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New tools for businesses to improve commitment to end labour exploitation and trafficking in local labour supply chains

Businesses are under growing scrutiny from consumers, media, civil society, investors and governments to act in an ethical manner. Cases of labour trafficking and exploitation have been increasingly uncovered around the world, as well as in Europe. This affects, in particular, sectors where the use of multiple tiers of subcontracting and local supply chains are common. The costs of being associated with exploitation can be high – loss of clients and customers and long-term effects on reputation, which can lead to operational difficulties and involvement in lengthy investigations and lawsuits. As part of the EU-funded project FLOW, new tools have been developed to enhance companies' awareness of labour exploitation in the European countries and improve their ability to address the risks and put an end to exploitation.

Challenges

Outsourcing of work through subcontracting and the use of temporary workers in overly flexible employment relationships makes it difficult for companies to oversee the working conditions of migrant workers.

Everything may seem legal on paper but in reality, exploited migrant workers might work long hours in poor conditions below national standards, and they have little or no possibility to change their situation.

Victims of exploitation may be reluctant to seek help. Reasons behind this include dependence on the employer, financial difficulties, lack of options, fear of consequences, lack of knowledge of local languages or means of seeking help.

Solutions

A strategic approach in minimising the risk of labour exploitation in local supply chains would effectively deter criminal enterprises from entering the local supply chains and positively contribute to risk management, cost saving, investor and customer relationships and most importantly, safeguard the rights of migrant workers – **Use Risk Assessment Tool & Strategy Tool.**

Understanding the business model of labour exploitation will help to spot emerging problems early. Introducing specific clauses in contracts help to clarify the obligations of contractual partners – **Use Screening Tool & Contract Tool.**

Monitoring contractor's and subcontractor's operations on jobsites through workplace assessments will give more control over subcontractor's activities and provide informal opportunities to migrant workers to disclose their working conditions – **Use Workplace Assessment Tool.**

Labour exploitation is driven by the possibility to make profit on many levels

Businesses profiting from labour exploitation are not restricted to criminal organisations. The use of cheap and flexible migrant labour may lead to risks which must be taken into consideration in all business operations. In recent years there has been a significant intensification of global action against forced labour and trafficking in both global and local supply chains – including increased focus on the responsibility and role of businesses.

Working conditions may vary along a continuum from decent work where everything is in accordance with national legislation and international standards, to severe exploitation and labour trafficking where human and labour rights are seriously violated. In order to prevent labour exploitation and mitigate the risk of becoming involved in such cases, companies need to assess the working conditions under which goods and services are produced for them. The more layers in the supply chains, the more difficult it is to oversee how the subcontractors carry out their business.

Companies may be affected by labour exploitation in multiple ways

Complex employment arrangements de-centralise and diffuse oversight, which increases the risk of overlooking problems in working conditions. Legitimate business structures are often used in cases of labour exploitation and trafficking that include misleading, deceiving, manipulating or forcing victims to engage in various schemes which aim to cut labour costs while imposing the burden of payment of taxes and social contributions to the workers (see FLOW-publication [Shady Business – Uncovering the business model of labour exploitation](#)).

Bogus self-employment, posted worker schemes, cascade sub-contracting and letter-box companies are legal practices that unscrupulous companies commonly use to hide misconducts. Therefore, violations of worker's rights or other criminal activities often go unnoticed by both authorities and the businesses that collaborate with them through, e.g. sub-contracting or procurement of services.

Everything might seem legal on paper but exploited migrant workers, temporary staff and/or posted workers often work long hours in poor conditions and they have little or no possibility to change the situation. Victims of exploitation might also be unaware of their actual situation or reluctant to seek help due to their dependent position in relation to the employer.

What kind of companies should strengthen their role in regulating the labour supply?

The FLOW-project partners have engaged with several proactive businesses across different sectors (e.g. hotel and hospitality, logistics, retail, cleaning and construction) that have an increased desire to address and minimize the risks of trafficking in their operations. In dialogue with these businesses, new hands-on tools and guidance have been prepared to assist companies in dealing with challenges related to the mobility of workers and increasingly complex supply chains. There is a growing need to ensure that all involved parties know their rights and obligations.

The FLOW tools can be used not only by businesses but also by any organisations that use the services of low-skilled migrant workers through outsourcing and subcontracting – including recruitment companies and labour intermediaries – in, e.g., construction, cleaning, agriculture or catering services. This topic also concerns public procurement units working for states, municipalities, and/or state enterprises or NGOs.

Businesses that follow legal and voluntary standards on human and labour rights will prevent negative human rights impacts and enhance their public image.

Responsible businesses are able to increase their competitive position and prevent unfair competition through intervening in unreasonably low salaries or neglected occupational health and safety regulations. Social responsibility measures also improve workforce motivation, leading to increased efficiency at work. Overall these factors will facilitate growth and the recruitment of skilled labour in competitive markets.

The issue of safeguarding workers' rights is even more pressing due to the current global COVID-19 pandemic which will disproportionately affect the most vulnerable members of our societies as more people find themselves in economic hardship and as a result, exploitation becomes easier.



Key standards and legislation that dictate activities regarding social responsibility and human rights

International instruments such as the Universal Declaration of Human Rights and the fundamental conventions of the International Labour Organisation (ILO) obligate States to respect, promote and protect human rights and fundamental freedoms. They also set the basis for the responsibility of businesses to respect human rights. The United Nations (UN) has developed standards for States and businesses that are not legally binding as such, but they provide an authoritative global standard for what is expected of all States and businesses regarding due diligence.

The UN Guiding Principles elaborate how business activities are understood to include relationships with partners, entities in its value chains and any other entity directly linked to its operations, products or services.

The legal liability for businesses to prevent and mitigate human rights abuses is defined by national laws. During the last decade there have been new legal responses by the EU and Member States to corporate social responsibility which include regulations and laws that obligate organisation to implement elements of human rights due diligence and/or report on human rights due diligence processes.

Anti-trafficking legislation has improved significantly in the last decade in Europe. At the European level, anti-trafficking treaties ensure that any legal person (including a company) or legal persons working for them face potential legal liabilities if human trafficking or human rights violations take place anywhere in their business or supply chains. Businesses who want to take an active role in the elimination of labour exploitation and human trafficking need to be aware of both the developments in the legal landscape and the existing risks, as well as the resources available to prevent trafficking in their supply chains.

The next steps for businesses

The first step of due diligence is to pinpoint the areas in which the risks for exploitation are the highest. Especially in this time of the COVID-19 pandemic, companies' values are put to the test. Businesses need to identify and articulate how their core values are linked to human rights due diligence and to the prevention of labour exploitation, both in direct employment practices and when using subcontractors. This means going beyond national legal requirements regarding contractor's liability and determining the obligations of and liability measures for the contractual partners.

In addition to these preventative steps, commitment to address and end labour exploitation and trafficking

requires monitoring of working conditions, training of staff to spot the signs of exploitation, and screening of subcontractors and suppliers. Lastly, clear procedures for all job levels are needed for ensuring a victim-sensitive approach to situations where suspicions arise. Clear company guidelines for dealing with situations where exploitation or trafficking is suspected increase transparency and safeguard workers' rights. Intervening in less serious incidents may be easier for businesses and spotting exploitation early on will effectively reduce the risk of severe exploitation and trafficking. However, it is essential to ensure that intervening will not cause harm to workers.

More information about the five tools developed for businesses can be found on the last page. Download the publications at www.heuni.fi, or from the links below.

Further information

The European Institute for Crime Prevention and Control, affiliated with the United Nations (HEUNI) in cooperation with the Center for the Study of Democracy (CSD) from Bulgaria, the University of Tartu from Estonia and the Ministry of Interior of Latvia have completed a transnational EU-funded project called 'Flows of illicit funds and victims of trafficking: uncovering the complexities' (FLOW). The project was coordinated by HEUNI between the years 2018-2020 and funded the European Union's Internal Security Fund – Police.



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The individual country versions of the English language Toolkit can be accessed from these links: [ENG](#), [LV](#), [EE](#), [BG](#), [FI](#).

[The Normative Framework Guide](#) summarises the existing legal frameworks related to human rights responsibilities with a focus on labour exploitation and trafficking. Appendix 1. in the Normative Framework Guide includes examples of contractual clauses to mitigate labour exploitation and trafficking.



A Toolkit for prevention of labour exploitation and trafficking

Navigating through your supply chain



Risk Assessment Tool

Take the first step of due diligence and pinpoint the areas where the risks of exploitation are the highest. Includes an easy-to-use checklist for mapping risks.



Strategy Tool

Define a clear company strategy on the prevention of exploitation and trafficking, and include it in internal guidelines and corporate policies. Includes nine recommendations for value-driven action.



Screening Tool

Get to know your partners, seek to verify that they act responsibly and are not engaged in abusive or criminal practices. Includes a list of questions for discussions with potential business partner.



Contract Tool

Include permanent clauses in the contracts with subcontractors and other partners that are intended to clarify the obligations and requirements of the contractual partners. Includes four steps for putting policies in writing.



Workplace Assessment Tool

Monitor contractors' and subcontractors' operation through conducting inspections of working conditions on jobsites. Includes guidance for planning and conducting assessment along with a list of questions for discussions with migrant workers to uncover risk factors that make workers vulnerable for exploitation and trafficking.

