

ADSTRINGO

Guidelines to prevent abusive recruitment, exploitative employment and trafficking of migrant workers in the Baltic Sea Region

Anniina Jokinen

HEUNI

Tallinn 24 September 2014

heuni

The European Institute for Crime Prevention and Control, affiliated with the United Nations



With the financial support of the Prevention of and Fight against Crime Programme
European Commission - Directorate-General Home Affairs



REPUBLIC OF LITHUANIA
MINISTRY OF
THE INTERIOR



Ministry of
Gender Equality and
Ecclesiastical Affairs



UNIVERSITY OF TARTU



SI.

Swedish Institute.

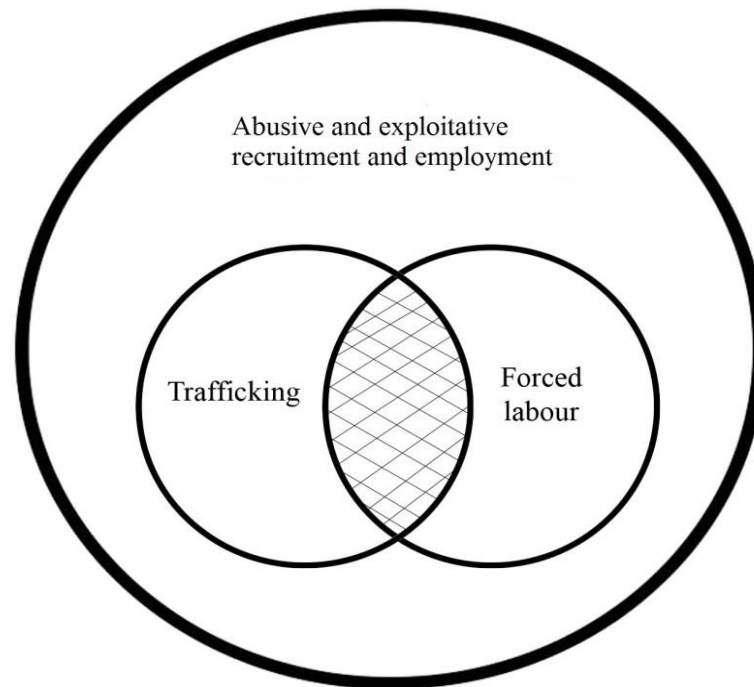
Background: Adstringo-project

- ▶ “ADSTRINGO – Addressing trafficking in human beings for labour exploitation through improved partnerships, enhanced diagnostics and intensified organisational approaches”
- ▶ EU ISEC -funded project (2012-2014) implemented by HEUNI together with Lithuanian Ministry of Interior, University of Tartu and CBSS Task Force against THB who also coordinate a parallel project in Poland and Russia
- ▶ Project activities included:
 - Organisation of national meetings in 11 countries to discuss trafficking and exploitation of migrant workers and to identify problems, gaps and solutions in national contexts
 - Focused research component in Finland, Sweden, Estonia and Lithuania + Poland and Russia
 - Development of guidelines on prevention

Premise

- ▶ Labour trafficking exists in the context of exploitation of migrant labour
- ▶ Exploitation of migrant labour can be seen as a continuum of situations and acts, which range from less severe to more severe forms of exploitation
- ▶ Trafficking for forced labour is the most severe form of exploitation. However, less serious forms of exploitation can create conditions where trafficking for forced labour may take place
- ▶ To be effective, prevention needs to address different forms of labour exploitation (especially violations of labour protection standards), which are more easily detectable and are often precursors to trafficking

Trafficking, forced labour and exploitation



Guidelines on prevention

- ▶ Guidelines to prevent abusive recruitment, exploitative employment and trafficking of migrant workers in the Baltic Sea region were launched in June 2014.
- ▶ The Guidelines address the problems and issues identified in the research component and in national meetings and include a large variety of measures to prevent and address labour exploitation and trafficking
- ▶ As part of development process two international expert meetings were organised to consult main stakeholders from the Baltic Sea region and other European countries: labour inspection authorities, licensing authorities, law enforcement, recruitment and employment agencies representatives, employer associations' representatives, trade union representatives, NGOs, migrant service providers and experts from international organisations

Guidelines on prevention

- ▶ The Guidelines provide a framework that allows national stakeholders to select, develop or strengthen a number of preventative policies to address exploitation that arises in the recruitment and employment of migrant labour in the Baltic Sea region.
- ▶ A specific focus on the role of private employment agencies, and of employers operating in cleaning, restaurants and agriculture.
- ▶ The four main sections are:
 - ▶ Guidelines for States to prevent abusive and exploitative recruitment and employment practices;
 - ▶ Guidelines for businesses: Due diligence to prevent abuse and exploitation
 - ▶ Guidelines for states, business, trade unions and civil society: Joining efforts to protect the rights of migrant workers;
 - ▶ Multidisciplinary cooperation and coordination at international level.

Regulation of labour providers

States should:

- ▶ Regulate labour providers i.e. Private Employment Agencies (PrEAs) and introduce legislation to regulate their activities through the introduction of a system of licensing or registration
- ▶ Introduce legal provisions to ensure that migrant workers are not charged directly or indirectly any fees for recruitment
- ▶ Provide effective and proportional sanctions in order to deter abusive employment. Penalties could range from:
 - Licence/registration revocation,
 - Temporary suspension of agencies' licence/registration,
 - Publication of name and address of the non-compliant agency online,
 - Temporary or permanent ban on business activity,
 - Financial penalties,
 - Ineligibility for participation in tenders for public contracts
 - and/or for access to government-backed loans or subsidies.

Ethical public procurement

- ▶ States' own responsibility in utilising ethical public procurement and recruitment policies in their own supply chains
- ▶ Public contracting authorities could request their contractors' commitment to i.e.:
 - Respect ethical standards of recruitment of migrant workers
 - Have in place an explicit policy commitment to ban exploitation, forced labour and trafficking in human beings
 - Provide evidence of regular payment of workers' wages
 - Show compliance with occupational health and safety, insurances and minimum wage/collective agreement

Businesses and due diligence

- ▶ Businesses should commit to prevent trafficking for forced labour, abuse and exploitation in all their business activity, including in their supply chain. They should:
 - Establish clear recruitment policies and ensure that neither the recruitment agency nor its sub-agents or the labour user charge fees or costs to job-seekers for their recruitment and placement. Such costs or fees shall be the responsibility of the future employer
 - Establish systems to verify, demonstrate and document that costs of recruitment were not recovered, directly or indirectly, from workers through salary deductions, reductions of other benefits or other type of charges or changes in the terms and conditions of work
 - Check user enterprise reputation and ability to pay wages

Businesses and due diligence

- ▶ Businesses should also:
 - Have independent monitoring, verification and certification mechanisms to document compliance and implementation of codes of conduct or self-established ethical standards
 - Establish operational level complaint mechanisms to respond to labour abuses of migrant workers
 - Ensure that the work contract is provided to the worker in written format, in a language that the person understands
 - Ensure that the contract includes information on wage level, payment modalities, working hours, overtime, frequency of rest days, responsibility for occupational health and safety, insurances etc.

Businesses and due diligence

- ▶ Businesses should map out risk of labour exploitation in their supply chain
- ▶ To mitigate risks, businesses should consider limiting their recourse to labour sub-contractors to a minimum of well-trusted and licensed partners
- ▶ Businesses should consider introducing clauses in their contracts with companies in their supply chain that foresee contract termination in case of detection of abusive practices of workers

Protecting the rights of migrant workers

- ▶ Cooperation of States, business, NGO and trade unions is required to protect and promote the rights of migrant workers
- ▶ Migrant workers have right to information on safe and legal migration opportunities in countries of origin and destination
- ▶ States should ensure that migrant workers whose rights and freedoms were violated enjoy equal access to justice and remedy for harms committed against them -> Important to provide legal aid and support services to access remedies, especially compensation
- ▶ NGOs and trade unions often in best position to offer support services

Protecting the rights of migrant workers

- ▶ Trade unions should discuss and agree on the main criteria to extend union protection to migrant workers in irregular situations who are not their members
- ▶ States should encourage and support outreach efforts to prevent exploitation and trafficking, and protect the rights of workers through partnership among government agencies, workers' organizations, employers' associations, faith groups and NGOs
- ▶ States should ensure that civil society assisting irregular migrants is not penalized

Cooperation and coordination

- ▶ Establishing or strengthening national coordination mechanisms promoting public-private partnership
- ▶ Strengthening trade union and NGOs cross-border cooperation
- ▶ Strengthening regional cross-border cooperation among employers' associations, private employment agencies and businesses
- ▶ Establishing multidisciplinary cooperation mechanisms between sending and receiving countries

Conclusions

- ▶ Promoting equality and labour rights for all workers is the most efficient way of improving the general standards of employment, which will also enhance the situation of the most vulnerable workers.

- ▶ Recruitment agencies and businesses have important role in prevention: they should not only declare respect of human rights but also know and demonstrate how they ensure such commitment wherever they operate.

ADSTRINGO

Guidelines to Prevent Abusive Recruitment, Exploitative Employment and Trafficking of Migrant Workers in the Baltic Sea Region

are available at www.heuni.fi

anniina.jokinen@om.fi



With the financial support of the Prevention of and Fight against Crime Programme
European Commission - Directorate-General Home Affairs



Ministry of
Gender Equality and
Ecclesiastical Affairs

