

A PERFORMANCE AUDIT REPORT FROM THE SWEDISH NATIONAL AUDIT OFFICE

TO THE RIKSDAG

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We hereby deliver, in accordance with Section 9 of the Act on Audit of State Activities etc. (2002:1022) the following performance audit report:

Government initiatives to combat labour exploitation

Regulations, inspections, information and support to victims

The Swedish National Audit Office has audited central government measures to combat labour exploitation. The result of the audit is presented in this performance audit report. The report contains conclusions and recommendations referring to the Government and the Swedish Police Authority.

The Auditor General Helena Lindberg made the decision on this matter. Audit Director Yvonne Thorsén presented the report. Audit Director Sara Monaco and Unit Director Katarina Richardson participated in the final processing.

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Copy for information to:

Government Offices; Ministry of Employment and Ministry of Justice
Swedish Work Environment Authority, Swedish Gender Equality Agency, Swedish Migration Agency, Swedish Tax Agency, Swedish Police Authority, Swedish Prosecution Authority.

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Summary and recommendations

The Swedish National Audit Office has audited government initiatives to combat labour exploitation, which is a serious and increasing problem in Sweden. The audit shows that there are major shortcomings, mainly because the Government has not given the government agencies mandate and responsibilities to counteract the problem.

The shortcomings exist in all parts of the system: in regulations, inspections, information and support for victims. It is mainly foreign labour that is affected and involves, for example, working for unreasonably low wages, having very long working days, being in a dangerous work environment or having poor accommodation. Exploitation of labour also entails a consequential risk of eliminating companies that provide good working conditions in sectors where labour exploitation is prevalent.

The government agencies lack knowledge of who is affected

No government agency has an overview of who is affected by labour exploitation or the number of victims. Without knowledge, it is difficult for the Government and government agencies to design initiatives that can counteract the problem. The government agencies do not identify many victims. Also, the statistics on how many victims that receive support by the government agencies are uncertain.

The regulations do not protect against exploitation and few employers are convicted

There are no laws that protect employees from, for example, being accommodated in substandard housing or being indebted to the employer. Furthermore, the government agencies' joint inspections to detect fraud and criminality among employers do not detect whether employees are exposed to exploitation. This is because the agencies do not have the mandate to check working conditions. But it is also because it is unclear which government agency is responsible for acting if they detect potential victims.

When checking work permits, the police meet potential victims of labour exploitation. But they rarely open cases of suspected exploitation during inspections. In addition, few employers are convicted for human trafficking for forced labour when they have exploited labour. There have been only three convictions in the last fifteen years.

It is difficult for foreign workers to obtain information about their rights and help if they are affected

There is no easily accessible information to foreign workers about workers' rights in Sweden. The information available assumes that it is the employee who is seeking information. There is also a lack of information on where to turn for support if you are the victim of labour exploitation.

A temporary residence permit that can be granted to potential victims for them to consider whether they want to participate in a legal process. But in today's system, a preliminary investigation must be initiated for a potential victim to be given a temporary residence permit. When the victims are not allowed to stay in the country without a preliminary investigation having been started, there is a risk that the victim will leave the country. This may be one of the reasons why so few employers are convicted for these crimes.

Recommendations to the Government

- Adopt a comprehensive approach to combat labour exploitation by:
 - giving relevant government agencies a clear remit and mandate to enable them to implement measures against the problem
 - preparing an action plan to concentrate measures and enable follow-up
 - instructing the Swedish Work Environment Authority to coordinate the work.
- Ensure that appropriate agencies prepare:
 - information accessible to all risk groups on workers' rights and obligations. Information is also needed about where and how victims of labour exploitation can get help and support.
 - a support and protection process adapted to victims of labour exploitation.
- Investigate the following areas:
 - how groups at risk of labour exploitation can obtain better opportunities to claim payment of agreed or outstanding wages
 - how requirements concerning standards and costs of accommodation can be imposed on employers when accommodation is offered to an employee as part of the employment contract
 - whether government agencies should supervise working conditions for foreign labour in sectors with an increased risk of labour exploitation.

Recommendation to the Swedish Police Authority

- Ensure that everyone involved in workplace inspections receives training on labour exploitation and that there are procedures for how potential victims should be supported.

1 Introduction

1.1 Reasons for the audit

Every worker has the right to working conditions which respect his or her health, safety and dignity, according to the European Union's Charter of Fundamental Rights.¹ In recent years attention has been drawn to an increasing number of workers working in Sweden under very poor conditions. This may involve work for low or no wages, very long working days, a dangerous working environment or poor living conditions.²

Labour exploitation is a term used to describe such conditions.³ The people who are exposed to labour exploitation have largely migrated to Sweden to work. They may have come to Sweden as labour immigrants from outside the EU/EEA and have a work permit. They may also be posted, i.e. work for a foreign company that performs work for a company in Sweden. They may also be people who work in Sweden even though they lack the right to work or reside here. Some industries that are over-represented when it comes to labour exploitation are construction, cleaning, beauty care, restaurants and car care.⁴

What is labour exploitation?

Labour exploitation means exploiting labour through, for example, very low wages, unreasonably long working hours and a poor working environment. A person who exploits another person for work under clearly unreasonable conditions can be sentenced for trafficking in human beings for forced labour or human exploitation for forced labour or labour under clearly unreasonable conditions under Chapter 4, Sections 1a and b of the Swedish Criminal Code (1962:700).

¹ See Article 31 of the Charter of Fundamental Rights of the European Union, 2010/C 83/02

² Police Authority, *Människohandel för sexuella och andra ändamål Status report 20*, 2019; Torp, *Vi, skuggorna*, 2019; County Administrative Board Stockholm, *Arbetskraftsexploatering och människohandel. Erfarenheter i Sverige och goda exempel från andra länder*, 2017; and Vogiazides, *Människohandel för tvångsarbete och exploatering av arbetskraft i Sverige: Exempel från restaurang och bärbranscherna*, 2014.

³ See for example the Swedish National Council for Crime Prevention, *Arbeta förebyggande mot människohandel för arbetskraftsexploatering och tvångsarbete*, 2017.

⁴ See for example Swedish Work Environment Authority et al., *Status Report 2019. För det myndighetsgemensamma arbetet mot fusk, regelöverträdelse och annan brottslighet i arbetslivet*, 2019.

Several actors have criticised Sweden's work against human trafficking for labour exploitation based on weaknesses when it comes to identifying victims, giving them protection and support, and convicting the perpetrators.⁵

There are several risks of allowing labour exploitation to spread in society. Exploitation is harmful to the victim's health and violates the victim's human rights, but there is also an impact on large parts of the labour market if bad working conditions become a permanent feature. It can lead to elimination of companies that offer good working conditions because they cannot compete with the same low prices. In the car care, restaurant and construction industries, several actors testify that it is becoming increasingly difficult to compete for companies that comply with the regulations and offer good terms of employment as fraud and rule-breaking are widespread.⁶

Labour exploitation, according to many analysts, is a growing problem in society.⁷ Despite this, the public's awareness of labour exploitation and human trafficking is quite low in Sweden compared to other Nordic countries.⁸ At the same time, there are indications that the agencies' efforts cannot effectively counteract the problems. As early as in 2008 the Government Offices proposed an action plan to counteract human trafficking for labour exploitation.⁹ Many of the identified shortcomings remain today and several of the proposed initiatives have not been implemented. This gives the Swedish NAO reason to examine central government efforts to combat labour exploitation.

1.2 Overall audit question and delimitations

The audit answers the question of whether the Government and the responsible agencies work effectively to combat labour exploitation. To answer the overall audit question we pose the following sub-questions:

1. Does the regulatory framework provide conditions for preventing and counteracting the exposure of workers to labour exploitation?

⁵ Council of Europe, *Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Sweden. Second Evaluation Round, GRETA*, 2018, p. 12, 17–18, 46, 52–54; Bill 2016/17:93, consultation response from the County Administrative Board in Stockholm, p. 10.

⁶ See for example Fair Play Bygg, *Fair Play Bygg – Annual Report 2018, 2019*; and the Swedish NAO's questionnaire to the LO affiliated trade unions, April–Maj 2020.

⁷ See for example Government Offices, Ministry of Health and Social Affairs, *Handlingsplan mot prostitution och människohandel*, 2018, p. 9; Police Authority, *Människohandel för sexuella och andra ändamål Status Report 20*, 2019 b, p. 28.

⁸ County Administrative Board, Stockholm, *Arbetskraftsexploatering och människohandel. Erfarenheter i Sverige och goda exempel från andra länder*, 2017, p. 29; Swedish Gender Equality Agency, "Samarbete med länder runt Östersjön mot människohandel", retrieved on 2 October 2020.

⁹ Ministry Publication Series Ds 2008:7.

2. Do the agencies' inspections work to intervene against employers that expose workers to labour exploitation?
3. Is there targeted information to foreign workers about rights and obligations in the Swedish labour market and where to turn if you are exploited?
4. Are there conditions for providing protection and support to those who have been subjected to labour exploitation?

The Government and agencies working effectively against labour exploitation means, in our opinion, that there is a comprehensive system that functions to prevent, control and support victims.

The agencies in focus of the audit are the Swedish Work Environment Authority, the Swedish Gender Equality Agency, the Swedish Migration Agency and the Swedish Police Authority. Other agencies affected, but to a lesser extent, are the Swedish Tax Agency, the Swedish Institute and the Swedish Prosecution Authority. In Chapter 2, we describe the actions of the agencies in the various areas.

There are several other initiatives that have the potential to counteract the exploitation of labour. These initiatives include, among other things, the regulations for labour immigration¹⁰, the Swedish Tax Agency's work to counter tax offences, the Swedish Police Authority's combating organised crime in cooperation with other agencies¹¹, municipal supervision in environmental and health protection, conditions for public procurement etc. However, for reasons of space we have excluded the initiatives mentioned above. International cooperation, at EU level and globally, may also be a way to counteract labour exploitation, but did not either fit within the scope of the audit. We only touch on the legal system's processing of human trafficking offences in general terms.

We only audit central government initiatives against human exploitation and human trafficking aimed at counteracting exploitation of people for labour. Although multiple exploitation occurs, i.e. people who are exploited in work are also exploited in prostitution or begging, we do not audit initiatives that combat other forms of exploitation. The audit is primarily focused on the exploitation of adults. Initiatives aimed specifically at children in human trafficking or human exploitation are thus not included. The years covered by the audit are primarily 2018 and 2019.

¹⁰ See the Swedish NAO's audit of the Swedish labour immigration system: An effective labour immigration system?, 2016.

¹¹ The Swedish NAO has reviewed the largest collaborative project against organised crime in the report Authority-wide actions against organised crime – shortcomings in steering and monitoring, 2019.

1.3 Grounds for assessment

Grounds for assessment are the criteria that the Swedish NAO applies to evaluate our findings. Below we describe the overall grounds for assessment. In each chapter there are grounds for assessment that are linked to each specific question. The audit focuses on the individual's right to good working conditions and protection against being exposed to labour exploitation. The grounds for assessment are therefore based on the regulatory framework that is intended to ensure that workers have decent working conditions and a good working environment and which counteract exploitative working conditions and human trafficking.

Sweden has a far-reaching obligation to counteract labour exploitation based on the commitments regarding the right to good working conditions and a good working environment that exists both at EU level and at national level, as well as in international conventions that the Government has ratified.

The Swedish Government signed the Palermo Protocol in 2000. According to the protocol, the State must prevent human trafficking, punish the perpetrators and protect the victims.¹²

In 2017, the Swedish Government signed the International Labour Organisation's (ILO) Additional Protocol to the Convention (No. 29) on Forced Labour and the Riksdag approved the Protocol in April of the same year. In the Government Bill that preceded the decision, the Government states that Swedish laws and regulations, as well as effective law enforcement and a well-established structure and cooperation between the agencies concerned mean that Sweden lives up to the ILO Protocol's articles on how to counteract forced labour. The Riksdag shared the Government's assessment that Sweden meets the requirements set out in the Protocol.¹³

In the European Convention, there is a ban on slavery or servitude, and on forced labour or other enforced work.¹⁴ The Charter of Fundamental Rights of the European Union also prohibits slavery, human trafficking and forced labour, as well as providing for the right of all workers to fair working conditions.¹⁵ Sweden has signed the Council of Europe Convention on combating human trafficking¹⁶ and the EU Directive on preventing and combating human trafficking has been

¹² Annex II, Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations (UN) Convention against Transnational Organised Crime. New York, 15 November 2000 (the Palermo Convention)

¹³ Govt. Bill 2016/17:93, Committee Report 2016/17:AU12, Riksdag Communication 2016/17:240.

¹⁴ See the annex to the Act on the European Convention for the Protection of Human Rights and Fundamental Freedoms (1994:1219), Article 4

¹⁵ See Articles 5 and 31 of the Charter of Fundamental Rights of the European Union (2010/C 83/02).

¹⁶ Council of Europe Convention on Action against Trafficking in Human Beings (CETS 197) 2005. The Convention entered into force in Sweden on 1 September 2010.

introduced into Swedish law since 2013.¹⁷ The EU Directive states, among other things, that Member States should take the necessary measures to ensure that victims of crime receive help and support before, during and for an appropriate time after criminal proceedings. Member States will also work preventively through information campaigns and training for officials who may come into contact with victims and potential victims.¹⁸

1.4 Method and implementation

We have audited the central government initiatives against labour exploitation through interviews, document studies and questionnaires. We have conducted more than twenty interviews and held meetings with representatives from agencies, the Government Offices, civil society and other actors concerned. We have interviewed regional coordinators in the social services and representatives of the Salvation Army. Through the Salvation Army, we were also able to interview a victim of labour exploitation in Sweden. We have also requested written material and answers to questions from several agencies, including three Swedish missions abroad. We have interviewed and submitted written questions to the Confederation of Swedish Enterprise.

We have conducted two questionnaire surveys. The first questionnaire went out to a total of 26 work environment inspectors identified by the Swedish Work Environment Authority as participating in inter-agency inspections. The response rate was 88 per cent. The questionnaire including responses (excluding free form text) can be found in Appendix 5. The second questionnaire was sent to the 14 national trade unions within the LO collective (see Appendix 6). 12 unions responded to the questionnaire.

We have also read regulations and policy documents such as agency instructions and appropriation directions. We have reviewed a number of inquiries, research reports and other literature in the field. A more detailed description of the method can be found in Annex 2, as well as a summary of the functions we have interviewed.

An overall challenge that concerns everyone who works with this type of question is that the number of unreported cases of people affected is probably very large. It is therefore difficult, not to say impossible, to obtain reliable data and statistics concerning the scope. One challenge in our audit has been to separate out initiatives aimed just at labour exploitation. The statistics, measures and actions of

¹⁷ Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings, protecting its victims and replacing the Council Framework Decision 2002/629/JHA.

¹⁸ Articles 11 and 18 of the Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings, protecting its victims and replacing the Council Framework Decision 2002/629/JHA.

the agencies often cover trafficking and human exploitation for all purposes and are not broken down by type of exploitation.

1.4.1 Implementation

The audit was conducted by a project group consisting of Yvonne Thorsén (project leader) and Sara Monaco. Two reference persons have submitted comments on the audit structure and on a draft performance audit report: Petra Herzfeld Olsson, Professor of Labour Law at the Faculty of Law, Stockholm University, and Lars Korsell, Associate Professor of Criminology and Department Head at the Swedish National Council for Crime Prevention.

Representatives of the Government Offices (Ministry of Justice and Ministry of Employment), the Swedish Work Environment Authority, the Swedish Gender Equality Agency, the Swedish Migration Agency, the Swedish Tax Agency, the Swedish Police Authority and the Swedish Prosecution Authority have been given the opportunity to review facts and otherwise submit comments on a draft performance audit report.

1.5 Arrangement of the report

Chapter 2 goes through the concept of labour exploitation and the agencies' efforts to counteract it. Chapter 3 through Chapter 6 contains empirical observations and findings for each sub-question. In Chapter 7, we draw our conclusions and answer the overall audit question on whether the Government and the responsible agencies are working effectively to counter labour exploitation. The chapter concludes with the Swedish NAO's recommendations to the Government and the relevant agencies. In Appendix 1 there is a table of terms and concepts that may be helpful in reading.

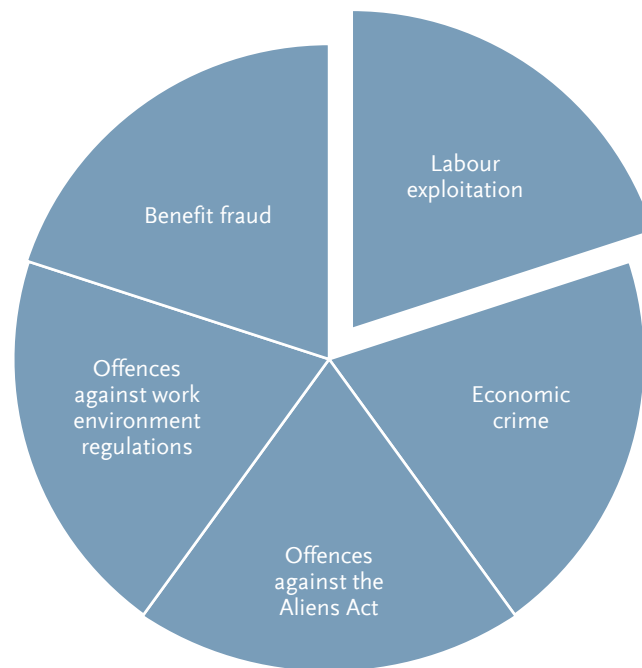
2 The concept of labour exploitation and agencies' initiatives

In the following chapters, we provide a background to the concept of labour exploitation and how it relates to other crime in working life. We also give an overview of which groups have a higher risk of being affected by labour exploitation and the measures the agencies are taking against the problem.

2.1 What is labour exploitation?

Labour exploitation is part of broader criminality that can occur in work life. Figure 1 shows five different types of crime in work life.

Figure 1 Share of labour exploitation in working life crime



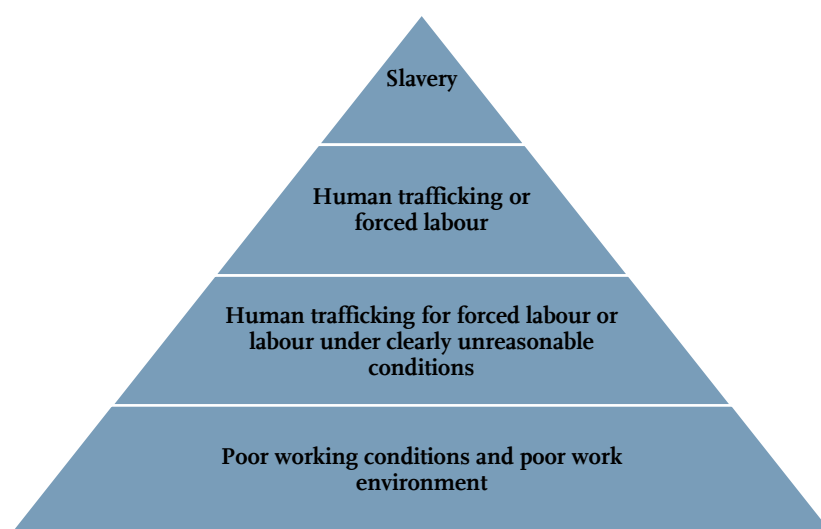
One and the same employer could, for example, engage in economic crime, such as tax fraud, employ workers without a work permit – thereby contravening the Aliens Act – and exploit labour. One contributing factor to the existence of labour exploitation and other types of crime in work life is that there is a market for cheap services. There are initiatives to increase awareness and knowledge about what to

consider when hiring labour as a private individual or in the public sector. However, it is beyond the scope of this audit to examine these initiatives more closely.¹⁹

2.1.1 Labour exploitation has different degrees of severity

Labour exploitation is a collective term that describes that an individual is exploited by an employer and is affected by various types of abuse at the workplace.²⁰ Individual or minor workplace abuses are not classified as labour exploitation, the deficiencies need to be extensive. In the most serious cases, labour exploitation may involve serious exploitation or coercion and be regarded as human trafficking for forced labour, forced labour or even slavery. The triangle below shows a scale of severity of exploitation and use of workers.²¹

Figure 2. Different degrees of labour exploitation



¹⁹ See for example Ds 2008:7, p. 199; Swedish Economic Crime Authority, *Checklista Varningssignaler - Oseriösa aktörer*, March 2020; Swedish Economic Crime Authority, *Risikfaktorer - en vägledning för schysst konkurrens*, year unknown; National Agency for Public Procurement "Arbetsrättsliga villkor", retrieved on 14 October 2020. See also Sorrentino, *Riktlinjer för att förhindra att migrantarbetare i Östersjöregionen utsätts för utnyttjande rekryteringsmetoder, exploatering och människohandel*, 2014; Police Authority, 2019b, p. 77.

²⁰ Here we give only a brief description of what labour exploitation is. For a more detailed description, see Ylinen, *Uncovering labour trafficking Investigation tool for law enforcement and checklist for labour inspectors*, 2020; European Union Agency for Fundamental Rights (FRA), *Severe labour exploitation: Workers moving within or into the European Union States' bond and victims' rights*, 2015; and the European Union Agency for Fundamental Rights (FRA), *Protecting migrant workers from exploitation in the EU: Workers' Perspectives*, 2019.

²¹ The triangle is designed by the Swedish NAO based on Swedish legislation, according to a model in the European Union Agency for Fundamental Rights (FRA), 2015, p. 34.

Since 2004 it has been punishable to use a person through human trafficking for forced labour and in 2018 it became a criminal offence to use people for human exploitation for work or begging.²² Labour exploitation in the audit refers to the top three parts of the triangle. We use these concepts for the initiatives that specifically target human trafficking and human exploitation.

Human trafficking can take place for many different purposes, such as sexual exploitation, begging or criminality. Sometimes the term *human trafficking for all purposes* is used to indicate that all types of human trafficking are covered.²³ In the audit, we only cover human trafficking and human exploitation aimed at using someone for work.

2.2 Where does labour exploitation occur and who are the victims?

Knowledge of labour exploitation is relatively low in Sweden and there is very limited knowledge about who is affected. One reason for this is that no agency is tasked with monitoring how widespread the problem is. The agency that comes closest to ongoing monitoring of developments is the Swedish Police Authority, which has been instructed to act as national rapporteur on issues relating to human trafficking for all purposes.²⁴ The Police Authority reports mainly describe cases that are reported to the police.

The Swedish Gender Equality Agency is financing a two-year collaborative project (Cape) on human trafficking for forced labour run together with the Council of the Baltic Sea States' Task Force against Trafficking in Human Beings. The aim is, among other things, to increase agencies' awareness of the problem and strengthen the competence of relevant agencies.²⁵ A report on why there are few prosecutions and judgments for human trafficking for forced labour and human exploitation has been published within the framework of the project.²⁶

²² See Chapter 4, Section 1 a and b of the Criminal Code (1962:700): The crime of human exploitation is based on Govt. Bill. 2017/18:123, Committee Report 2017/18:JuU32, Riksdag Communication 2017/18:303.

²³ For all purposes refers not only to exploitation for sexual purposes, but also to the removal of organs, military service, forced labour or other activities in a situation that entails distress for the victim. See Chapter 4, Section 1 a of the Criminal Code (1962:700).

²⁴ See Section 8 a of the Ordinance containing Instructions for the Swedish Police Authority (2014:1102).

²⁵ Swedish Gender Equality Agency, "Samarbete med länder runt Östersjön mot människohandel", retrieved on 2 October 2020.

²⁶ Johansson, *Människohandel och människoexploatering på den svenska arbetsmarknaden – en översikt*, 2020.

2.2.1 Industries with an increased risk of working life crime

There is a relatively unanimous view among the agencies as to which industries are risk environments for working life crime, where labour exploitation is one of the forms of criminality. Construction, cleaning, hotels and restaurants, trade, beauty, agriculture and forestry, transportation, car repair, service, staff agencies and personal assistance, as well as health and social care are particularly vulnerable industries.²⁷

2.2.2 There are many risk groups for labour exploitation

The regulations for work permits are complex and there are many different ways to come to Sweden as a labour immigrant. The EU Fundamental Rights Agency (FRA) lists some factors that increase individuals' risk of more serious forms of labour exploitation. The most common is that the person does not know the language spoken in the country, has a short education, lives in poverty in their home country and that the person lacks a work permit.²⁸ In the fact box below, we briefly describe the most important risk groups for labour exploitation. For many risk groups, there is no knowledge of how many people work in Sweden or the conditions under which they work. It is probable that tens of thousands of people belong to groups where there is an increased risk of labour exploitation. The different groups cannot be counted together because one person may belong to several groups, for example both have a work permit and be posted. In Annex 3, we discuss the groups further and refer to the current legislation.

Risk groups for labour exploitation

Labour immigrants from a third country with a work permit

This group includes those who come from outside the EU/EEA and can apply for a work permit through the Migration Agency. In 2019, the Swedish Migration Agency granted nearly 22,000 work permits.²⁹

Asylum seekers exempted from work permit requirement

²⁷ Swedish Work Environment Authority et al., *Status report 2019. För det myndighetsgemensamma arbetet mot fusk, regelöverträdelser och annan brottslighet i arbetslivet*, 2019; Swedish Migration Agency, "Högre krav för arbetstillstånd inom vissa branscher", retrieved on 20 August 2020. For 2019, the Swedish Police Authority assessed that the construction, hotel and restaurant, car repair and other services were risk industries where workplace inspections may be carried out. Swedish Police Authority, *Rapportering till regeringen avseende sanktionsdirektivets för 2019*, 2019 a; email from representatives of the Police Authority, 14 June 2020.

²⁸ European Union Agency for Fundamental Rights (FRA), *Severe labour exploitation: workers moving within or into the European Union States' obligations and victims' rights*, 2015, p. 45.

²⁹ The industries are cleaning, hotels and restaurants, construction, trade, agriculture and forestry, car repair, service, staff agencies and personal assistance. Swedish Migration Agency, "Högre krav för arbetstillstånd inom vissa branscher", retrieved on 20 August 2020.

Asylum seekers may work while the asylum application is processed if they meet certain conditions. In 2019, nearly 12,000 people were asylum seekers exempted from the work permit requirement.³⁰

Third country nationals holding work permits in other EU/EEA countries

A person from a third country who has lived for more than five years in another EU country may have the right to work in Sweden without applying for a work permit. In 2019 2,200 residence permits were granted for this group.³¹ It is also possible to obtain an exemption from the requirement for a work permit for third-country nationals who have lived for a shorter time in the other EU country, if they usually work in that country and are to perform temporary work on behalf of the company in Sweden in connection with a construction contract or similar. If the stay in Sweden is longer than three months, a residence permit is required. It is unknown how many third-country nationals work in Sweden on these grounds.

Workers posted and sent out

The posted worker group consists of persons from the EU/EEA or third countries who temporarily carry out work for operations in Sweden. In 2019, there were around 41,500 people who were registered as posted in Sweden: half of these worked in industries that the Swedish Work Environment Authority considers to have an increased risk of working life crime.³² Posting (utsändning) is a form of temporary employment where the person sent out, if certain conditions are met, is not covered by social security and does not pay social security contributions in Sweden but in the country from which they are sent out. In 2018 nearly 54,000 certificates of posting (utsändning) were issued for foreign workers in Sweden.³³

Vulnerable EU/EES citizens

Citizens from the EU/EEA countries usually do not need a work permit to work in Sweden. Some groups may find it difficult to make a living in Sweden and risk ending up being involved in begging or labour exploitation. A EU/EEA citizen who cannot make a living in Sweden may lose their right to stay here. There is no reliable data on the number of vulnerable EU/EEA citizens living in Sweden.

Irregular labour immigrants

Individuals who work even though they do not have the right to stay or the right to work in Sweden are called irregular labour immigrants. There is no reliable data on the number of people working in Sweden without the right to work or to stay here.

2.3 How many are affected?

It is difficult to know how many people are exposed to labour exploitation because it is concealed. There is no official estimate of the number of victims. Agencies

³⁰ Email from representatives of the Swedish Migration Agency, 10 September 2020.

³¹ Email from the Swedish Migration Agency, 17 November 2020.

³² The industries are construction, cleaning, restaurant, beauty, transport and health and social care. Email from representatives of the Swedish Work Environment Authority, 4 September 2020.

³³ European Commission, *Posting of workers Report on A1 Portable Documents issued in 2018, 2019*.

collect data on the number of identified victims, but it is probably only a very small proportion of the victims who come forward.

2.3.1 Few cases of labour exploitation are known to the authorities and the statistics are inadequate

Various agencies collect data on the number of identified potential victims of labour exploitation. Table 1 shows that relatively few cases of labour exploitation come to the knowledge of the authorities. However, between 2018 and 2019, the number of reported offences for human exploitation for forced labour increased sharply. One explanation for this is that the new legislation on human exploitation was introduced on July 1, 2018 and therefore had only existed for six months in 2018 (see further in 3.4.1).

Table 1. Number of suspected or reported cases of labour exploitation in 2018 and 2019, only persons over the age of 18.

Information provider	Type of statistics	Number in 2018	Number in 2019
National Council for Crime Prevention	Reported offence: human trafficking for forced labour	24	42
National Council for Crime Prevention	Reported offence: human exploitation including aggravated for forced labour or work under unreasonable conditions	3	42
Swedish Migration Agency	Suspicion of unfair exploitation in the labour market	140	179
Swedish Gender Equality Agency	Potential victims of labour exploitation	16	40

Source: Swedish National Council for Crime Prevention (statistical database, retrieved on 20 October 2020), Swedish Migration Agency ("Stadig ökning av anmälningar om människohandel", retrieved on 21 January 2020; "384 rapporterade fall av människohandel 2018", retrieved on 14 January 2019), Swedish Gender Equality Agency (Statistics *Misstänkta fall för människohandel i Sverige 2019, vuxna*; Statistics *Misstänkta fall för människohandel i Sverige 2018 vuxna*).

The Swedish Migration Agency stands out in the table with the most registered cases – in 2019 the agency registered 179 cases of suspected unfair exploitation in the labour market. The Migration Agency's statistics on suspected trafficking also include data on persons who have been exploited in other countries, and for this reason it cannot be used as a data on the number of victims in Sweden.³⁴ The Gender Equality Agency records statistics on persons identified by regional coordinators or through the national telephone support line, and registered as victims or potential victims of human trafficking. However, the statistics are

³⁴ Email from representatives of the Swedish Migration Agency, 14 January 2020.

inadequate as there is no consensus in what is required to register a case.³⁵ In addition, one and the same person can be included in the statistics of several agencies. Consequently, it is not possible to say with certainty how many victims of labour exploitation have been helped by the agencies.

2.3.2 Several actors testify to a large number of unreported cases

Few cases of labour exploitation are known to the authorities, but several official representatives consider that exploitation of foreign labour is common in the Swedish labour market.³⁶

Work Environment Inspectors discover victims fairly often but do not keep statistics

One out of three work environment inspectors working in industries with a higher risk of working life crime often or fairly often discover suspected victims of labour exploitation. The other two-thirds state that on one or a few occasions they have made the same discovery. However, the Swedish Work Environment Authority does not keep statistics on cases where inspectors suspect labour exploitation.³⁷

Trade unions meet victims

Most trade unions within the LO collective believe that labour exploitation occurs within their agreement area. The Swedish Building Workers' Union estimates that labour exploitation in the construction industry is now so extensive that the situation has become almost unsustainable.³⁸ The Swedish Painters' Union, the Transport Workers' Union and the Union of Forestry, Wood and Graphical Workers (GS) also state that labour exploitation is a major problem in all or part of their agreement area. However, some unions experience little or no problems with labour exploitation. These include the Swedish Paperworkers' Union, IF Metall, the Swedish Food Workers' Union and the Musicians' Union.³⁹

2.4 What are the agencies doing?

The Government has not initiated any initiatives that are directly intended to counteract labour exploitation. On the other hand, there are initiatives against human trafficking and human exploitation that partly relate to labour exploitation.

³⁵ Interview with representatives of the Swedish Gender Equality Agency, 2 October 2020.

³⁶ For example, in an interview with representatives of the Tax Agency on 6 March 2020; an interview with representatives of the Gender Equality Agency on 2 October 2020; an interview with representatives of the Police Authority's human trafficking section in Stockholm on 9 January 2020.

³⁷ Swedish NAO's questionnaire to work environment inspectors in inter-agency supervision, April-May 2020.

³⁸ Swedish NAO's questionnaire to the LO affiliated trade unions, April-May 2020. In 2018 the Fair Play Bygg organisation investigated tip-offs relating to an estimated 600–1,100 construction workers who were working in the black economy in Stockholm. The tip-offs were passed on to the authorities. See Fair Play Bygg's annual report for 2019.

³⁹ Swedish NAO's questionnaire to the LO affiliated trade unions, April-May 2020.

There are also initiatives aimed at counteracting working life crime, of which labour exploitation is a part.

The Government’s action plan against prostitution and human trafficking of 2018 presents a number of initiatives divided into eight areas of action, in which strengthened preventive work, legislative measures and stronger protection and support are included. The main focus is on initiatives to counteract prostitution and human trafficking for sexual exploitation. The initiatives specifically related to human trafficking for forced labour include the proposal that human exploitation has been introduced into the Criminal Code and the assignment relating to developing methods for inter-agency inspections to combat fraud, infringement of rules and working life crime.⁴⁰

2.4.1 The agencies’ remit and initiatives to counteract labour exploitation

Three agencies are in the main focus of the audit: the Swedish Work Environment Authority, the Swedish Police Authority and the Swedish Gender Equality Agency. The Swedish Migration Agency is an important agency in counteracting human trafficking, with a remit to contribute to the work against human trafficking and similar crimes.⁴¹ However, since the audit does not cover the regulations for labour immigration, it takes a small part in the report. In the figure below, we summarise the roles of the agencies.

Figure 3 Three central agencies in the work against labour exploitation

Swedish Work Environment Authority	Swedish Police Authority	Swedish Gender Equality Agency
<ul style="list-style-type: none"> • Coordinates method development for inter-agency inspections • Supervises the Work Environment Act and the Working Hours Act • Responsible for matters concerning posting 	<ul style="list-style-type: none"> • National rapporteur on human trafficking • Conducts workplace inspections • Investigates human trafficking and human exploitation cases 	<ul style="list-style-type: none"> • Coordinates work against human trafficking • Co-finances regional coordinators and works against human trafficking • Responsible for the National Task Force Against Prostitution and Human Trafficking (NMT)

Government agencies’ efforts against labour exploitation can be described in somewhat simplified terms as three processes: inspections, information to workers and protection and support for victims. We briefly describe the processes below and the roles of the agencies in each process.

⁴⁰ Government Offices, *Action plan to combat prostitution and trafficking in human beings*, 2018.

⁴¹ See Section 5 of the ordinance containing Instructions for the Swedish Migration Agency (2019:502).

The roles of the agencies in the inter-agency inspections

In the audit we focus on the inter-agency inspections coordinated by the Work Environment Authority. The assignment from the Government states that labour exploitation is part of the problem the inspections are to counteract. In this assignment, eight agencies⁴² are to develop methods for inter-agency inspections to combat fraud, infringement of rules and working life crime in the period 2018–2020.⁴³ The inspections are mainly conducted by the Work Environment Authority, the Tax Agency and the Police Authority. Each agency exercises supervision on the basis of the legislation under which they have supervisory responsibility. So far, SEK 45 million has been allocated for the assignment.⁴⁴

The Work Environment Authority inspects whether employers live up to the requirements of the Work Environment Act (1977:1160) and the Working Hours Act (1982:673). They also check whether employers have reported posted workers to the posting registry.⁴⁵

The Police Authority inspects whether employers have employees who have no work permit or right to stay in the country. The participation of the police is also important for safety reasons so that the other participating agencies are able to control all types of employers.⁴⁶ The Tax Agency inspects cash registers, unclear employment contracts and undeclared revenue. In some industries, there are also requirements to keep staff registers, which the Swedish Tax Agency inspects.⁴⁷

The Swedish Gender Equality Agency contributes method development and training in matters related to human trafficking and human exploitation. They also co-finance and coordinate regional coordinators. Regional coordinators against prostitution and human trafficking, who are employed by the social services, have the role of looking at the victim's perspective during inspections. The regional coordinators can try to contact potential victims of crime and find out if they are exposed to exploitation or human trafficking. However, they rarely participate in inspections due to lack of resources.⁴⁸

⁴² Swedish Public Employment Service, Swedish Work Environment Authority, Swedish Economic Crime Authority, Swedish Social Insurance Agency, Swedish Gender Equality Agency, Swedish Migration Agency, Swedish Police Authority and the Swedish Tax Agency.

⁴³ Govt. Bill 2018/19:1 (expenditure area 14), Committee Report 2018/19:FiU1, Riksdag Communication 2018/19:62 and Government Decision A2017/02422/ARM, A2017/00678/ARM.

⁴⁴ See Government Decision A2017/02422/ARM.

⁴⁵ Interview with representatives of the Swedish Work Environment Authority, 4 September 2020.

⁴⁶ Swedish Work Environment Authority et al., *Status report 2019. För det myndighetsgemensamma arbetet mot fusk, regelöverträdelse och annan brottslighet i arbetslivet*, 2019.

⁴⁷ Swedish Tax Agency, "Vad är en personalliggare?", retrieved 6 October 2020.

⁴⁸ Interviews with regional coordinators Region North, 19 February 2020; Region South, 21 April 2020; Region West, 27 April 2020; Region Stockholm, 13 February 2020.

The Migration Agency primarily inspects work permits and sees whether all the conditions for the permits are met.⁴⁹ They rarely participate at the time of inspection, but follow up cases afterwards. The Public Employment Service can also perform a follow-up check of the employer in cases where there are employees with financial support, such as wage subsidies or new start jobs.⁵⁰ The Swedish Economic Crime Authority provides knowledge and information about economic crime and known risk sectors.⁵¹ The Social Insurance Agency acts on impulses from the other agencies regarding social insurance crime.⁵²

Police workplace inspections and work against human trafficking

We also audit the Swedish Police Authority's workplace inspections that aim to check whether employers have employees without a work permit or lack a residence permit.⁵³ The link to labour exploitation is that the irregular migrants found by the police during their inspections are a risk group for labour exploitation. The Police Authority conducts workplace inspections both in cooperation with other agencies and on its own. The Police Authority is also to work against labour exploitation by giving an account of the extent of human trafficking to, in and through Sweden, and submitting proposals on how to prevent and combat human trafficking.⁵⁴

The work against human trafficking is carried out in different ways in the different police regions. In five out of seven police regions there are special human trafficking groups.⁵⁵ The groups' work includes conducting intelligence work, raids and preliminary investigations regarding human trafficking and human exploitation.⁵⁶ During the raids, regional coordinators may also participate to take care of crime victims.⁵⁷

Information to workers

In the audit, we analyse what information is directed at foreign workers. Since 2017, the Swedish Institute has been tasked with contributing to collection of information on various regulations and other relevant material about the Swedish labour market in a clear and accessible digital format. The information can be found in the web portal *Working in Sweden*, which was relaunched on 1 August

⁴⁹ Email from representatives of the Swedish Migration Agency, 10 September 2020.

⁵⁰ Swedish Work Environment Authority et al., 2019

⁵¹ Swedish Economic Crime Authority, *Annual Report 2019*, p. 59.

⁵² Swedish Social Insurance Agency, *Annual Report 2019*, p. 147.

⁵³ See Chapter 9, Section 14 of the Aliens Act (2005:716). The provision came into force on 1 July 2018.

⁵⁴ See Section 8 a of the Ordinance containing Instructions for the Swedish Police Authority (2014:1102). Since 1998, there has been a national rapporteur for human trafficking in Sweden that is placed at the Swedish Police Authority. The national rapporteur compiles an annual report.

⁵⁵ Telephone interview with representatives of the Police Authority, NOA, 21 August 2020.

⁵⁶ Interview with representatives of the Police Authority's human trafficking section in Stockholm, 9 January 2020.

⁵⁷ Ibid.

2018. The task includes continuing to develop the portal in cooperation with the seven other agencies that share the assignment.⁵⁸ An ongoing inquiry includes deciding whether there is a need for further inter-agency collaboration to assist labour immigrants in all categories.⁵⁹ In addition to the Swedish Institute and the central agencies in the audit, we have also mapped out what information other relevant agencies have that is focused on working conditions in Sweden, see Appendix 7.

Protection and support to victims of human trafficking

The Swedish Gender Equality Agency is to coordinate the work at national level against human trafficking for all purposes, develop collaboration between authorities and other actors, and assist the agencies with methodological support and skills development.⁶⁰ In connection with the establishment of the Gender Equality Agency in 2018, the Agency took over the coordination assignment from the County Administrative Board in Stockholm.⁶¹ The county administrative boards have continued the task of counteracting human trafficking for sexual purposes.⁶²

As part of the coordination assignment the Gender Equality Agency coordinates and co-finances⁶³ the regional coordinators, employees of the social services, who support agencies and municipalities in taking care of individuals who have been subjected to human trafficking or human exploitation. In total there are 11 regional coordinators in 7 regions.⁶⁴ The Swedish Gender Equality Agency will also handle Sweden's contribution to a return programme for people who have been victims of human trafficking, run by the UN International Organisation for Migration (IOM).⁶⁵

The Gender Equality Agency is also responsible for the National Task Force Against Prostitution and Human Trafficking (NMT), which consists of agencies

⁵⁸ Government Decision A2017/01962/ARM, A2017/00185/ARM. The seven agencies are: Swedish Public Employment Service, Swedish Work Environment Authority, the Swedish Social Insurance Agency, the National board of Trade, the Swedish Migration Agency, The Swedish Tax Agency and the Swedish Agency for Economic and Regional Growth.. The Swedish Institute has continued the assignment to develop the website in cooperation with the seven agencies. Government Decision UD2019/04008/FH et al.

⁵⁹ ToR 2020:8. An interim report is to be presented on 1 February 2021 and a final report on 1 November 2021.

⁶⁰ See Section 4 of the ordinance containing Instructions for the Swedish Gender Equality Agency (2017:937). The County Administrative Board held the national assignment on prostitution and human trafficking for sexual purposes between 2008 and 2017.

⁶¹ Government Offices, *Action plan to combat prostitution and trafficking in human beings*, 2018.

⁶² Government Decision Fi2019/04079/SFÖ et al., p. 16.

⁶³ The Swedish Gender Equality Agency finances every regional coordinator with SEK 300,000 per year. Interview with representatives of the Swedish Gender Equality Agency, 2 October 2020.

⁶⁴ Interview with representatives of the Swedish Gender Equality Agency, 2 October 2020.

⁶⁵ Government Offices, *Action plan to combat prostitution and trafficking in human beings*, 2018.

working against prostitution and human trafficking. NMT's aim is to strengthen the work against prostitution and human trafficking throughout the country and to develop and streamline collaboration in the work against human trafficking. NMT provides operational method support to municipalities, agencies and NGOs, organises network meetings and is responsible for a national support telephone line for professionals, which can provide advice or support in cases relating to prostitution and human trafficking⁶⁶

The Swedish Gender Equality Agency's *Manual vid misstanke om människohandel – En stöd- och skyddsprocess för offer för människohandel i Sverige*⁶⁷ (Manual in the event of suspected human trafficking - A support and protection process for victims of human trafficking in Sweden) is Sweden's National Referral Mechanism. This means that it describes the protection and support process that victims of human trafficking have the right to in accordance with the conventions that Sweden has committed itself to. The manual is based on the Social Services Act and describes which actors – agencies and others – who are responsible for the different parts of the process.⁶⁸ In addition to the Gender Equality Agency and the National Task Force it coordinates, the Police Authority, the Migration Agency, the Prosecution Authority and Social Services have explicit roles in the process.⁶⁹ For a summary of the actors who play a role in the support and protection process, see Annex 8.

⁶⁶ Swedish Gender Equality Agency et al., "Nationellt metodstöd mot prostitution och människohandel", retrieved on 18 May 2020.

⁶⁷ Swedish Gender Equality Agency, 2019.

⁶⁸ Interview with representatives of the Swedish Gender Equality Agency, 21 November 2019.

⁶⁹ Swedish Gender Equality Agency, *Manual vid misstanke om människohandel – En stöd och skyddsprocess för offer för människohandel i Sverige*, 2019.

3 Regulations to combat labour exploitation

In this chapter we answer the question of whether the regulations provide good conditions for preventing and counteracting labour exploitation. The first part focuses on the regulatory framework to prevent exploitation and the second on criminal law protection once exploitation has been established. Our main documentation consists of a review of legislation and legislative history and interviews and written questions to authorities.

3.1 Grounds for assessment

We consider that the regulatory framework provides good conditions for protecting workers against labour exploitation if:

- there are appropriate rules that can prevent abuse at workplaces
- there is good criminal law protection in order to prosecute and convict any person who subjects others to labour exploitation.

In the Government Bill that preceded the decision to approve the ILO supplementary protocol on forced labour, the Government describes the role of the State in counteracting forced labour. Through regulations and other policy instruments the State is to ensure good working conditions and create the conditions for the social partners to take responsibility for designing more detailed terms in collective agreements. This applies to everyone who works in Sweden, regardless of where they come from.⁷⁰ The Government Bill also states that all forms of criminal activity in the labour market, including forced labour, is a matter for the judicial system. But the Government also believes that there is a responsibility for ensuring that workers are not exploited in the labour market that is shared by other actors. It is mainly the social partners and the Work Environment Authority, but also the Tax Agency and the Migration Agency that will be able to detect abuse at a workplace.⁷¹

Based on the Government's description, the Swedish NAO's interpretation is that it is important that there is legislation that can prevent labour exploitation from occurring at workplaces. However, when there is exploitation at a workplace, there must be applicable legislation for the perpetrators to be prosecuted.

Groups with a higher risk of labour exploitation have a weak bargaining position against the employer. To enable these groups to have good working conditions, in the opinion of the Swedish NAO, in some cases stronger protection in the regulatory framework may be required than for other groups in the labour market.

⁷⁰ I Govt. Bill 2016/17:93, p. 23–24.

⁷¹ Govt. Bill 2016/17:93, pp. 12 and 17.

According to the Government, the social partners play a role in the work against forced labour. We review how the social partners can follow up on the terms and conditions of employment in Chapter 4.

3.2 Summary of findings

There are major challenges associated with the various parts of the regulatory framework that is to counteract labour exploitation.

- The regulations do not provide adequate protection against abuses that may lead to labour exploitation. This refers primarily to abuses related to wages, housing standards and that employees may fall into debt if they have paid the employer for their work permit. A worker who demands better conditions from their employer also risks expulsion because in some cases the residence permit is conditional on the worker retaining their employment.
- Criminal law protection has been tightened by the introduction in 2018 of a new crime, human exploitation, into the Criminal Code. However, as yet it has only led to one conviction. At present, the risk is almost non-existent of an employer who exploits labour being sentenced for human exploitation or human trafficking.

3.3 Regulations to prevent abuses in working life

In the lower part of the triangle in Figure 2 of chapter 2, the problems at the workplace that form the basis for labour exploitation were shown: poor working conditions and poor working environment. In order to counteract poor work environment and poor working conditions, there is a regulatory framework governing the conditions in the labour market. The regulatory framework combined with supervision can be a way to prevent labour exploitation by not allowing minor abuses to become serious. We investigate whether there are rules that protect the employee from being subjected to the following abuses⁷²:

- low or no wages
- long working hours and too little time off
- poor working environment
- poor accommodation standard
- the worker is put in debt by paying for the employment contract

⁷² There are additional abuses that form part of labour exploitation, for example to be discriminated against, to be denied access to health care, to be subjected to threats and violence, to not be allowed access to social benefits such as health insurance and pension, or to have identity documents confiscated. See for example FRA, 2015 och FRA, 2019 for a description of the abuses that may involve labour exploitation.

We focus on these six abuses because they are referred to both by the legislator and in the testimony of victims of labour exploitation. In addition, we have reviewed the legislation that determines the risk of expulsion for foreign workers. According to the EU Fundamental Rights Agency (FRA), the biggest risk factor for an individual to be subjected to labour exploitation is linked to uncertainty as to whether he or she has the right to stay in the country.⁷³

In particular, we focus on the legislation linked to three of the groups that run a higher risk of labour exploitation: posted workers, third-country nationals with work permits and irregular labour immigrants.⁷⁴

3.3.1 Weak protection for risk groups against low or no wages

There is no statutory minimum wage or agency that supervises that the worker receives reasonable pay in Sweden. Instead, the idea is that the social partners should agree on wages in collective agreements. If the employer has not signed a collective agreement, there is no common regulation of wages at the workplace. In this case, the wage conditions are determined by an agreement between the employer and the employee.⁷⁵

Special rules on wages or income for risks groups provide little protection in practice

For those who are posted there is no special salary level that is automatically valid in Sweden. On 30 July 2020, new rules for posting entered into force. The new rules increase the ability of Swedish employee organisations to make higher demands concerning wages and pay supplements than previously.⁷⁶ The model for posting in Sweden places great importance on the fact that working conditions

⁷³ FRA, *Protecting migrant workers from exploitation in the EU: workers' perspectives*, 2019, p. 67.

⁷⁴ There is special legislation that applies, for example, to those living in their employer's household, see the Domestic Work Act (1970:943), and for seasonal employees in agriculture for example, see Chapter 6 c, Sections 1-3 of the Aliens Act (2005:716). The terms of this separate legislation are not discussed in the chapter for reasons of space.

⁷⁵ The only limitation in terms of the size of wages is the unreasonable contract terms in Chapter 3, Section 36 of the Contracts Act (1915:218). In this situation, collective agreements can play a role if the conditions are unclear. Collective agreements may be of importance if the provisions of the collective agreement are usually applied to the workplace or if it is considered to be the custom in the industry. See Herzfeld Olsson, "Konsten att inkludera arbetskraftsmigranter i den svenska arbetsrättsliga modellen", 2019.

⁷⁶ See Sections 15-17 of the Posting of Workers Act (1999:678). The new rules mean, among other things, that the salary that the Swedish employee organisations may require in collective agreements may be more than a minimum wage. The person posted may also be entitled to compensation for travel, food and accommodation.

should be regulated in collective agreements and that trade unions monitor the agreements.⁷⁷

For *Labour immigrants from third countries* it is required, among other things, that the person is offered wages that are in line with Swedish collective agreements, or what is customary in the occupation or industry in order for the person to be granted a work permit.⁷⁸ Those applying for a permit must also normally work to the extent that the income is at least SEK 13,000 per month before tax.⁷⁹ It is up to the worker who applies for a work permit to prove that the pay is in line with the applicable collective agreements, or what is customary in the occupation or industry.⁸⁰ The wages stated in the offer of employment is not binding for the employer to pay, but is just an offer. It is up to the employee to claim his or her salary, which must be done in civil law proceedings or with the help of a trade union.

For *irregular migrants*, there is legislation giving individuals the right to receive wages for work performed even if they have worked without a permit.⁸¹ The wages or remuneration must correspond to the minimum wage that follows from collective agreements and the remuneration must correspond to three months of full-time work.⁸² Despite the fact that the legislation has existed since 2013, as far as the Swedish NAO has been able to discover, it has never been reviewed in a court. Thus in practice, it does not constitute any protection for those who have worked in Sweden without a work permit.

When the employer does not pay wages

Those who have problems in obtaining their wages should in the first instance turn to their trade union in order to get help in collecting their wages. Those who

⁷⁷ The 2018 posting of workers inquiry states that “the way in which the Posting Directive has been implemented in Sweden means that it is the trade union organisations that by signing collective agreements and supervising compliance with them in practice ensure that posted workers are afforded the rights they should have when they perform work in Sweden”. Swedish Government Official report SOU 2019:25, p. 232.

⁷⁸ See Chapter 6, Section 2 of the Aliens Act (2005:716).

⁷⁹ The employment contract offered must enable the applicant to support himself or herself. For this reason, the gross wages may not, for example, due to part-time work, fall below the national standard threshold that qualifies for income support. The Migration Agency has made the assessment that this subsistence threshold corresponds to SEK 13,000 per month, and the Migration Court of Appeal has established that this interpretation is reasonable and may be accepted. See Chapter 6, Section 2, first paragraph 1-2 of the Aliens Act (2005:716) and MIG 2015:11. Exemptions from the standard amount of 13,000 have been made, see MIG 2018:12.

⁸⁰ See Chapter 6, Section 2 of the Aliens Act (2005:716); Swedish Migration Agency, “Frequently Asked Questions and Answers about Work Permits”, retrieved 26 August 2020.

⁸¹ See the Act on the right to pay and other remuneration for work performed by an alien not entitled to stay in Sweden (2013:644).

⁸² See Section 5 of the the Act on the right to pay and other remuneration for work performed by an alien not entitled to stay in Sweden. This applies unless the worker and the alien show otherwise a contractual condition which, in comparison with the law, is to the disadvantage of the alien is null and void in relation to him or her, see Section 2 of the same Act.

are not union members may themselves bring an action against the employer.⁸³ One possible avenue is also to request an injunction to pay via the Swedish Enforcement Authority against the employer.⁸⁴ However, it may be difficult to pursue this action for a person unfamiliar with how the Swedish labour market works. In order for workers to have good protection against a low or non-existent salary, they must be aware of trade unions and be willing and able to join one. In section 4.6.2, we show the difficulties when it comes to unions' ability to recruit foreign labour.

There is special legislation in the construction industry that aims to make it easier for workers to receive their wages. The legislation means that the employee can receive salary from a main contractor if the subcontractor does not pay its employees' wages.⁸⁵

3.3.2 Strong legislation but limited follow-up of working hours and leave

In Sweden, it is mainly the Working Hours Act (1982:673), the Annual Leave Act (1977:480) and the Parental Leave Act (1995:584) that govern leave. The Working Hours Act regulates questions about working hours and the Swedish Work Environment Authority supervises the Act. In collective agreements, the parties can make exceptions from all or parts of the Working Hours Act⁸⁶ The Swedish Work Environment Authority does not supervise the regulations when the employer is bound by a collective agreement. Since most employers have collective agreements, this means that the Swedish Work Environment Authority rarely reviews how much employees work.⁸⁷

No agency supervises whether employees receive sufficient annual leave, this must be followed up by the parties. The Annual Leave Act regulates issues relating to holiday leave, holiday pay and holiday allowance; some exceptions can be made in collective agreements.⁸⁸ An employer who violates the Annual Leave Act may be liable to pay damages to the employee. Disputes about leave are settled in most cases at the Labour Court if they have not been resolved in negotiation.⁸⁹

⁸³ See Herzfeld Olsson, "Konsten att inkludera arbetskraftsmigranter i den svenska arbetsrättsliga modellen", 2019. Section 4.6 contains more information about this.

⁸⁴ See the Injunction to Pay and Assistance Act (1990:746).

⁸⁵ See the Act on Contractor Liability for Pay Claims (2018:1472).

⁸⁶ See Section 3 of the Working Hours Act (1982:673).

⁸⁷ See Section 20 of the Working Hours Act (1982:673) and interview with representatives of the Work Environment Authority, 4 September 2020.

⁸⁸ Section 2 a of the Annual Leave Act (1977:480).

⁸⁹ See Sections 32–34 of the Annual Leave Act (1977:480).

Special legislation for risk groups

With some exceptions⁹⁰, the Working Hours Act and the Annual Leave Act also apply to *posted workers*. But a Swedish collective agreement can completely or partially replace it.⁹¹ In some cases, the Swedish provisions on parental leave also apply to posted workers.⁹² In the same way as for wages, there is a heavy responsibility for employee organisations to monitor working hours and leave.

For *labour immigrants from third countries* no special rules on working hours apply, but their conditions are regulated by the Working Hours Act and the Annual Leave Act. Since the worker must earn at least SEK 13,000 and be able to live on their salary in order to retain their work permit, he or she needs to work enough for the salary to reach that amount.⁹³ The Migration Agency makes the assessment that it is no longer possible to investigate the issue of leave when reviewing work permit cases, in accordance with a judgment from the Migration Court of Appeal.⁹⁴ For the individual labour immigrant, this means that there is no risk of losing the work permit due to too little leave. But it also means that employers who allow their employees too little leave do not lose the possibility of continuing to hire new labour immigrants.⁹⁵

3.3.3 Strong legislation and extensive follow-up of the work environment

The rules that are to safeguard a good work environment are collected in the Work Environment Act (1977: 1160) and the associated regulations and the requirements apply to everyone who works in Sweden.

In 2019, the Work Environment Authority carried out nearly 30,000 inspections, of which 1,800 as part of the inter-agency supervision, which is specifically directed at companies that may be suspected of involvement in to be engaged in working life crime (see section 4.3).⁹⁶ Most of the rules in the work environment area are

⁹⁰ For some assembly or installation jobs, the rules on annual leave only apply if the posting exceeds eight days. Section 6 of the Posting of Workers Act (1999:678) sets out which provisions of the Annual Leave Act apply to posting.

⁹¹ The Working Hours Act can be entirely replaced by a collective agreement, while the Annual Leave Act applies only to certain provisions (see Section 3 of the Contract Periods Act and Section 2a of the Annual Leave Act).

⁹² Cf. Section 6 of the Posting of Workers Act (1999:678) and Sections 1-8 of the Parental Leave Act (1995:584).

⁹³ See Chapter 6, Section 2 of the Aliens Act (2005:716); Swedish Migration Agency, "Work permit requirements", retrieved on 3 October 2020.

⁹⁴ The judgment referred to by the Migration Agency is MIG 2019:15. The Migration Agency is only able to investigate the issue of leave if there are indications in the case that the applicant will not be able to obtain statutory holiday in the future. However, these indications will rarely be evident as the agency is not able to check the annual leave conditions for previous permits due to the judgment from the Migration Court of Appeal. Email from the Swedish Migration Agency, 5 November 2020.

⁹⁵ Email from representatives of the Swedish Migration Agency, 10 September 2020.

⁹⁶ Swedish Work Environment Authority, *Annual Report for 2019*.

subject to a pecuniary sanction. This means that the Work Environment Authority can order the employer to pay a pecuniary sanction for breach of the regulations. The Administrative Court considers the question of pecuniary sanction if the employer has objections to the order or does not respond to the order.⁹⁷ If a worker is injured or killed at work, the employer may be sentenced for a work environment offence.⁹⁸ A company may also be required to pay a corporate fine.⁹⁹ The highest corporate fine has recently been raised to SEK 500 million.¹⁰⁰ The Government has stated that the increased corporate fine is a way of acting against companies that exploit people and distort competition.¹⁰¹

3.3.4 Weak protection against poor accommodation standards

The agencies sometimes discover that workers live at the workplace or in nearby, substandard buildings.¹⁰² The authorities usually contact the emergency services and the municipality or inform the landlord that there are people living in a building that is not intended for housing.¹⁰³ Those living on the premises are then evicted. This can lead to the worker becoming homeless.

The police sometimes use the Act on Hotel and Guest House Operations (1966:742) to prohibit people from quartering a large number of workers under substandard conditions.¹⁰⁴

There is no legislation that specifically regulates the standard of accommodation the employer should offer, or the amounts they may charge for the accommodation. However, there is more general legislation that can be used to regulate if the employer charges an unreasonably high amount for the accommodation.¹⁰⁵ No agency is responsible for inspecting the living conditions of the employees..

Special legislation for seasonal employees and posted workers

For a seasonal employee within, for example, agriculture or forestry to be granted a work permit, there are detailed requirements concerning the housing standards

⁹⁷ See Chapter 8, Sections 5–8 of the Work Environment Act (1977:1160).

⁹⁸ See Chapter 3, Sections 7-10 of the Criminal Code (1962:700). An employer can be sentenced for a work environment offence for non-compliance with their duty under the Work Environment Act to prevent ill health or accidents, thereby causing someone else's death, bodily injury or illness.

⁹⁹ See Chapter 36, Sections 7-10 of the Criminal Code (1962:700).

¹⁰⁰ CF. Chapter 36, Sections 8 and 9 of the Criminal Code (1962:700).

¹⁰¹ The Government "Unscrupulous companies have no place in the Swedish labour market", 18 December 2019.

¹⁰² For examples, see Annex 9.

¹⁰³ Interview with representatives of the Swedish Work Environment Authority, 28 October 2020.

¹⁰⁴ Telephone interview with representatives of the Border Police, 10 June 2020. The law requires a permit from the Police Authority to run a hotel or guest house business that is intended to simultaneously accommodate at least nine guests or which includes at least five guest rooms. See Section 2 of the Act on Hotel and Guest House Operations (1966:742).

¹⁰⁵ Chapter 12, Section 55 of the Land Code (1970:994) stipulates that the rent must be reasonable.

the employer must offer the seasonal employee.¹⁰⁶ However, there is no follow-up of the standard of accommodation. The Migration Agency can nonetheless initiate an inspection if they receive a tip-off that employees are living in poor conditions. The seasonal employee risks losing the work permit and being deported if it is revealed that the accommodation standard does not comply with the legal requirements.¹⁰⁷ If the employer provided incorrect information on housing conditions, it may be sentenced for false affirmation.¹⁰⁸

Posted workers must be guaranteed the same conditions of accommodation as other workers under the EU Posting of Workers Directive.¹⁰⁹ Since there are no requirements concerning accommodation in Swedish law, responsibility for regulation has been laid on the parties.¹¹⁰ Employee organisations have been given the right to take industrial action against employers who have not entered into collective agreements, including as regards accommodation conditions.¹¹¹ However, requirements concerning standards of accommodation need to be included in the collective agreement in order for this to have any significance for the posted worker's accommodation standard.¹¹²

3.3.5 No prohibition on charging for an employment contract or claiming back wages from a worker

The police state that in several cases foreign workers have paid the employer to offer them work in Sweden. The payment for these work offers or work permits can be made in different ways. Some employees pay a cash sum to the employer, while others have to refund the employer's contribution (for social security) to the employer.¹¹³ Swedish law does not explicitly prohibit an employer from charging for an employment contract.¹¹⁴ The existence of trade in residence permits is

¹⁰⁶ See Chapter 6 c, Section 3 of the Aliens Act (2005:716).

¹⁰⁷ Cf. Chapter 6 c, Section 2 4 of the Aliens Act (2005:716). That poor housing standards can lead to the cancellation of the work permit and the employee's expulsion has been confirmed in an email from representatives of the Migration Agency, 10 September 2020.

¹⁰⁸ An employer who rents out or arranges for accommodation for a seasonal worker must make a solemn declaration concerning the standard of accommodation (Chapter 5 c. Section 5 of the Aliens Ordinance). If the declaration is untrue, the employer can be sentenced under Chapter 15, Section 10 of the Criminal Code (1962:700).

¹⁰⁹ Requirements for accommodation in paragraph h of Article 3(1) Directive (EU) 2018/957 of the European Parliament and of the Council of 28 June 2018 amending Directive 96/71/EC concerning the posting of workers in the framework of the provision of services.

¹¹⁰ See discussion about this in Swedish Government Official Report SOU 2019:25, p. 92.

¹¹¹ See Sections 15-16 of the Posting of Workers Act (1999:678).

¹¹² See Swedish Government Official Report SOU 2019:25, p. 90–92. A description is given there that some employee organisations include requirements concerning accommodation in collective agreements.

¹¹³ Police Authority, *Människohandel för sexuella och andra ändamål Status Report 20*, 2019 b, p. 30.

¹¹⁴ There is a law that prohibits those who conduct employment services from requesting, contracting or receiving compensation from jobseekers in order to offer or assign them work. See Section 6 of the Private Employment Agencies and Temporary Labour Act (1993:440) The Act covers those who conduct employment services and not employers.

described in an ongoing inquiry. The inquiry is to also consider whether further measures should be taken.¹¹⁵

There is also information that employees are forced to repay their wages to their employers on an ongoing basis. In these cases, employers pay a contractual salary to the employee's account but then claim part of it back. In this way, the business looks legal on paper.¹¹⁶ There is no legislation that explicitly prohibits the employer from claiming pay back.¹¹⁷

3.3.6 Risk of refusal of entry or expulsion of those demanding better working conditions

Many who have migrated to Sweden are very unwilling to leave the country due to a difficult economic situation in their home country. The person can therefore accept exploitative working conditions as long as they are allowed to stay in the country.

Risk of refusal of entry or expulsion of irregular labour immigrants and labour immigrants from third countries

Irregular labour immigrants lack the right to stay and work in the country. The likelihood that they will turn to the authorities to seek help is very low because the person is then at risk of refusal of entry or expulsion.¹¹⁸ It is illegal for employers to have employees who have no work permits and it is punishable by fine, special charge or imprisonment.¹¹⁹ It is also illegal for an employee to work in Sweden without a work permit.¹²⁰

Labour immigrants from a third country with a work permit may also avoid seeking help to improve their working conditions because their work permit is tied to an employer for the first two years. A labour immigrant who loses their job has three months to find a new job before the work permit is withdrawn.¹²¹ The Government Official Report SOU 2016:91 assesses that the risk of having your work permit revoked is an important factor that prevents some labour immigrants from reporting abuse and exploitation.¹²²

Labour immigrants' dependence on the employer in order to stay in the country, and the vulnerability it can cause to the individual, has come to the attention of the

¹¹⁵ ToR 2020:8.

¹¹⁶ For examples, see Annex 9.

¹¹⁷ However, there is legislation that regulates how the employer may make deductions from a pay claim or other compensation due to the employment contract (pay claim), see the Employer's Set-off Rights Act (1970:215).

¹¹⁸ See Chapter 8, Section 2 2 of the Aliens Act (2005:716).

¹¹⁹ See Chapter 20, Sections 5, 12-14 of the Aliens Act (2005:716).

¹²⁰ See Chapter 20, Section 3 of the Aliens Act (2005:716).

¹²¹ See Chapter 7, Section 3 of the Aliens Act (2005:716).

Swedish Government Official Report SOU 2016:91.

Government and Riksdag and has recently resulted in inquiries and terms of reference. In February 2018, a memorandum proposed that labour immigrants should not suffer unreasonably due to employers having made minor errors regarding the work permit.¹²³ In an inquiry recently set up, the inquiry chair must consider whether it should become obligatory for employers to report changes in terms of employment for the labour immigrant.¹²⁴ Following a Riksdag announcement, the inquiry chair is also to consider “greater scope to impose a corporate fine on an employer in cases where errors have occurred and that a corporate fine should be able to replace a decision on expulsion of the worker as a sanction”.¹²⁵

3.4 Criminal law protection against labour exploitation

The top three parts of the triangle in Figure 2 of Chapter 2 show the more serious type of labour exploitation. Prohibition of slavery and forced labour is included in the European Convention, which also applies as Swedish law.¹²⁶ Since 2004 it has been punishable to use a person through human trafficking for forced labour and in 2018 it became a criminal offence to use people for human exploitation for work or begging.¹²⁷ The penalties for human trafficking for forced labour and human exploitation are high. The scale of penalties for human trafficking is, for example, imprisonment for at least two and at most ten years.¹²⁸

The offence of human exploitation comprises two forms of labour exploitation; *forced labour* and *work under clearly unreasonable conditions*. The Government Bill that preceded the Act describes the situations referred to in more detail:

¹²³ Ministry Publication Series Ds 2018:7. The inquiry proposes, for example, that a labour immigrant who has had a residence permit cancelled should be entitled to compensation if the cancellation is due to the employer’s mistake. It is further proposed that it should be possible to grant labour immigrants a temporary residence permit in order to conduct a dispute over remuneration against the employer. The inquiry also considered the possibility of imposing sanctions against employers who do not meet the requirements of the Aliens Act concerning working conditions. These proposals had not been implemented at the time of our audit. ToR 2020:8 states that the memorandum’s proposals have not yet “led to legislation but should be taken into account in connection with the considerations on a notification obligation carrying a penal sanction” (p. 15).

¹²⁴ ToR 2020:8, p. 15.

¹²⁵ Committee report 2019/20:SfU25; ToR 2020:69, p. 2.

¹²⁶ See the annex to the Act on the European Convention for the Protection of Human Rights and Fundamental Freedoms (1994:1219), Article 4.

¹²⁷ See Chapter 4, Section 1 a and b of the Criminal Code (1962:700). The crime of human exploitation is based on Govt. Bill. 2017/18:123, Committee Report 2017/18:JuU32, Riksdag Communication 2017/18:303.

¹²⁸ If the offence is deemed to be of ordinary seriousness, the defendant will be sentenced to imprisonment for no more than four years. If the offence is considered gross, the defendant will be sentenced for gross human exploitation to imprisonment for at least two years and at most ten years. Chapter 4, Section 1 b of the Criminal Code (1962:700).

Excerpt from Government Bill 2017/18:123 (p. 60) which forms the basis of the introduction of the offence of human exploitation

Forced labour refers to any work or service that is required of a person under threat of some type of punishment and which he or she has not voluntarily offered to perform (cf. ILO Convention No. 29 on forced or compulsory labour). All kinds of work or services are included, without limitation to employment relationship or legal work. A threat of some kind of punishment may include physical punishment as well as psychological, economic or other forms of punishment. A threat can, for example, refer to physical violence or deprivation of liberty. It may also involve threats of reporting an illegal worker to an authority, or threats of withdrawal of wages in case of refusal to work overtime. The requirement that it is involuntary focuses on limiting a person's freedom of choice. The fact of it being involuntary may either exist from starting to perform the work or arise at a later stage. This means, for example, that measures that prevent a worker from leaving work can also mean that forced labour exists, even if the worker initially voluntarily consented to the employment relationship.

Work under clearly unreasonable conditions refers to work or service under conditions – both actual working conditions and other conditions – which are so poor that in an objective overall assessment of the circumstances in the individual case they differ in a striking and negative manner from what may be considered acceptable in the labour market. There is therefore a high requirement for it to be considered that exploitation for work under clearly unreasonable conditions exists.

An example of exploitation for work under clearly unreasonable conditions could be that a person must work for particularly low wages or for no wages, or for unreasonably long working days. Other examples may be that the employee is exposed to unacceptable safety risks at work or that the employer in connection with the work receives unreasonably high compensation for travel to Sweden or for food or accommodation, which is then deducted from wages earned. However, whether it is a matter of work under clearly unreasonable conditions must always be determined after objective overall assessment of the circumstances in the individual case.

The penal provision concerning human trafficking is worded as follows: “A person who, by unlawful coercion; deception; exploitation of another person's vulnerable situation that severely restricts that person's alternatives; or other such improper means that severely restrict another person's alternatives, recruits, transports, transfers, harbours or receives a person in order for that person to be exploited for sexual purposes, the removal of organs, military service, forced labour or some other activity in a situation that involves distress for that person is guilty of trafficking in human beings”.¹²⁹

It is the purpose of the trafficking (recruitment, transport, transfer or harbouring) that is crucial, no actual exploitation needs to have taken place in order for the offence to be completed. The main difference between the crime of human

¹²⁹ Chapter 4, Section 1 a of the Criminal Code (1962:700):

exploitation and the crime of human trafficking is that human exploitation can be used when no trafficking has occurred or can be proved.¹³⁰

3.4.1 Only three convictions

Since 2004, two cases have resulted in convictions for human trafficking for forced labour.¹³¹ Since the new offence of human exploitation was introduced in 2018, there has been only one case where an employer has been convicted of the offence. This case involved a restaurant owner who was sentenced to eight months in prison for exploiting two employees by misleading them to work long working days for a very low salary over a period of over a month.¹³² Altogether, there is a total of three convictions for human trafficking for forced labour and human exploitation.

The Swedish NAO notes that there is an almost non-existent risk of punishment for an employer who exploits workers. One of the most important risk factors for gross labour exploitation to spread in one country is that there is a low risk of being convicted of human trafficking for forced labour or similar offences, according to the EU Fundamental Rights Agency (FRA).¹³³ Sweden has received repeated criticism for its work on investigating and prosecuting cases of human trafficking. The Council of Europe's expert committee, which follows up Sweden's work against human trafficking, GRETA, highlights in the 2018 report in particular that the judiciary needs to strengthen its ability to investigate and prosecute in cases of human trafficking for labour exploitation.¹³⁴

There are several reasons why there are so few judgments regarding human trafficking and human exploitation, something that several inquiries and reports have discussed. Human trafficking legislation is complicated and often difficult to apply. Police lack of resources and lack of capacity to investigate the offences may also be reasons why more human trafficking offences are not solved. There are also circumstances that mean that victims of human trafficking and human exploitation rarely want to testify. These include threats from the perpetrators and the victims' fear of reprisals, difficulties in proving these threats through other evidence, or that the victims are loyal to the perpetrators.¹³⁵ One report mentions

¹³⁰ Swedish Gender Equality Agency, *Manual vid misstanke om människohandel – En stöd och skyddsprocess för offer för människohandel i Sverige*, 2019, p. 17.

¹³¹ Hudiksvall District Court ruling of 15 June 2012 in case B 2220-11 and the Court of Appeal in Stockholm ruling of 26 February 2010 in case B 9732-09.

¹³² Norrköping District Court ruling of 5 December 2019 in case B 198-19.

¹³³ FRA, *Severe labour exploitation: workers moving within or into the European Union States' obligations and victims' rights*, 2015, p. 44.

¹³⁴ Council of Europe, *Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Sweden. Second Evaluation Round, 2018*, p. 52.

Swedish Government Official report SOU 2016:70, p. 15; Police Authority, *Människohandel för sexuella och andra ändamål* Status report 20, 2019 b, p. 65; interview with representatives of the Police Authority's human trafficking section in Stockholm, 9 January 2020.

that courts in Sweden have set higher requirements for a crime to be classified as human trafficking for forced labour than the legislative history specifies.¹³⁶

3.4.2 Inadequate knowledge among prosecutors may be a contributing factor for few prosecutions

Prosecutors' knowledge of the legislation concerning human trafficking and human exploitation is important in order for a preliminary investigation to lead to prosecution and ultimately convictions. In 2018 and 2019, a total of five prosecutions were filed in this area. In 2018, three human trafficking prosecutions were filed for forced labour, and in 2019 two human exploitation prosecutions were filed.¹³⁷ According to the Police Authority, preliminary investigations are initiated in the majority of human trafficking or human exploitation reports because they are classified as serious offences.¹³⁸ In 2019 there were 40 preliminary investigations about human trafficking for forced labour and human exploitation¹³⁹, but only two of these led to prosecution and one of these cases led to a conviction.

One reason the small number of prosecutions may be lack of knowledge of the legislation among prosecutors. Cases of human trafficking are handled by senior specialist prosecutors at the Swedish Prosecution Authority's national unit against international and organised crime (RIO). On the other hand, cases of human exploitation are usually handled by general public prosecutors' offices, which handle many different types of crime. A representative of the Prosecution Authority states that it would be beneficial if cases of human exploitation were handled exclusively by RIO.¹⁴⁰ Currently, the Public Prosecutor's Office has no special training or course on human trafficking legislation for prosecutors. Nor have there been any training initiatives in response to the introduction of the new legislation on human exploitation.¹⁴¹ In 2019, however, a short training session was held in connection with the development of method support for human trafficking and other related crimes by the Prosecution Authority's development centre. The method support is available to all prosecutors on the Swedish Prosecution Authority intranet.¹⁴²

¹³⁶ Johansson, *Människohandel och människoexploatering på den svenska arbetsmarknaden – en översikt*, 2020, p. 1.

¹³⁷ Email from representatives of the Prosecution Authority 27 August 2020.

¹³⁸ Telephone interview with representatives of the Police Authority, NOA, 21 August 2020.

¹³⁹ Telephone interview with representatives of the Police Authority, NOA, 21 August 2020.

¹⁴⁰ Email from representatives of the Prosecution Authority 11 September 2020.

¹⁴¹ Email from representatives of the Prosecution Authority 11 September 2020.

¹⁴² Email from representatives of the Prosecution Authority 2 November 2020.

4 Inspection of employers

In this chapter, we answer the question of whether the agencies' inspections work to intervene against employers that expose workers to labour exploitation. We audit inter-agency inspections as well as the Police Authority's workplace inspections and their work to combat human trafficking. Here we also examine whether there are conditions for trade unions to examine working conditions at workplaces where there is an increased risk of labour exploitation. Our main documentation consists of interviews with representatives of government agencies and questionnaires to work environment inspectors and LO affiliated trade unions.

4.1 Grounds for assessment

The Swedish NAO considers that the supervisory activities work well to identify and intervene against employers who expose workers to labour exploitation if:

- agencies have a mandate to inspect abuses that may involve various forms of labour exploitation
- agencies can share and compare information among themselves in order to be able to conduct effective intelligence work that leads to the discovery of employers that exploit labour
- agencies have methods for supervision that lead to discovery of abuses at workplaces and identification of victims of labour exploitation
- agency employees who may come into contact with victims of labour exploitation receive training on this issue.

Through supervision, the agencies have the opportunity to detect employers who exploit labour and identify victims of crime. According to the EU Fundamental Rights Agency (FRA), EU Member States must ensure that staff in organisations that come into contact with labour exploitation are aware of the various forms of labour exploitation and are trained to respond appropriately.¹⁴³ The FRA also states that EU Member States are obliged to carry out inspections aimed at identifying cases of labour exploitation to protect victims and punish perpetrators.¹⁴⁴

The Government Bill that preceded approval of the protocol in the ILO Forced Labour Convention the Government stated that it is mainly the Work

¹⁴³ FRA, *Severe labour exploitation: workers moving within or into the European Union States' obligations and victims' rights*, 2015, p. 5.

¹⁴⁴ FRA, *Protecting migrant workers from exploitation in the EU: boosting workplace inspections*, 2018, p. 11.

Environment Authority, employee organisations, the Police Authority and the Tax Agency that can discover abuses at a workplace.¹⁴⁵

The agencies do not have a mandate to inspect the majority of abuses that may involve labour exploitation. Instead, it is the social partners who have a great responsibility through monitoring working conditions and terms of employment at workplaces.¹⁴⁶ We examine how the parties perceive their ability to examine working conditions in the parts of the labour market where labour exploitation occurs.

4.2 Summary of findings

In some respects the agencies have no mandate to tackle labour exploitation. There are also shortcomings in the training of staff and the implementation of the inspections, which are contributing factors to the identification of so few victims of labour exploitation

- The inter-agency inspections have difficulty in getting to grips with labour exploitation. This is because the agencies do not have a mandate to inspect the majority of abuses that may involve labour exploitation. It is also because the regional coordinators, who have the crime victim perspective in the inspections, rarely participate in the inspections. Finally, it is challenging to get the victims to dare to talk to the agencies at the time of inspection.
- There is a lack of crime victim perspective in the police's workplace inspections. Despite obvious risks that individuals encountered by the police have been subjected to labour exploitation, certain border police officers lack training on human trafficking. In addition, border police rarely pass on cases to the groups working against trafficking in the regions.
- Employee organisations consider it difficult to monitor working conditions in industries where exploitation often occurs.

4.3 Inter-agency inspections to combat working life crime

Between 2018 and 2020, eight agencies have been tasked with developing efficient and effective methods for inter-agency inspections to combat working life crime.¹⁴⁷

¹⁴⁵ I Govt. Bill 2016/17:93, p. 24.

¹⁴⁶ See Govt. Bill 2016/17:93, p. 17.

¹⁴⁷ Government Decision A2017/02422/ARM, A2017/00678/ARM.

4.3.1 The appropriation for the assignment is not fully utilised

The Government has allocated SEK 18 million for the years 2018-2020 to distribute between the participating agencies.¹⁴⁸ Of the 18 million, 3 million has gone to the Swedish Work Environment Authority for the work on method development and 3 million to various partner organisations.¹⁴⁹ The remaining SEK 12 million has been paid to the other seven agencies for them to work on method development. However, a large part of the resources has not been spent. Of the SEK 12 million allocated for the assignment, nearly 8 million was paid back in 2018. In 2019, nearly 5 of the 12 million was paid back.¹⁵⁰

The Police Authority has repaid the largest amounts, both in 2018 and 2019. The Authority considers that clearer and more long-term planning is needed in order to be able to use the resources for extra staff for the assignment. In 2018 the money was paid out only in September, which made planning for the Police Authority more difficult.¹⁵¹ The Migration Agency also repaid a large part of the appropriation. The Migration Agency believes that a larger part of the appropriation could have been used if it had been for ongoing operations such as processing, instead of just for method development.¹⁵²

4.3.2 Information sharing problems between agencies impedes the identification of criminal employers

Several representatives of agencies state that it is a major problem that the agencies are restricted by confidentiality in the inter-agency inspections.¹⁵³ Two researchers who have studied the agencies' collaboration state that it is not in carrying out the inspections that problems of confidentiality arise. It is instead in the planning of the inspections and in the follow-up work that confidentiality becomes an obstacle. It is difficult to send information between agencies, and especially to the agencies that do not participate in the inspections themselves.¹⁵⁴ The Government has also highlighted the problems of confidentiality in the inspection assignment. For this reason, the Government Offices set up an inquiry in February 2020, which, among other things, will map and analyse in which situations confidentiality problems come up and what information needs to be

¹⁴⁸ Govt. Bill 2017/18:1 (expenditure area 14).

¹⁴⁹ According to the Ordinance on Government Grants to the Social Partners to promote exchange of knowledge and collaboration with agencies to counteract crime and other regulatory violations in working life (2018:1404)

¹⁵⁰ Email from representatives of the Swedish Work Environment Authority, 18 May 2020.

¹⁵¹ Email from representatives of the Police Authority, 12 June 2020.

¹⁵² Email from representatives of the Swedish Migration Agency, 25 June 2020.

¹⁵³ Interview with representatives of the Tax Agency, 6 March 2020; interview with representatives of the Work Environment Authority, 28 October 2019; telephone interview with representatives of the border police, 26 August 2020.

¹⁵⁴ Vänje, *Slutrapport avseende följeforskningsuppdrag om metodutveckling för myndighetsgemensam kontroll för att motverka fusk, regelöverträdelser och brottslighet i arbetslivet*, 2020, p. 38.

exchanged.¹⁵⁵ The Swedish National Council for Crime Prevention (Brå) has also been tasked with investigating the possibilities of sharing information between different actors in crime prevention.¹⁵⁶

4.3.3 Labour exploitation is not covered in the inspections

The Government's instructions to the agencies describe a problem picture where workers are exploited through precarious working conditions, lower wages, serious violations of workers' rights and reduced protection under labour law and social security legislation. The Government further describes in its instructions that actors who do not follow rules in order to achieve competitive advantages often violate several different regulatory frameworks at the same time. They exemplify that crime can involve, among other things, labour exploitation and human trafficking.¹⁵⁷ The Swedish NAO interprets this to mean that the Government has intended to include labour exploitation in the inter-agency inspection assignment.

Abuses involving labour exploitation are not inspected

Despite the ambition of the Government's inspection assignment, none of the agencies involved are tasked with verifying that workers have good working conditions. This is because working conditions are controlled by the social partners, mainly through collective agreements and not by government agencies, as stated in Chapter 3. Of the abuses listed in section 3.3, it is only poor work environment and to a certain extent long working hours that are covered by the inter-agency inspections. Therefore, there is a high risk that the agencies conduct inspections at workplaces without detecting abuses that are part of labour exploitation, such as workers receiving very low wages, working long days or living in poor conditions.

Several agencies lack a clear remit to combat exploitation

Of the agencies included in the inspection assignment, only the Swedish Gender Equality Agency, the Swedish Police Authority and the Swedish Migration Agency are tasked with contributing to the work against human trafficking and human

¹⁵⁵ Government Offices, Ministry of Employment, A2020/00229/SV and annex to decision.

¹⁵⁶ Government Decision Ju2019/03304/KRIM.

¹⁵⁷ Government Decisions A2017/02422/ARM, A2017/00678/ARM, p. 3.

exploitation.¹⁵⁸ The Work Environment Authority informs the Swedish NAO that they are not tasked with combating labour exploitation.¹⁵⁹ The Government's action plan against prostitution and human trafficking states that the Swedish Work Environment Authority may detect people who are victims of human trafficking within the framework of their inspection activities, and that police and social services should be contacted in such cases. In the action plan, the Government states that it has changed the Swedish Work Environment Authority's instructions, including in order to clarify the Authority's responsibility in the area.¹⁶⁰ The instruction has been changed in that greater focus lies on the Work Environment Authority choosing to inspect employers who *deliberately* violate the regulations.¹⁶¹ The Swedish NAO considers that the Work Environment Authority has not received an explicit mandate from the Government to counteract human trafficking and human exploitation. Nor does it naturally follow from the agency's other supervisory assignments that are limited to following up on the Work Environment Act and related legislation.¹⁶² Nor does the Tax Agency have any explicit mandate to combat human trafficking.

The agencies therefore do not have the mandate and remit to fully address the problem picture that is presented in the assignment on method development for inter-agency inspections.

The inspections can counteract exploitation through the agencies informing workers of their rights

However, inter-agency inspections may be of importance in counteracting labour exploitation if the agencies inform workers of their rights. This can counteract exploitation if the workers themselves seek help from a trade union, for example.

the agencies may also detect other types of crime, such as violations of tax legislation, among the employers who exploit labour. If this happens, employers

¹⁵⁸ The Migration Agency is to contribute to the work against human trafficking and similar offences under Section 5, 4 of the ordinance containing instructions for the Swedish Migration Agency (2019:502). Under the Ordinance containing instructions for the Swedish Police Authority (2014:1102) the Police Authority has the task of providing information to the Government (Section 8 a) and as national rapporteur on matters concerning human trafficking (Annex 7). According to Section 4 of the Ordinance containing instructions for the Swedish Gender Equality Agency (2017:9379), the Agency is to promote the development of preventive measures against human trafficking for all purposes and at national level to coordinate the work against human trafficking for all purposes, develop collaboration between agencies and other actors, as well as with international actors, and assist the agencies with methodological support and skills development.

¹⁵⁹ Email from representatives for the Work Environment Authority, 5 March 2020; interview with representatives of the Work Environment Authority, 4 September 2020.

¹⁶⁰ Government Offices, *Action plan to combat prostitution and trafficking in human beings*, 2018, p. 13–14.

¹⁶¹ Section 2 of the ordinance containing instructions for the Swedish Work Environment Authority (2007:913).

¹⁶² Section 2 of the ordinance containing instructions for the Swedish Work Environment Authority (2007:913).

who exploit labour may be punished, even if it concerns crime other than the actual exploitation of labour. However, there is a risk that exploited workers will end up in a worse situation after an inspection focusing on crime other than exploitation of labour.¹⁶³ Employees may, for example, be more controlled by the employer or dismissed after an inspection if the employer suspects that workers have contributed to the detection of crime.¹⁶⁴

One way to counteract labour exploitation is if the agencies identify potential victims of human trafficking or human exploitation at the inspections. We investigate whether this work is effective in the following section.

4.3.4 It is difficult to identify victims of labour exploitation during inspections

There are few victims of exploitation that are taken care of after being discovered at inter-agency inspections according to the regional coordinators we interviewed.¹⁶⁵ This is also confirmed by the fact that there are few identified victims of labour exploitation in the statistics of the Gender Equality Agency.¹⁶⁶ Four out of ten work environment inspectors who take part in inter-agency inspections assess that the agencies participating in the inspections have fairly poor prospects of identifying and taking care of potential victims of crime.¹⁶⁷

There are several reasons why few victims of crime are identified at the inspections. One reason is that regional coordinators, who are to have the role of identifying victims, seldom participate in inspections.¹⁶⁸ This is because they are few in number and have a very broad remit.¹⁶⁹ Once the regional coordinators are actually present at the inspections, they find it difficult to get employees to dare or want to come forward and talk to authorities at the time of inspection.¹⁷⁰ One reason for this is that it is difficult for those who are victims of exploitation to know the role of the various official representatives. More inspections would be

¹⁶³ This is discussed in FRA, *Protecting migrant workers from exploitation in the EU: boosting workplace inspections*, 2018, p. 24.

¹⁶⁴ Ibid, pp. 22 and 24.

¹⁶⁵ Interviews with regional coordinators Region Central, 19 February 2020; Region West, 27 April 2020; Region North, 17 April 2020; Region South, 21 April 2020.

¹⁶⁶ See section 2.3.1. In Sweden, unlike many other countries, there is no designated actor who has the function of formally identifying victims or giving a person formal status as a victim of human trafficking in the country. Swedish Gender Equality Agency, *Manual vid misstanke om människohandel – En stöd och skyddsprocess för offer för människohandel i Sverige*, 2019, p. 13.

¹⁶⁷ Swedish NAO's questionnaire to work environment inspectors in inter-agency supervision, April-May 2020.

¹⁶⁸ Swedish NAO's questionnaire to work environment inspectors in inter-agency supervision, April-May 2020; interviews with regional coordinators Region West, 27 April 2020; Region North, 17 February 2020; Region South 21 April 2020.

¹⁶⁹ Interviews with regional coordinators Region West, 27 April 2020; Region North, 17 April 2020; Region South, 21 April 2020.

¹⁷⁰ Interviews with regional coordinators Region North, 17 April 2020; Region South, 21 April 2020.

needed to identify victims of labour exploitation and greater opportunities for the agencies to make follow-up visits and talk to the staff.¹⁷¹

4.4 Police inspections and raids

In addition to participation in inter-agency supervision, the Police conduct several types of inspections and operations that can help to counteract labour exploitation. In 2018, the Police Authority was tasked with strengthening its capacity to combat human trafficking throughout the country.¹⁷²

4.4.1 The human trafficking work of the Police benefits from tip-offs from other agencies

The police's work against human trafficking is the part of the agency's work that is most clearly focused on identifying victims of labour exploitation. The human trafficking section in Stockholm states that they receive many cases from the Migration Agency. It is unusual for them to receive cases from the Swedish Work Environment Authority or other agencies such as the Swedish Tax Agency. Cases can also be initiated by the Police's surveillance activities or after tip-offs from the public.¹⁷³

The human trafficking section in Stockholm states that they prefer to receive tip-offs from other agencies so that they can build up a case based on information provided by the agencies. There is a risk of cases being dropped if there is too little information to go on for the leader of the preliminary investigation. The best prospects of investigating a case of human trafficking is if they can get the injured parties to participate. However, the Police Authority says that they cannot be dependent on the injured parties' accounts because a major challenge is that victims often do not want to participate in the legal process. It would require more investigative resources for the police if more agencies submitted human trafficking cases.¹⁷⁴

There is also ongoing international police work against human trafficking.¹⁷⁵ As part of this work, the police sometimes carry out targeted operations against labour exploitation together with other agencies. In September 2020, inter-agency inspections were carried out, which were part of an EU-wide operation. In that

¹⁷¹ Interview with regional coordinators Region Central 19 February 2020.

¹⁷² Government Decision Ju2017/09598/LP (delvis), Ju2007/01154/Å, Ju2016/07818/PO et al.

¹⁷³ Interview with representatives of the Police Authority's human trafficking section in Stockholm, 9 January 2020.

¹⁷⁴ Interview with representatives of the Police Authority's human trafficking section in Stockholm, 9 January 2020.

¹⁷⁵ This is done within the European police organisation Europol and the European multidisciplinary platform against criminal threats (EMPACT). Police Authority, *Människohandel för sexuella och andra ändamål Status Report 20*, 2019 b, p. 59.

operation five potential victims of human trafficking were identified.¹⁷⁶ The operations are conducted in the same way as other workplace inspections¹⁷⁷, as described below.

4.4.2 Limited focus on victims of crime at police workplace inspections

Since 2018, the Police Authority has been given increased powers to conduct inspections at workplaces without there being a suspicion of crime.¹⁷⁸ On the basis of this assignment, the police carry out their own workplace inspections, in addition to participating in the inter-agency inspections described above. At the Police's own workplace inspections, which are usually carried out by the border police, the main focus is to find out if there are employers who have employees who have no work or residence permit.¹⁷⁹

The police are not able to go into a workplace to look for potential victims of labour exploitation, without there being a suspicion of crime.¹⁸⁰ On the other hand, police officers carrying out a workplace inspection should act if they discover other crimes, in addition to violations of the Aliens Act.¹⁸¹ There may be a conflict of interest in this as a person can be illegally in the country and at the same time be a victim of crime who needs protection.¹⁸² The EU Directive, which forms the basis for Swedish legislation, states that a person who is discovered working illegally during an inspection shall be able to file a complaint against his or her employer at or after an inspection. This means that there must be mechanisms at the inspections where the worker can be helped, for example, to claim unpaid wages.¹⁸³

The interviewed police officers working with workplace inspections say that it is unusual for them to identify victims of human trafficking or human exploitation during a workplace inspection. They rarely hand over cases to the human trafficking section in the region. According to border police, this is due, among other things, to the fact that the workers they discover do not indicate that they

¹⁷⁶ Police Authority "Nationell insats visar flera fall av arbetslivskriminalitet", retrieved on 29 September 2020.

¹⁷⁷ According to an email from representatives of the Police Authority Region South, 5 October 2020, no workplace inspections are made in any other way than as usual, even if they are part of EMPACT.

¹⁷⁸ See Chapter 9, Section 14 of the Aliens Act (2005:716). The provision came into force on 1 July 2018.

¹⁷⁹ Interview with representatives of the Police Authority, 22 October 2020.

¹⁸⁰ Telephone interview with representatives of the Police Authority, NOA, 21 August 2020.

¹⁸¹ Interview with representatives of the Police Authority, Noa, border police section, 3 March 2020.

¹⁸² Ibid. In a statement, the Parliamentary Ombudsmen emphasise "the importance of the Police Authority keeping the data separate and that the police involved are aware of the regulations under which they act and the scope for coercive measures that exists." Parliamentary Ombudsmen, *Decision: Uttalanden om Polismyndighetens åtgärder vid en arbetsplatskontroll*, 2019, p. 1.

¹⁸³ Directive 2009/52/EC of the European Parliament and of the Council of 18 June 2009 providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals.

have been subjected to a crime. Even if they work under bad conditions in Sweden, it is better than the alternative in their home country. During the inspections, the focus is on violations of the Aliens Act and not on examining whether a person is subjected to labour exploitation. . It happens that people are refused entry on the same day as the police discover workers without the right to stay in the country.¹⁸⁴

The immediate refusals of entry pose a significant risk that potential victims found at a workplace are not identified as such. The police themselves have noted that the border police do not take into account potential human trafficking in refusal of entry cases, especially in sexual exploitation.¹⁸⁵ As described in 3.3.1, the legislation intended to enable irregular labour immigrants to receive outstanding wages is not used either. The legislative history of the legislation does not indicate how the law is intended to work in practice and how the victims are to find out about the right to receive outstanding wages.¹⁸⁶

The Police Authority is preparing a handbook for the border police on how to identify victims of human trafficking. The handbook is to contain information on how victims of human trafficking can be identified and how they should be taken care of at an inspection.¹⁸⁷

4.5 Training agency employees who may come into contact with victims

GRETA has criticised Sweden for deficiencies in the training of agency employees who may come into contact with victims of human trafficking, including work environment inspectors. In a 2018 report, GRETA urges Swedish agencies to immediately ensure that relevant agency employees receive appropriate training on human trafficking.¹⁸⁸

There are many actors who need training in human trafficking issues, including municipal social services and environmental and health inspectors. The Swedish Gender Equality Agency conducts training within the framework of the national task force against prostitution and human trafficking (NMT) and the inter-agency inspection assignment, including for the Swedish Police Authority, the Swedish Work Environment Authority, values-based organisations and companies. The Gender Equality Agency has produced training in the form of a video recording that work environment inspectors and possibly other agency employees in the

¹⁸⁴ Telephone interviews with representatives of the Police Authority, border police in three regions: Stockholm, 10 June 2020; West, 24 June 2020; South, 26 August 2020.

¹⁸⁵ Police Authority, *Människohandel för sexuella och andra ändamål Status Report 20*, 2019 b, p. 90.

¹⁸⁶ See Swedish Government Official Report SOU 2010:63 and Govt. Bill 2012/13:125.

¹⁸⁷ Interview with representatives of the Police Authority, NOA, 11 February 2020.

¹⁸⁸ Council of Europe, *Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Sweden. Second Evaluation Round, 2018*, p. 51.

inter-agency inspection assignment can use.¹⁸⁹ However, the Gender Equality Agency has few employees who work with labour exploitation and it is therefore of great importance that the agencies themselves have training initiatives for their employees.¹⁹⁰

The Migration Agency's staff training has increased the number of reported cases

Many human trafficking cases come to the police from the Migration Agency. One reason for this is that the agency has trained many of its employees in how to identify cases of human trafficking.¹⁹¹ The Migration Agency has a procedure with methodological support for how employees should proceed when they suspect human trafficking and a web-based basic training on human trafficking that all employees have access to.¹⁹² The Migration Agency also trains the staff at Swedish embassies abroad. The embassy staff may be asked by the Migration Agency to conduct interviews with people applying for a work permit. In the interviews, a special form is used with the possibility of adding questions if there is suspicion that the applicant risks being exploited at work.^{193 194}

Good access to training at the Police Authority but not all concerned take part

The Police Authority offers all employees an interactive training on human trafficking for different purposes. The training is available on the authority's intranet and conveys, among other things, knowledge about how human trafficking can be detected and investigated. The Police Authority also has a longer training programme in human trafficking for preliminary investigation leaders, border police and analysts, among others.¹⁹⁵ There is also a basic training for border controllers, i.e. civilian employees who check travel documents at border

¹⁸⁹ Email from representatives of the Swedish Gender Equality Agency, 9 November 2020.

¹⁹⁰ Two people work on labour exploitation at the Gender Equality Agency corresponding to a half-time position. Email from representatives of the Swedish Gender Equality Agency, 9 November 2020.

¹⁹¹ This applies above all to human trafficking for sexual purposes, see Police Authority, *Människohandel för sexuella och andra ändamål Status report 20*, 2019 b, p. 10. The increase is also assumed to be due to a nominally larger number of asylum seekers in autumn 2015. Government Offices, *Action plan to combat prostitution and trafficking in human beings*, 2018, p. 13.

¹⁹² The procedure states that the Police Authority should be contacted in case of suspicion of crime. With the victim's consent, regional coordinators must also be contacted. Whenever there is suspicion of crime, an internal report is prepared in the authority's case management system. The reports are sent on a continuous basis to the Migration Agency's own regional coordinators against human trafficking. Swedish Migration Agency, *Metodstöd vid misstanke om människohandel*, 30 October 2019; Swedish Migration Agency, *Rutinbeskrivning vid misstänkt människohandel*, 30 October 2019; email from representatives of the Migration Agency, 14 January 2020 and 10 September 2020.

¹⁹³ The Swedish Embassy in Moscow conducted approximately 3–4 interviews in 2019 (of a total of more than 900 applications for work permits). The Embassy in Hanoi conducted approximately ten interviews in the same period (out of more than 600 applications for work permits). Email from representatives of the Swedish Embassy in Moscow, 15 July 2020; email from representatives of the Swedish Embassy in Hanoi, 20 August 2020 and 28 August 2020.

¹⁹⁴ Email from representatives of the Swedish Migration Agency, 14 January 2020

¹⁹⁵ Police Authority, *Människohandel för sexuella och andra ändamål Status Report 20*, 2019 b, p. 53.

controls.¹⁹⁶ However, there is no regular training of border police who work with workplace inspections. If training on human trafficking is given seems partly to depend on whether there are police officers involved in the issue in the region.¹⁹⁷

Work environment inspectors are trained but some feel uncertain about how to handle suspected human trafficking

In recent years, the Work Environment Authority has started training in human trafficking, and the plan is for all work environment inspectors to receive training.¹⁹⁸ The majority (86 per cent) of the approximately 25 inspectors who carry out inter-agency inspections have received some training. One third of those who have completed the training state that they feel very confident about how to act if they meet someone they suspect is subjected to human exploitation or human trafficking. Others respond that to some extent they feel confident about how to handle such situations.¹⁹⁹ Thus there seems to be scope to strengthen the inspectors' knowledge so that more of them feel confident about how to act if they suspect that someone is being exploited.

A few employees of the Swedish Tax Agency have received training

The Swedish Tax Agency believes that labour exploitation occurs primarily where there is undeclared work²⁰⁰, which means that the Agency's case officers have good chances of detecting labour exploitation. However, at present they do not pass on the information when they are out on their own inspections with reference to confidentiality. In the long term, the Swedish Tax Agency hopes that relaxation of confidentiality will allow the agency to pass on information to the responsible agency. A few employees have participated in the Gender Equality Agency's training on human trafficking and human exploitation²⁰¹

4.6 Ability of the parties to monitor working conditions

The main way for the social partners to monitor employment and working conditions at workplaces is by signing collective agreements and checking that the terms of the agreements are followed.²⁰² For this to be fully effective, two

¹⁹⁶ Interview with representatives of the Police Authority, NOA, border police section, 3 March 2020.

¹⁹⁷ Telephone interviews with representatives of the Police Authority, border police in three regions: Stockholm, 10 June 2020; West, 24 June 2020; South, 26 August 2020.

¹⁹⁸ Email from representatives of the Work Environment Authority, 28 October 2020; interview with representatives of the Work Environment Authority, 4 September 2020.

Swedish NAO's questionnaire to environment inspectors in inter-agency supervision, April-May 2020.

²⁰⁰ See Section 6 of the Ordinance with instructions for the Swedish Tax Agency (2017:154) One of the Swedish Tax Agency's tasks is to combat economic crime and that includes combating undeclared labour.

²⁰¹ Interview with representatives of the Tax Agency, 1 October 2020; email from representatives of the Tax Agency, 1 October 2020 and 3 November 2020.

²⁰² See for example. LO (Swedish Trade Union Confederation), *Utländska arbetstagare på svensk arbetsmarknad – en handbok*, 2019, and Herzfeld Olsson, "Konsten att inkludera arbetskraftsmigranter i den svenska arbetsrättsliga modellen", 2019.

conditions must be met: the employer must be bound by a collective agreement and the worker must be a member of the trade union that concludes the agreement.²⁰³ The social partners also have special assignments from the State that can help to counteract labour exploitation. These assignments are discussed in Annex 4.²⁰⁴

4.6.1 Easy to sign collective agreements but difficult to monitor compliance

Some of the workers who are at an increased risk of labour exploitation work for foreign employers. Trade unions consistently state that it is quite easy to sign collective agreements with foreign employers because that is often a requirement for getting contracts in the Swedish market.²⁰⁵ However, it can be difficult to follow up on compliance with the agreements. Trade unions usually have the opportunity to take action, such as blockade or strike, against employers who do not sign collective agreements.²⁰⁶ However, it is very rare for trade unions to take action against foreign companies. It has happened only once in the past decade.²⁰⁷

There are cases of companies with collective agreements for their employees that also have other employees who are not covered by the agreement. An employee is covered by the collective agreement at a workplace regardless of whether they are a member of the trade union that signs the agreement or not.²⁰⁸ If an employer has a collective agreement for some employees, but not all of them are covered, the trade union may use the Employment (Co-determination in the Workplace) Act (1976:580) (MBL) to claim damages for breach of contract.²⁰⁹

A way for trade unions to promote better working conditions is to go through larger companies that commission services. Often there is a main contractor who orders services from an employment agency or contractor where there may be a

²⁰³ See for example Herzfeld Olsson, 2019.

²⁰⁴ The assignments are: obtaining statements of opinion on cases concerning work permits, Government grants to the social partners to combat crime and other infringements of rules in working life and Government grants to regional safety representatives.

²⁰⁵ Swedish NAO's questionnaire to the LO affiliated trade unions, April-May 2020.

²⁰⁶ A basic provision on the right of the social partners to take trade union action is contained in Chapter 2, Article 14 of the Instrument of Government. This right may be restricted by law or agreement. Sections 41-45 of the Employment (Co-determination in the Workplace) Act (1976:580) contains rules that restrict the right to take industrial action. Industrial action is also regulated in Sections 23-29 of the Public Employment Act (1994:260) and in the Act on Protection from Eviction in the Event of Labour Disputes (1936:320).

²⁰⁷ National Mediation Office Annual Report for 2019, p. 46.

²⁰⁸ This follows from case law, see for example the Labour Court judgment of 15 December 2010 in case A 257/09, p. 19 under the heading *Arbetsdomstolen gör följande bedömning*.

²⁰⁹ If the collective agreement is not applied to unorganised workers, a breach of contract against the employee organisation arises and general damages may be paid to the organisation pursuant to Section 55 of MBL.

risk of labour exploitation. In these cases, the trade union at the main supplier can check and impose requirements on the subcontractor via MBL.²¹⁰

The Swedish NAO has asked the Confederation of Swedish Enterprise about the challenges they see when it comes to the parties' abilities to monitor employment and working conditions at workplaces to counteract labour exploitation. The Confederation of Swedish Enterprise states that those who work at a workplace without collective agreements are outside the control of the parties. They therefore argue that the social partners cannot take on the role of inspecting all workplaces.²¹¹

4.6.2 Difficult to recruit foreign workers as members

Most trade unions within the LO collective carry out outreach activities aimed at workplaces with foreign labour.²¹² There is also a special *Trade Union Centre for Undocumented Migrant Workers*.²¹³ In general, however, the trade unions consider it difficult to recruit members among foreign workers. They present various reasons for the difficulties. One factor is that workers stay temporarily in the country and may find it unnecessarily expensive to become members for the short time they are in Sweden. Another factor is language. Most trade unions provide written information in a variety of languages. The Union for Service and Communication Employees (Seko) highlights, among other things, that there are great gaps in knowledge about what trade unions are, why they exist and how they work. Therefore, there is fear and suspicion that trade unions want to make it difficult for foreign workers. According to the trade unions, some employers also threaten employees and forbid them to join unions.²¹⁴

Workers who work in a workplace without a collective agreement and who are not members of a trade union have low protection against poor working conditions. Workers who do not have union support must ensure that they have their rights adjudicated in court. In a dispute with the employer, they can use a legal representative. To a certain extent, the worker may have their legal expenses paid by the State through the Legal Aid Act (1996:619).²¹⁵ However, foreign citizens require special reasons to receive this help.²¹⁶ In practice, it can be difficult for a

²¹⁰ LO, *Utländska arbetstagare på svensk arbetsmarknad – en handbok*, 2019. Cf Sections 11–12 and 38–40 of the Employment (Co-determination in the Workplace) Act (1976:580).

²¹¹ Email from representatives of the Confederation of Swedish Enterprise, 11 November 2020.

²¹² Swedish NAO's questionnaire to the LO affiliated trade unions, April-May 2020.

²¹³ Trade Union Centre for Undocumented Migrant Workers, "Välkommen till Fackligt Center För Papperslösa", retrieved on 12 June 2020.

²¹⁴ Swedish NAO's questionnaire to the LO affiliated trade unions, April-May 2020.

²¹⁵ Legal aid can be granted to persons with an annual income less than SEK 260,000, see Sections 6 and 30, and as a general rule for a maximum of 100 hours of legal aid, see Section 15 of the Legal Aid Act (1996:1619).

²¹⁶ See Section 12 of the Legal Aid Act (1996:1619).

foreign worker who lacks knowledge of the Swedish system to orient themselves in how to get help.

Getting foreign workers to join a trade union in Sweden seems to be the biggest obstacle for the parties to be able to monitor the working conditions for workers at risk of labour exploitation. Signing collective agreements with employers seems to be a minor problem, but if few or none of the employer's employees are members of a trade union it may be difficult to monitor compliance with the conditions.

5 Information to workers

In this chapter, we answer the question of whether there is targeted information to workers about rights and obligations in the Swedish labour market and where to turn if you are exploited. To answer the question we have reviewed the information provided by the agencies on their websites. We have also submitted supplementary written questions to the relevant agencies.

5.1 Grounds for assessment

The Swedish NAO considers that there is targeted information to workers if:

- the information on conditions in the Swedish labour market to foreign workers is easily accessible and adapted to the target group
- the information includes both rights and obligations
- information can be found on where to turn and how to get help if a worker does not get the conditions promised or is otherwise exploited in the framework of the employment

The Government Bill *2014 Protocol and recommendation to the ILO Forced Labour Convention* emphasises that foreign workers, employers and self-employed persons need to easily "be able to find comprehensive information about the various regulations that apply to those working in or wanting to send workers to Sweden. Comprehensive information can also be helpful for Swedish employers who hire or intend to hire foreign labour. Comprehensive information from various agencies also makes it easier for foreign workers to know and assert their rights."²¹⁷ The Riksdag and the Government emphasise the importance of providing information on what demands an employee can make regarding reasonable working conditions, so as in this way to counteract abuse of the rules for labour immigration. In a Committee Report the Swedish Migration Agency is pointed out as the actor best suited to this.²¹⁸

The ILO Forced Labour Convention and associated protocols emphasises the importance of educating and informing with a focus on people considered to be particularly vulnerable. This also applies to employers to prevent them from becoming involved in business practices that include forced labour or compulsory labour.²¹⁹

²¹⁷ Govt. Bill 2016/17:93, pp. 17-18, Committee Report 2016/17:AU12, Riksdag Communication 2016/17:240.

²¹⁸ Committee report 2013/14:SfU19, p. 7–8.

²¹⁹ Article 2 of the Protocol of 2014 to the ILO Forced Labour Convention (no 29).

5.2 Summary of findings

The information about working conditions in Sweden is difficult for vulnerable workers to assimilate and lacks substantial information about rights. Our most important observations are as follows:

- The Swedish Institutes's website *Working in Sweden* does not have vulnerable workers as a target group and the website is not being developed
- None of the agencies we have audited have easily accessible information about the rights you have as a foreign worker in Sweden. There is also a lack of information on where to turn for support if you are the victim of labour exploitation.
- The Swedish Migration Agency's information sheet in connection with the application for a work permit in many cases is only available in Swedish and English. Nor does it contain any information about foreign workers' rights in Sweden.

5.3 Agencies that provide information about the Swedish labour market

As early as 2008, the inter-ministry working group against human trafficking for labour exploitation, organ trafficking etc. identified a need to provide easy-to-read information about the rights a worker has, and where to turn with questions and if problems arise. The need for a national helpline was also raised²²⁰, but that did not appear in the Government's action plan.

In 2014, the Government identified the Swedish Migration Agency as an appropriate authority to produce and provide information material about the conditions for labour immigration. The Government also proposed that the Swedish Migration Agency, in consultation with the Ministry for Foreign Affairs, produce information material that the missions abroad could provide to prospective job seekers.²²¹ The Government's action plan against prostitution and human trafficking of 2018 states that an information folder should be produced with information on where to turn if you are the victim of human trafficking. According to the Government, it should be designed so that it is also easily accessible for children and be made available at embassies in digital and physical form.²²² However, it is not clear who is responsible for producing the folder. Our

²²⁰ Ds 2008:7, p. 193–194, 208–209.

²²¹ Govt. Bill 2013/14:227, p. 24, Committee Report 2013/14:SfU19, Riksdag Communication 2013/14:338.

²²² Government Offices, *Action plan to combat prostitution and trafficking in human beings*, 2018, p. 30.

audit shows that no authority has yet produced such an information folder. The Swedish NAO finds it remarkable that such information is still not available to the workers who are at the greatest risk of being exploited.

5.3.1 It is difficult to obtain an overview of the information for foreign workers

As previously stated (see 2.5.5), the Swedish Institute has the task of running the web portal *Working in Sweden*. However, the Swedish Institute believes that it lacks sufficient resources to develop the web portal, and since 2018 the agency has made only minor adjustments. When it comes to workers' rights, *Working in Sweden* refers to the websites of different agencies, and to the trade unions.²²³ According to the Swedish Institute, there is also uncertainty about continued financing of *Working in Sweden*, in relation to other parallel information assignments.²²⁴

In addition to the Swedish Institute, a number of other agencies provide information about the conditions that apply to workers and employers in Sweden. Several of the agencies have information in a variety of languages in addition to Swedish and English. It is not entirely easy to navigate the websites of the various agencies. Many agencies link to each other's websites, but sometimes the link is to the respective agency's welcome page, or the agency's information in Swedish. In addition to written information on their websites, some agencies provide telephone numbers to call when you have questions.²²⁵ The Swedish NAO has no information about the extent to which these telephone numbers are used or the types of questions that predominate. Annex 7 contains a survey of a number of agency websites.

5.3.2 The agencies' information on workers' rights is inadequate

The Swedish NAO notes that no agency provides easily accessible information on where to turn if the employer does not fulfil their parts of the agreement. The information available also assumes that it is the worker who is actively seeking information. For groups that are at an increased risk of labour exploitation, for example those with short education, the Swedish NAO considers that the agencies need to be active to reach out with the information.

²²³ Email from representatives for the Swedish Institute, 17 August 2020.

²²⁴ Among other things, collaboration with the Swedish Agency for Digital Management (DIGG) on a single digital gateway based on the new EU Regulation on a Single Digital Gateway (the SDG Regulation). Swedish Institute, *Annual Report 2019*, p. 14.

²²⁵ For example, the Swedish Work Environment Authority and the Swedish Migration Agency.

The Swedish Work Environment Authority has targeted information to vulnerable groups

The Swedish Work Environment Authority's website contains targeted information for different groups, such as berry pickers, restaurant workers, forest workers and construction workers. It states that you should contact your manager, or alternatively the safety representative and union representatives, if there are deficiencies in the work environment that can lead to illness and injuries. There are also brochures with only pictures, without text. However, the link only works from the Swedish page. There is no link from the English page to the picture brochures.²²⁶ It is also possible to leave anonymous tips by phone or email if you as a worker want to report a workplace for abuses in the work environment.²²⁷ The Swedish Work Environment Authority provides a lot of information regarding posting in accordance with its remit, but has no information on whether the target group is reached. However, the Authority's impression is that it primarily reaches the employers who are serious.²²⁸

The Swedish Migration Agency's information focuses on requirements for work permits

The Migration Agency's information to people granted a work permit, or residence permit for seasonal work²²⁹, describes the requirements for work permits, what is required for extensions and what happens if the employment ends. The information is given in Swedish and English and does not differ depending on industry, occupation, citizenship, length of stay, etc. However, there is no information about working conditions, laws and regulations in general in Sweden. Nor is there any information about workers' rights or where to turn if they are victims of exploitation.²³⁰

According to the Swedish Migration Agency, it is generally difficult to reach out with information to the target groups concerned.²³¹ Civil society and regional coordinators testify that their clients have inadequate knowledge about the

²²⁶ Swedish Work Environment Authority, "Foreign workers in Sweden", retrieved on 20 April 2020.

²²⁷ Swedish Work Environment Authority, "Tips or make an employee report", retrieved on 27 September 2020. The most common questions in 2019 concerned the design of the workplace, the Work Environment Act, building and civil engineering work, chemical and hygienic threshold values, systematic work environment management. Swedish Work Environment Authority, Annual Report 2019, p. 32.

²²⁸ Interview with representatives of the Swedish Work Environment Authority, 28 October 2020.

²²⁹ Work permit pursuant to Chapter 6, Section 2 of the Aliens Act (2005:716) or residence permit for seasonal work pursuant to Chapter 6 c, Section 1 of the Aliens Act (2005:716).

²³⁰ Email from representatives of the Swedish Migration Agency, 29 April 2020, Swedish Migration Agency, "Work permit for employees and citizens of non-EU countries", retrieved 30 April 2020.

²³¹ Interview with representatives of the Swedish Migration Agency, 24 October 2019; email from representatives of the Swedish Migration Agency, 29 April 2020.

conditions of the Swedish labour market.²³² A work permit for third-country nationals can be granted without the Swedish Migration Agency or the mission abroad having met the applicant. However, the applicant must visit the mission abroad or the Swedish Migration Agency (in Sweden) to submit biometrics for the residence permit card. Representatives of the Embassy in Moscow perceive that most people seeking work permits who have questions related to leaving biometrics prefer to receive oral information and want the opportunity to ask questions.²³³ Those who visit the embassy in Hanoi very rarely have questions about Swedish conditions, according to representatives of the embassy. For more general questions, the embassy refers, among other things, to the Swedish Migration Agency's website, the embassy's website and visitsweden.com²³⁴

No agency has information targeting victims of labour exploitation

The Migration Agency has information that targets guardians concerning human trafficking. There are links to the Police Authority, Victim Support Sweden, BRIS (Children's Rights in Society), the National Task Force against Prostitution and Human Trafficking (NMT) and the Platform Swedish Civil Society Against Human Trafficking.²³⁵

The Police Authority has information that targets victims of human trafficking or those who suspect human trafficking. However, the information is only available in Swedish and is primarily focused on those who have been exposed to physical injuries and crimes relating to sexual acts. The telephone number indicated is the Police's usual tip-off line 114 14.²³⁶ The police's human trafficking section in Stockholm highlights the problem with the fact that there is not always anyone on that line with experience and expertise specifically about human trafficking.²³⁷

²³² Interview with representatives of the Salvation Army's trafficking centre Safe Havens, 11 November 2019; interview with a woman who had been exploited when working at a nail salon, 12 February 2020; interviews with regional coordinators Region Stockholm, 13 February 2020; Region North, 9 February 2020; Region South, 21 April 2020.

²³³ Email from representatives of the Swedish Embassy in Moscow, 15 July 2020.

²³⁴ Email from representatives of the Swedish Embassy in Hanoi, 20 August 2020.

²³⁵ Swedish Migration Agency, "Människohandel", retrieved 30 April 2020; Swedish Migration Agency, *Människohandel - Information till dig som är god man för ensamkommande barn*, year unknown.

²³⁶ Police Authority, "Människohandel – utsatt", retrieved on 13 September 2020.

²³⁷ Interview with representatives of the Police Authority's human trafficking section in Stockholm, 9 January 2020.

6 Protection and support for victims

In this chapter we answer the question of whether there are conditions for providing protection and support to those who have been subjected to labour exploitation. We have analysed statistics and existing regulations regarding the protection and support process. We have also interviewed the relevant authorities, the social services regional coordinators and the Salvation Army, who meet victims.

6.1 Grounds for assessment

By providing protection and support to workers who have been exploited, the likelihood increases that the victims will report the employer for various crimes linked to labour exploitation.²³⁸ The Swedish NAO considers that there are conditions for providing protection and support to those who have been subjected to labour exploitation if:

- there is access to targeted legal aid, social support and shelter for potential victims
- there are known procedures for returning to the home country for victims of labour exploitation.

According to the ILO Protocol of 2014 to the Forced Labour Convention, the countries must meet the needs of all victims, both of direct help as well as long-term recovery and rehabilitation. This applies regardless of their legal status in the state.²³⁹ All persons who can be presumed to be victims of human trafficking must have their rights met, regardless of whether criminal proceedings have been initiated or not. This includes providing a reflection and recovery period to enable the person concerned to make an informed decision relating to protective measures and participation in legal proceedings.²⁴⁰ During the period, the person is entitled to stay in the country when there are reasonable grounds to assume that the person is a victim of forced or compulsory labour. It also includes providing a temporary or permanent residence permit and access to the labour market and facilitation of safe and preferably voluntary repatriation.²⁴¹ The Preliminary

²³⁸ The importance of protection and support to workers is mentioned for example in FRA, *Severe labour exploitation: workers moving within or into the European Union States' obligations and victims' rights*, 2015.

²³⁹ Article 3 of the Protocol of 2014 to the ILO Forced Labour Convention (no 29); Govt. Bill 2016/17:93, p. 8, 25–29, Committee Report 2016/17:AU12, Riksdag Communication 016/17:240.

²⁴⁰ Council Directive 2004/81/EC of 29 April 2004 on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities

²⁴¹ Govt. Bill 2016/17:93, annex 2, *Skydd*, point 11, Committee Report. 2016/17:AU12, Riksdag Communication 2016/17:240.

Investigations Ordinance states that the police must carry out an individual protection assessment to determine whether there is a need for protective measures for the crime victim.²⁴²

6.2 Summary of findings

Protection and support to workers who have been exploited increases the likelihood that the victims will report the employer for various crimes linked to labour exploitation. Our most important observations are as follows:

- The support and protection process for victims of human trafficking focus on victims of sexual exploitation.
- Victims of labour exploitation can be difficult to identify, for example because they often do not see themselves as victims of crime or do not want to make themselves known to the authorities. For this reason, it is important that victims of labour exploitation can be granted a reflection period to consider whether they want to participate in a legal process. There is no data on how many victims of labour exploitation have been granted temporary residence permits.
- In Sweden, only leaders of preliminary investigations, i.e. police or prosecutors, can apply for a reflection period. The requirements that a preliminary investigation must have been initiated may be an obstacle to increasing the number of legal proceedings concerning labour exploitation.
- Procedures for repatriation to the home country exist but are very rarely used. No victims of labour exploitation participated in the 2019 repatriation programme and only one person participated in 2018.

6.3 The system of protection and support offered to victims of labour exploitation

Victims of human trafficking have the opportunity to receive comprehensive support in accordance with the protection and support process described in the Swedish Gender Equality Agency's Equality Authority's manual in the event of suspected human trafficking (see section 2.4.1). One of the most important actors in this process is the social services regional coordinators. They are to assist vulnerable persons and ensure that victims of crime receive the protection and support they are entitled to under the Social Services Act (2001:453).²⁴³ The regional coordinators also coordinate support efforts between social services, the

²⁴² See Section 13 f of the Preliminary Investigations Ordinance (1947:948).

²⁴³ See Chapter 2, Section 1 and Chapter 5, Section 11 of the Social Services Act (2001:453).

Migration Agency, health care, the police and various forms of accommodation.²⁴⁴ Victims of crime should, among other things, receive help and support with physical, mental and social recovery. The support measures must include at least a standard of living that includes safe housing as well as psychological and material assistance, access to emergency medical care, translation and interpretation, advice and information on legal rights, assistance in criminal proceedings and access to education for children.²⁴⁵

6.3.1 Few applications for temporary residence permits

A prerequisite for victims of crime to have access to the support and protection process is that they are granted a temporary residence permit. This applies to both third country nationals and the EU/EEA nationals who have no right of residence. The purpose of the residence permits is to enable victims of crime to participate in criminal cases. Through a decision on a temporary residence permit, the cost responsibility for the person giving evidence is transferred from the municipality or region to the Migration Agency.²⁴⁶ If the case is dropped, the prosecutor may withdraw the temporary residence permit. This means that the person loses victim status and in practice it leads to the cessation of support from the social services.²⁴⁷

There are two types of temporary residence permits: 30 days (reflection period) and at least six months (also called consideration period²⁴⁸). Applicable to both is that a preliminary investigation must have been initiated and thus grounds to assume that an offence has been committed. It is the preliminary investigation leader at the police or prosecutor's office that applies for the temporary residence permits from the Migration Agency.²⁴⁹

Reflection period – temporary residence permit for 30 days

“If the alien wants a reflection period so as to recover and be able to take a decision on whether he or she wants to cooperate with the investigating authorities, on application

²⁴⁴ Swedish Gender Equality Agency, *Manual vid misstanke om människohandel – En stöd och skyddsprocess för offer för människohandel i Sverige*, 2019, p. 20.

²⁴⁵ Swedish Gender Equality Agency, *Manual vid misstanke om människohandel – En stöd och skyddsprocess för offer för människohandel i Sverige*, 2019, p. 18.

²⁴⁶ Swedish Gender Equality Agency, *Manual vid misstanke om människohandel – En stöd och skyddsprocess för offer för människohandel i Sverige*, 2019, p. 42–43.

²⁴⁷ There is nothing that formally prevents the social services from continuing to provide assistance, but it is difficult to justify because the person does not have a residence permit. In such cases, an emergency assessment can be applied, which usually involves a ticket home to the country the individual comes from. Interviews with regional coordinators Region North, 17 February 2020; Region Stockholm, 13 February 2020; email from representatives of the Swedish Gender Equality Agency, 9 November 2020. Cf Chapter 5, Section 11 of the Social Services Act (2001:453).

²⁴⁸ Swedish Migration Agency, *Annual Report 2019*, p. 43

²⁴⁹ Swedish Gender Equality Agency, *Manual vid misstanke om människohandel – En stöd och skyddsprocess för offer för människohandel i Sverige*, 2019, p. 42–43; Swedish Migration Agency, “Ansökan om tidsbegränsat uppehållstillstånd eller betänketid”, retrieved 9 November 2020.

²⁴⁹ See Chapter 5, Section 15 of the Aliens Act (2005:716).

from the person in charge of the preliminary investigation a temporary residence permit valid for 30 days shall be issued, provided the conditions specified in the first paragraph, points 1 and 4 are satisfied.”²⁵⁰The victim does not need to have shown an explicit willingness to cooperate with the criminal investigation authorities or participate in the preliminary investigation at this stage.²⁵¹ The application for a reflection period should be made promptly after a preliminary investigation has been initiated. The reflection period can be extended after the 30 days, for example if the person in charge of the preliminary investigation requests this, a longer reflection period is needed on special grounds and certain conditions specified in the first paragraph are satisfied..²⁵²

Temporary residence permit for at least six months

A temporary residence permit for at least six months can be granted if it is necessary to enable a preliminary investigation or a main hearing in a criminal case to be carried out. One condition for granting a reflection period is that the person has shown a clear intention to cooperate with the investigating authorities and that the person has severed all relations with the persons who are suspected of crime concerned in the preliminary investigation.²⁵³

According to the Migration Agency’s statistics, in 2019 44 individuals were granted 60 individual temporary residence permits as witnesses because it was suspected that they had been the victims of human trafficking or human exploitation. Of the 60 permits, 22 referred to reflection period and 38 to a consideration period.²⁵⁴ The Swedish NAO has no information on how many of the 44 individuals were victims of labour exploitation.²⁵⁵

Victims of labour exploitation may be difficult to identify and the Swedish NAO considers that the possibility to apply for a reflection period for them is important. The reflection period makes it possible to start a discussion with the victim without the requirement to participate in the preliminary investigation at that stage.

Many actors see a need for an increase in the number of applications for a reflection period and believe that additional functions in addition to preliminary

²⁵⁰ Chapter 5, Section 15, second paragraph of the Aliens Act (2005:716)

²⁵¹ Interview with regional coordinators Region Stockholm 13 February 2020.

²⁵² See Chapter 5, Section 15, third paragraph of the Aliens Act (2005:716); Swedish Gender Equality Agency, *Manual vid misstanke om människohandel – En stöd och skyddsprocess för offer för människohandel i Sverige*, 2019, p. 42–43.

²⁵³ See Chapter 5, Section 15, first paragraph of the Aliens Act (2005:716)

²⁵⁴ 30 of the individuals were women (of whom 2 girls) and 14 of them men (of whom 1 boy). 17 of the individuals were EU citizens. Swedish Migration Agency, *Annual Report 2019*, p. 43.

²⁵⁵ It is not possible to deduce from Migration Agency’s statistics and is because the preliminary investigation leaders cannot initially specify the type of exploitation involved. Govt. Bill 2020/21:1, Expenditure area 13, p. 69.

investigation leaders should be able to apply for a reflection period.²⁵⁶ This is the case in Denmark, Norway and the United Kingdom.²⁵⁷ According to the Swedish Police Authority, there are currently weak incentives for social services and other actors to identify victims of human trafficking outside the legal process.²⁵⁸ It is only if legal proceedings have been initiated that the Swedish Migration Agency takes over the cost responsibility.²⁵⁹ Otherwise, the social services are responsible for satisfying the basic needs of the persons.²⁶⁰

As a complement to the agencies' and social services' support and initiatives for victims of crime, the Government and the National Board of Health and Welfare finance the Platform Swedish Civil Society against Human Trafficking with a total of SEK 2 million for 2020. The support includes protection and support to vulnerable persons, for example before the formalisation of the reflection period.²⁶¹ For example, the platform can take over housing costs for up to three months when a preliminary investigation has been discontinued.²⁶² The Salvation Army is the only organisation that offers accommodation to men who are victims of labour exploitation, but the number of places is too few.²⁶³ Victims of labour exploitation have a different set of problems and a different gender distribution than other victims of human trafficking and human exploitation. For example, many men are the victims of labour exploitation.

The Council of Europe's expert committee GRETA has criticised Sweden for the fact that only preliminary investigation leaders can apply for a reflection period.²⁶⁴

²⁵⁶ County Administrative Board, Stockholm, *Arbetskraftsexploatering och människohandel. Erfarenheter i Sverige och goda exempel från andra länder*, 2017, p. 28; interview with regional coordinator Region North, 17 February 2020; interview with representatives of the Salvation Army trafficking centre Safe Havens, 11 November 2019; interview with representatives of the Swedish Gender Equality Agency, 2 October 2020. See also Police Authority, *Människohandel för sexuella och andra ändamål Status Report 20, 2019 b*, p. 73–74.

²⁵⁷ Center mod menneskehandel, "At identificere ofre for menneskehandel", retrieved 7 July 2020; Council of Europe, *Reply from Norway to the Questionnaire for the evaluation of the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Parties Second evaluation round*, 2016, p. 17.

²⁵⁸ Police Authority, *Människohandel för sexuella och andra ändamål Status Report 20, 2019 b*, p. 73.

²⁵⁹ Swedish Gender Equality Agency, *Manual vid misstanke om människohandel – En stöd och skyddsprocess för offer för människohandel i Sverige*, 2019, p. 42–43.

²⁶⁰ According to the Social Services Act (2001:453) Chapter 2, Section 1, the municipality has the ultimate responsibility for a person staying there. This applies regardless of whether the person has the right to stay in Sweden or not. A condition for the right to assistance from the social services is that you have the right to stay in the country. Otherwise, the municipality of residence is limited to remedying acute and unpredictable emergencies. Common purposes include assistance for food, temporary accommodation, medicines and home travel within or outside Sweden. National Board of Health and Welfare, *Vägledning för socialtjänsten i arbetet med EU/EES-medborgare*, 2020, p. 35.

²⁶¹ Government Decision, A2020/00437/JÄM.

²⁶² Interview with regional coordinators Region Stockholm 13 February 2020.

²⁶³ Interview with representatives of the Salvation Army trafficking centre Safe Havens, 11 November 2019.

²⁶⁴ Council of Europe, *Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Sweden*, 2018, p. 33.

The Swedish NAO notes that the current regulations are in conflict with the purpose of the reflection period. It should be possible to use a reflection period in the stage before the preliminary investigation, when the person is considering whether they want to participate in legal proceedings against their employer. Many victims of labour exploitation are afraid of the police because they risk having to leave the country if they make a report. Giving other functions the opportunity to apply for a reflection period may be a way of getting more victims of crime to take part in legal proceedings. Such functions can be, for example, the social services regional coordinators or health care professionals. In the long run, if the number of legal proceedings increases, it can also help to increase the number of prosecutions and convictions.

Both the Government and the Riksdag have assessed that a preliminary investigation leader is the function best suited to assess whether a person is entitled to recovery and a temporary residence permits.²⁶⁵ In an ongoing inquiry, the Inquiry Chair is to consider whether additional official actors should be able to apply for a residence permit for a reflection period for victims of human trafficking.²⁶⁶

6.3.2 Few victims of labour exploitation participate in the repatriation programme for human trafficking

The Swedish Gender Equality Agency handles Sweden's contribution to the *Assisted Voluntary Return and Reintegration for Victims of Trafficking and Foreign Citizens in Prostitution in Sweden* for child and adult victims of human trafficking.²⁶⁷ The programme offers the opportunity of voluntary return in a secure way and support in the home country for up to six months after return.

In 2019, 13 people returned within the framework of the return programme in Sweden; of them, 69 per cent were women and 31 per cent were men. In 2019, no victims of labour exploitation in Sweden participated in the programme, and in 2018 one person participated.²⁶⁸

²⁶⁵ Council of Europe, *Report submitted by the authorities of Sweden on measures taken to comply with Committee of the Parties Recommendation CP(2018)28 on the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings*, 2019, p. 14; Committee Report 2019/20:SfU20, p. 25.

²⁶⁶ ToR 2020:44. The inquiry is to report its findings no later than 30 June 2021.

²⁶⁷ The programme is run by the UN International Organization for Migration (IOM) and its regional office in Helsinki, Finland.

²⁶⁸ Swedish Gender Equality Agency, *Manual vid misstanke om människohandel – En stöd och skyddsprocess för offer för människohandel i Sverige*, 2019, p. 73–76; International Organization for Migration, *Assisted Voluntary Return and Reintegration for Victims of Trafficking and Foreign Citizens in Prostitution in Sweden (AVRRTiPP-SWE VI) Statistics, 1 January to 31 December 2019*. The person who participated in 2018 was a man who was the victim of labour exploitation in the agricultural sector. International Organization for Migration, *Assisted Voluntary Return and Reintegration for Victims of Trafficking and Foreign Citizens in Prostitution in Sweden (AVRRTiPP-SWE VI) Statistics, 1 January to 31 December 2018*.

Municipalities receive compensation for costs while the victim is staying in the municipality. These are costs that are returned from the Migration Agency and are based on the victim's temporary residence permit. The IOM pays the costs of the return and reintegration programme.²⁶⁹ Despite this, there are hardly any applications from the city administration in Stockholm. The regional coordinators there believe that this is because the programme is unknown. But even if it were known, the regional coordinators believe that the social services are not always motivated to apply to the IOM because the "fast solution is to buy a ticket home". Another reason may be that many of the victims themselves want to leave Sweden as quickly as possible for various reasons.²⁷⁰

²⁶⁹ Email from representatives of the Swedish Gender Equality Agency, 9 November 2020.

²⁷⁰ Interview with regional coordinators Region Stockholm 13 February 2020.

7 Conclusions and recommendations

Exploitation of labour is a serious and growing social problem. The exploitation mainly affects foreign labour and involves, for example, working for unreasonably low or no wages, having very long working days, being in a dangerous work environment or having poor accommodation. Exploitation entails a consequential risk to other parts of the labour market by driving companies with good working conditions for their employees out of business. Sweden has an obligation to counteract labour exploitation based on the commitments both at EU level and at national level, as well as in international conventions that the Government has ratified. This concerns the right to good working conditions and a good working environment as well as protection against human trafficking.

We note that there are major shortcomings in central government initiatives to counteract the exploitation of labour. The shortcomings are mainly due to the fact that the Government has not given the agencies a mandate and clear remit to counteract the problem.

The lack of governance on the part of the Government and clear responsibility on the part of the agencies for these issues leads to deficiencies in the initiatives that are important to counteract labour exploitation. The regulations do not protect sufficiently against workers working and living under bad conditions. The agencies do not monitor sufficiently whether foreign workers are exploited. Inspections do not either lead to the identification and support of crime victims as provided for by the international conventions. In addition, there is no easily accessible information about rights and obligations in the Swedish labour market for labour immigrants.

7.1 The Government needs to take a holistic approach to counteract labour exploitation

The Government and agencies have no common view of how the problem of labour exploitation should be counteracted. No agency has overall responsibility for monitoring the issue and drafting proposals for measures. The Swedish Gender Equality Agency has a coordination responsibility for all forms of human trafficking, but lacks resources to have a sufficient focus on counteracting labour exploitation. So far, the Government and agencies have used measures against human trafficking and working life crime as well as migration legislation to counteract the exploitation of foreign labour.

The Government needs to provide agencies with clear remits to combat exploitation

The Swedish NAO considers that the Government needs to assume a holistic approach on how to prevent labour exploitation. This means that it needs to decide which agencies should play an active role in anti-exploitation efforts. This also means that the Government needs to clarify the responsibility of each agency and ensure that the agencies have clear remits and mandates to carry out these tasks.

One way to highlight the agencies' remit is to develop an action plan. Since efforts against labour exploitation span many policy areas, an action plan can help to illustrate the entire chain of operations. The ILO's supplementary protocol to the Forced Labour Convention requires that there should be an action plan against human trafficking for forced labour.²⁷¹ In Sweden there is a national action plan against human trafficking for all purposes, but it has a great focus on sexual purposes. Few initiatives target exploitation in the labour market directly. The Swedish NAO considers that this action plan is not sufficient to counteract labour exploitation.

The Government should appoint one agency to be responsible for coordinating the work

In order to work effectively against labour exploitation, the agencies need to have knowledge of and responsibility for issues such as working conditions and work environment, migration and human trafficking. Responsibility for these issues is divided between different agencies. The Swedish NAO considers that one agency should have the responsibility of coordinating the work. Otherwise, there is a risk of duplicated work or that important issues are not handled at all.

The Swedish Gender Equality Authority currently has a coordinating role against human trafficking. This is an agency with few employees and small resources to invest in work against labour exploitation. Today, the work against all forms of human trafficking, including human trafficking for forced labour, falls under men's violence against women in the work of the Gender Equality Agency. The Swedish NAO notes that the work against labour exploitation thus does not get enough resources or scope. There are reasons to distinguish the work against labour force exploitation from the work against human trafficking for other purposes, such as begging or prostitution.²⁷² Labour exploitation takes place at workplaces that are usually not illegal. This means that knowledge of the mechanisms of labour exploitation is an issue related to how a good work environment and good working conditions can be ensured. .

²⁷¹ See Government Bill 2016/17:93.

²⁷² The work against human trafficking is already divided into various purposes in that the county administrative boards' remit only extends to combating sexual exploitation (see 2.4.1). However, no agency focuses on exploitation in the labour market.

The Swedish NAO proposes that the Swedish Work Environment Authority is given a coordinating role to counteract labour exploitation. The Work Environment Authority has knowledge of how workplaces should be organised to achieve a good work environment. It is also an agency that has the right of access to workplaces in a different way than other agencies working on the issue.²⁷³ In many other countries, the agencies corresponding to the Work Environment Authority play an important role in, for example, identifying victims of labour exploitation at workplace inspections.²⁷⁴ Labour exploitation is a global phenomenon. It should facilitate international cooperation if responsibility for counteracting labour exploitation in Sweden lay with the same type of agency as in other EU countries.²⁷⁵ In addition, the Work Environment Authority is responsible for issues relating to one of the risk groups for labour exploitation, posted workers.²⁷⁶

The task of coordinating agency may include developing common guidelines for how the agencies should counteract labour exploitation, being responsible for information to foreign workers about rights in working life, increasing public awareness of the problem, educating other agencies and reviewing the support process for victims of exploitation.

The assignment would mean a major change for the Swedish Work Environment Authority because it has no mandate to work against labour exploitation and would require the Authority to acquire new expertise in the area. However, the task of coordinating the inter-agency inspections should have given experience that can be used in the work.

The agencies' initiatives should reach all relevant target groups

In recent years the Government has had the intention to combat exploitation of foreign labour by changing conditions for work permits, or imposing requirements concerning working conditions for individual groups of labour immigrants. There have been several reports on labour immigration from third countries with the aim of counteracting the exploitation of migrants. The Posting

²⁷³ See Chapter 7. Section 3 of the Work Environment Act (1977:1160).

²⁷⁴ The FRA report *Protecting migrant workers from exploitation in the EU: boosting workplace inspections*, 2018, describes how the counterparts to the Swedish Work Environment Authority in other European countries are of great importance in combating labour exploitation. Belgium and the Netherlands are highlighted as role models. For a description of how the Belgian and Finnish work environment authorities work against labour exploitation, see Stockholm County Administrative Board, *Arbetskraftsexploatering och människohandel. Erfarenheter i Sverige och goda exempel från andra länder*, 2017, p. 14–21.

²⁷⁵ For example within the new European Labour Authority, which is being established and which, among other things, will coordinate joint inspections within the EU. European Labour Authority, "About us", retrieved on 1 October 2020.

²⁷⁶ According to Section 2 of the Ordinance containing instructions for the Swedish Work Environment Authority (2007:913) the Authority is a liaison office for posting, which means that it is in charge of the posting registry and supervises compliance with the notification requirement for the posting of workers.

of Workers Act has also recently been changed to counteract exploitation, among other things. It is positive to try to counteract exploitation of these groups. However, the Swedish NAO believes that it is important to consider all risk groups, regardless of legal status, in this work.

The risks groups change over time and government initiatives need to be adapted depending on the target group. One example is the corona crisis in the summer of 2020 when berry pickers who usually come from Thailand could not come to Sweden. Instead, people from Bulgaria came to pick berries, and some have fallen into a difficult situation, probably with low wages and poor living conditions.²⁷⁷ Here it is about different groups of migrants coming to perform the same work in Sweden. But it is also possible that an individual from a third country chooses between different ways of getting to Sweden to work: either by applying for a work permit in Sweden, applying for a residence or work permit in another EU country and then coming to Sweden, or by coming as an irregular migrant. Consequently, it is important to be aware of the different ways into Sweden for individuals who are at risk of labour exploitation. Otherwise, the consequence may be that tighter regulations for a certain type of work permit lead to labour immigrants arriving in the country in other ways, where there is weaker control of working conditions.

In many cases, the measures need to be targeted specifically to the various risk groups. For example, a certain type of action is required to counteract the exploitation of EU citizens because they do not need a work permit to work in Sweden. In addition, the agencies have limited knowledge of who they are. The agencies may need to work with outreach activities here. On the other hand, for migrant workers from third countries with a work permit, the Swedish Migration Agency has good knowledge of who are in the country and should be able to reach them directly, for example with information about workers' rights in Sweden.

Industry-specific initiatives are needed

Labour exploitation is concentrated in a number of industries that are labour-intensive and where many with a short education work. Each industry has its own potential to combat exploitative conditions. Here, the social partners are important actors for the agencies to interact with and learn more about the conditions in a specific industry. Based on this knowledge, industry-specific initiatives can be developed.

To enable the agencies to work more effectively, the Swedish NAO recommends that the Government:

- take a holistic approach to combat labour exploitation by:
 - giving the agencies in this area a clear remit and mandate to enable them to implement necessary measures

²⁷⁷ See for example Fröberg, "Så blev skogens guld till blodsbär i coronakrisens spår", 31 August 2020.

- preparing an action plan to concentrate initiatives and enable follow-up
- instructing the Swedish Work Environment Authority to coordinate the work.

The Swedish NAO also gives recommendations below that are specific to the various areas included in the audit. These recommendations should be included in an action plan against labour exploitation.

7.1.1 Knowledge about labour exploitation needs to increase

The audit has shown that there is a lack of knowledge about labour exploitation and who is affected. No agency has so far produced an overall picture of who the risk groups for labour exploitation are or the number of identified victims. The statistics on how many have been identified and helped by the agencies are also very uncertain. An action plan against labour exploitation and the initiatives included in it needs to be based on knowledge about the problem. Reliable statistics are also needed to determine the success of the work.

Several agencies can develop knowledge

Knowledge of labour exploitation can increase in several ways. It is about compiling existing knowledge, assessing what new knowledge is needed and based on that knowledge making suggestions on how labour exploitation can be counteracted.

The responsibilities of the Swedish Agency for Work Environment Expertise include knowledge building and evaluation in the work environment field and it can therefore play a role in this work.²⁷⁸ However, labour exploitation differs from the work to promote a good work environment in general. One major difference is that employers who exploit labour in many cases do not work voluntarily to improve the working conditions of their employees. Instead, controls and sanctions are more important to counteract exploitation. The agency that has knowledge of controls and sanctions is the Swedish Work Environment Authority. This indicates that the Swedish Work Environment Authority also has a role in developing knowledge about labour exploitation and how it can be counteracted.

For example, the Swedish Work Environment Authority should be able to collect information about suspected cases of labour exploitation in connection with its inspections. The information can provide knowledge about the industries and regions where the problem occurs. The data can also indicate whether the problem is increasing or decreasing. Data from the police workplace inspections could provide important information about which groups work without a work permit in Sweden. However, the legal conditions for collecting this type of data

²⁷⁸ See the Ordinance containing instructions for the Swedish Agency for Work Environment Expertise (2018:254).

need to be investigated, since it may involve personal data. The Swedish National Council for Crime Prevention could also contribute to building up knowledge regarding labour exploitation.²⁷⁹

7.1.2 The regulatory framework should include to a greater extent the abuses that constitute labour exploitation

The audit has shown that there are certain shortcomings in the regulatory framework that is to prevent labour exploitation arising at a workplace. In addition, employers who exploit labour have little risk of being punished for it.

It should be made easier for foreign workers to claim agreed wages

In Sweden, the social partners are responsible for wage formation. Nevertheless, the Swedish NAO considers that the State needs to prevent foreign workers in occupations that do not require long training working for very low wages. The consequences of such pay dumping risk leading to poverty, and companies that pay reasonable wages being driven out of business. Questions about wages for foreign labour are complex because there are different conditions for different risk groups, for example posted workers and labour immigrants from third countries.

The Swedish NAO believes that a first step in counteracting unreasonable wages is to improve the opportunities for workers to claim agreed wages from the employer. In Sweden, it is thought that workers should seek help from their trade union in order to demand good working conditions. However, the trade unions state that there are major challenges in recruiting members among foreign workers who are temporarily in the country. For these groups, special central government initiatives may be needed in order for their rights to be protected. For example, the Stockholm County Administrative Board has proposed that migrant workers who are exploited should have access to free legal aid.²⁸⁰ This may also involve the possibility of obtaining a temporary residence permit to pursue a dispute with the employer, which was proposed in a memorandum of 2018.²⁸¹

Since 2013, there has been legislation that will enable irregular labour immigrants to receive their outstanding wages.²⁸² But the legislation, based on what our searches show, has never been used. Employers who have employees without work permits can be sentenced to pay a fine or a special charge.²⁸³ If they also have

²⁷⁹ On page 187 of the Ministry Publication Ds 2008:7 it is proposed that the Council for Crime Prevention be instructed to investigate labour exploitation more closely.

²⁸⁰ County Administrative Board, Stockholm, *Arbetskraftsexploatering och människohandel. Erfarenheter i Sverige och goda exempel från andra länder*, 2017, p. 28.

²⁸¹ Ministry Publication Series Ds 2018:7.

²⁸² See the Act on the right to pay and other remuneration for work performed by an alien not entitled to stay in Sweden (2013:644).

²⁸³ A special charge is a sanction that may be required by the employer who has employed an alien without a work permit. The charge usually corresponds to one price base amount per alien, about SEK 47,000 in 2020. See Chapter 20, Section 12 1 of the Aliens Act (2005:716).

to pay wages to the employee, it will be more expensive to use labour without a work permit. This may be a deterrent to the employers who exploit labour systematically. To strengthen labour immigrants' possibilities of claiming wages the Swedish NAO recommends that the Government:

- investigate how groups at risk of labour exploitation can obtain better opportunities to claim payment of agreed or outstanding wages.

It is not forbidden for an employer to charge for an employment contract. An ongoing inquiry (ToR 2020:8) will investigate the trade in work permits. The Swedish NAO considers it important to follow what the Inquiry concludes. The Swedish NAO stresses that it is important that any prohibition on charging for an employment contract is general so that it applies to all employees who risk becoming indebted to their employer.

There must be clear requirements on what applies when the employer is responsible for accommodation

During the audit, representatives of the agencies have stated that it is difficult for them to act when workers live in or near the workplace under bad conditions. There is no legislation that regulates the standard of accommodation or rent level when the employer offers accommodation. This type of legislation exists in many other countries, including Norway.²⁸⁴ For seasonal employees in Sweden, there are certain requirements concerning accommodation standards to grant work permits. The rules on accommodation standards for seasonal employees should be a starting point for more general legislation that applies to more groups at risk of labour exploitation. The Swedish NAO therefore recommends that the Government:

- investigate the possibility of regulating accommodation standards and costs when an employee is offered accommodation as part of the employment.

7.1.3 The crime victim perspective needs to be strengthened in the inspections

The audit has shown that no agency has the mandate to monitor most of the abuses that constitute labour exploitation. There are also shortcomings in the agencies' ability to identify potential victims of crime. An important part of an action plan against labour exploitation is to ensure that inspections linked to working life crime also identify labour exploitation.

²⁸⁴ Arbedstilsynet, "Innvartering av arbeidstakere", retrieved 6 October 2020.

Agencies should in the long term be given a mandate to inspect working conditions for risk groups

The employee organisations have the role of ensuring that employees have good working conditions. However, they state that it is difficult to recruit members among foreign workers. With today's system, there will probably be continued problems with foreign workers working under very bad conditions without this being detected by trade unions or agencies. The Swedish NAO therefore considers that it is necessary to review in the longer term how the agencies can play a more active role in ensuring that the most vulnerable of the foreign workers have acceptable working conditions. This can be done by instructing an agency to monitor such things as workers having written employment contracts, wages being paid out and accommodation being acceptable. Workers who are temporarily in the country in sectors where labour exploitation occurs are groups that should be the focus of these inspections. Finland²⁸⁵ and the UK²⁸⁶ can serve as examples of how inspection activities can be designed. There are special inspectors there who inspect working conditions of groups at risk of labour exploitation.

However, giving an agency a mandate to inspect wages and employment contracts would mean a shift in the role of the agencies in relation to the social partners. The Government therefore needs to take these consequences into account before changes are implemented. In addition, an extended remit would require additional resources for the agency that would monitor working conditions. The Swedish NAO therefore recommends that the Government:

- investigate whether agencies should supervise working conditions for foreign labour in sectors with an increased risk of labour exploitation.

The agencies need to clarify who is to identify victims of crime at the inter-agency inspections

However, there are measures within the authorities' monitoring of employers that can counteract labour exploitation without changing the mandate. The Swedish Work Environment Authority is in the process of educating all work environment inspectors about human trafficking. However, many of the inspectors who have completed the training feel uncertain about how to handle suspected cases of

²⁸⁵ In Finland, there are occupational safety inspectors who specialise in specifically examining how migrant workers are employed. The inspections mainly focus on whether employers have fulfilled their obligations in accordance with applicable Finnish law, including in terms of terms of employment and reasonable wages under binding collective agreements. See Stockholm County Administrative Board, 2017, p. 16.

²⁸⁶ In the UK, there is the Gangmasters and Labour Abuse Authority (GLAA), which inspects working conditions for the most vulnerable workers. See "Gangmasters and Labour Abuse Authority", retrieved on 7 July 2020.

labour exploitation. Therefore, the Swedish Work Environment Authority needs to ensure that the training contains the knowledge that the inspectors need.

The participating agencies need to clarify who should have the role of identifying potential victims of crime when the regional coordinators do not participate in the inter-agency inspections. One possibility is that the Police take on this role as that agency is tasked with registering reports of human exploitation or human trafficking. However, it can be difficult to get potential victims of crime to talk to the police because they may be afraid of being deported or charged with a crime. For this reason, it may be more appropriate that work environment inspectors have the role of speaking to potential crime victims and informing them about their rights.

The police should strengthen the crime victim perspective in workplace inspections

There are shortcomings in the police work against labour exploitation, which primarily concerns a lack of crime victim perspective in the police workplace inspections. Despite obvious risks that individuals encountered by the police during inspections have been subjected to labour exploitation, some border police officers lack training on human trafficking. In addition, border police rarely pass on cases to the sections working against trafficking in the regions. The Swedish NAO considers that it is of great importance that the Swedish Police Authority ensures that all personnel carrying out workplace inspections have training on labour exploitation.. The Police Authority also needs to ensure that there are procedures for how the police should act when they suspect labour exploitation during a workplace inspection The Police Authority is preparing a handbook for the border police to use on how to identify victims of human trafficking and human exploitation. The Swedish NAO sees a great need for such method support and takes a positive view it is being developed. To ensure that potential victims of labour exploitation are identified, the Swedish NAO recommends that the Swedish Police Authority:

- ensure that everyone involved in workplace inspections receives training on labour exploitation. Procedures for how potential victims should be dealt with are also needed.

The judicial system needs to be better at prosecuting employers who exploit the audit has shown that the risk is almost non-existent of an employer being sentenced for human exploitation or human trafficking.. GRETA has also criticised Sweden's work to investigate and prosecute in cases of human trafficking for forced labour.²⁸⁷ There is therefore reason for the Police Authority

²⁸⁷ Council of Europe, *Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Sweden. Second Evaluation Round, 2018.*

and the Prosecution Authority to review how the work can be improved. It is particularly remarkable that so few preliminary investigations lead to prosecution.

7.1.4 Information to foreign workers needs to clarify rights to have a preventive effect and support victims

Many agencies provide information about the conditions on the Swedish labour market aimed at foreign workers. The information available focuses on the worker's obligations, such as what applies when employment ends or what is required to obtain a permanent residence permit. It also assumes that workers are looking for the information themselves. There is no information about where to turn if you are the victim of labour exploitation, apart from references to trade unions.

As part of the action plan, the Swedish NAO recommends that the information be enhanced in order to be both preventive and supportive. There needs to be targeted information about the rights and obligations of foreign employees in Sweden and where to turn to for help and support. There also needs to be a channel for questions and to get help for victims of exploitation.

Experience from the work with the national telephone support line for professionals operated by the National Task Force Against Prostitution and Human Trafficking should be utilised. Experiences for example from England²⁸⁸, Finland²⁸⁹ and the USA²⁹⁰ can also be used in the work as these countries provide different types of direct information and support channels for potential victims of crime.

The Migration Agency is able to reach all third-country national applying for a work permit. The Swedish NAO considers that the Swedish Migration Agency needs to supplement the information to include where to turn if you have problems during your employment. The Swedish Migration Agency should endeavour to provide labour immigrants with this information before they begin their employment. The migrants who visit the embassies to provide biometrics should receive information before they travel to Sweden.

However, the Swedish Migration Agency only reaches those who need a permit to work in Sweden. For groups that do not need a work permit, other types of information initiatives are needed. The Swedish NAO therefore recommends that the Government:

²⁸⁸ See Gangmasters and Labour Abuse Authority, "I am a worker", retrieved on 7 July 2020.

²⁸⁹ See for example the Assistance System for victims of human trafficking, "Are you the victim of human trafficking? Help is available!", retrieved 10 August 2020.

²⁹⁰ See for example Department of State, *Know your rights. An information pamphlet describing your rights while working in the United States*, date unknown.

- ensures that information is accessible to all risk groups on workers' rights and obligations. Information is also needed about where and how victims of labour exploitation can get help and support.

7.1.5 The protection and support process needs to be adapted to victims of labour exploitation

The protection and support process for identified victims of human trafficking is extensive and focuses on sexual exploitation.. Victims of labour exploitation can be difficult to identify, for example because they often do not see themselves as victims or do not want to make themselves known to the authorities. Their need for protection and support may also differ as the group is generally more heterogeneous with respect to support needs than those who are victims of sexual exploitation.

In order to create better conditions for providing protection and support for victims of labour exploitation, the Swedish NAO assesses that the current protection and support process needs to be adapted. The Swedish National Audit Office therefore recommends that the Government

- ensure the existence of a process of protection and support adapted to victims of labour exploitation.

A prerequisite for victims of crime to have access to the support and protection process is that they are granted a temporary residence permit. An important measure to strengthen protection and support for victims of labour exploitation is therefore to enable more people to have a reflection period of 30 days, with the possibility of extension. According to current regulations, a preliminary investigation must have been initiated to be able to apply for a reflection period. The Swedish NAO considers that it is contrary to the purpose of the reflection period since it must be possible to use it in the stage before the preliminary investigation, when the person is considering whether they want to participate in legal proceedings against their employer. In order to increase the number of reflection period applications, one way may be to allow applications from people other than preliminary investigation leaders from the police and prosecutors' office. In the long run, if the number of legal proceedings increases, it can also help to increase the number of prosecutions and convictions. The Swedish NAO takes a positive view of the ongoing inquiry, which will decide whether additional agency actors should be able to apply for a reflection period.²⁹¹

7.2 Recommendations

The Swedish NAO recommends that the Government:

²⁹¹ ToR 2020:44. The inquiry is to report its findings no later than 30 June 2021.

- take a holistic approach to combat labour exploitation by:
 - giving the agencies in this area a clear remit and mandate to enable them to implement initiatives against the problem
 - preparing an action plan to concentrate initiatives and enable follow-up
 - instructing the Swedish Work Environment Authority to coordinate the work.

- ensure that appropriate agencies prepare:
 - information accessible to all risk groups on workers' rights and obligations. Information is also needed about where and how victims of labour exploitation can get help and support.
 - a process of protection and support adapted to victims of labour exploitation

- investigate the following areas:
 - how groups at risk of labour exploitation can obtain better opportunities to claim payment of agreed or outstanding wages
 - how requirements concerning standards and costs of accommodation can be imposed on employers when accommodation is offered to an employee as part of the employment contract
 - whether agencies should supervise working conditions for foreign labour in sectors with an increased risk of labour exploitation.

The Swedish NAO recommends that the Police Authority:

- ensure that everyone involved in workplace inspections receives training on labour exploitation and that there are procedures for how potential victims should be dealt with.

Reference list

Literature and articles

Fröberg, J. "Så blev skogens guld till blodsbär i coronakrisens spår", *Dagens Nyheter* 31 August 2020.

Herzfeld Olsson, P., "Konsten att inkludera arbetskraftsmigranter i den svenska arbetsrättsliga modellen", *Juridisk Tidskrift* 2019-20 no 3, 2019.

Torp, E., *Vi, skuggorna*, Leopard förlag, 2019.

Inquiries and reports etc.

Swedish Work Environment Authority et al., *Status report 2019. För det myndighetsgemensamma arbetet mot fusk, regelöverträdelser och annan brottslighet i arbetslivet. A report published in collaboration between the Swedish Public Employment Service, the Swedish Work Environment Authority, the Swedish Economic Crime Authority, the Swedish Social Insurance Agency, the Swedish Gender Equality Agency, the Swedish Migration Agency, the Swedish Police Authority and the Swedish Tax Agency*, 2019.

The Swedish Work Environment Authority, Annual Report 2019, 2020.

Swedish National Council for Crime Prevention, *Arbeta förebyggande mot människohandel för arbetskraftsexploatering och tvångsarbete*, March 2017.

Council of Europe, *Reply from Norway to the Questionnaire for the evaluation of the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Parties Second evaluation round*. Reply submitted on 1 February 2016, 2016.

Council of Europe, *Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Sweden. Second Evaluation Round*, GRETA, Group Of Experts On Action Against Trafficking In Human Beings, Adopted on 23 March 2018, Published on 8 June 2018, 2018.

Council of Europe, *Report submitted by the authorities of Sweden on measures taken to comply with Committee of the Parties Recommendation CP(2018)28 on the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings*. Committee of the Parties to the Council of Europe Convention on Action against Trafficking in Human Beings. Second Evaluation Round. Received on 8 November 2019.

Council of Europe, *9th General Report on GRETA's activities, covering the period from 1 January to 31 December 2019*, 2020.

Department of State, United States of America, *Know your rights. An information pamphlet describing your rights while working in the United States*, date unknown.

ToR 2020:8, *Åtgärder för att attrahera internationell kompetens och motverka utnyttjande av arbetskraftsinvandrare*.

ToR 2020:44, *Skärpta regler för utvisning på grund av brott*.

ToR 2020:69 *Supplementary terms of reference for Inquiry on measures to attract international competence and combat the exploitation of labour immigrants (Ju 2020:05)*.

Ministry Publication Series Ds 2008:7, *Människohandel för arbetskraftsexploatering m.m. - kartläggning, analys och förslag till handlingsplan*.

Ministry Publications Series Ds 2018:7, *Konsekvenser för arbetsgivare vid återkallelse av uppehållstillstånd för arbete*.

Swedish Economic Crime Authority, Annual Report 2019, 2020.

Swedish Economic Crime Authority, *Checklista Varningssignaler – Oseriösa aktörer*, March 2020.

Swedish Economic Crime Authority, *Risikfaktorer – en vägledning för schysst konkurrens*, year unknown.

European Commission, *Posting of workers Report on A1 Portable Documents issued in 2018*. Frederic De Wispelaere, Lynn De Smedt & Jozef Pacolet – HIVA-KU Leuven, October 2019.

Fair Play Bygg, *Fair Play Bygg – annual report 2018*, Building Workers' Union, Stockholm-Gotland region, Stockholm Association of Building Contractors, 2019.

European Union Agency for Fundamental Rights (FRA), *Severe labour exploitation: workers moving within or into the European Union States' obligations and victims' rights*, FRA 2015.

FRA, European Union Agency for Fundamental Rights, *Protecting migrant workers from exploitation in the EU: boosting workplace inspections*, FRA 2018.

FRA, European Union Agency for Fundamental Rights, *Protecting migrant workers from exploitation in the EU: workers' perspectives*, FRA 2019.

Swedish Social Insurance Agency, Annual Report 2019, 2020.

International Organization of Migration, *Assisted Voluntary Return and Reintegration for Victims of Trafficking and Foreign Citizens in Prostitution in Sweden (AVRRTiPP-SWE V) Statistics 1 January to 31 December 2018*.

International Organization of Migration, *Assisted Voluntary Return and Reintegration for Victims of Trafficking and Foreign Citizens in Prostitution in Sweden (AVRRTiPP-SWE VI)* Statistics 1 January to 31 December 2019.

Johansson, M., *Människohandel och människoexploatering på den svenska arbetsmarknaden – en översikt*. Örebro University, produced in collaboration with CBSS, 2020.

Parliamentary Ombudsmen, *Decision: Uttalanden om Polismyndighetens åtgärder vid en arbetsplatskontroll*, Reference number 4476-2017, 2019-01-23.

Swedish Gender Equality Agency, *Manual vid misstanke om människohandel – En stöd och skyddsprocess för offer för människohandel i Sverige*, 2019.

Swedish Gender Equality Agency, *Statistik Misstänkta fall för människohandel i Sverige 2018 Vuxna*, Swedish Gender Equality Agency, 29 April 2019.

Swedish Gender Equality Agency, *Statistik Misstänkta fall för människohandel i Sverige 2018 Vuxna*, Swedish Gender Equality Agency, 2020.

LO, *Utländska arbetstagare på svensk arbetsmarknad – en handbok*, 2019.

Stockholm County Administrative Board, *Utsatta EU-medborgare i Sverige Lägesrapport ur ett människohandelsperspektiv*, report 2014:10, County Administrative Board Stockholm, 2014.

County Administrative Board, Stockholm, *Arbetskraftsexploatering och människohandel. Erfarenheter i Sverige och goda exempel från andra länder*, Report 2017:7, County Administrative Board, Stockholm, 2017.

County Administrative Board, Stockholm *Uppdrag om nationell samordning avseende utsatta EU/EES-medborgare som saknar uppehållsrätt i Sverige – slutrapport*, Government assignment concerning vulnerable EU/EES citizens, Stockholm, 2020.

National Mediation Office, *Avtalsrörelsen och lönebildningen 2019, Annual report of the National Mediation Office*, 2019.

Swedish Migration Agency, *Människohandel - Information till dig som är god man för ensamkommande barn*, year unknown.

Swedish Migration Agency, *Metodstöd vid misstanke om människohandel*, internal memorandum, Swedish Migration Agency, created on 30 October 2019.

Swedish Migration Agency, *Rutinbeskrivning vid misstanke om människohandel*, internal memorandum, Swedish Migration Agency, created on 30 October 2019.

Swedish Migration Agency, *Annual Report 2019, 2020*

The Police Authority, *Rapportering till regeringen avseende sanktionsdirektivet för 2019, Inspection report – Template Articles 14 & 16 § 2 of the Employers’ Sanctions Directive (2009/52/EC), Annex 1, 2019 a.*

Police Authority, *Människohandel för sexuella och andra ändamål Status Report 20. Swedish Police Authority Report 2018, 2019 b.*

Government Decision A2016/00159/ARM, *Assignment on web-based information to foreign workers, employers and self-employed workers operating or intending to operate in Sweden.*

Government Decision A2017/01962/ARM, A2017/00185/ARM, *Assignment on digital information to foreign workers, employers and self-employed workers operating or intending to operate in Sweden.*

Government Decision A2017/02422/ARM, A2017/00678/ARM, *Assignment on development of methods for inter-agency inspections to combat fraud, infringement of rules and working life crime.*

Government Decision A2019/02305/ARM, A2019/02294/SV, *Appropriation Directions for budget year 2020 regarding the Swedish Work Environment Authority.*

Government Decision A2020/00437/JÄM, *Application for funds for national support programmes for victims of human trafficking and exploitation such as prostitution.*

Government Decision Fi2019/04079/SFÖ et al., *Appropriation directions for budget year 2020 regarding the county administrative boards.*

Government Decision Ju2017/09598/LP(in part), Ju2007/01154/Å, Ju2016/07818/PO et al., *RAppropriation directions for budget year 2018 regarding the Swedish Police Authority.*

Government Decision Ju2019/03304/KRIM, *Assignment to the Swedish National Council for Crime Prevention on information sharing in the work of preventing crime.*

Government Decision UD2019/04008/FH, UD2019/18963/PLAN (in part), UD2019/19241/IU (in part) et al., *Appropriation directions for budget year 2020 regarding the Swedish Institute.*

Government Offices, Ministry of Health and Social Affairs, *Handlingsplan mot prostitution och människohandel, Annex to Government Decision, 8 February 2018 no II:1, 2018.*

Government Offices, Ministry of Employment, A2020/00229/SV, *Assignment on working life crime (A 2020:A).*

Swedish National Audit Office, *An effective labour immigrant system?*, RiR 2016:32, Swedish National Audit Office, 2016.

Swedish National Audit Office, *Authority-wide actions against organised crime – shortcomings in steering and monitoring*, 2019.

National Board of Health and Welfare, *Vägledning för socialtjänsten i arbetet med EU/EES-medborgare*, 2020.

SOU 2010:63, *EU Directive on sanctions against employers. Report of the Inquiry on Sanctions*.

SOU 2016:70, *Ett starkt straffrättsligt skydd mot människohandel och annat utnyttjande av utsatta personer. Final report of the 2014 inquiry on human trafficking*

SOU 2016:91, *Stärkt ställning för arbetskraftsinvandrare på arbetsmarknaden. Report of the Inquiry on measures to strengthen labour immigrants' position in the labour market*.

SOU 2019:25, *Genomförande av ändringar i utstationeringsdirektivet. Report of the 2018 Inquiry on posting of workers*

Sorrentino, L. & Jokinen, A., *Riktlinjer för att förhindra att migrantarbetare i Östersjöregionen utsätts för utnyttjande rekryteringsmetoder, exploatering och människohandel*. The Adstringo Project. Council of the Baltic Sea States Task Force against Trafficking in Human Beings, Council of the Baltic Sea States Task Force against Human Trafficking – Secretariat, June 2014.

Swedish Institute, *Annual Report 2019*, 2020.

Vogiazides, L. och Hedberg, C., *Människohandel för tvångsarbete och exploatering av arbetskraft i Sverige: Exempel från restaurang och bärbranscherna*, 2014. Addressing Trafficking in Human Beings for Labour Exploitation through Partnership, Enhanced Diagnostics and Improved Organisational Approaches, Adstringo, Stockholm, 2014.

Vänje, A. and Ottosson, J., *Slutrapport avseende följeforskningsuppdrag om metodutveckling för myndighetsgemensam kontroll för att motverka fusk, regelöverträdelse och brottslighet i arbetslivet*, Royal Institute of Technology and Uppsala University, 2020.

Ylinen, P., Jokinen A., Pekkarinen A., Ollus N., and Jenu K., *Uncovering labour trafficking Investigation tool for law enforcement and checklist for labour inspectors*. HEUNI Publication Series No. 95a, 2020.

Parliamentary documents

Committee report 2013/14:SfU19, *Åtgärder mot missbruk av reglerna för arbetskraftsinvandring*.

Committee report 2016/17:AU12, *2014 års protokoll och rekommendation till ILO:s konvention om tvångsarbete*.

Committee report 2019/20:SfU20, *Migration och asylpolitik.*

Committee report 2019/20:SfU25, *Nya direktiv till utredningen om arbetskraftsinvandring.*

Govt. Bill 2012/13:125 *Genomförande av direktivet om sanktioner mot arbetsgivare.*

Govt. Bill 2013/14:227, *Åtgärder mot missbruk av reglerna för arbetskraftsinvandring.*

Govt. Bill 2016/17:AU12, *2014 års protokoll och rekommendation till ILO:s konvention om tvångsarbete.*

Govt. Bill 2020/21:1, Expenditure area 13, *Gender equality and introduction of newly arrived immigrants.*

Legislation

Work Environment Act (1977:1160).

Criminal Code (1962:700).

Ordinance containing Instructions for the Swedish Work Environment Authority (2007:913).

Ordinance containing Instructions for the Swedish Gender Equality Agency (2017:937).

Ordinance containing Instructions for the Swedish Migration Agency (2019:502)

Ordinance containing Instructions for the Swedish Agency for Work Environment Expertise (2018:254).

Ordinance containing Instructions for the Swedish Police Authority (2014:1102).

Ordinance containing Instructions for the Swedish Tax Agency (2017:154)

Ordinance on Government Grants to the Social Partners to promote exchange of knowledge and collaboration with agencies to counteract crime and other regulatory violations in working life (2018:1404)

Preliminary Investigations Ordinance (1947:948).

Land Code (1970:994)

Tenancy Bargaining Act (1978:304)

Employer's Set-off Rights Act (1970:215).

Domestic Work Act (1970:943).

Contracts Act (1915:218).

Act on the European Convention for the Protection of Human Rights and Fundamental Freedoms (1994:1219).

CENTRAL GOVERNMENT MEASURES TO COMBAT LABOUR EXPLOITATION
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Act on Hotel and Guest House Operations (1966:742).

Employment (Co-determination in the Workplace) Act (1976:580)

Private Employment Agencies and Temporary Labour Act (1993:440).

Public Employment Act (1994:260)

Act on the right to pay and other remuneration for work performed by an alien not entitled to stay in Sweden (2013:644).

Posting of Workers Act (1999:678).

Legal Aid Act (1996:1619).

Social Services Act (2001:453).

Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations (UN) Convention against Transnational Organised Crime, New York, 15 November 2000 (the Palermo Convention).

Aliens Ordinance (2006:97).

Aliens Act (2005:716).

EU legislation

Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems.

Directive 2009/52/EC of the European Parliament and of the Council of 18 June 2009 providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals.

Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings, protecting its victims and replacing the Council Framework Decision 2002/629/JHA.

Directive (EU) 2018/957 of the European Parliament and of the Council of 28 June 2018 amending Directive 96/71/EC concerning the posting of workers in the framework of the provision of services.

Council of Europe Convention on Action against Trafficking in Human Beings (CETS 197) 2005.

Charter of Fundamental Rights of the European Union, 2010/C 83/02.

Council Directive 2004/81/EC of 29 April 2004 on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who

have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities (correction EUT L 69, 16.3.2005, p. 72).

Judgments

Labour Court ruling of 15 December 2010 in case no A 257/09.

Norrköping District Court ruling of 5 December 2019 in case B 198-19.

Hudiksvall District Court ruling of 15 June 2012 in case B 2220-11.

Court of Appeal ruling of 26 February 2010 in case B 9732-09.

Web pages

Arbetsstilsynet, "Innkvartering av arbeidstakere",
<https://www.arbeidstilsynet.no/tema/innkvartering-av-arbeidstakere/>, retrieved 6 October 2020.

Swedish Work Environment Authority, "Foreign workers in Sweden",
<https://www.av.se/en/work-environment-work-and-inspections/foreign-labour-in-sweden/?hl=foreign%20labour>, retrieved 20 April 2020.

Swedish Work Environment Authority "Tips or make an employee report",
<https://www.av.se/en/about-us/contact/contact-form/>, retrieved 27 September 2020.

Swedish Work Environment Authority, "Utstationering",
<https://www.av.se/arbetsmiljoarbete-och-inspektioner/utlandsk-arbetskraft-i-sverige/utstationering/?hl=utstationering>, retrieved 2 October 2020.

Swedish National Council for Crime Prevention statistical database, "Sök statistik över anmälda brott", <http://statistik.bra.se/solwebb/action/index>.

Center mod menneskehandel, "At identificere ofre for menneskehandel",
<https://www.cmm.dk/tilbud-til-ofre/at-identificere-ofre-for-menneskehandel>,
 retrieved 7 July 2020.

European Labour Authority, "About us", <https://www.ela.europa.eu/about.html>,
 retrieved 1 October 2020.

Trade Union Centre for Undocumented Migrant Workers, "Välkommen till Fackligt Center För Papperslösa", <http://www.fcfp.se/>, retrieved 12 June 2020.

Swedish Social Insurance Agency, "Arbeta i Sverige",
https://www.forsakringskassan.se/privatpers/flytta-till-arbeta-studera-eller-nyanland-i-sverige/arbeta_sverige, retrieved 29 September 2020

Gangmasters and Labour Abuse Authority, "Gangmasters and Labour Abuse Authority", <https://www.gla.gov.uk/>, retrieved 7 July 2020.

Gangmasters and Labour Abuse Authority, "I am a worker",
<https://www.gla.gov.uk/i-am-a/i-am-a-worker/>, retrieved 7 July 2020.

Assistance System for victims of human trafficking, "Are you the victim of human trafficking? Help is available!", <http://www.ihmiskauppa.fi/sv>, retrieved 10 October 2020.

Swedish Gender Equality Agency et al, "Nationellt metodstöd mot prostitution och människohandel", <https://www.nmmtsverige.se/>, retrieved 18 May 2020.

Swedish Gender Equality Agency, "Samarbete med länder runt Östersjön mot människohandel", <https://www.jamstalldhetsmyndigheten.se/nyhet/samarbete-med-lander-runt-ostersjon-mot-manniskohandel>, retrieved 2 October 2020.

Swedish Migration Agency, "384 rapporterade fall av människohandel 2018", <https://www.migrationsverket.se/Om-Migrationsverket/Pressrum/Nyhetsarkiv/Nyhetsarkiv-2019/2019-01-14-384-rapporterade-fall-av-manniskohandel-2018.html>, retrieved 14 January 2019.

Swedish Migration Agency, "Ansökan om tidbegränsat uppehållstillstånd eller betänketid",
<https://www.migrationsverket.se/download/18.585fa5be158ee6bf36290c/1485556056713/Tidsbegransat%20UT%20194011.pdf>, retrieved 9 November 2020.

Swedish Migration Agency, "Arbeta under tiden som asylsökande",
<https://www.migrationsverket.se/Privatpersoner/Skydd-och-asyl-i-Sverige/Medan-du-vantar/Arbeta.html>, retrieved 6 October 2020.

Swedish Migration Agency, "Work permit for employees and citizens of non-EU countries", <https://www.migrationsverket.se/Privatpersoner/Arbeta-i-Sverige/Anstalld.html>, retrieved 30 April 2020.

Swedish Migration Agency, "Frequently asked questions on permanent residence permits if you have previously applied for asylum and can now support yourself as an employee or self-employed person",
<https://www.migrationsverket.se/Privatpersoner/Skydd-och-asyl-i-Sverige/Vanliga-fragor-och-svar-/Om-permanent-uppehallsstillstand-for-dig-som-tidigare-har-sokt-asyl-och-nu-kan-forsorja-dig-sjalv-som-anstalld-eller-egenforetagare.html>, retrieved 21 August 2020.

Swedish Migration Agency, "Frågor och svar om fackligt yttrande",
<https://www.migrationsverket.se/Privatpersoner/Arbeta-i-Sverige/Vanliga-fragor-och-svar-om-arbetsstillstand.html>, retrieved 8 July 2020.

Swedish Migration Agency, "Högre krav för arbetstillstånd inom vissa branscher", (<https://www.migrationsverket.se/Andra-aktorer/Arbetsgivare/Anstalla-fran-lander-utanfor-EU/Hogre-krav-for-vissa-branscher.html>), retrieved 20 August 2020.

Swedish Migration Agency, "Krav för arbetstillstånd", <https://www.migrationsverket.se/Privatpersoner/Arbeta-i-Sverige/Anstalld/Krav-for-arbetstillstand.html>, retrieved 3 October 2020.

Swedish Migration Agency, "Människohandel", <https://www.migrationsverket.se/Andra-aktorer/Gode-man/Gode-mannens-roll/Manniskohandel.html>, retrieved 30 April 2020.

Swedish Migration Agency, "Stadig ökning av anmälningar om människohandel", <https://www.migrationsverket.se/Om-Migrationsverket/Pressrum/Nyhetsarkiv/Nyhetsarkiv-2020/2020-01-17-Stadig-okning-av-anmalningar-om-manniskohandel.html>, retrieved 21 January 2020.

Swedish Migration Agency, "Särskilda regler för arbetstillstånd för vissa yrken och länder", <https://www.migrationsverket.se/Privatpersoner/Arbeta-i-Sverige/Anstalld/Sarskilda-regler-for-vissa-yrken-och-lander.html>, retrieved 2 October 2020.

Swedish Migration Agency "Vanliga frågor och svar om arbetstillstånd", <https://www.migrationsverket.se/Privatpersoner/Arbeta-i-Sverige/Vanliga-fragor-och-svar-om-arbetstillstand.html>, retrieved 26 August 2020.

Migrationsverket, "Uppehållstillstånd i Sverige för någon med ställning som varaktigt bosatt i ett annat EU-land", <https://www.migrationsverket.se/Privatpersoner/EU-medborgare-och-varaktigt-bosatta/Varaktigt-bosatt.html>, retrieved 8 October 2020.

Police, "Människohandel – utsatt", <https://polisen.se/utsatt-for-brott/olika-typer-av-brott/manniskohandel/>, retrieved 13 September 2020.

Police "Nationell insats visar flera fall av arbetslivskriminalitet", <https://polisen.se/aktuellt/nyheter/2020/september/nationell-insats-visar-flera-fall-av-arbetslivskriminalitet/>, retrieved 19 September 2020.

Police, "Statistik gränspolisverksamhet", <https://polisen.se/om-polisen/polisens-arbete/granspolisen/statistik-granspolisverksamhet/>, retrieved 30 September 2020.

Government, "Skurkföretag har ingen plats på svensk arbetsmarknad", Eva Nordmark, Minister for Employment, and Mikael Damberg, Minister for Home Affairs, opinion piece in Aftonbladet, 18 December 2019, <https://www.regeringen.se/debattartiklar/2019/12/skurkforetag-har-ingen-plats-pa-svensk-arbetsmarknad/>, retrieved 10 October 2020.

Swedish Tax Agency, "Vad är en personalliggare?", <https://www4.skatteverket.se/rattsligvagledning/340628.html>, retrieved 6 October 2020.

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National Agency for Public Procurement, "Arbetsrättsliga villkor",
<https://www.upphandlingsmyndigheten.se/hallbarhet/socialt-ansvarsfull-upphandling/arbetsrattsliga-villkor/>, retrieved 14 October 2020.

Annex 1. Terms and concepts

Term/Concept	Explanation
Labour exploitation	Exploitation of labour through, for example, very low wages, unreasonably long working hours and a poor working environment. In legislation this corresponds to human trafficking for forced labour or human exploitation for forced labour or work under clearly unreasonable conditions under Chapter 4, Sections 1 a–1 b of the Swedish Criminal Code (1962:700).
Labour immigrant	See foreign labour
Labour migrant	See foreign labour
Working life crime	A collective term for different types of crime that takes place in working life. For example, work environment crime, economic crime and benefit fraud.
Workplace inspection	Police inspections of workplaces in sectors where there is a particularly high risk of labour without a work permit. The inspections are carried out pursuant to Chapter 9, Section 14 of the Aliens Act (2005:716).
Reflection period	<p>A temporary 30-day residence permit granted by the Swedish Migration Agency after application from the leader of the preliminary investigation at the police or prosecutor's office. Through a decision on a reflection period, the cost responsibility for the person giving evidence is transferred from the municipality or region to the Migration Agency. During the reflection period the person can have access to, for example, health care and social assistance. The purpose is to reflect in peace and quiet whether you want to participate in a legal process.</p> <p>“If the alien wants a reflection period so as to recover and be able to take a decision on whether he or she wants to cooperate with the investigating authorities, on application from the person in charge of the preliminary investigation a temporary residence permit valid for 30 days shall be issued, provided the conditions specified in the first paragraph, points 1 and 4 are satisfied.”</p> <p>Chapter 5, Section 15, second paragraph of the Aliens Act (2005:716)</p>
FRA	<i>European Union Agency for Fundamental Rights</i> . The EU Agency for Fundamental Rights FRA is an independent reference and competence centre based in Vienna with

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	the task of promoting and protecting human rights in the EU.
GRETA	<i>Group of Experts on Action against Trafficking in Human Beings</i> . The Council of Europe's body for monitoring Member States' adherence to their commitments under the Council of Europe Convention on Action against Trafficking in Human Beings (CETS 197) 2005.
Irregular labour immigrant	A person who has no legal status in a transit or host country. The person has entered a country without a permit or entered the country legally and subsequently lost his or her permission to remain. In the audit, people who work in Sweden without a work permit are also called irregular labour immigrants.
Inter-agency inspection	Inspections carried out based on the government assignment on development of methods for inter-agency inspections to combat fraud, infringement of rules and working life crime. Eight agencies are involved and the Swedish Work Environment Authority coordinates the assignment. Government decision A2017/02422/ARM, A2017/00678/ARM, <i>Assignment on development of methods for inter-agency inspections to combat fraud, infringement of rules and working life crime.</i>
Human exploitation	Chapter 4, Section 1 b of the Criminal Code (1962:700): "A person who, by unlawful coercion, deception or exploitation of another person's position of dependence, defencelessness or difficult situation, exploits another person in forced labour, labour under clearly un-reasonable conditions or begging is guilty of human exploitation and is sentenced to imprisonment for at most four years."
Human trafficking	Chapter 4, Section 1 a of the Criminal Code (1962:700): "A person who, by: 1. unlawful coercion; 2. deception; 3. exploitation of another person's vulnerable situation that severely restricts that person's alternatives; or 4. other such improper means that severely restrict another person's alternatives, recruits, transports, transfers, harbours or receives a person in order for that person to be exploited for sexual purposes, the removal of organs, military service, forced labour or some other activity in a situation that involves distress for that person is guilty of trafficking in human beings and is sentenced to imprisonment for at least two and at most ten years."
Human trafficking for all purposes	Human trafficking for "all purposes" includes exploitation for sexual purposes, the removal of organs,

	<p>military service, forced labour or other activities in a situation that entails distress for the victim.</p> <p>See Chapter 4, Section 1 a of the Criminal Code (1962:700):</p>
National rapporteur for human trafficking	<p>Under the Ordinance containing instructions for the Swedish Police Authority (2014:1102) the Police Authority has the task of national rapporteur on matters concerning human trafficking. The task of the national rapporteur includes, among other things, reporting in writing to the Government the extent of human trafficking to, in and through Sweden, and submitting proposals on how trafficking in human beings can be prevented and combated. Each EU country must have a national rapporteur for human trafficking in accordance with the Hague Declaration.²⁹²</p>
NMT	<p>Nationellt metodstödsteam mot prostitution och människohandel (National Task Force Against Prostitution and Human Trafficking). NMT is led by the Swedish Gender Equality Agency and consists of agencies working against prostitution and all forms of human trafficking. NMT is an operational and strategic resource for developing and streamlining cooperation in the work against human trafficking, as well as assisting municipalities, agencies and non-governmental organisations in specific human trafficking cases.</p>
Reflection period	<p>A temporary residence permit for at least six months granted by the Swedish Migration Agency after application from the person in charge of the preliminary investigation at the police or prosecutor's office. It is often called reflection period but is not defined as such in the legislation.</p> <p>“Upon application from the person in charge of a preliminary investigation, a temporary residence permit valid for at least six months shall be granted to an alien staying in this country, if</p> <ol style="list-style-type: none"> 1. it is necessary to enable a preliminary investigation or a main hearing in a criminal case to be carried out, 2. the alien has shown a clear intention to cooperate with the investigating authorities, 3. the alien has severed all relations with the persons who are suspected of crime concerned in the preliminary investigation, and

²⁹² The Ministerial Declaration on European Guidelines for Effective Measures to Prevent and Combat Trafficking in Women for the Purpose of Sexual Exploitation (Haag, 24–26 April 1997).

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	<p>4. considerations of public policy and security do not indicate that a permit should not be granted.”</p> <p>Chapter 5, Section 15, first paragraph of the Aliens Act (2005:716)</p>
Regional coordinator	<p>Regional coordinators are located in the seven regions Bergslagen, Stockholm, Central, North, South, West and East. They are employed in the social services in each municipality and are part of NMT, the National Task Force Against Prostitution and Human Trafficking, which is run by the Swedish Gender Equality Agency. The regional coordinators coordinate the work in the region and work closely with other agencies and organisations. They are a resource for professionals dealing with suspected cases of human trafficking and can provide information about rights to support and coordinate relief efforts. They can provide direct support to people who have been subjected to human trafficking and can assist in planning a safe return to their home country. They are co-financed by the Swedish Gender Equality Agency and some coordinators are also co-financed by county administrative boards..</p>
Regional safety representatives (RSR)	<p>Regional safety representatives are primarily tasked with activating and supporting work environment management, especially at smaller companies. Regional safety representatives can step in when the local safety representative needs support or at workplaces where there is no safety committee.. They are also tasked with ensuring that local safety representatives are appointed. The role of regional safety representatives is regulated in Chapter 6 of the Work Environment Act (1977:1160)..</p>
RMS and RMS groups	<p>Regional inter-agency collaboration, the same as is called inter-agency inspections in our audit. RMS groups are the groups that gather together the participating agencies in each region.</p>
Third-country nationals/persons from third countries	<p>Persons who are citizens of a country outside the EU/EEA.</p>
Right of residence	<p>The right of residence is the right that gives EU/EEA citizens and their family members the right to stay in Sweden for longer than three months (Aliens Act, Chapter 3a.). The right of residence requires no special registration, enters into force as soon as the person meets the conditions and remains as long as the conditions are met.</p>

	<p>An EU/EEA citizen who has stayed more than three months in Sweden has a right of residence if he or she:</p> <ul style="list-style-type: none"> • is a worker or a self-employed person in Sweden, • has come to Sweden to seek work and has a real possibility of obtaining employment, • is enrolled as a student at a recognised educational institution in Sweden and, according to an affirmation to this effect, has adequate assets to support himself or herself and family members and has comprehensive health insurance for himself or herself and family members that is valid in Sweden or • has adequate assets to support himself or herself and family members and has comprehensive health insurance for himself or herself and family members that is valid in Sweden. <p>A family member of a person with a right of residence also has the right of residence. An EU/EEA national who has stayed at least five years in Sweden legally and without interruption has a right of permanent residence (Chapter 3a, Section 6 of the Aliens Act 2005:716)</p>
Foreign labour	<p>In the audit, foreign labour includes: posted workers, hired labour from the EU/EEA and third countries, persons with work permits from third countries and persons with other types of work permits via the Swedish Migration Agency, such as asylum seekers or cases based on personal ties. In the term foreign labour, we also include people who work in Sweden without a work or residence permit.</p>
Posted worker	<p>A posted worker is a person who usually works in a certain country but is sent to another country by his or her employer to work there for a limited period of time. Limited time means that there must be a start and end date for when the services are to be performed. The foreign employer must provide services across borders and there must be a recipient of the services in the country to which the employee is sent. The conditions for posting are governed by the Posting of Workers Act (1999:678) and the Posting of Workers Ordinance (2017:319).</p>
Posted worker sent out (Utsänd)	<p>A person who is employed in one country and sent out to work in another country, but continues to be covered by the social security system in the former country.</p>

Annex 2. Method

Introduction

The audit has four sub-questions which together answer the overall question of whether the State is working effectively to counter labour exploitation. The first question concerns whether the regulations provide good conditions for preventing and counteracting labour exploitation. To answer this we have surveyed and analysed the regulatory framework that regulates conditions in the labour market.

We have answered the second question concerning the agencies' inspections mainly through interviews with representatives of the relevant agencies and questionnaires to work environment inspectors and LO-affiliated trade unions.

We answered the third question on information to foreign workers by reviewing the agencies' information on websites. We also submitted supplementary written questions to the relevant agencies.

The fourth and final question concerns the conditions for providing protection and support for victims of labour exploitation. We answered it by analysing statistics and existing regulations regarding the protection and support process. We also interviewed the relevant authorities, the social services regional coordinators and the Salvation Army, who meet victims.

Interviews and written replies to questions

We conducted a total of more than 20 interviews with over 45 people in the autumn and spring of 2020. Most of the interviews were done in Stockholm, but a number of interviews were done via Skype and phone. In all interviews except one, two people from the Swedish NAO participated. Some of the people interviewed were interviewed on two occasions between six and eleven months apart. We kept minutes of the interviews, which were made available to the interviewees for approval.

We chose the interviewees because they have knowledge about labour exploitation through their respective functions. At the Swedish Work Environment Authority, we interviewed acting head of the department for inter-agency inspections and a case officer with special responsibility for issues relating to human trafficking and/or human exploitation at the same department. We also interviewed a coordinator at the inspection department. Most people interviewed at the Police Authority work at the National Operations Department (NOA). We interviewed the head of section and head of group at the human trafficking section in Stockholm. We also held interviews with Sweden's national rapporteur for human trafficking and a detective inspector at the intelligence unit. . We interviewed the acting head

of unit, head of the strategic group, a lawyer and a strategic coordinator at the investigations section of the border police and a process manager and statistics officer. In addition, we conducted telephone interviews with managers at three regional border police units (Stockholm, South and West). At the Swedish Gender Equality Agency we interviewed investigating officers for prostitution and human trafficking. At the Swedish Tax Agency we interviewed the national control coordinator, an expert on economic crime and an area manager. At the Swedish Migration Agency we interviewed an operational expert and a process manager.

We also interviewed regional coordinators in five out of seven regions: Stockholm, North, South, Middle and West. På Frälsningsarmén har vi intervjuat verksamhetssamordnare vid traffickingcentrumet Safe Havens. Through the Salvation Army, we were also able to interview a victim of labour exploitation in Sweden. We interviewed labour market analysts at LO, as well as an expert on work environment issues and a labour market expert at the Confederation of Swedish Enterprise. We have had coordination meetings with the Government Offices and officials at the Ministry of Employment the Ministry of Finance, the Ministry of Justice and the Ministry of Health and Social Affairs.

Our interviews were based on an interview guide that we adapted depending on the function of the person interviewed. The semistructured interviews normally lasted just over an hour. We had a number of questions that we ticked off during the interview, but not in any strict order. We followed up many of the interviews with supplementary questions via email.

We also addressed written questions directly to several agencies when the question area was more delimited. As can be seen from the footnotes in the report, some of these agencies are the Swedish Institute, the missions abroad in Moscow, Hanoi and Bangkok and the Swedish Prosecution Authority. For details about the time of interview or written answers, please refer to the footnotes.

The original plan was to conduct focus group interviews with border police and work environment inspectors. Unfortunately, it was not possible because of the COVID-19 pandemic. The Work Environment Inspectors' views of the inter-agency inspections were instead captured via the questionnaires. The border police views of the work were mainly obtained through interviews with group managers in three regions. We assess that the questionnaires and interviews could largely replace the planned focus group interviews. We also planned to participate in regional collaboration meetings during the spring to gain greater understanding of the work within the inter-agency assignment. However, they were cancelled in the spring due to the COVID-19 pandemic. They resumed in the autumn of 2020 and we had the opportunity to participate in such a regional collaboration meeting with Region Central via Skype at the end of September. During the meeting, the Swedish Tax Agency chose to withdraw from the meeting due to our participation.

Questionnaires

The purpose of the two surveys was to increase our understanding of workplace supervision and what meets the inspectors encounter when ot in the field.

Questionnaire to work environment inspectors

In order to gain a better understanding of the role of the Swedish Work Environment Authority in the inter-agency inspections, we sent a questionnaire to the 26 work environment inspectors that the agency has identified are participating in the inter-agency inspections. We sent the questionnaires via a unique link in the web tool Webropol on 27 April 2020. A reminder was sent on 25 May 2020. The response rate was 88 per cent. See Annex 5 for questionnaire responses.

Questionnaire to the LO-affiliates

LO organises most of the industries identified as risk sectors for labour exploitation. The questionnaires were aimed at increasing our understanding of the work of the national trade unions and their views of labour exploitation. Before sending the questionnaire, we held discussions with LO's labour market analysts. On 27 April 2020 we sent the questionnaire by email to LO's 14 affiliates.

The Swedish Building Workers' Union, the Swedish Electricians' Union, the Swedish Building Maintenance Workers' Union, the Swedish Union of Forestry, Wood and Graphical Workers (GS), the Swedish Commercial Employees' Union, the Swedish Hotel and Restaurant Workers' Union, the Swedish Metalworkers' Union, the Swedish Municipal Workers' Union, the Swedish Foodworkers' Union, the Swedish Musicians' Union, the Swedish Painters' Union, the Swedish Paperworkers' Union, the Union of Service and Communication Employees (Seko), and the Swedish Transport Workers' Union.

The questionnaire consisted of 14 questions (see Annex 6) and 12 trade unions answered the questionnaire.

Document analysis

We have read regulations in the form of legislation and policy documents such as agency instructions and appropriation directions. We reviewed a number of inquiries, research reports and other literature in the field.

We made an overall review of the agencies' websites as regards their information targeting workers with a focus on language and content. We also submitted supplementary questions to some of the relevant agencies. We have not investigated the extent to which the information actually reaches foreign workers. However, in our interviews with people who meet victims of labour exploitation

we asked to what extent their clients knew about the working conditions in Sweden before they arrived here.

Annex 3. Risk groups for labour exploitation

There are many different groups of people who may be affected by labour exploitation. The most vulnerable are those who have migrated to Sweden. There is an increased mobility of labour from poorer to richer countries worldwide. Foreign workers may be willing to accept working conditions that are significantly worse than the standard in Sweden but are still preferable to unemployment or low-paid jobs in their home country. However, moving to another country can create or worsen the social or economic vulnerability of the individual. The risk of exploitation can increase by not knowing the language, having no contacts outside the workplace and not knowing the local legal norms or where to turn for help.²⁹³

The risk a migrant has of falling victim to labour exploitation depends on the legal conditions under which the person has come to Sweden to work. The greatest risks exist for those who are in the country without a work permit or without the right to stay here. The work permit regulations are very complex and this may make the migrant unsure whether they have the right to work or not in the country. Uncertainty can create a fear of turning to the authorities if the working conditions are poor.

In this appendix, we have compiled information about some large groups of labour immigrants who are at risk of labour exploitation. The groups cannot be merged to get an overall picture of how many people may belong to groups with a higher risk of exploitation. This is because one and the same person may in some cases belong to two groups, for example, being both sent out (utsänd) and posted (utstationerad) or being posted and having a work permit through the Swedish Migration Agency.

There are additional groups that are at a higher risk of being affected but which we do not address here. These include, for example, refugees who are newly established in the Swedish labour market, relatives of refugees and labour migrants, and persons from third countries who have come to Sweden to study but who work to a greater or lesser extent.

Another factor that affects the risk of exploitation is the employment relationship between the employee and the company. There may be greater risk for employees of temporary-work employment agencies than for permanent employees. There is also a challenge with so-called fake self-employed persons. These are people who on paper are self-employed and therefore need to pay their own social security

²⁹³ See for example FRA, *Severe labour exploitation: workers moving within or into the European Union States' obligations and victims' rights*, 2015.

contributions. In actual fact they work for an employer and should by normal standards be employees.²⁹⁴

In summary, there are many ways into the Swedish labour market for those who want to work in the country. This is important to bear in mind for those who want to reduce labour exploitation by changing the regulations for labour immigration.

Labour immigrants from a third country with a work permit

According to several commentators, some people who come from outside the EU/EEA and have received a work permit through the Migration Agency fall victim to exploitative conditions when they come to Sweden. Berry pickers and planters, which is the largest group of labour immigrants from third countries, are considered by several parties to be an occupational group where labour exploitation occurs.²⁹⁵ Of the 22,000 work permits in 2019, an estimated 3,000 cases concerned sectors where the Migration Agency imposes higher requirements for work permits. Another 6000 cases related to berry pickers or planters from Thailand.²⁹⁶

Labour immigrants from third countries

Citizens of countries outside the EU/EES need to apply for a work permit via the Swedish Migration Agency. In order to obtain a work permit, the person must have an offer of work in Sweden. The employer must have advertised the position in Sweden and within the EU/EEA and Switzerland for at least ten days before the offer of employment was created. Special rules apply to artists, au-pairs, berry pickers, seasonal workers, researchers, athletes and coaches, trainees, volunteers and EU Blue Cards or ICT permits. In some industries there are higher demands on employers; the employer must, among other things, be able to show that it is possible to pay out wages to the worker.²⁹⁷

The Migration Agency keeps statistics of the number of work permits granted. There is good knowledge of how many labour immigrants from third countries with work permits are in Sweden. Labour immigrants who are relatively permanent in the country are included in the structure of wages and salaries, and their wages can therefore be monitored. In a previous audit, the Swedish NAO examined the wages of labour immigrants. At the time, about 10 per cent of the labour immigrants registered as resident in Sweden had a salary below SEK

See for example Swedish Work Environment Authority et al., *Status Report 2019. För det myndighetsgemensamma arbetet mot fusk, regelöverträdelse och annan brottslighet i arbetslivet*, 2019, and LO, *Utländska arbetstagare på svensk arbetsmarknad – en handbok*, 2019.

²⁹⁵ See for example responses to the Swedish NAO questionnaire to the LO affiliates, April–May 2020 and Vogiazides, *Människohandel för tvångsarbete och exploatering av arbetskraft i Sverige: Exempel från restaurang och bärbranscherna*, 2014.

²⁹⁶ Email from the Swedish Migration Agency, 5 November 2020.

²⁹⁷ Swedish Migration Agency, "Krav för arbetstillstånd"; "Särskilda regler för arbetstillstånd för vissa yrken och länder"; "Högre krav för arbetstillstånd inom vissa branscher", retrieved 2 October 2020.

13,000, which is the level required to retain their work permit. Approximately the same number did not have any registered wages at all.²⁹⁸

Asylum seekers that are exempted from work permit requirement

Another group from third countries that may have work permits in Sweden is asylum seekers who are granted an exemption during their asylum period from the requirement for a work permit, known as AT-UND.²⁹⁹ These people may be a risk group for exploitation because they are strongly driven to get a job and thus the opportunity to get a permanent residence permit or be able to apply for a work permit from Sweden if they do not receive asylum.³⁰⁰ In 2019 there were almost 12,000 people in this group. Ukraine, Georgia and Uzbekistan are common countries of origin in this group. These are groups that have little chance of asylum, but who often come to Sweden to work.³⁰¹ The Swedish Migration Agency has no data on where these people work or under what conditions they work.

Asylum seekers that are exempted from the work permit requirement (known as AT-UND)

An asylum seeker is exempt from the requirement for a work permit if the following conditions are met:

- the person submits acceptable identity documents, or otherwise contributes to clarifying their identity
- the person's case must be reviewed in Sweden
- the person's application is well-founded. It is not possible to receive AT-UND if the person has received a decision on refusal of entry to be carried out immediately.

An AT-UND normally applies until the person receives a residence permit or leaves the country.³⁰² Exemptions from the requirement for a work permit are regulated in Chapter 5, Section 4 of the Aliens Ordinance (2006:97).

Third country nationals holding work permits in other EU/EEA countries

It is also sometimes possible for third-country nationals who have received a residence and work permit in another EU/EEA country to work in Sweden. In order to have the right to work in Sweden on the same grounds as EU/EEA citizens, they must have been resident in an EU/EEA country for five years and have been granted long-term resident status in that country.³⁰³ In 2019, the

²⁹⁸ Swedish National Audit Office, *An effective labour immigrant system?*, 2016, p. 10.

²⁹⁹ See Chapter 5, Section 4 of the Aliens Ordinance (2006:97).

³⁰⁰ And Swedish Migration Agency, "Frequently asked questions about permanent residence permits if you have previously applied for asylum and can now support yourself as an employee or self-employed person", retrieved 21 August 2020.

³⁰¹ Email from representatives of the Swedish Migration Agency, 10 September 2020.

³⁰² Swedish Migration Agency, "Working while you are an asylum seeker", retrieved 6 October 2020.

³⁰³ See also Chapter 5, Section 23 second paragraph of the Aliens Act (2005:716) and Chapter 4, Sections 9 and 16 a of the Aliens Ordinance (2006:97).

Swedish Migration Agency granted residence permits for around 2,200 third-country nationals permanently resident in another EU/EEA country.³⁰⁴

Third country nationals with a residence permit in another EU country

Persons who have lived for at least five years in an EU country with a residence permit can apply for long-term resident status in that country. A person with long-term resident status is granted a special EC/EU residence permit, which means that the person has certain rights similar to those of an EU citizen. This gives the person more opportunities to move to another EU country, for example to work, study, start their own business or live on their own pension³⁰⁵

For example, people from Vietnam sometimes work in Sweden with work permits issued in the Czech Republic or people from Ukraine have work permits from Poland. These people have often not lived for long in the other EU countries, but have come relatively directly to Sweden to work.³⁰⁶ This group is a group with a higher risk of being subjected to labour exploitation because in many cases they work without a valid permit and can therefore be refused entry. However, since the regulations are complex, it is likely that many members of the group believe that they are working legally in the country.

There are also exceptions that mean that certain groups from third countries can come to Sweden via the EU and work temporarily without needing a work permit.³⁰⁷ The Swedish Migration Agency has no data on these workers, who usually work in the construction sector. However, persons who stay longer than three months in Sweden need to apply for a residence permit.³⁰⁸

Posted workers

In 2019, there were around 41,500 people who were registered as posted in Sweden: half of these worked in industries that the Swedish Work Environment Authority considers to have a higher risk of working life crime.³⁰⁹ The construction industry, which is by far the most common industry for those posted, is also the

³⁰⁴ Email from the Swedish Migration Agency, 17 November 2020.

³⁰⁵ Swedish Migration Agency "Swedish residence permits for long-term residents of another EU country", retrieved 8 October 2020.

³⁰⁶ Email from representatives of the Swedish Migration Agency, 10 September 2020.

³⁰⁷ It is required that the person has the right to work and stay in the EEA state and is employed by a company in that country and is to work temporarily in Sweden on the company's behalf in connection with construction or similar. The provisions on exemption from the requirement for a work permit are regulated in Chapter 5, Section 2 of the Aliens Ordinance.

³⁰⁸ Email from representatives of the Swedish Migration Agency, 10 September 2020.

³⁰⁹ The industries are construction, cleaning, restaurant, beauty, transport and health and social care. Email from representatives of the Swedish Work Environment Authority, 4 September 2020.

industry that agencies and trade unions consider to have the highest incidence of labour exploitation.³¹⁰

Posting

Posting means that an employee on behalf of his foreign employer performs temporary services across borders for a recipient established in Sweden. The rules on posting are common to the EU and the EEA area. They are to strengthen the rights of posted workers and make it easier for people to work in other countries and for companies to offer their services across borders.³¹¹

On the Swedish Work Environment Authority's website there is access to the collective agreements applicable to posted workers. However, there are no statistics on the percentage of posted workers that are covered by Swedish collective agreements or what pay levels the posted workers have.³¹² According to the National Mediation Office, which is responsible for the statistics, the structure of wages statistics do not cover foreign workers temporarily active in Sweden as self-employed persons or through foreign companies.³¹³

Posted workers (sent out)

One way of working temporarily in Sweden is to be posted (sent out). A person sent to Sweden may in some cases be exempt from paying social security contributions and in that case sends a certificate to the Swedish Social Insurance Agency that the social security contributions should be paid in another country.³¹⁴ There is a risk that the employee may be harmed if the certificates sent to the agencies are inaccurate.³¹⁵ This may mean that the person sent out does not pay social security contributions in Sweden or in the country from which the person is sent. This can lead to the person being uninsured and not entitled, for example, to health insurance in Sweden or any other country.

³¹⁰ Swedish NAO's questionnaire to the LO affiliates, April-May 2020; Swedish Work Environment Authority et al, *Status report 2019. För det myndighetsgemensamma arbetet mot fusk, regelöverträdelser och annan brottslighet i arbetslivet*, 2019.

³¹¹ Swedish Work Environment Authority, "Posting", retrieved 2 October 2020.

³¹² The National Mediation Office is the agency that monitors the proportion of employees in Sweden that are covered by collective agreements, but they have no data on the workers who are posted by a foreign employer but work in Sweden. (email from representatives of the National Mediation Office, 23 June 2020).

³¹³ National Mediation Office, *Avtalsrörelsen och lönebildningen 2019, Annual report of the National Mediation Office*, 2019, p. 4.

³¹⁴ Posting (sending out) of workers is regulated in Article 12 of the Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems. On the Swedish Social Insurance Agency's website "Working in Sweden", retrieved 29 September 2020, there is information on the conditions for posting (utsändning) from different countries.

³¹⁵ In an interview with representatives of the Swedish Tax Agency, on 6 March 2020, they state that they sometimes suspect that the A1 certificates are incorrect.

In 2018, there were nearly 54,000 certificates of posting (utsändning) for foreign workers in Sweden. The most common countries to be sent from were Germany, Poland, Lithuania and Slovakia.³¹⁶ According to the Swedish Social Insurance Agency, which is responsible for issues relating to posting, the number of workers sent out is increasing sharply and preliminary data for 2019 is that other countries have issued more than 85,000 certificates of posting (utsändning) for work in Sweden.³¹⁷ It is possible to be sent both from an EU/EEA country and from third countries, but the statistics above contain only the workers sent out from the EU/EEA countries. In the EU/EEA, sending out (posting) of workers is regulated in the Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems.

Conditions for posting (utsändning) within the EU/EEA

A person sent out to work in another Member State may be covered by the social security system in the former country under certain conditions.

The conditions are:

- that a person works as an employee in a Member State for an employer who normally conducts their activities in that Member State
- that the employer sends the person to perform work in another Member State on behalf of the employer
- that the work is not expected to last longer than 24 months
- that the person is not sent out to replace another posted worker (utsänd).

The purpose of the posted worker rule (utsändningsregeln) is that shorter assignments in another country on behalf of the regular employer, should not entail a change of social security system for the employee. Social security contributions must therefore continue to be paid in the same country as before during the posting (utsändning).

Form A1

To ensure exchange of information, there are rules that state that an employer who sends out an employee for work in another Member State for a maximum of 24 months shall inform the competent authority of the State whose social security system is to apply. A Swedish employer must inform the Swedish Social Insurance Agency about such postings (utsändning). The Social Insurance Agency must inform the employee that they are covered by the social security system in Sweden during the posting (utsändning) and the Social Insurance Agency must also issue a certificate concerning this.³¹⁸

Vulnerable workers from the EU/EEA

Citizens from the EU/EEA countries do not need a work permit to work in Sweden. They have a right of residence in Sweden if they have come to seek work

³¹⁶ European Commission, *Posting of workers Report on A1 Portable Documents issued in 2018, 2019*.

³¹⁷ Email from representatives of the Swedish Social Insurance Agency, 8 October 2020.

³¹⁸ The Swedish Tax Agency's legal guidance "Uttsändning", retrieved 8 October 2020.

and have a real possibility of obtaining employment,³¹⁹ There are no comprehensive statistics on the number of EU/EEA citizens working in the country. For 2018, however, the police estimated that there were 4,800 vulnerable EU citizens in Sweden. Many of them supported themselves by begging but are also at risk of being exploited by unscrupulous employers.³²⁰ In 2016–2019 the Stockholm County Administrative Board was tasked with developing collaboration regarding vulnerable EU/EEA citizens.³²¹ Since this assignment ended, no agency is responsible for collecting information about this group.

Rights to reside in the country for EU/EEA citizens under Chapter 3 a, Section 3 of the Aliens Act (2005:716)

An EEA citizen has right of residence if he or she

1. is a worker or a self-employed person in Sweden
2. has come to Sweden to seek work and has a real possibility of obtaining employment
3. is enrolled as a student at a recognised educational institution in Sweden and, according to an affirmation to this effect, has adequate assets to support himself or herself and family members and has comprehensive health insurance for himself or herself and family members that is valid in Sweden, or
4. has adequate assets to support himself or herself and family members and has comprehensive health insurance for himself or herself and family members that is valid in Sweden.

Irregular labour immigrants

There are also people who work in Sweden even though they lack a work permit or the right to reside in Sweden. This group is called irregular labour immigrants or undocumented migrants. It is above all the Police Authority that comes into contact with the group, but also the Migration Agency in cases where individuals are taken into custody.

Irregular labour immigrants can be divided into two groups. One group has the right to stay in the country but not to work here. For example, they may have arrived in Sweden with Swedish or other EU/EEA tourist or visitor visa, but have not applied for a work permit. The group also includes some asylum seekers who have the right to stay in the country but not to work.³²² The other group, those who have neither the right to stay nor work in the country, may have arrived in the country without registering with the authorities. This may also involve persons whose permission to reside in the country has ceased, such as those who have

³¹⁹ See Chapter 3 a, Section 3 of the Aliens Act (2005:716).

³²⁰ County Administrative Board, Stockholm, Arbetskraftsexploatering och människohandel. Erfarenheter i Sverige och goda exempel från andra länder, 2017, p. 8.

³²¹ Ibid; County Administrative Board, Stockholm, Uppdrag om nationell samordning avseende utsatta EU/EES-medborgare som saknar uppehållsrätt i Sverige – slutrapport, 2020.

³²² Cf. Chapter 5, Section 4 of the Aliens Ordinance (2006:97).

received a decision on expulsion but who nevertheless have remained in the country. In 2019 there were almost 18,000 people who were to be expelled and where the case was handed over to the police.³²³

In 2019, the police conducted 2,675 workplace inspections and discovered 584 people without work permits.³²⁴ The police collect statistics on the industry and county where the individuals have been found. Otherwise, no statistics are compiled on, for example, countries of origin or how the individuals have travelled to Sweden. The greatest number of people without work permits are found in car workshops.³²⁵

³²³ Police, "Statistik gränspolisverksamhet", retrieved 30 September 2020.

³²⁴ Swedish Police Authority, *Rapportering till regeringen avseende sanktionsdirektivet för 2019*.

³²⁵ Swedish Police Authority, *Rapportering till regeringen avseende sanktionsdirektivet för 2019*.

Annex 4. The social partners other assignments

Trade unions and employer organisations have also been given specific assignments that are intended fully or partially to counteract working life crime or poor working conditions for labour immigrants.

Obtaining an opinion in work permit cases

Before the Migration Agency decides on a work permit for third-country nationals, the trade union organisation concerned must be given the opportunity to express its views on the terms of employment in the offer of employment.³²⁶ However, many trade unions experience problems in that the offer of employment that they have expressed their opinion on is not correct. The Swedish Hotel and Restaurant Workers' Union states, for example, that the employees have to work far more than full-time for far too low wages.³²⁷

Government grants to the social partners for combating crime and other regulatory violations in working life

To promote exchange of knowledge and collaboration with agencies to counteract crime and other regulatory violations in working life, in 2018 the Government introduced the Ordinance on Government Grants to the Social Partners (2018:1404). The Ordinance allows the Swedish Work Environment Authority to allocate resources to the social partners.³²⁸ Some of the grant of SEK 3 million has, however, been paid back.³²⁹

Regional safety representatives

The Swedish Work Environment Authority annually awards a grant of SEK 112 million to the trade unions' regional safety representatives.³³⁰ In our questionnaire to the trade unions we asked if regional safety representatives (RSR) can contribute to combating labour exploitation. Most of the trade unions considered that RSRs play an important role. The Electricians' Union described, for example, that RSRs conduct safety rounds, in some cases even at night, to ensure that no workers are asleep, living or staying at the workplace. The Hotel and Restaurant

³²⁶ See Chapter 13, Section 14 of the Aliens Act (2005:716) and the Swedish Migration Authority, "Frågor och svar om fackligt yttrande", retrieved 8 July 2020.

³²⁷ In one case, the wages in the offer were SEK 25,000 per month, but when the employee started working, it was 25,000 baht per month, corresponding to approximately SEK 7,000. The Swedish NAO's questionnaire to the LO affiliated trade unions, April-May 2020.

³²⁸ Swedish Work Environment Authority, Annual Report 2019.

³²⁹ For 2018 SEK 0.5 million was paid back, and for 2019 SEK 0.9 million. For 2020 only half the grant (SEK 1.5 million) was paid out. Email from representatives of the Swedish Work Environment Authority, 18 May 2020.

³³⁰ Government Decision A2019/02305/ARM, A2019/02294/SV.

Workers' Union, HRF, state that their RSRs are able to see directly perceivable suspected labour exploitation or receive indications from employees – either from those who are themselves the victims of labour exploitation or from other employees at the workplace. Some pointed out, however, that RSRs are limited in that they do not have access to workplaces without union members. GS, the Union of Forestry, Wood and Graphical Workers, believe that their RSRs give priority to workplaces where they have many members, which means that they are unable to tackle labour exploitation to any greater extent.³³¹

³³¹ Swedish NAO's questionnaire to the LO affiliated trade unions, April-May 2020.