

Responses to Demand in the Context of Trafficking in Human Beings: Regulatory measures from twelve national contexts

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About the project

Trafficking in human beings covers various forms of coercion and exploitation of women, men and children. Responses to trafficking have traditionally focused on combating the criminal networks involved in it or protecting the human rights of victims. However, European countries are increasingly exploring ways in which to influence the demand for services or products involving the use of trafficked persons or for the trafficked persons themselves. **DemandAT** aims to understand the role of demand in the trafficking of human beings and to assess the impact and potential of demand-side measures to reduce trafficking, drawing on insights on regulating demand from related areas.

DemandAT takes a comprehensive approach to investigating demand and demand-side policies in the context of trafficking. The research includes a strong theoretical and conceptual component through an examination of the concept of demand in trafficking from a historical and economic perspective. Regulatory approaches are studied in policy areas that address demand in illicit markets, in order to develop a better understanding of the impact that the different regulatory approaches can have on demand. Demand-side arguments in different fields of trafficking as well as demand-side policies of selected countries are examined, in order to provide a better understanding of the available policy options and impacts. Finally, the research also involves in-depth case studies both of the particular fields in which trafficking occurs (domestic work, prostitution, the globalised production of goods) and of particular policy approaches (law enforcement and campaigns). The overall goal is to develop a better understanding of demand and demand-factors in the context of designing measures and policies addressing all forms of trafficking in human beings.

The research is structured in three phases:

- Phase 1: Analysis of the theoretical and empirical literature on demand in the context of trafficking and on regulating demand in different disciplines, fields and countries. From January 2014–June 2015.
- Phase 2: Three in-depth empirical case studies of different fields of trafficking – domestic work, prostitution, imported goods – and two studies on different policy approaches: law enforcement actors and campaigns. From September 2014–December 2016.
- Phase 3: Integrating project insights into a coherent framework with a focus on dissemination. From January 2017–June 2017.

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Table of Contents

1 INTRODUCTION.....	5
2 METHODOLOGICAL CONSIDERATIONS.....	6
2.1 SELECTION OF NATIONAL CONTEXTS.....	6
2.2 RESEARCH DESIGN.....	6
2.3 ANALYTICAL FRAMEWORK.....	7
2.4 WORKING CONCEPTS.....	8
3 DEMAND.....	8
4 MEASURES ADDRESSING DEMAND	10
4.1 LABOUR EXPLOITATION	10
4.2 SEXUAL EXPLOITATION	14
4.3 OTHER TYPES OF EXPLOITATION.....	16
5 ANALYSIS	18
5.1 COMMAND AND CONTROL.....	18
5.2 PEER PRESSURE.....	22
5.3 MARKET-BASED MECHANISMS	24
5.4 DESIGN	26
5.5 COMBINED REGULATORY MEASURES: APPLICATION APPROACHES.....	27
6 CONCLUSION.....	29
7 SELECTED REFERENCES	31
8 ANNEXES	36
8.1 ANNEX 1.....	36
8.2 ANNEX 2.....	40
8.3 ANNEX 3.....	43
8.4 ANNEX 4.....	45

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Abstract

Addressing the demand that fosters trafficking in human beings is a requirement of the UN Anti-Trafficking Protocol. However, at the time the Protocol entered into force signatory countries received no additional guidelines regarding what constitutes demand and what measures are to be implemented in order to reduce this demand. As a consequence, countries adopted various measures which can be regarded as addressing demand. This paper presents recurring types of such measures in twelve different national contexts. It begins by describing how demand is referred to and what kinds of measures are mostly employed to address it. The most common measures are then presented according to a typology distinguishing four types of mechanisms aimed at steering societal behaviour – command and control, peer pressure, market-based and design. In the framework of anti-trafficking policies addressing the demand-side, these four types of mechanisms are implemented in combination.

The paper finds that there are few policies specifically addressing trafficking in human beings. More commonly, policies address broader issues associated with trafficking, and thus may serve to address, but are not limited to trafficking.

Generally, demand-side approaches have been seen as important building blocks in efforts to prevent trafficking, complementing measures addressing the vulnerability of trafficked persons. Whether such demand-side policies actually succeed in preventing trafficking is both debated and not sufficiently investigated. Structurally, the promotion of demand-side approaches has the potential to mainstream anti-trafficking policies across various policy areas. At the same time, given the broad focus of existing demand-side measures, demand-side approaches inevitably focus on broader issues of severe forms of exploitation, compliance with legal standards and human rights.

1 Introduction¹

Fifteen years after the UN Anti-Trafficking Protocol (also referred to as the Palermo Protocol) was open for signature, we now arguably know more about trafficking in human beings than ever before (Weissbrodt & Meili 2012). Shortly after the Palermo Protocol, the European public debate on trafficking in human beings focused on the characteristics of trafficking, as opposed to smuggling, and the need to gather information on the issue for a better understanding and thereby, a better policy response (ICMPD 2010; UNODC 2009). A decade later, high-level officials of organisations promoting the fight against trafficking emphasised the relevance of (extreme) exploitation (OSCE 2011; Giammarinaro 2012), and of what has been called a continuum of exploitation (Skrivankova 2010). Apart from the conceptual discussion on trafficking, its elements and differences vis-à-vis smuggling, the focus of policies aimed at addressing trafficking has also changed. The shift has not been a structural one, in the sense that the three main policy lines initiated by the Palermo Protocol (protection, prevention and prosecution) continued, but there has been a slight shift in the focus from priority given to the protection of trafficked persons to increased attention given to the prevention of trafficking. A manifestation of this shift is the current consideration given to demand, to which this very paper also contributes.

According to the Palermo Protocol, there is a demand ‘that fosters all forms of exploitation of persons, especially women and children, that leads to trafficking’. In addition, signatory states are required to ‘adopt or strengthen legislative or other measures [...] to discourage [...] demand’ (UNODC 2004). However, the Protocol does not offer additional explanation in regards to, for instance, what should be considered in the context of anti-trafficking policies as demand or what legislative and other measures are the most appropriate to discourage demand. Therefore, with no guiding principles, countries took different approaches in their understanding of what constitutes demand and in implementing measures to address it.

This paper brings together examples of such measures from 12 different national contexts². To do this, it first provides a descriptive account of common policies in place and then proceeds with an analysis of these policies. In terms of sections, the paper starts by offering a brief summary of the ways in which the term ‘demand’ is employed in various national contexts, and then provides examples of measures that are claimed to address demand in the context of labour, sexual and other types of exploitation. Finally, the paper examines these measures according to several different types of regulatory mechanisms – from the traditional command and control to ‘smart’ types of mechanisms such as market-based mechanisms, peer pressure or design. As these four types are often applied in combination, a special section is dedicated to what have been called ‘combined approaches’ (Boswell & Kyambi 2016).

¹ The authors are extremely thankful for the comments received from members of the DemandAT project: Dita Vogel, Norbert Cyrus, Anna Triandafyllidou, Alexandra Ricard-Guay, Giji Gya, Almut Bachinger and Jimy Perumadan.

² Belgium, Czech Republic, France, Germany, Italy, the Netherlands, Romania, Sweden, the United Kingdom, Brazil, Nigeria and the United States (federal level and state level – California and Florida).

2 Methodological considerations

2.1 Selection of national contexts

To analyse the different national responses to demand, one of the main principles used was to select specific EU countries, and also the US as a major industrialised country comparable to the EU. Within the EU countries, a founding state (France) and newer member states (Czech Republic, Romania) were selected to highlight policy differences in anti-trafficking approaches. Countries with different approaches to particular strands of demand were also selected – Sweden and the Netherlands, for instance, pursue different approaches to demand in the context of trafficking for sexual exploitation. For the US, three case studies were developed – one at the federal level and two at the state level. California and Florida were studied in-depth as they have distinctive policies addressing demand in regards to different types of trafficking.

In addition to selecting the US, other third countries were selected as illustrative case studies to understand policy challenges in the context of emerging economies and developing countries. Brazil is of particular interest due to its years of experience with policies and initiatives combatting labour exploitation, as well as the legalisation of sex work, in addition to the significance of labour exploitation in its history (Healy 2014). Nigeria was selected both due to its relevance as a country of origin of trafficked people identified in EU countries, and due to the relatively high identification of internal trafficking within Nigeria and regional trafficking within West and Central African countries (Huddleston 2015).

2.2 Research design

In terms of the research design, two main aspects were considered – the research aimed at capturing the particularities of demand-side policies in each of the countries under review, in addition to seeking data and information that is comparable. To achieve this, research instruments – semi-structured interview guidelines as well as an annotated structure for reporting the findings – were developed and used for the national level research³. In each of the countries under review, research was conducted in several steps, including desk research and interviews/consultations with relevant national stakeholders (anti-trafficking coordinators and rapporteurs, civil society representatives, law enforcement authorities, policy experts, academics, etc.). During the initial step of desk research all types of relevant documents (academic journal articles, strategies and action plans, laws, media reports, blogs, etc.) were systematically screened for information on anti-trafficking policies in general, and demand-side measures in particular. As a general rule, measures addressing demand were determined either by stakeholders or by reports or academic research results stating that these measures address demand. In this way, the researcher's own assessment of whether

³ National level research was conducted by: Mădălina Rogoz (author of Belgium, France, Romania and Sweden national reports), Petra Kutáľková and Markéta Hronková (authors of the Czech national report), Louise Deegan and Marieke van Doorninck (authors of Germany, the Netherlands and the UK national reports), Francesca Zampagni (Italy national report), Claire Healy (Brazil national report), William Huddleston (Nigeria national report) and Maegan Hendow (author of US – federal level, California and Florida reports)

a policy is a demand-side policy was kept to a minimum. Arguments on whether a particular measure addresses demand in the context of trafficking were also collected.

At a comparative level, government responses to demand were clustered according to several criteria. First, measures were categorised according to the type of exploitation they intended to tackle, e.g. sexual exploitation, labour exploitation, exploitation through begging etc. Second, measures were considered according to the framework proposed by Boswell and Kyambi (2016) on regulatory tools for steering societal behaviour.

2.3 Analytical framework

In their paper, Boswell and Kyambi provide an overview of these regulatory tools, from the more traditional approach of commanding and controlling to what has been called 'smart approaches' involving positive incentives to comply with regulations or steering behaviour to comply through more subtle means, including design.

Presenting the vast literature on regulation is beyond the scope of this paper⁴. Instead, the paper only provides a sketch of the analytical framework used to classify demand-side policies documented in the course of the research (see Boswell and Kyambi 2016 for a broader discussion and relevant reference). In principle, the command and control mechanism denotes 'the imposition of standards backed up by legal sanctions if the standards are not met. The law is therefore used to define and prohibit certain types of action' (UNIDO n.a.).

A market-based mechanism amounts to a framework of rules aimed at providing incentives for companies 'to adopt cost effective solutions, for example through the tools of privatisation, auctions, pricing and fiscal incentives' (Boswell & Kyambi 2016). Peer pressure strategy aims at involving the community's opinion in regards to a company's actions which can translate into different types of reactions, such as 'naming and shaming' or 'naming and faming' an organisation.

Steering societal behaviour through design refers to the influence that the environment has on the selection of particular choices. One alternative of this type of mechanism is the 'nudge' approach, in which 'governments can subtly, even subliminally, prompt people to make better decisions without heavy-handed intervention or explicit coercion' (Idem 2016).

Boswell and Kyambi propose a combined approach as a fifth strategy. This is characterised by (simultaneously) employing several of the above-mentioned measures. Examples of such combined approaches are the pyramid of enforcement (with punitive measures as the last resort) (Ayres and Braithwaite 1992) or 'regulatory pluralism' (simultaneous use of regulatory tools by governmental and non-governmental actors). For the purpose of this paper the combined approach is perceived as a different level than the previous four measures, as this approach refers to the simultaneous implementation of two or more of the four measures: command and control, market, peer pressure or design measures.

In addition to providing examples of recurrent policy tools used by governments to address demand in the context of different types of exploitation or trafficking, this paper discusses types of 'smart' regulations addressing demand in different national contexts. The purpose is not to exhaustively describe such policy tools, but to rather exemplify some of the recurrent

⁴ For another review of the literature on regulation, see for instance Michael Moran (2002). Review article: Understanding the Regulatory State. *British Journal of Political Science*, 32, pp 391-413.

ones using the above-mentioned typology and to identify, where possible, why certain policies are introduced and considered successful or unsuccessful.

2.4 Working concepts

As legal definitions vary according to national contexts, when choosing the terminology applied in describing different measures at national level, selection criteria were employed rather than assuming working definitions. In this sense, trafficking in human beings is understood in this paper not by the international definition, but in more general terms with reference to extreme exploitation and infractions or crimes related to trafficking such as: labour exploitation, child sexual abuse imagery, servile marriages, criminal acts against children⁵, deprivation of liberty, migrant smuggling, petty crime and organised crime, amongst others (ICMPD 2010). Furthermore, the inquiry into what types of measures are employed by national authorities to address demand in the context of trafficking did not have a central reference point of what constitutes trafficking in different national contexts – which is beyond the scope of this research – but rather on what constitutes demand.

Following the conceptual clarification put forward by Cyrus & Vogel (2015) policies addressing demand (or demand-side measures) are those referring to demand in its economic sense, which is the ability and willingness of consumers to purchase a certain good or a service at a certain price. Therefore, measures aimed at changing consumer behaviour towards purchasing a certain good or service (e.g. awareness raising campaigns) are considered demand-side measures. According to Cyrus & Vogel, 'other measures and policies aimed, for example, at the reduction of worker vulnerability or employers' increasing compliance with labour rights, [are regarded] as alternatives to demand-side measures and policies'. However, as the examples put forward in this comparative study are from national contexts, notions of trafficking, demand and demand-side measures described by these examples are at times contextually specific. Where necessary, additional explanations are provided.

3 Demand

The term 'demand' appeared in national policies addressing trafficking, particularly in EU countries, in the early 2000s, mostly as a consequence of the implementation of international treaties and conventions in national legislation. Quite a number of the national policymakers consulted during this research referred to international documents⁶ or national policies implementing international ones in order to describe the notion of demand in their respective countries.

⁵ This is rather a generic term which could mean paid negotiation of sexual contact with children, promotion of prostitution and pornographic presentation of children (in Austria), incitement of children to immoral behaviour, corruption or prostitution (in Belgium), sexual corruption of children (in France), etc. For more examples of different legal phrasings in different countries, as well as the reasoning for considering these categories as relevant for trafficking, see ICMPD (2010), Study on the assessment of the extent of different types of Trafficking in Human Beings in EU countries. http://research.icmpd.org/fileadmin/Research-Website/Publications/THB_extent/Study_extent_of_THB_final_26Nov2010.pdf. Accessed 7 March 2014.

⁶ First they referred to the Palermo Protocol. Policymakers from EU countries referred also to the EU Directive.

Although there is a lack of clarity⁷ in regards to what exactly constitutes demand, demand is in general referred to in economic terms. The clearest reference in this context is demand for sexual services which is expressed at times as ‘demand for prostitution’ in countries where prostitution is conflated with trafficking for sexual exploitation. With regard to other types of exploitation, however, the reference becomes unclear as it is made in terms of ‘demand for labour exploitation’ or ‘for domestic work’⁸. Regardless of the context, the goal of this paper was not to offer conceptual clarity with regard to demand⁹, but to take stock of the kinds of measures implemented by countries to address demand and to offer explanations for why certain measures were put in place and, where available, why some of those measures are considered by national stakeholders as successful or otherwise. Impact assessments¹⁰ of policies are scarce, thus little can be said at this stage of the research on their actual impact.

Specific policy measures aimed at addressing demand have been triggered by a number of reasons, among which two are most discernible – a specific event in a national context or through policy learning/transfer of policy and policy-copying (Stone 2001; Perchinig 2012; Trein 2015) among different countries. For instance, the public discussion on procurement in the context of exploitative work and trafficking in human beings in the Czech Republic was amplified by discussions around the ‘tree workers’ case¹¹. The death of 23 Chinese cockle pickers in Morecambe Bay in 2004 led to the creation of the Gangmasters Licensing Authority (GLA) in the UK in 2006.

The debate in Belgium is a relevant example of policy learning and policy-copying. A series of meetings between French and Belgian ministers¹² triggered a discussion in the Belgian public space on demand in the context of trafficking for sexual exploitation in a similar way as was debated in France – by considering the option of criminalising the purchase of sexual services. However, the debate did not result in a law coming into effect in Belgium and the proposed legislation in France was eventually rejected by the Senate (Rogoz 2015b).

⁷ The reason for this is twofold – the relatively new concept of demand in terms of policy making (e.g. the need to consider demand as a useful concept) and the top-down approach with regard to demand (e.g. international players seem to have pushed the concept in most national contexts under research).

⁸ For an overview of the contexts in which the notion of demand is referred to in particular countries see Annex 1.

⁹ For conceptual clarifications, see Cyrus and Vogel (2015).

¹⁰ For instance, a review of 20 ‘quantitative evaluation studies with respect to anti-trafficking interventions’ which explored ‘what is known about the effectiveness of interventions’ found that ‘no substantive conclusion about the effectiveness can be made’ (Van Der Laan et al. 2011).

¹¹ ‘The case refers to a situation in 2009 and 2010 when several companies run by the same group of people employed workers from different countries (including Vietnam, Slovakia, Ukraine, Romania and Bulgaria) in tree planting and other forestry work. The companies abused the vulnerable position of particular migrants in the country, as well as the fact that different migrant communities do not have a common language and hence could not communicate about labour exploitation to each other’. La Strada Czech Republic and the victims’ attorney were calling for the case to be prosecuted under the crime of trafficking. Despite the connection between the companies and modus operandi, the case was not prosecuted as a whole, but divided into several investigations conducted by different police departments. Due to its scale, the case triggered expert debates with regard to the trafficking definition and employers’ accountability (Kutálková & Hronková 2015).

¹² In September 2012, the Belgian Minister of Internal Affairs and of Equal Opportunities and the French Minister of Women’s Rights met in Brussels to address a number of issues relevant to gender equality. Sexual exploitation and trafficking for sexual exploitation were also addressed. In September 2013, the two politicians met in Brussels at the celebration of the signing of the UN Convention for the Suppression of the Traffic in Persons and of Exploitation of the Prostitution of Others (approved by the General Assembly in 1949 and entered into force in 1951).

In Italy, Brazil and Nigeria there is no general agreed upon notion of demand, but policy makers refer to different elements influencing demand in various exploitative situations. In other countries, demand has a specific meaning and has been used in specific contexts (such as demand for sexual services linked with prostitution – in Federal Level policy in the US but also in California, as well as in Sweden). The difference may reside in the history of anti-trafficking policies in these countries, as well as in their standpoint in regards to particular policy options. Italy, for instance, has been at the forefront of the victim-centred approach in anti-trafficking policies and has been promoting this approach in international fora. In Sweden, addressing prostitution in the context of sexual exploitation is a matter of social values, as prostitution is considered a type of violence against women.

Finally, in addition to its economic understanding, demand is also described as influenced by the socio-economic and political environment. In the case of Nigeria, broad development issues, including widespread poverty, are described as factors influencing demand (Huddleston 2015). In the US, at federal level, some stakeholders regard demand as ‘a result of the establishment of exploitative working conditions that foster trafficking’ (Hendow 2014a).

4 Measures addressing demand

Despite the various understandings of demand in different national contexts, a number of measures are commonly understood as generally addressing demand. This section describes such measures implemented to address demand in the context of labour, sexual and other types of exploitation. Demand in the context of sexual exploitation is frequently addressed through measures aimed at changing the behaviour of the purchasers of sexual services. In regards to labour exploitation, demand is widely addressed through actions aimed at changing the behaviour of either employers not respecting workers’ rights or actions intended to change the behaviour of buyers of goods that might have been produced through exploitation. This section, while also displaying such examples of addressing demand, where relevant, goes beyond these examples in an attempt to provide a more comprehensive picture of government responses.

4.1 Labour exploitation

It has been argued that trafficking for labour exploitation happens in sectors where workers are excluded from legal protection and denied the right to organise (Thrupkaew 2015). This section looks at types of measures, adopted either by governments and public administrations or in partnership with the private sector¹³, expected to improve workers’ protection with the aim of preventing exploitative situations.

One set of tools addressing labour exploitation consists of labour laws and, when appropriate, penal codes. However, as labour exploitation in general and trafficking for the purpose of labour exploitation in particular are considered to take place on a larger scale than the situations identified by law enforcement and judiciary systems, the policy tools addressing

¹³ It is outside of the scope of this paper to look at those measures initiated by the private sector/civil society only, as the research undertaken focused on policies implemented by governments.

trafficking are more diverse, in an attempt to address exploitation within different situations and different legal, social and cultural environments.

When comparing the countries under review, one relevant difference between EU and non-EU countries is worth mentioning, that is the significant distinction that EU Directives are legally binding for EU countries. There are a number of EU Directives relevant to situations of employment and that were mentioned by national stakeholders as relevant in addressing demand. These are: the Sanctions Directive¹⁴ and the Directive on Posting of Workers¹⁵, as well as the Posting of Workers Enforcement Directive¹⁶ which aims to improve and facilitate the implementation, monitoring and enforcement in practice of the rules laid down in the Directive on Posting of Workers¹⁷. Also mentioned was the Directive on Public Procurement (replacing Directive 2004/18/ES). The Anti-trafficking Directive¹⁸ was mentioned as the overarching EU legislation addressing trafficking in general, including measures addressing demand.

Regarding the enactment of relevant legislation, it is worth mentioning that in some EU countries (Belgium, France, the Netherlands and Romania) labour inspectorates – which are the guardians of labour laws – have specific powers to identify violations of not only labour laws, but also the respective penal codes. Labour inspectors can gather information and/or pass it on to the police when they suspect there is a case of labour exploitation/trafficking. In Belgium, they are mandated to investigate cases of labour exploitation or trafficking for the

¹⁴ 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. <http://eur-lex.europa.eu/legal-content/en/ALL/?uri=CELEX:32009L0052>. Accessed 4 April 2015.

‘This Directive establishes that cooperation among Member States should be strengthened to tackle illegal immigration. In particular, measures against illegal employment should be intensified at Member State and EU level. Member States should guarantee the full effectiveness of the general prohibition by providing criminal penalties in their national legislation in serious cases, such as the illegal employment of a significant number of third-country nationals, particularly exploitative working conditions, the employer knowing that the worker is a victim of trafficking in human beings and the illegal employment of a minor. The Directive stresses also that Member States should be free to grant residence permits of limited duration, to third-country nationals who have been subjected to particularly exploitative working conditions or who were illegally employed minors and who cooperate in criminal proceedings against the employer.’ https://ec.europa.eu/anti-trafficking/legislation-and-case-law-eu-legislation-migration-law/directive-200952ec_en. . Accessed 30 September 2015.

¹⁵ Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services. According to a position adopted by ETUC in 2003, the objective of this Directive is ‘to provide for a climate of fair competition and measures guaranteeing respect for the rights of workers’. ETUC (2006).

¹⁶ Adopted on 13 May 2014 by the EU's Council of Ministers. ‘Strong safeguards to protect the rights of posted workers and to prevent ‘social dumping’ are laid down in the 1996 Posted Workers Directive (96/71/EC) that presents a core of mandatory rules regarding the terms and conditions of employment to be applied to an employee posted to work in another Member State. The new Enforcement Directive will help to ensure that these rules are better applied in practice, especially in some sectors such as construction and road haulage, where for example so-called ‘letter box’ companies (without any real economic activity in their ‘home’ country) have been using false ‘posting’ to circumvent national rules on social security and labour conditions. It will also improve the protection of posted workers’ rights by preventing fraud, especially in subcontracting chains where posted workers’ rights are sometimes not respected’.

<http://ec.europa.eu/social/main.jsp?langId=en&catId=89&newsId=2066&furtherNews=yes>. Accessed 30 September 2015.

¹⁷ [http://europa.eu/rapid/press-release MEMO-14-344_en.htm](http://europa.eu/rapid/press-release_MEMO-14-344_en.htm). Accessed 4 April 2015.

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

purpose of labour exploitation. The structural arrangement of labour inspectorates and equivalent institutions in each country is beyond the purpose of this paper, but it is worth mentioning that implementation of labour inspectorates' mandates at local level has been reported as a particularly relevant issue. In a 2012 report, the Fair Wear Foundation (FWF) stated that the changes in Romanian legislation in regards to the structure of labour inspections¹⁹ have negative effects on the implementation of FWF's Code of Labour Practices²⁰ and the uniform implementation of national labour law. The issue of compliance with the national labour legislation at local level in Romania was also raised by representatives of NGOs working in combating trafficking in human beings, highlighting the major differences in economic and social development of different regions of the country (Luginbühl & Musiolek 2014).

Due to the identification of particular exploitative situations – such as the Carestel case in Belgium²¹ (Rogoz 2014a), the 'tree workers case' in the Czech Republic (Kutáľková & Hronková 2015) or the Morecambe Bay²² tragedy in the UK – specific systems were put in place in order to regulate particular sectors and to prevent similar situations from occurring. The Carestel case in Belgium was the first of its kind in which both the contractor and the subcontractor were convicted for trafficking for the purpose of labour exploitation. The 'tree workers case'²³ in the Czech Republic resulted in the implementation of a system of certification in forestry. As mentioned above, the death of 23 Chinese cockle pickers in Morecambe Bay in 2004 led to the creation of the Gangmasters Licensing Authority (GLA) in the UK in 2006 (Deegan & Van Doornink 2014c).

Regardless of what caused the legislation to be introduced, a recurrent measure, at least in some EU countries (France, Italy, the Netherlands and Belgium), is a system of subcontracting liability of the main contractor and the sub-contractor. At the EU level, it is considered that 'subcontracting liability also deters exploitation, by giving a disincentive to contractors in the host Member State that could otherwise be tempted to indirectly derive an economic benefit from cheap prices offered by the subcontractor'²⁴. In the Netherlands, for instance, the Inspectorate under the Ministry of Social Affairs and Employment, which investigates illegal employment, labour exploitation and benefit fraud, cooperates with the tax authorities to detect fraudulent practices by temporary work agencies in connection with human trafficking. In Sweden, an additional requirement for non-EU employers working in the country is to register a branch of their company (or an affiliated company) in Sweden. This

¹⁹ FWF reports that in Romania the institutional mechanism of control and 'consultation of citizens on labour issues' became more centralised, as it 'disappeared from the cities which are not county capitals'. As a result, 'the union situation has been significantly altered by the labour legislation; trade unions became mostly formal and scarcely involved with improving labour conditions. Unions are struggling with a negative image, but the infrastructure for union activities exists. According to national legislation, in factories with more than 50 employees, the management has the obligation to initiate negotiations for the Collective Bargaining Agreement with trade union's or employees' representatives. The companies with 50 employees or less are recommended to use non-discriminatory practices on that aspect, but are not obliged to negotiate Collective Bargaining Agreements. The right to freedom of association is granted by the Romanian legislation'. (FWF 2012)

²⁰ The FWF 'Code of Labour Practices is based on the conventions of the International Labour Organisation (ILO) and the Universal Declaration on Human Rights' <http://www.fairwear.org/ul/cms/fck-uploaded/documents/companies/FWFdocs/fwfcodeoflabourpractices.pdf>. Accessed 15 December 2015.

²¹ <http://www.ituc-csi.org/belgian-carestel-autogrill-company?lang=en>. Accessed 4 April 2015.

²² <http://www.bbc.com/news/uk-england-25914594>. Accessed 4 April 2015.

²³ See footnote 8 for a summary of this case.

²⁴ http://europa.eu/rapid/press-release_MEMO-14-344_en.htm. Accessed 4 April 2015.

measure was introduced in order to prevent cases in which employers do not pay the wages and then cannot be found by the Swedish authorities (Vogiazides & Hedberg 2013).

The situation in some of the reviewed non-EU countries differs not only in regards to the legal system, but also the relevant issues in connection with exploitation or trafficking in these countries. In Nigeria, for instance, there are specific practices that allegedly influence demand in the context of labour exploitation, such as informal child fostering and the 'Almajiri'²⁵ Qur'anic education system. Additionally, the literature reviewed suggests that broad development issues affecting Nigeria, including widespread poverty, corruption, misappropriation of government funds and lack of resources for implementing policies, all contribute to an environment in which exploitation occurs.

Particularly interesting demand-side measures (addressing demand for goods) come from civil society initiatives, implemented in partnership with state actors. In Brazil, for instance, a smartphone application (app) – 'Moda Livre' (Free Fashion) – was launched at the end of 2013. The app was developed by the NGO Repórter Brasil, which works closely with the Labour Inspection Secretariat from the Ministry of Employment, and offers to show the measures taken by clothing companies to avoid their merchandise being produced with slave labour. The app evaluates the main clothing groups active in Brazil, as well as companies identified by inspections as using slave labour. These companies are invited by Repórter Brasil to respond to a set of questions in order to evaluate four indicators on policies, monitoring of suppliers, transparency and past involvement in cases of slave labour. Based on a score calculated from these four indicators, firms are categorised as green, yellow or red. The aim is therefore to encourage consumers of clothing to pay attention to a company's supply chain (Healy 2014).

Similarly, in the US, one measure that was implemented in partnership between the Department of State and 'Made In A Free World' organisation is the website 'SlaveryFootprint.org'. The website suggests that consumers complete a survey, where they are asked about their habits regarding food, clothes and hobbies. Based on the answers, the person is shown how many 'slaves' have contributed to making the things he or she owns. Launched at the Clinton Global Initiative in 2011, the website works to 'engage individuals, groups, and businesses to build awareness for and create action against modern-day slavery' (Made in a Free World 2014; Hendow 2014a).

In addition to government measures and private initiatives supported by governments, there are many private enterprises dedicated to promoting human rights along the supply chain in various sectors, including the garment industry. Fashion Revolution²⁶, for instance, is an online platform 'comprised of designers, brands, retailers, producers, academics and organisations calling for systemic reform of the fashion supply chain'²⁷. The Clean Clothes Campaign²⁸ is an alliance of organisations in several European countries with the aim of ensuring that the fundamental rights of workers in the garment and sportswear industries are

²⁵ 'The practice of sending children to Qur'anic boarding schools in Northern Nigeria, the part of the country where it is most prominent, is a cultural and historical practice dating back to the early days of Islam. The schools go by varying names and classifications but are typically grouped together by stakeholders as Almajiri schools, which refers to the children attending, typically between the ages of 3 and 12. The defining characteristic of these schools, besides their focus on Qur'anic education, is that they are largely unmonitored and operate outside the formal basic education system in Nigeria' (Huddleston 2015).

²⁶ <http://fashionrevolution.org/>. Accessed 5 May 2014.

²⁷ <https://europa.eu/eyd2015/en/fashion-revolution/events/fashion-revolution-day>. Accessed 19 May 2015.

²⁸ <http://www.cleanclothes.org/about/who-we-are>. Accessed 15 December 2015.

respected. The alliance works with over 200 organisations and unions in the garment industry in order to identify local problems and to develop campaign strategies to support workers. These private initiatives, although relevant, are not further explored in this paper as its scope is to present government measures aimed to address demand.

Apart from actions aimed at addressing demand in the context of labour exploitation, ranging from the implementation of labour and penal codes to information campaigns for consumers, demand in the context of sexual exploitation has been given extensive attention. In the European context, the discussion reached a peak in early 2014 when the European Parliament voted on a non-binding resolution which called on 'EU countries to take the Nordic model as an example', which is to 'view prostitution as a violation of human rights and as a form of violence against women' and to criminalise 'those who buy sex rather than those who sell it'²⁹. Indeed, this is one type of measure that the national authorities consulted for this research argued would address demand in the context of sexual exploitation. The following section deals exclusively with this issue.

4.2 Sexual exploitation

Demand in the context of sexual exploitation has been mainly addressed through policies regulating prostitution. Without entering into the debates on different regimes of regulating this particular area, the current section provides a brief description of the two most recurrent types of measures implemented by different countries³⁰.

Demand for sexual services is addressed through legislation (penal or administrative law) and public campaigns with various goals – such as awareness raising or encouraging the public to take certain actions. When it comes to legal measures, the purchase of sexual services is being criminalized in Sweden and in the US (recommended by the Federal government and implemented in California). Among those analysed, there are countries that do not forbid the purchase of sexual services, but employ different regulating regimes (such as the case for Germany, the Netherlands or, among the non-EU countries under review, Nigeria).

However, the debate on criminalising the purchase of sexual services took place in several countries, such as France, Belgium and the Netherlands. In the Netherlands, for instance, in October 2014 a draft bill was debated in the Parliament on criminalisation of the 'purchase of sex from trafficked persons when the buyer can be reasonably presumed to have known of the abuse' (Deegan & Van Doorninck 2014b). In October 2015 the draft bill was amended so that the buyer can be prosecuted when he/she knew and not when the buyer 'should have suspected' that the sex worker was not offering sexual services voluntarily³¹. The Dutch National Rapporteur on trafficking in human beings has in the previous years also requested

²⁹ <http://www.europarl.europa.eu/news/en/news-room/content/20140221IPR36644/html/Punish-the-client-not-the-prostitute>. Accessed 16 July 2015.

³⁰ Although not less relevant, this paper pays little attention to other types of sex work and related exploitation. The reason for this has to do with limiting the scope of the research in order to gather comparative data in areas connected with THB. Moreover, the dividing line between different forms of exploitation may be thin (e.g. sexual exploitation within domestic work or forced marriages) and variously dealt with in different national contexts.

³¹ <https://www.sp.nl/nieuws/2014/10/initiatiefwet-christenunie-sp-en-pvda-ook-klant-verantwoordelijk-bij-gedwongen>. Accessed 7 March 2016.

this provision as a measure to combat human trafficking in the sex industry. At the time of writing, no conclusion had been reached.

Sweden was the first country in the world to have introduced the criminalisation of the purchase of sexual services, while the sale of sexual services remained legal (SOU 2010). It is worth mentioning that an initial argument used by policy makers for introducing the law was to reduce violence against women, and prostitution was regarded as a 'pressing social concern' (SOU 2010). In the same line, addressing prostitution and sexual exploitation is argued by Swedish policymakers to be a matter of social values, since prostitution is considered a type of violence against women. The prohibition of purchasing sexual services has been subjected to a government-commissioned evaluation. According to the evaluation, the prohibition is an important instrument in preventing and combating prostitution and trafficking for sexual exploitation. The evaluation report notes that 'prostitution in Sweden, unlike in comparable countries, has at least not increased since the introduction of the law. Street prostitution has been reduced by half since the law was introduced. According to the [evaluation] this reduction may be considered to be a direct result of the criminalisation' (SOU 2010). However, the claimed effects of the law are not uncontested. For example, Dodillet and Östergren (2013) raised a number of questions regarding the assessment of the impact of the law. First, due to gaps in the available data, they raise the question of whether prostitution had indeed decreased after the introduction of the ban. Moreover, information released by the National Police Board in 2010 claims that 'serious organised crime, including prostitution and trafficking, has increased in strength, power and complexity during the past decade'. Using data on persons reported and convicted for trafficking and the information released by the Police, Dodillet and Östergren suggest that it is rather difficult to assess the causal relationship between the ban and the reduction of trafficking for sexual exploitation. Regarding the deterrence effect, they argue, the ban does not seem to have changed clients' decisions on whether to purchase sex or not. Additionally, increased public support for the ban, as reported by the 2010 official evaluation, is also questioned, as the four population-based opinion polls conducted before and after the ban show that people are in favour of criminalising not only the buyer but also the seller. To summarise, the Swedish law on criminalising the purchasers of sexual services is one of the few responses to demand that has been evaluated. Its outcomes, especially its impact on trafficking and sexual exploitation, have been subject to debate.

In the UK, the offence of paying for the sexual services of a prostitute who has been subjected to force, deception, threats or any other form of coercion, entered into force in April 2010. The rationale behind the amendment is that enforcement of this offence would deter those who may consider paying for sexual services from someone who may be trafficked (UN.GIFT 2011). This offence was introduced to address the demand for sexual services and reduce all forms of commercial sexual exploitation. However, a 2012 report by the Institute for Public Policy Research in the UK notes that so far the impact of these measures seems to be limited. Despite legislation criminalizing payment for sex with someone who has been coerced, there have been very few prosecutions to date. As of June 2011, the Crown Prosecution Service identified that, since its enactment, 40 offenders had been charged, which included cases of curb crawling (IPPR 2012).

In Germany, the 2002 Prostitution Act legalised the contractual relationship between client and sex worker and provided sex workers the right to enforce payments in courts (Schultze 2014). Procurement is a punishable offence only when it is exploitative. One of the legislative aims of the Prostitution Act was to enable sex workers to have contracts of employment in

order to give them access to social insurance and to generally improve their social protection. Despite the adoption of the Prostitution Act, the situation on the ground has been reported as rather problematic, as much of the relevant legislation (including the Trade Law) has not been amended accordingly. Therefore, competent agencies do not have uniform guidelines on whether brothels can be registered as businesses under the Trade Law and in which category, which results in differing practices across different federal states (Länder). Protection of public safety and order is also a matter devolved to the Länder, with state-specific police laws, which are reflected in different practices on the regulation of prostitution. Law enforcement is entitled to have access to prostitution establishments and carry out control activities without a warrant or authorisation. The frequency and effectiveness of such control largely depends on the resources at the police force's disposal, which in turn reflect the political priority attached to anti-trafficking by the authorities (Bota 2014). In general, it has been reported that the Prostitution Act of 2002 was not evenly implemented in Germany's federal states and more often than not it is circumvented using by-laws (Research Project Germany 2014). The evaluation of the law in 2007 concluded that the expectations associated with the prostitution law were only partially fulfilled (Federal Ministry 2007) (Deegan & Van Doorninck 2014a).

Public campaigns represent the second most common measure to address demand for sexual services. Campaigns are in general implemented by civil society actors or in collaboration with the public sector, with few examples of campaigns being exclusively run by the State. For example, in the Netherlands in January 2006, a national campaign was launched under the name 'Schijn Bedriegt' (Appearances are Deceiving) with the aim of raising awareness among the general public and more specifically among clients of sex workers about the incidence of trafficking. The campaign accompanied the launching of the hotline 'Report Crime Anonymously' which enabled callers to report indications of trafficking without disclosing their names. The campaign was repeated nationwide in 2008 and in Amsterdam in 2010. In 2012, a new national campaign with the hotline 'Report Crime Anonymously' was launched online. According to the Dutch authorities, after ten months of the campaign, there was a significant increase in calls about forced prostitution, 83% of cases were investigated and it led to 12 arrests (corresponding to one in nine cases) (La Strada International 2014).

In Germany, campaigns against forced prostitution have been launched at the occasion of the world football championship in 2006. For example, a campaign calling on clients of sex workers to be aware of exploitation and for fair and respectful dealings in sexual services was launched in the city of Bremen in 2014. The aim is to encourage clients to report signs of forced prostitution anonymously, as well as to sensitise the general public by raising awareness of the issue. Campaigners distribute information on beer mats, condoms, postcards and matchboxes, particularly in pubs. Potential clients are addressed with the campaign call: 'Get involved, be a hero! Prostitution yes! Coercion no! In case of suspicion: Call! [the campaign hotline number]'. This client-focused campaign is funded and supported by a broad cooperation of local associations, including the Advice Centre against Human Trafficking and several Christian organisations.

4.3 Other types of exploitation

Similar to demand in the context of sexual exploitation, demand in the context of other types of exploitation has been mainly addressed through legal measures and campaigns. Demand

in the context of exploitation through begging has been raised as an issue in several countries under research – Belgium, Sweden, Romania, UK and Nigeria.

In 2011 local police from Timișoara (one of the biggest cities in the west of Romania) implemented a campaign aimed at influencing the public not to offer money to people involved in begging activities. At big crossroads around the city, billboards read ‘Nu dați bani cerșetorilor’ (Do not give money to beggars). Other local administrations (such as Ploiesti and Cluj) implemented similar campaigns, installing billboards with similar messages at big crossroads and busy public squares (Rogoz 2014c). In addition to campaigns aimed at influencing the general public, legal measures aimed at banning begging altogether were discussed in several countries at national or local level. In December 2011, a Democrat-Liberal parliamentarian initiated a bill that, if adopted, would ban begging all over Romania, incarcerating those practicing begging (from six months to two years) and fining those offering money. The bill was criticised by representatives of civil society who argued that it is not addressing the cause of begging – which is structural poverty – and, if adopted, will be difficult to implement. The bill was rejected by the Senate.

In Sweden, in 2011, Sala (a municipality located in the northern part of Stockholm) made a decision to prohibit begging. According to the chairman of the municipality’s executive board, there were concerns about the increase in persons begging in the city centre of Sala and the possible connection to trafficking and other criminal activities. However, according to a municipality press release, the legislation was repealed, with the argumentation that ‘local instructions of order must endeavour to create the order of the public space and the instructions may not result in consequences that are too far-reaching regarding the freedom of the individual’ (Healy & Rogoz 2012).

Demand in the context of other types of exploitation – such as the removal of organs, forced marriages or illegal adoptions – has been mainly addressed through legal measures. For instance, the Netherlands, ‘in 2004[,] raised the age limit for bringing a spouse for family reunification purposes from 18 years to 21 years, for both the sponsor and the spouse – compared with 18 for those marrying in the Netherlands’ (FRA 2014). According to the EU Fundamental Rights Agency, ‘the reasoning behind raising the age limit was that slightly older people would be better able to resist a forced marriage because they would have greater maturity, access to education and financial independence’ (FRA 2014). However, the European Agency for Fundamental Rights states that there is no evidence available that raising the minimum age for family reunification is an effective tool to combat forced marriages³² (FRA 2014).

In regards to demand in the context of THB for organ removal, this has been mainly addressed through penal codes (by criminalising human trafficking for the removal of organs) and through the creation of national organ donation systems. At this point one distinction is required – between trafficking in human beings for organ removal (THBOR) and trafficking in human organs. While the first one refers to a crime involving a living donor, the latter refers to the crime related to human organs where the donor may be deceased. The CoE Convention

³² ‘As noted by Advocate General Paolo Mengozzi in C-338/13 (Marjan Noorzia – a case concerning family reunification of third country nationals) it may, however, have the effect of preventing the reunification of genuine relationships, if applied indiscriminately without an examination of the individual circumstances. Given that family reunification procedures may last for several months, raising the minimum age may also result in delays in reunification. As recommended by the European Commission in its April 2014 guidance on the application of Directive 2003/86/EC on the right to family reunification, it should be possible to submit family reunification requests and have these examined before the person reaches the necessary age’ (FRA 2014)

against Trafficking in Human Organs³³ was adopted precisely to address those situations that do not fall under the legislation against THBOR as set out in the Palermo Protocol and the EU Anti-Trafficking Directive (Directive 2011/36/EU).

5 Analysis

After presenting most recurrent types of demand-side measures and alternative tools according to the type of exploitation they intend to address, this section analyses these measures as ‘mechanisms for steering societal behaviour’ (Boswell & Kyambi 2016). In doing so, this section provides examples of different types of regulations, from the more traditional mechanisms of command and control to market-based mechanisms or peer pressure.

5.1 Command and control

This is a type of regulation imposing ‘standards backed up by legal sanctions if the standards are not met’ (UNIDO n.a.). Factors influencing demand in the context of trafficking have been traditionally addressed through penal legislation. In fact, measures subscribing to the prosecution approach remain a critical piece of strategy in most, if not all countries (Weissbrodt & Meili 2012). It has been argued that, as the motivation of people to get involved in trafficking as perpetrators is fundamentally economic, ‘criminal penalties must be designed with an accurate understanding [of this] motivation and [of the] benefit behind the commission of the crime’ (Kara 2011). Since trafficking in human beings is reportedly a highly profitable business (EUROPOL 2015), ‘a more effective approach to attack [it] is to erect a system that renders it a low profit, high risk business venture’ (Kara 2011). This is a general argument regarding trafficking, regardless of the type of exploitation. Although there seems to be a lack of consensus between researchers on the deterrent effect of criminal laws,³⁴ studies have presented indications of such an effect, which is one of the intended outcomes, as declared by legislators (Abrams 2011).

However, since human trafficking is addressed as a ‘violation of human rights in and of itself, rather than a practice or series of events whose consequences may affect the human rights of those it victimises’ (Weissbrodt & Meili 2012), the approach to protect these human rights takes multiple forms. Command and control through the implementation of criminal legislation

³³ <http://www.coe.int/en/web/secretary-general/-/council-of-europe-convention-against-trafficking-in-human-organs>. Accessed 8 April 2016.

³⁴ ‘There is extensive literature empirically testing various aspects of economic models of crime going back decades to Ehrlich’s work on the death penalty (Ehrlich 1973, 1975, 1981). A full review of the literature on deterrence has been the subject of a number of review articles, with mixed conclusions. Nagin (1998) finds evidence for an overall deterrent effect in the criminal justice system, but believes more work is needed to better establish that increased sentences deter crime. Doob and Webster (2003) review a large number of papers by criminologists and a handful by economists and conclude that the lack of strong evidence for deterrence is widespread enough to conclude that there is a null effect. These co-authors along with Frank Zimring (Webster, Doob, Zimring 2006) take a sceptical view of Kessler and Levitt’s 1999 paper, and its evidence for deterrence. Robinson and Darley (2004) take a somewhat more nuanced view that there are circumstances where increased sentences may deter, although they believe the magnitude is insufficient to influence policy decisions. Levitt and Miles (2007), in a wide-ranging piece, point to some of the economic studies that suggest there is evidence for deterrence, but conclude that more research on the topic is needed’ (Abrams 2011).

is one of them. All countries under study adopted laws against trafficking or practices involving exploitation in general. National laws prohibit, for instance:

- 'Non-existing or inadequate remuneration and subjecting individuals to conditions of work and accommodation contrary to human dignity' (France)
- Exploitation of another 'person's predicament or helplessness arising from being in a foreign country [in order] to subject them to slavery, servitude or bonded labour or [to make him/her] work for [him/her] or a third person under working conditions that are in clear contradiction to those of other workers performing the same or a similar activity' (Germany) or
- Prohibition of 'work in a condition analogous to that of a slave', or the expropriation of land on which 'slave labour'³⁵ has been identified (Brazil).

An interesting example comes from the US - the John Schools (from California) are alternative sentencing programmes (instead of conviction) for first time offenders purchasing sex and can also be part of the sentencing for someone convicted of buying sex. The cost of the programme is usually paid by the participants (so it requires the involvement and co-operation of first time offenders purchasing sexual services), with any surplus resources directed towards victim services. The programme aims at discouraging the purchaser from engaging in the purchase of commercial sex again. In regards to the effectiveness of this measure, the Standing Against Global Exploitation (SAGE) project³⁶ claims that the sex industry creates a venue for sexual exploitation. However, it also states that it does not believe that all sex work is abusive and that anti-demand measures must not inadvertently put sex workers at risk of abuse (Bell & Kandel 2014). This was also emphasised by a representative of 'Demand Abolition, Hunt Alternatives' – which claims that commercial sex is not considered the same as sex trafficking. The demand community³⁷ sees a strong overlap and correlation, and finds that it is difficult to distinguish between demand for commercial sex and demand for sexual services obtained under circumstances of trafficking (considering that buyers do not generally distinguish a 'demand' for sex that has specifically been obtained through 'force, fraud or coercion') (Hendow 2014b). The program to combat the purchase of sexual services in California is wider and includes a range of local level measures, among which:

- The seizure of a car found to be present in an area known for prostitution,
- 'Dear John' letters sent by the police to arrested or suspected purchasers of sexual services,
- Measures intended to raise the awareness of the public about prostitution and trafficking for sexual exploitation and discouraging the purchase of sexual services.

³⁵ In the Brazilian Criminal Code, forced labour and labour exploitation are referred to as 'slave labour' or 'labour in a condition analogous to that of a slave'. According to a national stakeholder consulted during the national level research, the definition of 'slave labour' does not require obvious physical force. 'This therefore also includes labour exacted through debt servitude and situations when the exploited person does not consider themselves to be a victim of slave labour' (Healy 2014).

³⁶ The SAGE Project is an organization founded by a survivor of commercial sexual exploitation and substance abuse. 'SAGE has one of the longest standing "john school" programs in the country which is a partnership with the SFPD and the SF District Attorney's Office and addresses the demand side of sexual exploitation'.

<http://www.sagesf.org/about-sage>. Accessed 30 April 2015.

³⁷ The phrase 'demand community', in the US, refers to measures or advocates against commercial sex as a driver of sexual exploitation and trafficking and comes from an end prostitution approach. (Hendow 2014b)

In addition to the implementation of penal codes, the seizure of criminal gains is a particular measure under the command and control approach. It has been presented as having the potential to be of a greater deterrent effect than the imposition of a custodial sentence. The economic gain from trafficking is used for both the offenders' own personal gain and for financing subsequent operations, thus ensuring the continuity of their criminal endeavour (Deegan & Van Doorninck 2014b).

But command and control is also carried out through the implementation of laws other than penal codes, such as labour codes monitored by labour inspectorates and equivalent agencies, public procurement regulations or regulations aimed at tackling illegal employment, economic fraud or fraudulent self-employment. In the UK, for instance, the Gangmasters Licensing Authority aims at (1) preventing worker exploitation, (2) protecting vulnerable people, and (3) tackling unlicensed/criminal activity and ensuring those who are licensed operate within the law (Kyambi 2014).

It has been argued that although irregular employment is not the same as labour exploitation or trafficking for labour exploitation, persons in an irregular situation are vulnerable to abuse and exploitation. When it comes to measures against illegal employment, in the Netherlands, for instance, an employer is subject to an administrative fine if he/she employs a person without a valid work permit. The administrative fine for illegal labour was introduced by the Aliens Employment Act in 2005 and has been evaluated twice. It was concluded that the effect of this act was a drop in the number of reported cases of illegal labour (Deegan & Van Doorninck 2014). In comparison to criminal sanctions, as the argument goes, the deterrent effect of an administrative fine is bigger, since there is more consistency in the monitoring and the burden of proof is lower (Houwerzijl & Rijken 2011). In addition, the Netherlands offers a particularly interesting example of a coherent command and control type of regulation. The 'Barrier Model' is used to identify the relevant stakeholders that would be able to prevent trafficking through early identification and information sharing. The Model identifies five stages where stakeholders can establish barriers to hinder trafficking, and at each stage it identifies illegal service providers and illegal activities (Deegan & Van Doorninck 2014b):

1. Entrance (smuggling, illegal border crossing);
2. Housing (prostitution circuit, illegal housing);
3. Identity (false documents, false social security numbers);
4. Work (pimps, exploiters, violence, exploitation);
5. Financial (money laundering).

'The Barrier Model [addressed demand by looking] at trafficking as a business enterprise, albeit a criminal one, that has to overcome a series of barriers before the traffickers can start making money from the exploitation of others. The aim is to increase the 'height' of the barriers traffickers face, so that trafficking in human beings becomes more difficult, less lucrative and thus less attractive' (Ministry of Security and Justice the Netherlands 2012).

In Germany, the employer is mandated to ask for a social security card and income tax card before hiring a person. Therefore, it is difficult for an employer to claim they employed an irregular immigrant unknowingly (EPSU 2012). The income tax card is issued by the local registry office who is in contact with the foreign-residents authorities beforehand in order to enquire whether (according to the Central Register for Foreigners) the appropriate residence title with work permit has been obtained (Deegan & Van Doorninck 2014a).

Requirements for companies to disclose information on their supply chain practices, or to employ measures to address exploitative situations in their supply chains, partially subscribe to command and control approaches. An interesting example of a command and control

mechanism comes from a practice in Brazil. In 2004 the Ministry of Labour and Employment created a Slave Labour Blacklist ('Lista Suja do Trabalho Escravo'). The National Pact Institute InPacto (a partnership between employer's confederations, civil society organisations and private companies) runs a database for the 'Slave Labour Blacklist' of plantations where 'slave labour' has been identified. According to the Labour Inspection Secretariat, inclusion in the Blacklist leads to various administrative and criminal repercussions, with responses from the government and the private sector (including banking) (Healy 2014).

In France and the UK, large companies are required to disclose the practices they employ in the supply chain. At the time of writing, the debate on the responsibility of these companies is ongoing in the UK, after an enquiry on this issue was initiated, following the adoption of the Modern Slavery Bill³⁸. In France, although not directly linked by policymakers with the anti-trafficking policies, which are rather new in the country, companies with 500 employees or more are required to publish a social review and to have it audited by a certified auditor. Thus, companies, including subsidiaries, have to provide a social report which includes information on employment conditions (St-Denis 2012). The audit entails a verification of both the methodology used by a company to produce such a social report and the accuracy of the information presented. Additionally, the audit checks whether the report is complete or if there is information missing as well as the explanations provided by the company for the missing information. It is worth mentioning that although social audits are regarded as a possible tool to address trafficking, it was reported that 'trafficking, however, does not feature prominently in most social audits; and auditors themselves are often not well-trained on the issue. This means that trafficking, forced labour and coercion can often go undetected during the audit process³⁹. This problem is compounded by the often limited scope of social auditing. Most assessments concentrate only on conditions in the workplace, without investigating how workers (for example, internal or cross-border migrants) get their jobs. In the case of human trafficking, a third party labour broker or intermediary may play an important part in recruiting and/or employing workers; and it can be here that deception and coercion occur. Social audits typically have little visibility at this stage of the employment cycle' (Hunter & Kepes 2012).

Another example comes from Sweden, where non-EU companies working in the country are required to register a branch of their company (or an affiliated company) in Sweden under Swedish law. This requirement was introduced in order to avoid situations in which employers do not pay salaries and then cannot be found by the Swedish authorities (Vogiazides & Hedberg 2013).

If we consider the idea of a continuum of exploitation (Skrivankova 2010), 'different responses, going from criminal justice responses for the worst forms of exploitation to labour law responses for mere violations of labour standard, fit different stages of the continuum.

³⁸ At the time of drafting, the discussion on the threshold for companies required to comply with the transparency requirement from the 2015 Modern Slavery Bill in the UK is ongoing. The research on the UK was completed in 2014 and therefore the Modern Slavery Bill is not reviewed here.

³⁹ A report on audits of global supply chains for multinational corporations found that 'whilst audits give the impression of active supply-chain monitoring and 'continuous improvement', the regime actually reinforces endemic problems in supply chains. It deflects pressure for stricter, state-based regulation and legitimises unsustainable global production models – in particular, a retail economy that promotes consumption and environmental degradation' (Le Baron & Lister 2016)

This could mean that criminal justice responses should be reserved for the negative extreme of forced labour' (Van Damme & Vermeulen 2014).

5.2 Peer pressure

Peer pressure types of mechanisms involve the community in which an individual or a company operates. In this sense, societal behaviour is steered through reputational concerns manifested in public opinion which can 'name and shame' or 'name and fame' organisations (Boswell & Kyambi 2016). Among other characteristics, this mechanism differs from the command and control and market-based approaches as it requires, to a larger extent, the participation of non-state organisations. It is similar to the market-based approach as it aims at offering incentives for companies to consider the social impact of their economic activities.

Arguably, the concept of Corporate Social Responsibility (CSR), at least in the European Union, subscribes to such measures offering positive incentives. The European Commission (EC) defined CSR as 'a concept whereby companies integrate social and environmental concerns in their business operations and in their interaction with their stakeholders on a voluntary basis'⁴⁰. According to the EC, CSR covers at least -

'human rights, labour and employment practices (such as training, diversity, gender equality and employee health and well-being), environmental issues (such as biodiversity, climate change, resource efficiency, life-cycle assessment and pollution prevention), and combating bribery and corruption. [...] The promotion of social and environmental responsibility through the supply-chain, and the disclosure of non-financial information are recognised as important cross-cutting issues.'⁴¹

CSR measures are present in most of the countries under research, but they are not necessarily linked by policymakers with measures addressing trafficking in general or addressing demand in the context of trafficking in particular. However, research on the role of companies in preventing trafficking shows that 'corporations are important actors when it comes to preventing THB for labour exploitation, which is primarily a State obligation in the context of the three P-paradigm' (Jägers & Rijken 2014).

Moreover, 'The United Nations Special Representative of the Secretary-General on the Issue of Human Rights and Transnational Corporations and other Business Enterprises (SRSG) places the concept of human rights due diligence at the core of the corporate responsibility [...]. Due diligence, according to SRSG, is a well-established legal principle. Several factors have to be taken into consideration to determine the scope of the corporation's responsibility [...]: the country and local context of the business activity, the impacts of the company's activity within that context as a producer, buyer and employer [etc.]. At a minimum, corporates should respect the International Bill of Human Rights, consisting of the Universal Declaration and the two Covenants, as well as the ILO Declaration on Fundamental Principles and Rights at Work' (Jägers & Rijken 2014).

Although the responsibility to respect human rights is not legally binding, according to SRSG, non-compliance might have consequences for public opinion. In addition, the February 2015

⁴⁰ EC (2011), A renewed EU strategy 2011-14 for Corporate Social Responsibility. <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2011:0681:FIN:EN:PDF>. Accessed 30 April 2015.

⁴¹ EC (2011), A renewed EU strategy 2011-14 for Corporate Social Responsibility. <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2011:0681:FIN:EN:PDF>. Accessed 30 April 2015.

meeting of the European Multi-Stakeholder Forum on CSR concluded, with regard to transparency in supply chains, that 'due diligence is not a threat, but an opportunity to improve supply chain management'. Moreover, the meeting concluded also that 'the EU should regulate transparency. If well [delivered], this will raise the bar, build trust, create partnerships and result in better intelligence about supply chains'.⁴²

In the US, the State Department's Bureau of Economic and Business Affairs has the role to collaborate with civil society organisations working on supply chain management to identify areas with a high risk of human trafficking in global supply chains and impact on human rights, and to develop tools for businesses. One such tool is the 'US Government Approach on Business and Human Rights' publication which highlights what US businesses should know about respecting human rights in their global operations (US Department of State Bureau of Democracy, Human Rights, and Labor 2013). At the same time, the Bureau also engages directly with the private sector to raise awareness on trafficking in supply chains (Manogue 2013). The federal government's engagement on this is not in enforcing corporate social responsibility requirements, but rather providing support and guidelines to businesses on the topic. Moreover, CSR is considered directly related to promoting respect for human rights within supply chain management, of which combating trafficking is part (Hendow 2014a).

In Europe, the potential of CSR to address trafficking is not as formally established as it is in the US. When asked about the role of CSR in this matter, relevant national stakeholders agree that it is relevant, but generally stated that such measures have not directly been linked with the efforts to address trafficking. For instance, in Sweden, in addition to CSR, respecting human rights is a priority and the government expects that Swedish companies respect human rights by encouraging them to follow the OECD's guidelines for multinational companies, and that they apply the ten principles of the UN Global Compact and follow the UN Guiding Principles on Business and Human Rights. However, this endeavour has not been formally linked with the anti-trafficking policy.

Similarly, France has introduced CSR in its current Sustainable Development Strategy and 'quality of employment' is particularly underlined. Moreover, a report on requirements for producers to inform the public in regards to the environmental impact of their products ('affichage environnemental') presented by the Commission on Sustainable Development to the Assemblée Nationale in November 2013 touches upon the importance of the social conditions under which goods are produced. This is, however, formulated as a recommendation for future measures, which are not, for the time being, mandatory requirements for companies.

In 2002 the Italian Ministry of Labour and Social Affairs started to develop a project on Corporate Social Responsibility (CSR) and Social Commitment. With this initiative the Ministry intended to mainstream CSR amongst companies and in public administration, define a flexible and modular set of indicators and to support small and medium enterprises in developing CSR strategies. Other initiatives promoting CSR are regionally or locally based, but, as is the case with other European countries, there is no straightforward reference to trafficking in human beings.

Moving further into the direction of positive incentives, certification (such as labelling products or services in order to show which one complies with certain standards) is arguably another

⁴² Executive summary of the Multi-stakeholder forum on CSR, February 2015.

http://ec.europa.eu/growth/industry/corporate-social-responsibility/index_en.htm. Accessed 30 April 2015.

example of a measure subscribing to a peer pressure mechanism. This is the case, for instance, for the 'Fair Produce Netherlands' quality label, initiated by the Dutch mushroom sector, with the aim to guarantee 'that the products concerned are produced by employees who have been treated fairly – they receive a fair wage according to the Dutch laws and regulations, have access to good accommodation, and work under good labour conditions'⁴³ The quality label can be acquired by businesses that meet certain inspection standards. The objective is to prevent unfair competition and create a market with fair prices (Ninth Report of the Dutch National Rapporteur 2013).

Similarly, the Belgian 'social label', attached to products to signify that they were produced through non-exploitative labour, was created in 2002 (and entered into force on 1 October 2003) aiming at promoting socially responsible production. Even if the audit takes place in Belgium, the auditing firms also undertake checks on the international companies that are subcontracted by the Belgian company under audit. Thus, in theory, companies awarded with the social label comply with certain standards along their supply chains as well.

According to Giuliano & Dupont (2013), who conducted a study on the social label and its impact on child labour, by 2013 six Belgian companies had obtained the social label. Their research involved consultations with four labelled Belgian companies (Randstad Belgium, Carrières du Hainaut, CRIOC and Carrières de la Pierre Bleue Belge), as well as relevant NGOs active in the fight against child labour (Oxfam, ATD Quart Monde, Quinoa⁴⁴ et Entraide et Fraternité). In addition to this, they consulted a UNICEF representative. The study revealed that the social labelling is implemented to a certain extent based on trust, as the audits undertaken of subcontracting companies or suppliers based outside Belgium can be completed with the information given to auditors by the audited Belgian company. According to literature and to a manager of one of the companies consulted for the above-mentioned study, it is extremely difficult for auditors to check the entire supply chain of a company, considering the number of subcontractors and suppliers used, as well as the dynamics of the entire production, transport or advertising process. Managers of certified companies also mentioned the need to promote the social label among the Belgian general public, as it does not seem to contribute to the income of a company. Thus, some suggested that it contributes to promoting the values of their companies, but this does not translate into profits yet. According to the stakeholders interviewed for this study (DemandAT), social labelling is not used in practice to address trafficking in human beings.

Certification, as a mode of regulation, subscribes to several mechanisms. It can be regarded as a peer pressure type in so far as it requires the involvement of multiple stakeholders. But it is also a market-based mechanism 'in that its power to affect behaviour derives mainly from market demand' (Bartley 2010). Before discussing the issue of overlapping categories of regulating strategies, the following sections provide examples for what are referred to as market-based and design-based measures.

5.3 Market-based mechanisms

Moving even farther away from the rather rigid command and control type of measures, market-based mechanisms seek to provide incentives for the adoption of cost-effective

⁴³ <http://www.fairproduce.nl/?id=95>. Accessed 30 April 2015.

⁴⁴ <http://www.quinoa.be/en/page-d-exemple/about-quinoa/association/our-story/>. Accessed 16 December 2015.

solutions through privatisation, auctions or fiscal incentives such as tax breaks and subsidies (Boswell & Kyambi 2016). Among the measures addressing demand, incentives for companies to disclose information on labour practices within their supply chains and similar requirements in public procurement can be regarded as market-based mechanisms.

The California Transparency in Supply Chain Act of 2010 is an example of command and control type with elements of a market-based mechanism. It is a command and control type of measure in so far as it requires 'retail sellers and manufacturers doing business in the state to disclose their efforts to eradicate slavery and human trafficking from their direct supply chains for tangible goods offered for sale'.⁴⁵ Noncompliance leads to 'an action brought by the Attorney General for injunctive relief'.⁴⁶

The elements of a market-based mechanism are the justification for implementing such a law. Paragraph (i) of Section 1 of the Act states: 'Absent publicly available disclosures, consumers are at a disadvantage in being able to distinguish companies on the merits of their efforts to supply products free from the taint of slavery and trafficking'.⁴⁷ According to the California Attorney General Department of Justice, 'if consumers see a lack of forced labour as a key factor in the decision to purchase a product, and consider information that tracks which companies benefited from such labour, companies would have a significant incentive to ensure and demonstrate humane supply chains to their consumers and investors' (Hendow 2014b).

In France, for instance, public purchasers are encouraged to integrate social requirements into their procurement rules, as public institutions cannot intervene in the operation of the internal organisation of a company, but they can influence its decisions through defining a certain requirement for selecting suppliers and offers. These requirements do not bear a sanction for noncompliance, but are specified in tenders and must be met when companies apply for funds from public institutions (EC, DG Employment, Social Affairs and Equal Opportunities 2007). The fundamental standards defined by the International Labour Organization (ILO) serve as references for the social aspects and criteria in the guides developed by the French Sustainable Public Procurement Study Group ('Groupe d'étude des marchés développement durable').

In Brazil in 2000, the Ministry of Labour and Employment published a manual aimed at formalising the contracting of temporary rural labour in order to guarantee 'respect for social rights, while simultaneously ensuring the rationalisation of production and the affirmation of fair equality in relations between labour and capital'. The manual was intended to promote collective employment based on a 'solidarity pact' signed by rural employers and to provide for collective liability for debts owed to workers. The model offers positive incentives to employers as it offers them legal security since they do not need to use the services of an intermediary, so bureaucracy is reduced. It was tested in the State of Paraná in 1997 and found to improve living conditions on the land for rural workers who had been contracted

⁴⁵ <http://www.state.gov/documents/organization/164934.pdf>. Accessed 16 December 2015.

⁴⁶ 'An injunction is an order issued by a court that forces the defendant—a person, corporation or government entity—to do something or stop doing something, depending on what the plaintiff is requesting. In relatively rare cases, the court may issue a mandatory injunction, compelling a person, company, or governmental unit to take affirmative action in carrying out a specified action'. http://law.freeadvice.com/litigation/legal_remedies/what-is-an-injunction.htm. Accessed 16 December 2015. .

⁴⁷ <http://www.state.gov/documents/organization/164934.pdf>. Accessed 16 December 2015.

informally and deprived of any social rights or guarantees. According to the Ministry of Labour, it was then extended across the country (Healy 2014).

5.4 Design

This type of approach stems from what Thaler and Sunstein (2009) call choice architects, arising from the intersection between architecture and public policy. From this perspective, policy makers have 'the responsibility of organising the context in which people make decisions' (Thaler & Sunstein 2009). The authors suggest that governments can influence people's behaviour towards better choices without 'heavy-handed interventions or explicit coercion' (Boswell & Kyambi 2015), but through the ways in which options are displayed and made available to the public.

A classical design example is the human organ transplantation system. In Europe there is only one official system, so donors and recipients can opt for donations only within this system.⁴⁸ However, due to long waiting lists and a constant demand for organs that is higher than the available supply (organs either from living or from deceased donors), organ transplants take place to a limited extent also outside of the system. 'In the European context organ donation and transplantation is strictly regulated and centralised, particularly when it comes to living donations from unrelated persons. At the European level, national public transplant centres are responsible for the supervision of organ allocation and transplantation' (Ambagtsheer 2012; Perumadan 2014).

Policies involving zoning of particular activities in the public space can be regarded as examples of displaying (or hiding) various options for the public through design. This is the case, for instance, for policies that zone begging or prostitution, with the declared aim to maintain public order and prevent exploitation of begging and of prostitution. In Europe, begging is generally allowed in several countries under review (Belgium, Germany, the Netherlands, Sweden). Nevertheless, in some of these countries, municipalities have the right to restrict begging activities to certain areas, to particular forms and time intervals. In some countries (such as the Czech Republic or France), begging is forbidden in certain areas. While regulating the issue of begging might not subscribe to demand-side measures as such, the measures described above are rules aimed to influence the practice as a whole. Therefore, also the activities of those involved in the practice, in addition to those asking for money/alms/services, the reaction of passers-by, as well as the activity of those exploiting others through begging, are being changed.

With regard to zoning prostitution, an example comes from the Netherlands, where the sex industry is regulated under administrative and labour law. In most cities in the Netherlands, sex businesses are regulated through a system of licenses and 'have to meet certain standards concerning city planning, hygiene, fire safety and management' (such as no imposed consumption of alcohol, no unprotected sex, no children and no undocumented workers) (Deegan & Van Doorninck 2014b).

It is important to mention that such examples of steering behaviour through design – zoning of begging or prostitution, as well as organ transplants – function through the implementation of a multitude of rules. In this sense they employ what is called command and control (by

⁴⁸ Irrespectively whether we refer to countries with opt-in systems or countries with opt-out systems.

requiring the laws to be respected and implemented) and create a particular space (either physical, legal or symbolic) in which a certain behaviour can occur. Through this rather comprehensive approach, both demand and supply (in, for instance, the market for organ transplants) are addressed, aiming to reduce exploitation.

5.5 Combined regulatory measures: application approaches

While keeping in mind the examples of design measures, one can argue that they do not operate in a vacuum and, in fact, in order to function, overarching regulations need to be generally accepted. Taking into account that indeed, all kinds of measures presented operate within a legal framework, one point needs to be raised – with the exception of command and control, the differences between all other measures are arguably fine lines, which make it difficult to allocate them to certain categories within the employed typology. Certification, for instance, subscribes to the peer pressure approach as the business community makes the commitment to respect certain standards, which then requires individual businesses to comply. At the same time, certification is market-based as ‘the price for non-compliance is set by market forces, not by administrative authority’ (Bartley 2010).

All other methods – peer pressure, market-based and even design – as exemplified through measures addressing demand in the context of trafficking, involve some elements of command and control through the requirement that relevant societal actors comply with the law. A key difference is the fact that these kinds of measures, as oppose to the command and control measures, aim to offer some positive incentives for complying with the rule. Moreover, the combined approach employs more than one kind of measure and requires the most involvement of non-state actors (organisations or individuals).

Combined approaches are strategies employing several kinds of steering mechanisms, ‘often employed by a variety of governmental and non-state actors, including the regulated firms themselves’ (Boswell & Kyamby 2015).

Particular examples from the fair trade movement arguably subscribe to combined strategies. For instance, in France since 2009, the Platform for Fair Trade (‘Plate-forme pour le commerce équitable’) and Max Havelaar France have been implementing a campaign for ‘fair territories’ (‘Territoires de Commerce Équitable’) which is intended to encourage administrative territories to promote fair trade by fulfilling five objectives:

- To deliberately buy fair trade products,
- To promote and encourage businesses to sell fair trade products,
- To inform and encourage consumers to buy fair trade products (element subscribing to market-based mechanisms),
- To publicise actions organised in the framework of the Fair Trade campaign (peer pressure),
- To create and maintain a local Council for Fair Trade (design).

While the Platform for Fair Trade is not a state run activity, it is financially supported by institutions such as the French Development Agency, Ministry of Ecology and Development, Paris City Hall etc.

Among Swedish certification labels, Fairtrade and KRAV are among those most well-known, followed by the Nordic Swan label. According to one Fair Trade label, in the past few years, there is an increased awareness among consumers about production processes, especially those residing in the big cities (Stockholm, Göteborg and Malmö). The fair-trade movement in

Sweden is relevant to addressing demand in the context of trafficking for labour exploitation in the supply chain as, according to a market research, for Swedish consumers, 'buying fair-trade was about making sure that this product is produced according to human rights [...] and nothing more' (Wheeler 2012). Unlike other countries, fair-trade in Sweden seems to connect with some 'institutional configurations of responsibility across different social contexts [which] shape the role and mobilisation of the "citizen-consumer"' (Wheeler 2012). In 2006, Malmö was the first Swedish Fairtrade City, when the municipality and Swedish National Fairtrade launched their Fairtrade City campaign. The campaign was run by a steering group formed by representatives of the municipality, a representative from the local business sector and a representative of local media. As of 2008, the municipality of Malmö continues to financially support the Fairtrade City coordinator, in addition to information campaigns and events. The initiative has received a lot of attention from the media. Companies using Fairtrade products can register on the website of the city and receive a certificate recognising that they are a part of the campaign (and this element subscribes to peer pressure type of mechanisms). In December 2007 an advertisement broadcast in cinemas promoted a campaign with the message 'think before you shop' (element arguably subscribing to a market-based mechanism).

Particularly interesting examples come from countries outside Europe. In the United States in the state of Florida, which is one of the main tomato producers in the US, the human rights NGO Coalition of Immokalee Workers (CIW) implemented the Fair Food Program (FFP). The FFP brings together workers, consumers, growers and companies in a wider programme focused on risk prevention and supply chain transparency. The coalition aims to replace the notion of Corporate Social Responsibility (CSR) with Worker-Driven Social Responsibility (WSR), as it considers CSR a policy intended to protect corporations, rather than workers (Hendow 2014c). The program brings together various stakeholders (farmers, workers, retailers) to ensure fair wages and working conditions for workers. The success of the program is attributed to the worker-centred approach and to the zero tolerance policy for both forced labour and sexual assault. If forced labour is found on a farm, the farm is excluded from the program. In regards to sexual assault, the person who is responsible for the assault must be fired and the farm must take measures to prevent such situations in order to remain in the program. 'In the course of the first three seasons five people were fired and last season the FFP didn't receive a single complaint of sexual assault' (Hendow 2014c). The activity of CIW subscribes to at least several mechanisms presented in this paper. By working together with companies in order to get goods placed in easily reachable supermarkets, it is an example of a design mechanism. By ensuring the compliance with agreed-upon labour conditions in participating farms, the mechanism is arguably subscribing to a peer pressure kind of measure.

Regarding the impact of fair trade certification, a report for the 4th International Conference of the African Association of Agricultural Economists, looking at the impact of such certification schemes in the cocoa sector in Nigeria, identified a correlation between farmers signing up to the certification schemes and an increased average total revenue from certified cocoa production, and a correlation between certified farmers and an absence of children or pregnant women working on the farms. The report suggests that the increase in revenue for a certified farm may be attributable to farmers adopting good agricultural, environmental, business and socially acceptable practices, which were subsequently rewarded with increased productivity among employees and the attribution of the premium cost associated with certified cocoa in destination markets (Huddleston 2015).

A particularly interesting example comes from Brazil, where a 'National Pact for the Eradication of Slave Labour'⁴⁹ brought together corporations who committed themselves to not purchasing goods that were produced through labour exploitation. After reaching 400 signatures the Pact became an institution ('InPacto') with the mandate to promote the prevention and eradication of labour exploitation in the supply chains of Brazilian and international companies active in Brazil.

6 Conclusion

Addressing the demand-side which is considered to foster trafficking is a requirement of the UN Anti-Trafficking Protocol. However, at the time the Protocol was signed, countries received no additional guidelines on what constitutes demand and what measures are to be implemented in order to reduce this demand. As a consequence, countries adopted various measures aiming to address demand. This paper presented recurrent types of such measures in twelve different national contexts. It began by describing how demand is defined and what kinds of measures are employed to address it. The most common measures were then presented according to four types of mechanisms aimed at steering societal behaviour – command and control, peer pressure, market-based and design. Finally, the combined application of these four measures was considered in selected application approaches.

The most common measure to address a particular type of demand in the context of trafficking is command and control. All countries combat traffickers' actions (which can be regarded as demand for services or goods suspicious of being produced or provided under circumstances of trafficking for labour exploitation) through criminal laws. The national stakeholders interviewed consider measures subscribing to this approach as insufficient, and argue that prosecution should go hand-in-hand with protection of those trafficked and other prevention measures, if we consider prosecution as preventive through its deterrent effect.

The second most common approach subscribes to what is called peer pressure, as many countries implement information campaigns aimed at particular target groups or at the general public. Other measures within the same approach are corporate social responsibility and certification of products and companies. Measures subscribing to a market-based approach are mainly audits of supply chains and public procurement rules. Design approaches denote measures aimed at structuring a particular activity in order to influence societal actors to make certain decisions. In application approaches, these measures work in combination in order to influence and change societal behaviour.

Addressing demand in the context of trafficking is now highly relevant for the EU anti-trafficking agenda. As the argument goes, policies can focus more on those profiting from trafficking, in addition to the so-called victim-centred approach, and thus have a better chance of preventing trafficking. Whether the measures implemented under this approach actually succeed in preventing trafficking is both debated and not sufficiently investigated. However, in view of the variety of measures implemented and the diversity of stakeholders involved, addressing demand might lead to a mainstreaming of anti-trafficking policy in various policy areas. In turn, this mainstreaming might determine institutions mandated with

⁴⁹ As used in Brazil, slave labour or labour in a condition analogous to that of a slave refers to forced labour and labour exploitation (Healy 2014)

addressing trafficking to reconsider their roles in order to allow major relevance for other policy fields. Examples of smart regulations in anti-trafficking policies begin to answer, in Moran's terms, 'the critical question: when can we safely abandon command and control in favour of [subtler] strategies?' (Moran 2002).

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8 Annexes

8.1 Annex 1

Demand as referred⁵⁰ to by the research conducted at national level

	Context in which demand is referred to	Triggering event/ first mention	Current debate	Comments
Belgium	- Context of sexual exploitation (sex purchasers);	- Meeting between Belgian Minister of Equal Opportunities and French Minister of Women's Rights; - Carestel case	- Social dumping; - No particular debate in relation to demand	
Czech Republic	- market of goods/services (sex purchasers, users of cheap labour, households)	- Tree Workers Case	-	- Customers of sexual workers, club owners and employee of these owners are considered the demand side
France	- Context of sexual exploitation; - Context of labour exploitation	-	- Public discussion on criminalising the purchasers of sexual services (in 2014)	- Demand in the context of labour exploitation (initially came into the debate from a tackling irregular migration and illegal work perspective)
Germany	- Context of labour exploitation; - Context of sexual exploitation	-	- Demand for cheap labour	- The strategy applied by the federal government for addressing demand in the context of labour exploitation is aimed at addressing illegal

⁵⁰ Please note that these are not definitions, but ways in which demand as a term is being referred to.

Italy	<ul style="list-style-type: none"> - Services market (demand as 'users of services'); - Cheap labour market (demand as created by traffickers) 	-	-	No current debate on demand	<ul style="list-style-type: none"> - employment. - Italy is at forefront of addressing trafficking with victim rights-centred approach
Netherlands	<ul style="list-style-type: none"> - Context of sexual exploitation; - Context of labour exploitation 	-	-	Criminalisation of purchase of sexual services from trafficked person when the buyer can be reasonably presume to have known of the abuse	
Romania	<ul style="list-style-type: none"> - economic, cultural and political environment; - Cheap labour market 	-	international level meetings	-	<ul style="list-style-type: none"> - stakeholders underline that Romania is a major country of origin for trafficked persons, hence it subscribes to the notion of supply rather than demand.
Sweden	<ul style="list-style-type: none"> - Context of sexual exploitation (sex purchasers); - Market of cheap labour in specific sectors 	-	the criminalisation of purchase of sexual services as an instrument to address demand	-	<ul style="list-style-type: none"> - demand in the context of sexual exploitation, but also in the context of sexual exploitation and in the context of exploitation of begging
UK	<ul style="list-style-type: none"> - Context of sexual exploitation; - Context of labour exploitation (market of illegal/cheap labour) 	-	Morecambe Bay tragedy	-	<ul style="list-style-type: none"> - Modern Slavery Bill (modern slavery as an integrating concept, although distinct from trafficking) - at the time of conducting the research the Modern Slavery Bill was under debate, not yet adopted
Brazil	<ul style="list-style-type: none"> - market of goods/ 	-	implementation of	-	<ul style="list-style-type: none"> - Demand for slave - No explicit approach to

	<ul style="list-style-type: none"> services (goods produced through exploitative practices in the supply chain; services offered by exploited persons) - Context of public acceptance of/tolerance for exploitative situations; - demand for trafficked labour/trafficked people 	<ul style="list-style-type: none"> - Palermo Protocol 2003 NGO Reporter Brazil study on products produced with slave l 	<ul style="list-style-type: none"> - labour, as defined by the Brazilian Criminal Code⁵¹ 	<ul style="list-style-type: none"> - addressing demand in the context of trafficking in the Brazilian legislation, policy and institutions; the concept is not mentioned as such in any of the documents.
Nigeria	<ul style="list-style-type: none"> - Context of particular cultural practices that generate demand in connection with trafficking for labour exploitation: informal child fostering and 'Almajiri' Qur'anic education system; 	<ul style="list-style-type: none"> - 	<ul style="list-style-type: none"> - No evidence of a current debate on the role of demand 	<ul style="list-style-type: none"> - No reference made to measures addressing/ acknowledging demand by national public policy
US-Federal	<ul style="list-style-type: none"> - Context of sexual exploitation (against commercial sex as a driver of sexual exploitation and trafficking; stems from an end prostitution approach) 	<ul style="list-style-type: none"> - DynCorp scandal (employees involved in sexual exploitation and sex trafficking); - Combating trafficking for sexual exploitation and the linkage with prostitution was advanced during the George W. Bush administration and 	<ul style="list-style-type: none"> - Demand in the context of trafficking within government contracts; - Demand in the context of sex trafficking (commercial sex and sexual exploitation of 	<ul style="list-style-type: none"> - The DynCorp scandal led to a change in the legislation regarding extraterritoriality (applicable for trafficking offences committed by persons employed by the federal government outside of the US)

⁵¹ 'In the case of trafficking for the purpose of labour exploitation, art 149 of the Criminal Code, which defines the criminal offence of 'subjecting someone to a condition analogous to that of a slave', criminalises the act of exploitation itself, though not the acts that are carried out prior to this, nor the means. Various forms of labour exploitation, across the spectrum from poor working conditions to conditions of slavery, are referred to by the catch-all short-hand term 'slave labour'.' (Excerpt from the Brazil Case Study, Healy 2014)

		continued under Obama's tenure.	children);
California	<ul style="list-style-type: none"> - Context of sexual exploitation ('demand community' against commercial sex as a driver of sexual exploitation and trafficking_; - Context of production of goods (supply chain) 	-	- Demand is not seen as specific demand for trafficking victims or products made with trafficked labour, but rather as a result of the establishment of exploitative working conditions that foster trafficking.
Florida	<ul style="list-style-type: none"> - Context of labour exploitation; - Context sexual exploitation (reducing prostitution and child sexual exploitation) 	- Coalition of Immokalee Workers discussion in the Packer magazine	- Agriculture and domestic servitude

8.2 Annex 2

Demand in the context of labour exploitation (main concept as referred to in national contexts and examples of measures)

	Concept	Measures
Belgium	<ul style="list-style-type: none"> - Demand for cheap labour force in the supply chain; - Demand for (exploited) domestic workers 	<ul style="list-style-type: none"> - several liability; - measures to tackle economic fraud; - measures to tackle bogus self-employed; - 'service voucher' system for domestic workers
Czech Republic	<ul style="list-style-type: none"> - Demand for cheap labour force in the supply chain 	<ul style="list-style-type: none"> - measures to combat so-called Švarc system (bogus self-employment); - system of certification in forestry
France	<ul style="list-style-type: none"> - Demand in the context of labour exploitation in garment industry (illegal ateliers along the supply chains) 	<ul style="list-style-type: none"> - Establishment of controlling mechanisms implemented by the 'Institut National du Travail, de l'Emploi et de la Formation Professionnelle': partnerships with trade unions, business federations, major industrial groups to raise awareness about THB and to encourage them to adopt a charter of good practices and not to make use of companies that exploit workers) - Loi sur les Nouvelles régulations économiques - NRE) introduced social reporting requirements for the companies listed on the stock market. Law Grenelle 2 opens up the same requirements for companies with 500 employees or more, even if they are not listed on the stock market
Germany	<ul style="list-style-type: none"> - Demand (for cheap labour force) in the context of irregular employment, and in the context of trafficking for labour exploitation 	<ul style="list-style-type: none"> - Penal Code (Strafgesetzbuch, StGB) - Berlin Alliance against Human Trafficking (BBGM) - Labour laws: employer has to mandatorily ask for a social security card and income tax card before hiring a person - "MigrAR" project set up in 2008 by trade union Verdi to support undocumented people in giving them advice on employment and social rights in Germany - The Fair Mobility project assists in the enforcement of fair wages and working conditions for migrant workers from Central and Eastern European (CEE) countries on the German labour market
Italy	<ul style="list-style-type: none"> - Demand (for cheap labour force) 	<ul style="list-style-type: none"> - Abuses by gang-masters (caporali) illegally employing workers in exploitative working conditions – phenomenon known as caporalato. Mainly addressed through the Penal Code (Art. 603-bis CC referring to the crime of 'unlawful gangmastering and labour exploitation')
Netherlands	<ul style="list-style-type: none"> - Consumer demand - Demand for cheap force labour (in the context of irregular employment) 	<ul style="list-style-type: none"> - 'Buy Responsibly' campaign encourages consumer to discover the links between products they buy every day and THB buy asking the question 'What's behind the things we buy?' - 'Fair Produce Netherlands' quality label with the objective to prevent unfair competition and create a marker with fair prices. - 2010'Hirer's Liability Act' aims to give extra protection to persons employed via employment

		<ul style="list-style-type: none"> agencies, regardless of the law applicable to the employment agreement - Aliens Employment Act (AEA) – employer is subject to an administrative fine if he/she employs a person without a valid work permit - “Being a good employer” campaign -
Romania	<ul style="list-style-type: none"> - Demand in the context of trafficking for labour exploitation 	<ul style="list-style-type: none"> - Law no. 678 from 2001, as amended by Law no. 230 of 2010 (Criminal Code) - Romania as a source country (on the supply side) makes a priority to reduce risk groups vulnerability to trafficking - ‘Exploitation kills souls – Choose KNOWLEDGE, Choose no JUDGEMENT, Choose PREVENTION’ campaign
Sweden	<ul style="list-style-type: none"> - Demand for cheap labour force in the context of specific sectors (berry-picking, hotel and restaurant, cleaning, construction, agriculture and forestry) 	<ul style="list-style-type: none"> - 2008 labour immigration reform introduced specific conditions for recruitment of third country nationals - obligation for non-EU employers working in Sweden to register a branch of their company (or an affiliated company) in Sweden
UK	<ul style="list-style-type: none"> - demand for cheap/illegal labour force 	<ul style="list-style-type: none"> - The Human Trafficking and London 2012 network promoted a Sustainable Sourcing Code which was reinforced by a complaint mechanism; - Play Fair campaign by the Anti-Slavery International; - Changing the Mindset Project (in Northern Ireland) to identify ways to engage the public to reduce demand for products and services provided by organised gangs; - Gangmaster Licensing Authority (GLA) regulates those who supply labour or use workers to provide services in agriculture, forestry, horticulture, shellfish gathering, food processing and packaging.
Brazil	<ul style="list-style-type: none"> - Demand for cheap labour force; - Consumer demand; - Demand for (exploited) domestic workers 	<ul style="list-style-type: none"> - National Pact for the Eradication of Slave Labour, which became an institution (InPacto) - ‘Slave Labour Blacklist’ - ‘Terms of Adjustment of Behaviour - TAC’ implemented by the Special Group for mobile inspection within the Ministry of Labour and Employment; - Collective liability for debts owed to workers (‘solidarity pact’ signed by rural employers); - Campaigns/information tools: ‘Decent Work’/ smartphone app. ‘Moda Livre (Free Fashion)’
Nigeria	<ul style="list-style-type: none"> - No official focus/mentioning of demand; literature mentions demand in the supply chain for goods involving trafficked labour 	<ul style="list-style-type: none"> - The Public Procurement (Goods and Works) Act - Private Employment Agencies (PEAs) licensed by the Federal Ministry of Labour and Productivity to ensure that employers have the correct license and that fair and decent working conditions are fulfilled.
US-Federal	<ul style="list-style-type: none"> - Supply chain 	<ul style="list-style-type: none"> - Mainly measures for raising awareness: SlaveryFootprint.org website;

	<p>accountability rather than demand (term demand associated with the and prostitution approach);</p> <ul style="list-style-type: none"> - Demand for domestic workers (exploited by foreign diplomat employers) 	<ul style="list-style-type: none"> - Measures promoting Corporate Social Responsibility (CSR); - Prohibition lists (Executive Order of 1999 on 'Prohibition of Acquisition of Products Produced by Forced or Indentured Child Labor'); - The Customs and Facilitations and Trade Enforcement Act (prohibition of importing goods produced through exploitation); - 'Farm Bill' of 2008 (supply-chain mapping and risks assessment, remediation and independent third-party review); - 'Reducing Child Labour and Forced Labour: a Toolkit for Responsible Businesses' toolkit (measures to support companies to put in place social compliance systems or improve the existing ones with an emphasis on CSR and supply chain management); - Measures to ensure that government contractors and subcontractors (and their employees) do not engage in trafficking in persons; - Waiver of immunity of diplomats (exploiting their domestic workers) from the sending state in order to allow prosecution in the US;
California	<ul style="list-style-type: none"> - Responsible supply chain (referred to as supply chain accountability rather than demand); - Demand by government contractors; - Demand (for services or goods suspicious of being produced or provided under circumstances of trafficking for labour exploitation) by labour recruiters or contractors 	<ul style="list-style-type: none"> - California Transparency in Supply Chain Act (explicitly avoids requiring companies to take action against exploitation within their supply chains, but rather focuses on enforcing public disclosure as a way to inform customers whether companies have or have not taken such action); - California Public Contract Code (contractor certify that no equipment, materials, supplies, apparel, garments or accessories provided for the contract is produced by sweatshop labour, forced labour, child labour or abusive forms of labour); contractor must comply with the Slave and Sweat Free Code of Conduct (minimum age guaranteed, overtime compensation etc.); - Foreign Labour Recruitment Bill (bans foreign labour contractors from charging workers recruitment fees and requires full disclosure of employment conditions);
Florida	<ul style="list-style-type: none"> - Demand for exploitative work force in agriculture 	<ul style="list-style-type: none"> - Fair Food Program (FFP) developed by the Coalition of Immokalee Workers (CIW). FFP is a non-government and private program; - 'Worker-Driven Social Responsibility' approach (WSR puts workers' rights (as elaborated by the workers themselves) first when addressing human rights in corporate supply chains);

8.3 Annex 3

Demand in the context of sexual exploitation (main concept as referred to in national contexts and examples of measures)

	Concept	Measures
Belgium	- Demand for sexual services	- Addressed through the penal code or through public campaigns
Czech Republic	- Demand for sexual services	- Addressed through penal and administrative laws. No other measures primarily aiming at addressing demand in the context of sexual exploitation. Public campaigns have a broader aim and are carried out in the area of health care and social work with women providing sexual services.
France	- Demand for sexual services	- Art. 225-12-1 Penal Code criminalises the clients of a sex worker exploited by a third party or the clients of children sexually exploited in the commercial sex market - National campaign addressing demand is planned for 2015.
Germany	- Demand in the context of trafficking for sexual exploitation	- Penal Code (Strafgesetzbuch, StGB) - 2002 Prostitution Act legalised the contractual relationship between client and prostitute and provided sex workers the right to enforce payments in courts
Italy	- No clear concept of demand for sexual services	- Sexual exploitation is addressed through mayor's orders ('ordinanze') imposing administrative sanctions for behaviours related to prostitution (both on the demand and supply side). - Awareness raising campaigns
Netherlands	- Demand for sexual services	- Article 151a of the Municipalities Act – local authorities can lay down regulations on prostitution
Romania	- Demand for sexual services	- As of 1 February 2014 (Criminal Code), prostitution is no longer a criminal offence ('infrațiune'), but an administrative one ('contravenție')
Sweden	- Demand for sexual services	- 1999 Criminalisation of purchase of sexual services
UK	- Demand for sexual services	- Sexual Offences Act 2003 (as amended by the Policing and Crime Act 2009)
Brazil	- Demand for the commercial sexual exploitation of children and adolescents	- Legalisation of sex work (listed in the Brazilian Catalogue of Occupations – CBO – since 2002) - Deterrent effect of law enforcement
Nigeria	- No mentioning of the concept of demand in policy documents and media reports	- Trafficking and sexual exploitation are being addressed through the penal legislation - Demand in the context of sexual exploitation was addressed by activities by NGOs aiming at raising awareness to curb demand for sexual exploitation at destination in Italy (as main destination country for trafficked persons from Nigeria)
US-Federal	- Demand in the context of trafficking for sexual exploitation is always linked with demand for commercial sex - Demand in the context of	- There is no federal law explicitly criminalising prostitution, but the federal government has taken a stance against prostitution. The US Leadership on HIV/AIDS, Tuberculosis, and Malaria Act 2003 prohibits funding (including anti-trafficking funding) to any group or organisation that does not oppose prostitution explicitly not promote prostitution during the term of the grant (known as 'anti-prostitution pledge');

	child sex tourism	
California	<ul style="list-style-type: none"> - Demand for sexual services (Penalties on sex buyers in general); - Demand in connection with online sex trafficking 	<ul style="list-style-type: none"> - John Schools (attempt to reduce recidivism among identified or convicted sex buyers by informing them of the risks and impact of such behaviour, with an emphasis on the role of trafficking in the sex industry); - 'Demanding Justice' campaign; - Various measures: seizure of a vehicle used to solicit or engage in prostitution, surveillance cameras in open places, Community Service hours for arrested buyers of sex etc. - E-Crime Unit in the California Department of Justice's Attorney General's Office (focuses on crimes that include a significant technology component, including internet child exploitation – online child sexual abuse imagery, sexual crimes against children using the internet or social media);
Florida	<ul style="list-style-type: none"> - Demand for sexual act or image 	<ul style="list-style-type: none"> - Increasing penalties for purchasers of commercial sex and traffickers, with an emphasis on those purchasing sex from a child; - A mapping of demand reducing tactics refers to: auto seizure, cameras, community service, John Schools, letters, SOAP orders ('Stay Out of Areas with Prostitution')

8.4 Annex 4

Demand in the context of other types of exploitation (main contexts and measures)

	Context	Measures
Belgium	- Exploitation of begging	- Begging as such is legal in Belgium – cities can regulate begging. Art 433ter Penal Code criminalises exploitation of begging
Czech Republic	- Exploitation through begging	- Begging is regulated by municipalities, illegal in some public areas
France	- Exploitation through begging - Exploitation for criminal activities (petty crime) - Forced marriages	- Begging is prohibited in certain areas, but not illegal in general. Exploitation of begging is prohibited by Art. 225-12-5 Penal Code - Art. 225-4-1 Penal Code - Forced marriages have not been linked with THB in France; measures adopted: since 2006, in addition to one of the spouses' complaint, a marriage can be cancelled by relevant authorities. In addition, the deadline for doing so was increased from one to five years for marriages concluded outside France. - Protocole de lutte contre le mariages forcée signed between local authorities and NGOs, under the patronage of Ministry of Women's Rights
Germany	- Exploitation of begging - Trafficking for the removal of organs, for servile marriages	- begging has been allowed in Germany since 1974 through the abolition of the respective clause from the Federal Penal Code (or more precisely, begging is since then no longer considered a criminal behaviour - Penal Code
Italy	- Exploitation of begging; - Removal of organs	- Awareness raising campaigns addressing begging in general. No clear reference to demand in this case. - Both demand and supply are addressed through the law and through the national transplant system which was designed to guarantee that the transplanted organ can be traced electronically.
Netherlands	- Demand in the context of trafficking for forced begging , exploitation in criminal activities ('criminal exploitation') and the removal of organs	- Article 273f Criminal Code - Municipalities continue to view activities such as begging and stealing as a public order issue, viewing those they encounter as perpetrators rather than as potential victims. A number of municipalities are considering introducing a ban on begging through municipal bylaws, or have already done so.
Romania	- Demand in the context of exploitation through begging	- Penal Code - 'Do not give money to beggars' campaigns
Sweden	- Demand in the context of exploitation through	- Public Order Act (Ordningslagen 1993: 1617) - municipality may issue local regulations which prohibit the collection of money without a permit from the police authorities. Infringement of the local

	begging	regulation results in a fine.
UK	- Demand in the context of exploitation for begging, for criminal acts, forced marriage	- Sexual Offences Act 2003; Criminal Justice (Scotland) Act 2003 - Anti-social Behaviour, Crime and Policing Act 2014
Brazil	- Demand in the context of other forms of trafficking are only beginning to be identified (e.g. exploitation of begging, by football clubs etc.)	
Nigeria	- 'Almajiri' Qur'anic education system (exploitation through begging)	- Development of institutionalized model of Almajiri education; - Prohibition to engage children in street trading activities (several states: Anambra, Bayelsa and Lagos); - Children prohibited from street trading during school day (Delta state) - Prohibition against all Almajiri children begging on the street (Kano state)
US-Federal	- Demand for 'mail-order brides'	- International Marriage Broker Regulation Act (the US client must complete a questionnaire on his criminal and marital background, brokers may not provide US clients with the personal contact information of the international client unless the broker has performed a search of the National Sex Offender Public Registry etc.);
California	- Demand for sexual services	- The overall 'end prostitution' approach - Various anti-demand tactics, including: Shaming, Car/autos Seizure, 'Stay Out of Areas of Prostitution' Orders, Public Education, Neighbourhood Action, John Schools
Florida	- Demand (for sexual services) in the context of large-scale events	- Large-scale events are considered to create demand for sexual services. Measures framed as addressing demand were focused on both sex workers and purchasers. Measures were mainly law enforcement operations

Addressing demand in anti-trafficking efforts and policies (DemandAT)

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