and public consumers seek cheap commodities and services. Stiff competition among the service providers presses prices down and paves the way for exploitation in the legitimate work market, especially for labour. Use of sub-contractors at several stages of the work chain makes it difficult for the authorities to discern who are illegally employed and who are not. In the private market, the demand for e.g. cheap labour for refurbishment and house and car cleaning is high.

Norway also provides social welfare benefits in a system largely based on trust. To sum up, this makes Norway an attractive market with a possibility to chase greater returns for criminal actors.

³⁵ *ibid.* and Europol. 2016. *Situation report. Trafficking in Human Beings in the EU.*

³⁶ See the Coordinating Unit for Victims of Human Trafficking (KOM). 2017. *Report from the Coordinating Unit for Victims of Human Trafficking 2016.*

³⁷ Europol. 2017. *SOCTA.*

One of the drivers of organ trade at the international level is the fact that the demand for organs meant for transplantation exceeds the supply. This creates a market for illegal organ trade. Interpol reports that THB for organ trade is a growing problem. This particularly applies to kidneys.³⁸ Other possible drivers are extensive global, economic discrepancies, an ageing population and a rise in diabetes in industrialised countries. In this respect, Norway is a potential market for organ trade.

The internet and technological development

Internet and other technological developments have given us a number of benefits and made geographical distances less relevant. Information and communication technology is gaining ground in our daily lives. In Norway more and more services have become digitalised, and Norwegians are frequently exposed to new digital solutions. In 2016, World Economic Forum rated Norway as the world's fourth most digitalised country, and we were no. 18 in the use of ITC in public administration, advancing from no. 24 in 2015.³⁹

Internet and new technology have also added new dimensions to traditional crime. Internet is increasingly being used by criminals as a communication channel and a marketplace for sale and purchase of illegal goods and services. Internet and communication technology are used at every stage of the human trafficking activity, ranging from recruitment, transportation and housing to the exploitation, as such, and the control of the victims, as well as money transfers.⁴⁰ Much of the new technology used by the criminal actors is inexpensive, common

and accessible via mobile phone. Computer tools therefore contribute to making THB more efficient. Several of the victims are contacted by criminal actors through social media and online markets. Internet and technology are also important tools for actors using false documents, and a number of channels for transfer, downloading and sharing of child sexual abuse material have been generated.

In the future, it is likely that we will see an increasing number of Norwegians engaged in THB for online child sexual abuse.

The fact that Norway is a wealthy country and its inhabitants among the most active internet users in the world, makes it easier for traffickers to operate in our country. Technological developments have to a large extent made it possible for criminals to operate with a lower risk of detection than earlier, among other things through anonymous and encrypted communication on the internet. Moreover, the existence of closed online internet forums may normalise criminal activity, so that more people commit crimes they would have abstained from under other circumstances.

Mobility in the Schengen area

Currently, the mobility of people across continents and countries is considerable, especially in Europe. The Schengen Agreement established comprehensive police cooperation and makes it is now easier for business companies to sell commodities and services across borders.

People who are staying within the Schengen area can move freely to Norway without regular passport checks. This applies to third country citizens and EU/EEA citizens alike.

³⁸ Interpol, link as at 6.9.2017: <https://www.interpol.int/Crime-areas/Trafficking-in-human-beings/Types-of-human-trafficking>.

³⁹ World Economic Forum. 2016. *The Global Information Technology Report*.

⁴⁰ Europol. 2014. *Trafficking in human beings and the internet. Intelligence notification*.

With a Schengen visa, nationals from countries outside the EU/EEA are entitled to visit Norway as tourists or for business. They are also entitled to stay freely in a Schengen country for three months, if they have valid residence permits from Schengen countries. The passport-free Schengen area that makes it easier for criminals to move their victims between EU/EEA countries⁴¹ reduces the risk of their detection, hampers prosecution and the securing of evidence and requires extensive international police co-operation.

The police's countermeasures

Adequate and targeted police measures can prevent and fight THB both at a national and international level.

Prevention is the main strategy for the police. Preventive action includes steps to prevent criminal acts before they are committed, to discourage potential perpetrators from committing THB under the threat of punishment, and to deprive perpetrators of their capacity to commit new criminal acts.⁴² At the same time, it is vital that the police are in a position to investigate and convict THB actors, particularly in serious cases involving children, in cases where the criminal actors could undermine the welfare state and market mechanisms, and in cases where they are organised. This is also of the essence for the establishment of legal precedent in the field of THB.

THB is a priority for the Norwegian police. The police have specialised groups working to tackle THB in the police districts with the five largest cities: Oslo, Agder, Sør-Vest, Vest and Trøndelag.

These groups were established in 2015 with special government funds, and they are currently financed with regular annual allocations from the National Police Directorate.

The police have extended powers to use covert coercive measures to investigate and avert serious crime, e.g. THB and aggravated people smuggling.⁴³

Police efforts will reportedly be stepped up in all police districts. Investigation of THB will be implemented as a standardised entity dedicated function in all police districts as a result of the 2016 police reform. This function will adopt a coherent approach to the prevention and investigation of THB cases and to all forms of exploitation.⁴⁴

On a national level, NCIS has been working to tackle THB since 2004. NCIS monitors the development in this crime field and coordinates the work carried out by the national expert group. This group is devoted to conveying a broader understanding of the phenomenon within the Norwegian police. NCIS is also a national point of contact for illegal organ trade and part of the effort to tackle THB.

Efficient and targeted cross-agency cooperation may enhance efforts to prevent and combat THB.

Making law enforcement and other services cooperate more closely to investigate and prosecute perpetrators responsible for THB is essential, but challenging.

41 The Schengen Agreement entered into force in 1995 and currently covers 26 European states. In Norway, the agreement entered into force on 25 March 2001. The Schengen members may implement temporary passport checks. For instance, in April 2017, Norway decided to implement passport checks for travellers in and out of the Schengen area. In May 2017, Norway decided to extend the temporary border control at ports of call for another 6 months.

42 Tore Bjørge. 2015. *Forebygging av kriminalitet*. Universitetsforlaget.

43 Parliamentary proposal 68 L (2015–2016) *Endringer i straffeprosessloven mv. (skjulte tvangsmidler)* adopted by the Storting in March 2016.

44 The main tasks will be to order intelligence products to support preventive measures, to prevent and investigate, and to maintain and communicate information for intelligence use.

In Norway, cross-agency teams dedicated to labour market crime have been established in seven police districts. In addition, a national interagency analysis and intelligence centre (NTAES) was established in 2016.⁴⁵

International cooperation is vital to fight THB. At an international level, Norway participates among other things in the Nordic cooperation and in Europol, Eurojust and Interpol, as well as in a number of UN organisations to prevent and combat THB and other transnational crime. In Europol, THB was one of nine priority crime areas from 2014 to 2017.⁴⁶ During the summer of 2017, the Norwegian police participated in a European operation to fight labour exploitation.⁴⁷ Norway is also a member of Interpol's Expert Group on Human Trafficking and finances an Interpol project aimed at detecting criminal networks responsible for THB and people smuggling in North Africa.

2.3 Human trafficking and other kinds of criminal activity

In a number of cases THB and other kinds of criminal activity overlap. This makes THB difficult to identify, prevent and fight. Often, THB is committed as a part of organised crime and by actors who are involved in several forms of crime, viz. multi-discipline crime. Human trafficking has common denominators with acquisitive crime, violence, sexual offences, labour market crime and drug-related crime. Below we describe forms of crime characterised by various degrees of coercion, pressure and freedom: *human trafficking, labour market*

crime and social dumping, and human trafficking and people smuggling.

Human trafficking, social dumping and labour market crime

The distinction between social dumping, labour market crime and THB for labour exploitation is perceived by many people as unclear. Social dumping takes place when foreign employees are offered an unacceptably low income and their social benefits are incompatible with those of Norwegian employees, or when the working conditions violate nationwide general regulations.⁴⁸

COOPERATION WITH THE PRIVATE SECTOR/ BUSINESSES

The police's business sector contacts in each of the police districts are important tools for interaction between the police, other services and the private sector.

In their struggle to tackle labour market crime, the police have enhanced preventive cooperation with several businesses, e.g. the Federation of Norwegian Construction Industries (BNL). In 2016, the construction industry had a turnover of more than NOK 520 billion and is therefore attractive to criminals. The BNL wishes to take responsibility for their own sector in partnership with the police and supervisory agencies by creating sustainable conditions that safeguard competitiveness and transparency. BNL has prepared a guide in which they list reliable enterprises in collaboration with e.g. the police, the Norwegian Tax Administration and the Labour Inspection Authority. Additionally, BNL has also organised courses for several hundred entrepreneurs and project managers to raise their awareness of the importance of due care and vigilance in their sector.

45 The establishing of NTAES is one of the measures in the report *Regjeringens strategi mot arbeidslivskriminalitet* of 13 January 2015.

46 Europol's priorities (EMPACT), link as at 23.10.2017: <https://www.europol.europa.eu/crime-areas-and-trends/eu-policy-cycle-empact>

47 See Europol's link as at 23.10.2017: <https://www.europol.europa.eu/newsroom/news/europol-coordinates-europe-wide-action-to-combat-trafficking-in-human-beings-for-labour-exploitation>.

48 Statutory provisions relating to general application of wage agreements are decisions ensuring that a nationwide wage agreement applies, totally or in part, to employees, whether unorganised or foreign, who perform work of the nature described in the agreement. Sectors covered by statutory provisions relating to general application of wage agreements are e.g. construction, shipyards and ship building, agriculture and market gardens, cleaning, fishery, electric installation business and transportation of goods on the road.

CASE STUDY – ECONOMIC CRIME IN THE CLEANING BUSINESS

In the period 2015–2017 NCIS (the National Criminal Investigation Service) investigated a case in which social dumping, economic crime and THB through exploitation for labour and other purposes overlap. An indictment for THB has not been filed, however, the indictment only pertained to charges of aggravated fraud and other economic offences. NCIS has found that the investigation of THB can be challenging. The following aspects underpin the complexity of the case:

- 1) The suspected actors were multi-criminals, and capable of making adjustments to counter new control measures on the part of the police and other law enforcement agencies. Their business activities served as a front for their criminal activity.
- 2) Arrests and searches revealed that more than 200 personnel were engaged when the police took action in the action phase.
- 3) Interagency cooperation between the Norwegian National Authority for Investigation and Prosecution of Economic and Environmental Crime (ØKOKRIM), NCIS, the Tax Administration and NAV Social Services, through the police's use of traditional, covert and financial investigation is relatively new and demanding.
- 4) Covert methods were used against a large number of actors involved in a combination of business activities and various forms of crime. They operated in separate groups learning from each other. This hampered the investigation.
- 5) The investigation and the criminal proceedings required an adequate allocation of resources for a long period of time and across a number of other law enforcement agency services, e.g. police, tax, Customs, the Norwegian Labour Inspection Authority, and NAV Social Services.
- 6) The investigation was very costly, and the diversity of criminal activities and the complexity of the case challenged the police.

Such actors often go undetected by the police. When the cases are investigated as single crime offences they are often dropped without prosecution. When they are seen in context, they become too complex for most investigative units. One of the lessons learned from this case is that cooperation between the law enforcement services and the business sector to prevent and dismantle this type of crime should be reinforced.

Social dumping also implies violation of health and safety standards (HMS), i.e. legislation pertaining to working hours and accommodation requirements.⁴⁹ However, social dumping is not necessarily a punishable offence.

The expression "labour market crime" applies to punishable offences defined as activity that violates Norwegian legislation on wages and working environment, social benefits and taxes. The activity is often organised. It distorts fair competition, undermines societal structures and leads to exploitation of employees.⁵⁰

⁴⁹ The Ministry of Labour. 2011. Meld. St. no. 29 2010–2011, referred to by NTAES. 2017. *Situational report 2017*, a multi-agency report on labour market crime in Norway. *Arbeidslivskriminalitet i Norge*.

⁵⁰ The Norwegian Government. 2017. *Strategi mot arbeidslivskriminalitet*.

Social dumping may involve the use of incorrect documentation, violation of the Act relating to the general application of collective wage agreements, undeclared work and THB. Combating labour market crime requires close co-operation between a number of services to implement supervisory and preventive measures.

THB for labour exploitation requires an element of pressure. Determining to what extent the perpetrator has exerted physical or psychological pressure, explicitly or implicitly is no easy matter. Defining an activity as labour exploitation hinges on a global assessment of the situation in question, including the victim's age and dependence on the perpetrator.⁵¹ The activity may be defined as labour exploitation, even though the victim could have broken away, if, in practical terms, circumstances left the person with little choice. Working and wage conditions and accommodation and sanitary conditions are decisive factors in this respect, as is the degree of mobility and isolation, use of force and various forms of subordination and dependence.

Human trafficking and people smuggling

The dividing line between people smuggling and THB is somewhat hazy, partly because transportation is also an essential element in THB, e.g. when people are exploited for labour or sexual purposes and when children are trafficked.

An major difference between *people smuggling* and *human trafficking* is that people smuggling is covered by the Immigration Act, whereas THB is covered by the Penal Code. People smuggling implies illegally assisting people to enter and/or to stay in the country.⁵² Whereas people smuggling is contingent on the smuggled person's status, having entered the country without the required documents, border crossing or illegal residency are not prerequisites for defining the offence as THB. THB can also take place within the internal borders of a country, and the victims can be Norwegian or Schengen citizens. The migrant's status, having entered the country without the required documents, makes him or her vulnerable to discrimination, exploitation and THB.

People smuggling services are often rendered against a high fee and under perilous conditions. The migrant must consent to being illegally smuggled into a country. The smuggling discontinues on arrival in the destination country. However, there are examples where migrants are forced to pay for the assistance received through illegal work or other criminal activity. In some cases, the migrants are exploited for drug smuggling, THB and fraud. THB, on the other hand, is a violation of the victim's fundamental human rights. Although transportation is a key element in this context as well, THB can take place without involving any border crossings. THB victims may have consented to being transported to a new destination, however, the consent is irrelevant when the trafficker resorts to the use of coercive means, such as threats, force or deception to exploit the victim.⁵³

51 Supreme Court Reports 2013-39 (discussed in the Planteland judgment). See also indicators of forced labour in Eurojust. 2015. *Prosecuting THB for the purpose of labour exploitation*.

52 The concept *help* is very broad in this context and includes assistance with most of the activities involved in the process, e.g. physical transportation with or without an escort, planning, provision of tickets, instructions and guidance, provision of travel documents (false or genuine *look-alike*), preparation of deliberately incorrect applications of visas, fabrication of statements that the foreign person can present to the immigration authorities, sham marriages, provision of cover-up stories, employment and/or accommodation. Vigdis Vevstad. 2010. *Immigration Act. Annotated Edition*.

53 Europol. 2016. *Situation report. Trafficking in Human Beings in the EU*.

Human traffickers exploit existing routes for people smuggling within the EU. Cases which started off as suspected people smuggling may end up as THB cases.⁵⁴

Some traffickers work according to a so-called pay-as-you-go-business model, where migrants are coerced into paying for their trip through labour exploitation en route to the destination country. Thus, the abuse may be committed in several countries, some of which may have dysfunctional law enforcement and criminal justice systems, which makes the offences difficult to investigate. What's more, refugees and migrants may be instructed to pay their debt to the smugglers by recruiting others in similar circumstances to be smuggled into the EU, or by working as drugs couriers or illegally in the destination countries.⁵⁵ The organisers use false ID's and travel documents or forged supporting documents. It is possible that the perpetrators will fraudulently use legal channels to facilitate entry for irregular migrants to the EU, or to legalise their stay. Exploitation for fictitious parenthood or marriage (proforma) or fictitious stories about being victims of THB may be relevant in this context. Several EU countries have reported a rise in the number of sham marriages.⁵⁶

54 National Police Directorate. 2017. *Anmeldt kriminalitet og straffesaksbehandling 2016. Annotated STRASAK figures.*

55 Europol og Interpol. 2016. *Migrant smuggling in the EU.*

56 Europol. 2017. *SOCTA.*

3. FORMS OF EXPLOITATION AND ACTORS

In this chapter we will describe the characteristics of actors and the current situation with respect to the four forms of exploitation covered by the human trafficking provisions in the PC: *war service, illegal organ trade, prostitution and other sexual exploitation and exploitation for labour or services*. First, we will briefly describe the situation within war service and illegal organ trade. These are forms of exploitation about which the police have little information. Then, we will focus on prostitution and other kinds of sexual exploitation, forms of exploitation which the police are more familiar with. Finally, we will describe the current situation within exploitation for labour or services. The police have obtained more information about the two latter crime forms over the last years.

3.1 War service and illegal organ trade

The police have no information indicating that Norwegian nationals are victims of human trafficking for war service in other countries. There are no specific cases or no information to this effect. Some of the cases that have received media coverage involve varying degrees of deception, coercion and promises of a better life, however, it has not been established whether they constitute THB in a penal sense. Recruitment for terrorism is still relatively recent in a Norwegian legal context. It is well known that terrorist groups such as ISIL employ a propaganda apparatus to attract more volunteers. Various channels on the internet are used for this purpose.

The police have no information about any organ trade in Norway.⁵⁷ It is not known whether Norwegian nationals go abroad to purchase organs illegally (so-called organ tourism), or whether trafficked victims in Norway have also been victims of illegal organ trade on their way here, or whether people who have been smuggled to Norway have paid for the trip with their own organs. The police have

information about incidents in Europe, but none with clear links to Norway.

3.2 Prostitution

The sale of sexual services is not illegal in Norway, however, purchasing sexual services is. THB for prostitution implies that the perpetrator coerces, exploits or lures the victim into this activity by means of violence, threats or by taking advantage of the victim's vulnerability.⁵⁸

Exploitation for prostitution is a common form of THB and probably the easiest to detect for the police. Other forms, such as online child sexual abuse and exploitation for labour or services require more resources and more specialised police work to uncover and investigate. This is the experience of the police in many countries.

Recruitment, advertising, sale and payment of exploitation for prostitution have increasingly shifted to various platforms on the internet. This can be explained by the fact that to a large extent, the indoor prostitution market in Norway appears to be internet-based.

⁵⁷ Commercial trade of human organs, cells and tissue is prohibited under the Transplantation Act. On 25.03.2015, Norway signed the Council of Europe Convention against Traffic in Human Organs. Since Norwegian medical personnel do not have a duty to report Norwegian nationals who have undergone illegal organ transplantations abroad, this type of information will normally not come to the knowledge of the police.

⁵⁸ See point 1.2 for the provision.

There are, at all times, many advertisements on the internet about mobile prostitutes in towns and urban areas in Norway. The police do not know how many prostitutes are victims of THB. The police regularly deny entry to foreign women trying to come to Norway lacking means or using a pretext for their stay which does not seem credible. Some of these women are suspected of working as prostitutes. In some cases it is possible that they are victims of THB.

The police know of several Eastern European networks or groups suspected of involvement in THB for prostitution. Earlier, many women from Nigeria were involved in prostitution in Norway. In 2017, the number of Nigerian women seems to have decreased, especially in Oslo. It is possible that this is a result of growth in the escort and indoor market. It may also be a sign of adaptation to implemented measures to tackle street prostitution, e.g. return of people without residence permits. It can also be explained by the emergence of networks from Eastern and Central Europe. Frontex reports that the number of Nigerian migrants to the EU is still high.⁵⁹

Europol reports that organised criminals in Europe no longer base their activity mainly on violence and threats directed at victims, but that they increasingly target the victims' families. Victims in the EU originating from countries outside Europe are still being exposed to violence, debt bondage, confiscation of passports and other means of coercion as a part of the THB.⁶⁰

3.3 Other sexual exploitation

As is the case with prostitution, THB for other sexual services implies coercion or deception by use of violence, threats, or other forms of abuse of another person's vulnerable situation.⁶¹

As at today, Norway has limited legal precedent in the field of THB for sexual exploitation. However, in 2016 Bergen District Court convicted a Norwegian national of contribution to this offence by having commissioned and paid for sexual abuse of children in the Philippines as well as live streaming of it to Norway via the internet.⁶² This is the only final and enforceable judgment in a case of THB for sexual abuse in the period 2016 to 2017.⁶³

The police do not have any information indicating that children in Norway are being exploited for THB with a view to production of child sexual abuse material.

3.4 Labour or services

In the Norwegian PC sections 257 and 258 exploitation for labour or services is defined as forcing, exploiting or deceiving another person to work or perform services such as begging by means of violence or threats, or by taking advantage of a vulnerable situation, or other improper conduct.

The Penal Code does not define the expression "exploitation for labour" more precisely. According to the preparatory works to the legal amendment and Norway's Supreme Court, acts may qualify as forced labour "when the victim has not entered into the employment relationship of his or her free will

59 Duco van Heel, Frontex Anti-Trafficking Coordinator. Presentation JO Triton 17 October 2017, Stockholm.

60 Europol. 2017. SOCTA.

61 See point 1.2 for relevant provision.

62 See further details in chapter 4.

63 For previous convictions of sexual abuse, see The Coordinating Unit for Victims of Human Trafficking (KOM). 2017. *Report from the Coordinating Unit for Victims of Human Trafficking 2016*.

and/or that he or she cannot get out of it."⁶⁴ There will always be an element of coercion involved in forced labour. It is sufficient that the perpetrator has displayed some form of coercion, physically or psychologically, explicitly or implicitly. In some cases, the situation may be defined as extortion, if the victim had to endure very poor working and/or wage conditions to avoid the perpetrator's notifying the police or the immigration authorities of illegal labour or other matters that cause trouble for the victim.⁶⁵

To lure somebody with promises of a job in Norway and subsequently to exploit their capacity for work, knowing that the person lacks a residence permit, and thus ends up in a vulnerable situation, may be defined as labour exploitation. Keeping an unpaid housemaid who does not have the freedom to end the employment at her own will, or keeping employees locked in a factory, can also be defined as labour exploitation. To deprive an employee of his or her identity documents, to take control of the person's finances and/or to force somebody to "lend"/indebt money may also qualify as labour exploitation. Using violence or threatening to use violence against the employee or his or her family in their home country to exert control over him or her may also qualify as labour exploitation.

This form of exploitation may also affect legitimate business life, in that it pushes wages down and hampers economic growth. Labour exploitation may have a bearing on the quality of commodities and services within less regulated markets. Organised

criminal groups can start legal businesses and use subcontractors to facilitate illegal labour or exploitation.

The Director of Public Prosecutions has stressed the importance of targeting efforts against labour market crime, e.g. illegal use of foreign labour, THB, aggravated social dumping, forced labour and fictitious invoicing.⁶⁶ Labour exploitation is not dealt with specifically in the Government's strategy against labour market crime. According to the National interagency analysis and intelligence centre (NTAES), THB for forced labour is the most serious form of labour market crime.⁶⁷

Characteristics of criminal actors and MOs

Available police information on exploitation for labour or services applies to actors that are more or less organised. It refers to networks or organised groups originating in EU countries, e.g. Romania, Lithuania, Poland and Albania. They recruit and exploit victims that predominantly are of the same nationality, but some of them also exploit victims from other poor EU countries. The Norwegian police have indications that one of these networks resell the victims' identities to other groups in Norway for further exploitation. Generally, the police have scarce information about illegal use of ID documents relating to labour exploitation.

The police also have information about families who reportedly are involved in exploitation for labour and services. This information suggests that some Norwegian families might be engaged in exploitation of au pairs, and possibly of Romanian families' use of children for begging. The police have seen

64 The Ministry of Justice. Ot. Prp. nr. 62 (2002–2003). *Om lov om endringer i straffeloven og straffeprosessloven mv. (lovtiltak mot organisert kriminalitet og menneskehandel, gjengangerstraff mv.)*. Neither the Palermo Protocol nor the Council of Europe's Convention against human trafficking define(s) the term forced labour. The ILO Convention no. 29 on abolition of forced labour of 1930, Article 2 no. 1, Protection against forced labour and slavery, is covered by the Norwegian Constitution section 93.

65 Norway's Supreme Court. HR-2017-1124-A (case no. 2017/318) criminal proceedings, appeal.

66 The Director of Public Prosecutions. 2017. *Rundskriv nr. 1/2017*.

67 The Norwegian Government. *Strategi mot arbeidslivskriminalitet, revised 13 February 2017* and the National Interagency Analysis and Intelligence Centre (NTAES). *Situasjonsbeskrivelse 2017*, a multi-agency report on labour market crime in Norway. *Arbeidslivskriminalitet i Norge*.

that families exploit their own children or siblings for acquisitive crime, particularly pickpocketing.⁶⁸

Police information on actors who are likely to be involved in labour exploitation, is primarily associated with individuals, both women and men, and Norwegian and foreign nationals alike. These individuals originate from the EU countries Romania, Bulgaria, Lithuania and Poland. The police have some information about individuals with Norwegian citizenship. Some of them have links to countries in Asia.

Individuals employed in sectors characterised by few formal competence requirements are frequently mentioned in police information about exploitation for labour or services, e.g. businesses such as car wash, cafés and restaurants, cleaning, transportation, telecommunications, hairdressers, agriculture and fisheries, construction, and groceries. Many of these businesses tend to employ people in a situation of vulnerability, lacking work permits or without residence permits in the country. In some of the businesses, labour exploitation is probably camouflaged by ostensibly legal employment contracts.⁶⁹

The police lack sufficient information to assess the incidence of exploitation for labour or services in private homes. There is, however, some information with respect to the au pair scheme. GRETA has encouraged Norwegian authorities to strengthen their efforts to prevent labour exploitation in private households.⁷⁰

Moreover, the police have little information indicating that actors exploiting individuals for labour

or services, combine this with other forms of crime. Some of the criminal actors associated with exploitation for services come from Romania and Bulgaria. They are linked to begging, burglaries and theft from petrol stations. Both girls and boys under the age of 18 are presumably exploited for labour and services.

CASE STUDY – HUMAN TRAFFICKING IN THE GROCERY STORE BUSINESS – NORWAY'S MOST LARGE-SCALE HUMAN TRAFFICKING CASE

In January 2016, a total of 13 persons, among them two brothers and other family members, were indicted for THB and a number of other punishable offences in the so-called Lime Case. The case is very extensive and encompasses among other things ID fraud, proceeds of crime, and money laundering. The indictment includes a total of 34 violations of the PC, the Working Environment Act, the Immigration Act, and the Tax Assessment Act.

During the autumn of 2014, the police and other law enforcement services carried out a police operation targeting 20 grocery retail outlets in the Lime chain in Rælingen, Oslo, Bærum, Asker, Sandefjord, Larvik and Ski. The investigation led by Øst Police District concluded that the element of coercion used against the imported employees met the definition of THB. The defendants recruited male workers both in and outside Norway, exploited their labour and kept much of their income. The police found that there were gradual transitions to related forms of crime. The case involved 14 victims, 10 of which were of Pakistani origin and had been brought to Norway. The penal proceedings in Oslo District Court lasted from January to November 2016. A final judgment is expected in 2018.

68 Oslo Police District. 2015. *Trender i kriminaliteten 2016–2017. Utfordringer i den globale byen.*

69 *ibid.*

70 GRETA. 2017. *Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Norway. Second evaluation round. 21 June 2017.*

In the period from January 2016 to August 2017 there were five final and enforceable judgments in which the defendants were convicted of forced labour and/or services.⁷¹

CASE STUDY - SUPREME COURT: FORCED LABOUR THROUGH SEASONAL WORK IN THE AGRICULTURAL SECTOR

In June 2017, the Supreme Court for the first time pronounced a judgment in a case of forced labour. The case was an appeal against a judgment passed by Borgarting Court of Appeal in which two men were found guilty of aggravated human trafficking, social security fraud, violation of the Bookkeeping Act, the VAT Act and the Working Environment Act. The Supreme Court upheld the conclusion that the defendants ran greenhouse facilities where their income was contingent on foreign labour and exploitation of the vulnerability of three Indian workers. The exploitation was systematic and represented an element in the running of the defendants' greenhouse activity. It lasted for several years and yielded considerable profit. The judgment provides an analysis of the principles underpinning the term "forced labour" and is decisive for the development of legal precedent in the field.

Scale

The police have been unable to determine the extent of exploitation for labour or service as this type of crime is difficult to identify. THB and social dumping and other forms of economic crime in the labour market tend to overlap. There have been several and somewhat diverging perceptions of the characteristics coercion in the labour market.⁷²

There is reason to believe that exploitation for labour and services takes place in various businesses in a grey area bordering on social dumping. There is reason to believe that the use of fictitious invoicing within some businesses is extensive, and that employees are coerced into giving parts of their income to their employer. The existence of other forms of money laundering is also assumed. The police suspect that in some cases, employees have multiple employment contracts, one of which is the real one, whereas the other has been elaborated in conformity with applicable regulations and can be presented to the police and other supervisory authorities.

The Coordinating Unit for Victims of Human Trafficking (KOM) received a total of 59 reports on possible victims of exploitation for labour or services in 2016. This is a decline from 2015, when the number was 86. Labour was the prevalent form of exploitation of men reported to have been presumed victims in 2016 (38 of 46). However, it was a marginal form of exploitation among women (13 of 197). Close to half of the minors were exposed to this type of exploitation.⁷³

In Western and Southern Europe 30 % of the victims are being exploited for labour.⁷⁴ Criminal actors' involvement in this crime area is on the rise in the EU. They are responding to a growing demand for cheap labour in many EU countries, and they have access to potential victims. Sectors exposed to this type of criminal activity are e.g. agriculture, catering, cleaning, construction, entertainment, fisheries, retailing and transportation.⁷⁵

71 Ref. The Coordinating Unit for Victims of Human Trafficking (KOM). 2017. *Report from the Coordinating Unit for Victims of Human Trafficking 2016*.

72 Jansen, Synnøve Ø. 2014. *Menneskehandel og tvangsarbeid. En forstudie om gråsoneproblematikk innenfor innsatsområdet arbeidsmarkeds kriminalitet*. Politihøgskolen.

73 The Coordinating Unit for Victims of Human Trafficking (KOM). 2017. *Report from the Coordinating Unit for Victims of Human Trafficking (KOM) 2016*.

74 UNODC. 2016. *Global report on trafficking in persons 2016*.

75 Europol. 2017. *SOCTA*.

4. CHILDREN AND HUMAN TRAFFICKING

Trafficking of children is generally considered aggravated human trafficking and is punishable by up to 10 years' imprisonment.⁷⁶ Children are more exposed to trafficking than adults. Asking critical questions, contradicting somebody or disobeying is harder for children than for adults. As long as the victim is under 18 years of age, demonstrating that the perpetrator has influenced the victim through deception, threats or violence is not a requirement.

The realization by the perpetrator of an action such as recruitment or accommodation of the child for the purpose of exploiting it is sufficient. The realization of the exploitation is not a prerequisite to define the situation as THB, which means that transporting a child to Norway for the purpose of exploiting it for begging or to commit theft, may be defined as THB. Recruiting a child in Norway for war service abroad may be defined as THB. Likewise, accommodating a child for the purpose of sexual exploitation or for household chores which are not adapted to the child's age can also be defined as THB. Combating trafficking of children is a key priority. Measures to this effect are particularly highlighted in the Government's action plan against THB.⁷⁷ The Director of Public Prosecutions has pointed out that the organisation of the police and their efforts must be reinforced, especially the investigation of cases involving children. Furthermore, their effort to prevent children from disappearing from reception centres for asylum seekers or child welfare centres must be given priority on a par with other missing persons cases. In these cases, the police must also implement efficient procedures for cooperation with the immigration authorities and the child welfare services.

Common features of relevant criminal actors and their modi

The police have only limited information about the criminal actors involved in the trafficking of children. The information obtained by the police applies to more or less organised actors who exploit children for various purposes.

Various types of relationships are encountered between the perpetrators and their victims, along family lines and based on trust. The information covers organised groups with origins in EU countries, more specifically in Romania and Albania. They are believed to recruit underage girls for prostitution and minor boys for thefts. Very often the perpetrators and their victims are of the same nationality.

Other available information applies to families who may be exploiting the family's minors. These actors are associated with forced services e.g. begging, sexual abuse and prostitution. These families come from Romania and Afghanistan.⁷⁸

The Norwegian police have only limited information on record about individuals who cannot be linked to a particular group or network. They do, however, have information on a few Norwegian nationals associated with possible exploitation of Norwegian minors for sexual purposes.

Some of the actors are multi-criminals combining trafficking of children with other criminal activity. An Albanian network is also linked to aggravated drug-related crime.

⁷⁶ See the PC section 258 in attachment 1. Under Norwegian legislation, persons under the age of 18 are considered children, and are entitled to special protection.

⁷⁷ The Ministry of Justice and Public Security. 2016. *Regjeringens handlingsplan mot menneskehandel*.

⁷⁸ The police are familiar with the old Afghan tradition *bacha bazi* ("dancing boys"), which the Afghanistan Independent Human Rights Commission (AIHRC) defines as human trafficking.

A Romanian group, on the other hand, is linked to begging, theft, and the sale of pills, and a Romanian individual is linked to begging. It is possible that these networks operate in several police districts.

The police also have information indicating that children might be victims of forced services. With respect to forced services, the police possess information about adult Romanian and Lithuanian nationals and exploitation for theft/aggravated theft, forced begging and performances as street musicians.

CASE STUDY – ROMANIAN MAN EXPLOITED VULNERABLE ROMANIAN GIRL FOR PROSTITUTION

In March 2017, Bergen District Court convicted a man from Romania of exploiting a minor girl from Romania for prostitution. He transported her to Norway and arranged for her stay here and kept money she earned from prostitution. The victim was in a situation of vulnerability, as she came from a deprived family and had previously been a victim of THB in her native country.⁸¹ She did not speak Norwegian or have any parents or others to look after her, nor did she have any money or accommodation. The court considered the act aggravated, as the victim had been in a vulnerable situation and was under the age of 18 at the time of the offence.

From January 2016 to August 2017 there are three final and enforceable judgments in which the subjects have been found guilty of child trafficking.⁷⁹ Following the implementation of the ban on THB in 2003 and until 1 July 2017, a total of 46 judgments were pronounced. One of them is not as yet final and enforceable. 14 of these criminal cases involve exploitation of minors.

GRETA has pointed out that there are hardly any cases in which children have been identified as victims of trafficking with a view to begging.⁸⁰

According to Europol, the perpetrators often deliberately target minors, girls and boys alike. They exploit them sexually or for prostitution. In some cases, children are victims of trafficking for the purpose of production of child sexual abuse material meant to be sold on the internet.⁸² Highly exposed children may be affiliated with criminal environments or institutions or come from vulnerable families who are involved in THB. The International Organization for Migration (IOM) also concludes that perpetrators approach and target socially and economically vulnerable families and impose debts on them. For many of these families, their own children are considered a chance to improve living conditions in their home country, and the children's migration is thus deemed an opportunity to safeguard the families' resources in the future.⁸³ The perpetrators may also deceive girls into believing that they are, or will become their girlfriends, or even their wives.

Scope

The police have no exact estimates of the number of trafficked children. It is challenging for the police to measure accurately the actors' scope and profit and the number of victims involved in trafficking of children in Norway.

⁷⁹ The Coordinating Unit for Victims of Human Trafficking (KOM). 2017. *Report from the Coordinating Unit for Victims of Human Trafficking (KOM) 2016*.

⁸⁰ GRETA. *Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Norway. Second evaluation round*. 21 June 2017.

⁸¹ She was one of five victims in a criminal case in Romania in 2015, in which a Romanian man was sentenced to more than 16 years' in prison for trafficking of minors.

⁸² Europol. 2017. *SOCTA*.

⁸³ Irina Tordova. IOM seminar 28. 10.2016, cited at the Pro Centre (a national resource and social service centre for women and men in prostitution). 2017. *Mistanke og magesfølelse. Hjelpeapparatet i Oslo sin kunnskap om enslige mindreåriges erfaringer med salg/bytte av sex*.

In 2016, the Coordinating Unit for Victims of Human Trafficking (KOM) reported 18 possible underage victims of THB. There was an equal split between boys and girls. However, the 18 minors constituted only 7 % of the total number of victims in 2016, whereas minors made up 14 % of the total number in 2015.⁸⁴ In comparison, 50 presumed minor victims of THB in Sweden were recorded in 2016.⁸⁵ According to the research foundation FAFO, in the period from January 2012 to June 2015, a total of 52 had the status *verified victims* of THB, and 87 children were *suspected* of being victims of human trafficking.⁸⁶

GRETA has stressed the need for intensified identification and follow-up of children and their special needs as victims of human trafficking.⁸⁷

According to the UN, children in Western and Southern Europe make up 25 % of the identified victims of THB. Of these, girls made up a majority of the victims, 18 %, whereas boys accounted for 7 %.⁸⁸

Highly vulnerable victims

Children are vulnerable, but some are more exposed to trafficking than others. This may be because they are in environments or situations where they are less protected and receive less support. This is the case for unaccompanied asylum-seeking minors (UAM), unaccompanied children who do not apply

for asylum, children with parents who are victims of THB, or very small children.⁸⁹ The police are not familiar with the modus operandi used by perpetrators to exploit highly vulnerable children. In this chapter, we will briefly focus on three groups of highly vulnerable children about which the police do have some information: UAM, some groups of EU nationals and children living outside Norwegian borders.

Unaccompanied asylum seeking minors (UAM)

An unaccompanied asylum-seeking minor is a person claiming to be under the age of 18 and without any parents or others with parental responsibility at the time he or she applied for protection in Norway. UAM in general, and not least UAM disappearing from reception centres for asylum seekers with unknown whereabouts, are deemed vulnerable to THB.⁹⁰

The police have only scarce information about UAM who may be exposed to THB in Norway.

In 2016, 320 persons applying for protection stated that they were unaccompanied children. From January to September 2017, 161 asylum seekers stated that they were unaccompanied children. This is in stark contrast to the surge in 2015 when 5,300 persons applied for asylum as UAM.

84 In a ten-year perspective, the figures for 2016 were the lowest ever seen by the Coordinating Unit for Victims of Human Trafficking (KOM). In the period 2009–2011 minors accounted for approx 25 % of all presumed identified victims in Norway. However, the proportion has decreased. See the Coordinating Unit for Victims of Human Trafficking (KOM). 2011. *Report from the Coordinating Unit for Victims of Human Trafficking (KOM) 2012*.

85 Se Nationellt metodstödsteam mot prostitution och människohandel (NMT). The figures apply to cases recorded by regional coordinators or picked up through the national helpline in Sweden.

86 FAFO. 2015. *Ikke våre barn. Identifisering og oppfølging av mindreårige ofre for menneskehandel i Norge*.

87 GRETA. 2017. *Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Norway. Second evaluation round*. 21 June 2017.

88 UNODC. 2016. *Global report on trafficking in persons 2016*.

89 Länsstyrelsen Stockholm Rapport 2015:30. Människohandel med barn. Nationell kartläggning 2012–2015 og Michael Moran, Interpol. Human trafficking and child exploitation. Surge in online sex trade of children challenges anti-slavery campaigners. Link as at 23.10.2017: <http://www.reuters.com/article/us-conference-women-cybersextrafficking/surge-in-online-sex-trade-of-children-challenges-anti-slavery-campaigners-idUSKBN13054E>.

90 The Police Immigration Service. 2016. *Forsvunnet. Asylsøkere som forsvinner fra kjente adresser*.

UAM from Afghanistan was the largest group who applied for asylum in Norway in 2015 and 2016. The arrivals of UAM in 2017 are more evenly distributed between the three largest nationalities, viz. Eritrea, Afghanistan and Syria. In total, these nationalities make up 70 % of all persons applying for protection as unaccompanied minors so far in 2017. Boys are overrepresented, and account for 76 % of the arrivals in 2017.⁹¹

As at 30 September 2017, 189 EMA have disappeared from reception centres, and their whereabouts are consequently not known.⁹² In view of the arrivals of UAM so far this year, an additional 28 UAM have disappeared compared to the number of those who have arrived (161).

In the report *Disappeared – asylum seekers who disappear from known addresses* (2017) the National Police Immigration Service assessed the number of asylum seekers who were on record as having disappeared by the end of 2016. According to the report, there was a correlation between, on the one hand, rejected asylum applications and fear of being sent out of Norway and, on the other, disappearances.

Fear of "forced return" is especially relevant for Afghan UAM with a limited residence permit until the age of 18. According to data from the Norwegian Directorate of Immigration, in the group of UAM who had left reception centres for an unknown destination as at 30.09.2017, 85 % were approx 17 years when they disappeared. UAM from Afghanistan make up 90 % of the total.

According to the Immigration Act section 38 first subsection, UAM who have turned 16 at the time of the decision, and for whom there are no other grounds for a residence permit than that the Norwegian authorities hold that they will be deprived of proper care if they are returned, may be granted a leave to stay until they turn 18. This type of limited permits have primarily been granted to UAM from Afghanistan.

It is unlikely that disappearances of UAM from reception centres can be attributed to THB. Nevertheless, it is likely that some of those who decide to leave reception centres, however staying in Norway, may be exposed to crime or recruited to commit criminal acts.⁹³

The police do not know whether the number of UAM who are victims of THB, is growing. It is possible that the number of UAM stating that they have been victims of THB will increase. One explanation is that more people will have their application rejected. Another is that, over time UAM will learn to trust adults in Norway and confide in somebody.

Particularly vulnerable groups of EU nationals

Certain groups of EU nationals appear to be highly vulnerable: children visiting Norway together with adults other than their parents, and children without a fixed abode or with an unknown abode.

91 The Norwegian Directorate of Immigration's statistics, link as at 23.10.2017: <https://www.udi.no/statistikk-og-analyse>.

92 The Norwegian Directorate of Immigration's statistics of 18.10.2017.

93 Europol estimates that 10,000 children have disappeared after arriving in Europe during the migration crisis, and that they may have been exploited for human trafficking, cf. link as at 23.10.2017: <https://www.theguardian.com/world/2016/jan/30/fears-for-missing-child-refugees>. See also the Pro Centre (a national resource and social service centre for women and men in prostitution), 2017. *Mistanke og magesfølelse. Hjelpeapparatet i Oslo sin kunnskap om enslige mindreåriges erfaringer med salg/bytte av sex.*

The police have information about criminal actors linked to trafficking of minor EU nationals. Actors can operate individually or as families, groups or networks. Romanian networks exploit underage children for prostitution in Norwegian cities and towns, and criminal networks from Romania with ties to Norway arrange weddings for underage children in Romania. Furthermore, the police have information indicating that criminal actors from Bulgaria and Lithuania probably recruit, transport, exploit and accommodate children who may be victims of THB.

Children living outside Norwegian borders

There is a possibility that Norwegian nationals traffic, physically and on the internet, children living outside Norwegian borders. In 2016, more attention was given to Norwegian nationals committing serious sexual abuse of children in other countries and THB for the purpose of sexual exploitation.

During the spring of 2016, NCIS filed an indictment against a Norwegian national for having instructed Philippine children to perform sexual acts on themselves and with other children. He also ordered them to film it. Both the facilitators and the children were dependent on the money he paid. The sexual abuse against the Philippine girls and boys, was streamed live online via web cameras, so-called *on-demand*. The Norwegian national was indicted for contribution to THB. Through the abuse of situations of vulnerability or other improper conduct he thus contributed to the exploitation of several persons for sexual purposes. The acts were defined as aggravated human trafficking, in that all victims were under the age of 18.

The Norwegian man was also found guilty of aggravated human trafficking and several sexual offences. The court concluded that he "knew that the underage victims and their families were deprived and therefore depended on the money he paid for the sexual acts" this being "a cynical exploitation of poor children who are dependent on the income generated by the abuse".

Norwegian nationals probably commit sexual abuse against children abroad to a larger extent than previously known, and there is reason to believe that some of the perpetrators are making themselves guilty of THB by purchasing and distributing sexual services from children. The Norwegian police have received information from foreign police authorities indicating that Norwegian nationals are encountered in their investigations.

5. Attachments

The Palermo Protocol

In the Palermo Protocol (2000) article 3 the UN defines human trafficking as follows: **a) trafficking in persons:** the recruitment, transportation, transfer, harbouring or receipt of persons, by means of threat or use 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, for the purpose of exploitation. Exploitation shall include, 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;

b) The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;

c) The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered "trafficking in persons" even if this does not involve any of the means set forth in subparagraph (a) of this article;

d) child: person under eighteen years of age

The UN Sustainable Development Goals

Goal 5. Achieve gender equality and empower all women and girls

5.2 Eliminate all forms of violence against all women and girls in public and private spheres, including trafficking and sexual and other types of exploitation

Goal 8. Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all

8.7 Take immediate and effective measures to eradicate forced labour, end modern slavery and human trafficking and secure the prohibition and elimination of the worst forms of child labour, including recruitment and use of child soldiers, and, by 2025, end child labour in all its forms

Goal 16. Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels

16.2 end abuse, exploitation, trafficking and all forms of violence and torture against children

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