Enhancing Transnational Cooperation on Trafficking Cases in South-Eastern Europe (TRM-II)
Capacity building for combating trafficking for labour exploitation

The fight against trafficking for labour exploitation

Cooperation and coordination in Belgium
Role of inspection services
Cases

Peter Van Hauwermeiren
director

Ministry of Social Security, Belgium
Directorate Social Inspectorate
Combating THB in Belgium – some history

**How THB became a society and government focus**

- “They are so pleasant, sir” by Chris De Stoop, 1992
  - Trafficked Filipino women
- Vast social and political impact
  - Media
  - King
  - Politicians
  - Judiciary
  - Parliament
- Critical turning point
## Trafficking offences registered by police 2007-2010

<table>
<thead>
<tr>
<th>Offence</th>
<th>2007</th>
<th>2008</th>
<th>2009</th>
<th>2010</th>
</tr>
</thead>
<tbody>
<tr>
<td>Labour exploitation</td>
<td>283</td>
<td>182</td>
<td>191</td>
<td>152</td>
</tr>
<tr>
<td>Sexual exploitation</td>
<td>118</td>
<td>115</td>
<td>130</td>
<td>119</td>
</tr>
<tr>
<td>Forcing a person to commit a felony</td>
<td>8</td>
<td>10</td>
<td>11</td>
<td>16</td>
</tr>
<tr>
<td>Child pornography</td>
<td>19</td>
<td>14</td>
<td>19</td>
<td>15</td>
</tr>
<tr>
<td>Organised begging</td>
<td>11</td>
<td>15</td>
<td>8</td>
<td>11</td>
</tr>
<tr>
<td>Removal of organs</td>
<td>0</td>
<td>0</td>
<td>2</td>
<td>0</td>
</tr>
<tr>
<td><strong>TOTAAL</strong></td>
<td>439</td>
<td>336</td>
<td>361</td>
<td>313</td>
</tr>
</tbody>
</table>

*Source:* annual report THB 2010 Belgian Centre for Equality of Chances and for the Struggle against Racism, p. 63
<table>
<thead>
<tr>
<th>Year</th>
<th>Labour Exploitation</th>
<th>Sexual Exploitation</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>2008</td>
<td>124 = 63%</td>
<td>46</td>
<td>196</td>
</tr>
<tr>
<td>2009</td>
<td>76 = 48%</td>
<td>56</td>
<td>158</td>
</tr>
<tr>
<td>2010</td>
<td>80 = 66%</td>
<td>42</td>
<td>122</td>
</tr>
</tbody>
</table>

Source: annual report THB 2010 Belgian Centre for Equality of Chances and for the Struggle against Racism, p. 68
## Data Belgian Ministry of Justice 2006-2009

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of convictions for trafficking</th>
</tr>
</thead>
<tbody>
<tr>
<td>2006</td>
<td>305</td>
</tr>
<tr>
<td>2007</td>
<td>250</td>
</tr>
<tr>
<td>2008</td>
<td>198</td>
</tr>
<tr>
<td>2009</td>
<td>132</td>
</tr>
</tbody>
</table>

*Source: annual report THB 2010 Belgian Centre for Equality of Chances and for the Struggle against Racism, p. 70*
Belgian legislation THB – Criminal Code

- Recruiting, transporting, transferring, accommodating, or taking in a person, passing or transferring the control over him, in order (...) to put this person to work or to enable him to be put to work in conditions contrary to human dignity

- Force or coercion are no required elements
  - The use of violence and the abuse of the precarious situation of a victim are only aggravating circumstances

- The consent of the person to the exploitation is of no relevance

- Concept to be interpreted by case law
Belgian social and labour inspection services

Inspection landscape in Belgium
Role of inspection agencies in combating THB
Multidisciplinary approach: how do key players cooperate?

- Fragmentated
- Various inspectorates
- Coordination!
Inspection services: **coordination**

- Illegal work and social fraud *in general*
  - Social Intelligence and Investigation Service
  - local inspection units (22)
  - databases: e.g. GENESIS

- **THB specifically**
  - National task force THB
  - THB cases: bimonthly meetings organised by public prosecutor
  - key prosecutor THB
  - trainings
Inspection services: role in combating THB?

- part of comprehensive anti-trafficking policy
- extensive investigating powers
- high financial impact of Inspectorates’ intervention

- definition THB Belgian Penal Code includes “employing people in circumstances that are contrary to human dignity”.

- social and labour inspectors: authority to investigate trafficking offences (mandate!)
Field inspections

**Awareness** of social inspectors

- Investigating trafficking offences by Inspectorates
  - core business = fighting illegal employment ≠ trafficking
  - widely present on the field (900 inspectors!)

- Alertness to signs of THB

- Importance of
  - winning confidence
  - gathering information
  - taking subsequent **action**
  - precise reporting to the prosecutor
THB by Labour Exploitation

Case

- toilet rooms highway petrol stations and restaurants
- Kazakh, Moldovan, Bulgarian nationals
- 2005 - 2008
Labour Exploitation

Case

Evolution of fraud and constructions used (2005-2008):

- Illegally employed workers (no social statute at all) employed by Belgian subcontractor

- self-employed workers - partners in other Belgian subcontractor

- successive German firms sending out posted employees

- self-employed workers posted from Germany

“Learning entrepreneur”
THB by Labour Exploitation

Case

- Joint investigation police – Social Inspectorate
- Rogatory commission to Germany:
  - interrogations
  - house searches
  - enquiry at social security institution
- Cooperation Belgian - German investigating teams: 😊
- Cooperation Belgian Social Inspectorate - German administration: 😞
- Working conditions below legal standards and contrary to human dignity (indicators!!!)
Labour Exploitation

Case

- Prosecutor:
  - prosecution of German employer for trafficking for labour exploitation
  - prosecution of the owner of the highway restaurants for same crime

- Ground: workers have been employed in circumstances that are contrary to human dignity
Labour Exploitation

Case

Tendency: labour exploitation facilitated by

- bogus social statutes and fictitious constructions:
  - self-employed persons
  - partners in Belgian or foreign company
- irregular posting:
  - dubious posting forms
  - non-existing foreign companies

Need to improve cooperation between social and labour inspectorates and administrations in EU-countries
THB by Labour Exploitation

Case

- cooperation Belgian and German investigating teams
- coordination of investigation (constant consultation between prosecutor, investigating judge, police, social & labour inspectors)
- prosecution for THB by labour exploitation, also contractor

- cooperation Belgian social inspectorate and German social security administration
- coordination between prosecutors of various judicial districts
- no law on liability of contractors
- no use made of victim protection procedure

Bucharest, Romania – 29 February 2012
Thank you

Peter Van Hauwermeiren