



Annual report

2022

Trafficking
and
smuggling of
human beings

Bound by debt



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Foreword

Lessons learned from the Essex and Borealis cases

The work of the Special Commission to Review Legislation and Policy on Trafficking in Human Beings was fully underway when this foreword was written.

End October 2019, 39 Vietnamese victims were found dead in an abandoned refrigerated lorry on an industrial estate in Grays-Thurrock, on the north bank of the Thames. According to Wikipedia, Thurrock means ‘a ship’s hold’ in Saxon. The victims didn’t leave the hold alive and they never got to see London, located a mere 30 kilometres from the site where they were found. Several minors died, along with young men and women whose families had paid large sums of money. The Essex case has undoubtedly contributed to making Parliament aware of the urgent need to give renewed attention to the phenomena of trafficking and smuggling of human beings, and the policies to be implemented in this area.

Myria was heard by the Commission on 25 April 2022 in its capacity as national rapporteur on trafficking in human beings. Its two interdependent watchwords for the Special Commission were ‘detection’ and ‘capacity’.

Over a month later, in May 2022, the largest case of human trafficking involving workers from third countries that Belgium – and by extension the European Union – had ever seen, began with the utmost discretion. Only Serbia was dealing with an equally extensive case at the same time, involving a Chinese company that supplied Vietnamese workers. In ‘our’ Borealis case, Filipinos were employed alongside Bengalis, Turks and Ukrainians.

We hope that the Essex and Borealis cases will provide an opportunity for the Special Commission on Trafficking in Human Beings to ask the right questions, to ensure both the effectiveness of the fight against trafficking and the sustainability of the system, and to respond to the legitimate needs and questions of potential victims.

In this new edition of the annual report, entitled *Bound by Debt*, Myria stresses the importance of detecting victims. When frontline services discover illegally employed Vietnamese workers, they should immediately sound the alarm: it is very likely that these people are working to pay off human smuggling debts. Therefore, it is preferable to refer them to specialised centres, because these are the only places where these often silenced victims can regain their composure and control over their fate.

Besides a number of figures that stand out per stakeholder or purpose of exploitation, the document containing the figures for the past 10 years, which Myria presented to the Special Commission on 28 October 2022, provides a particularly consistent picture of the evolution of victims in general: apart from 2020, which was marked by Covid-19, support was initiated for victims in no fewer than 120 cases (2017) and in no more than 156 (2014).

All the alarm bells should be ringing if a lack of capacity to receive and support victims – as revealed in the Borealis case – were to prevent inspection services from taking decisive action in certain cases; or if there is a risk that the specialised centres won’t be able to do all that is necessary for the new victims referred to them, as these victims are under considerable pressure from the criminal network in which they are trapped.

From now on, the impact of any policy proposal on the anti-trafficking system as a whole should be reviewed, taking into account each of its components. The proposed policies should continue to support and motivate the stakeholders in the field, with an emphasis on realism and ensuring specialisation. This is the only way, along with sustained attention, to ensure that the most vulnerable victims of trafficking still have a chance of being detected. Specialised centres should be able to assist them at any time.

Ensuring resilience to shocks also means thinking fundamentally about situations that involve the discovery of large groups of victims by frontline services, simultaneously or in several places. Sometimes, the judicial authorities or the victims need a little time to reconcile the indicators of human trafficking with the facts or statements.

In an initial phase such as this, Myria believes that the federal government, as the coordinator of the anti-trafficking policy, should play a key role and consider all possibilities. In large-scale cases, a short six-week federal phase — in cooperation with the specialised support centres — can play a key role in maintaining the system's momentum and ensuring the safe and humane detection of victims. However, nothing can be done without a sufficient number of safe reception places.

As long as there is no solution, hundreds of exploited workers risk suffering the same fate as the dozens of Borealis victims who, even today, are saddened to see that their legitimate claim to shelter and support as potential victims of human trafficking in an investigation has literally gone unheeded.

They have no official document informing them that they have been denied the shelter and support to which they are entitled, so they have to tell their story through the media.

'Bound by debt' is the title of Myria's 2022 Annual Report on the Trafficking and Smuggling of Human Beings. For years now, Myria has been drawing attention, at the meetings of the national rapporteurs, to the interconnection between the smuggling and trafficking of human beings. In human smuggling networks, involving astronomical amounts of money, victims and their families are at the mercy of exploitation and extortion.

Myria has delved deep into the Vietnamese cases in Belgium. It is a huge task to identify, isolate and analyse elements that can help the authorities prevent new tragedies and strike smuggling networks hard and decisively, even eradicating them if possible. I sincerely hope that you too will immerse yourself in the stories of the victims who lost their lives. You will see that there are plenty of links with everyday reality, but you will also realise that when the authorities are negligent, a fatal outcome is never far away.

I hope, more than ever, that you will read this enriching report with all the attention it deserves.

Koen Dewulf

Director

Part 1

Focus: Smuggling and trafficking of Vietnamese nationals into and within Europe



A hand-drawn price list for smuggling Vietnamese nationals into Europe. The list is on a yellowish paper with a decorative orange border. At the top center is a red stamp with the text "-HD-" and a blue symbol above it. The title "Chuyến đi đến Europa" (Trip to Europa) is written in Vietnamese and English. Below the title, various smuggling routes and methods are listed with their corresponding prices in US dollars.

Chuyến đi đến Europa Trip to Europa	
Việt Nam - Nước Anh Vietnam - U.K.	30,000 \$
Việt Nam - Europa quá Nga	18,000 \$
Chuyến bay trực tiếp Direct flight	23,000 \$
Từ Bỉ hoặc Pháp đến Vương quốc cao cấp VIP	10,000 \$
Belgium/France - U.K.	11,000 \$
Thông thường Normal	3500 \$
Bằng thuyền By boat	2500 \$

Introduction

The focus Myria has chosen this year relates to a tragedy for which the perpetrators were sentenced in January: the Belgian part of a human smuggling case, in which 39 Vietnamese nationals died in Essex (UK), better known as the “Essex tragedy”. The refrigerated lorry in which they were smuggled transited through the port of Zeebrugge.

Myria therefore wished to examine the issue of the smuggling and trafficking of Vietnamese nationals. Some Vietnamese who are transported illegally are obliged to pay off their debts en route by working in precarious conditions.

On the one hand, this focus provides an overview of the phenomenon of smuggling and trafficking Vietnamese from an international perspective (Chapter 1). On the other hand, to illustrate the Belgian situation, it analyses two Vietnamese smuggling cases for which Myria filed a civil suit, including the one related to the Essex tragedy (Chapter 2). These cases contain certain aspects common to the smuggling and trafficking of human beings, including debt bondage.

This focus is also supplemented by two external contributions: one is provided by EMM – the Dutch Expertise Centre on Human Trafficking and People Smuggling – which carried out a study aimed at better understanding the nature and extent, at national level, of the trafficking and and smuggling of Vietnamese nationals identified in various criminal networks in the Netherlands.

The second one has been compiled by the American NGO Pacific Links, based in Vietnam, which has been working for more than 20 years to prevent and raise awareness about human trafficking in Vietnam, and in transit and destination countries in Europe and Asia.

Chapter 1

Overview

Thousands of Vietnamese have left their home country in recent years, in search of a better life for themselves and their families. While some leave the country as legal migrant workers, others are recruited by smuggling networks with false promises of employment in Europe. They usually incur heavy debts to finance their journey to Europe and, sometimes, they are also smuggled there in life-threatening conditions and are exploited en route or upon arrival. The smuggling and trafficking of Vietnamese into and within Europe appears to have been on the rise in recent years. In Belgium, prior to the Essex tragedy, these practices went unnoticed, with very few Vietnamese acquiring victim status every year¹. Elsewhere, these abuses came to light earlier: for instance, in the United Kingdom, the number of referrals of presumed victims of ‘modern slavery’² of Vietnamese nationality has increased dramatically over the past decade, rising from just 50 in 2009 to almost 1,000 in 2021³.

This chapter provides an overview of the phenomenon. It briefly describes the Vietnamese community in Europe (point 1), before turning to the phenomenon of human smuggling (point 2). The latter focuses on the departure from Vietnam (who are the people being smuggled, why are they leaving, how are they recruited and how much do they pay?), the routes chosen, the structure of the Vietnamese smuggling networks and the fate of their victims. The third point deals with the trafficking of Vietnamese nationals in Europe (point 3). It addresses the vulnerability of highly indebted victims, the links between smuggling and trafficking, and the main forms of trafficking of Vietnamese nationals in Europe: labour exploitation, especially in nail bars and the hospitality sector, sexual exploitation and forced criminality, especially in drug trafficking and cigarette smuggling. The final point focuses in particular on the detection and protection of Vietnamese victims of human trafficking and smuggling (point 4).

The text is based on interviews with experts, a literature review, an analysis of recent press releases and newspaper articles, as well as previous Myria annual reports.

1. The Vietnamese community in Europe

1.1. | Vietnamese migration to Europe

The history of Vietnamese migration to Europe is structured around several waves of migration. Excluding the mobilisation of Vietnamese soldiers and workers from French Indochina to France (which had already begun during the First World War), the first wave of migration occurred after the end of the Vietnam War in 1975. At the time, tens of thousands of boat people fled the Communist regime and were resettled in various Western European countries. In the 1980s, there was a second migratory movement, this time to the Eastern Bloc, under the work and study programmes of the then Soviet Union. Thanks to these programmes, increasingly large Vietnamese communities emerged in cities such as Moscow, Kyiv, Warsaw, Prague and (East) Berlin⁴. Following the collapse of the Soviet Union in 1989, many Vietnamese migrant workers from Eastern Europe returned home.

¹ The exact figures are available in previous Myria reports (www.myria.be).

² This generic term includes slavery, forced labour, servitude and human trafficking (Art. 1-3 Modern Slavery Act 2015); see on the British legislation website.

³ D. Silverstone and C. Brickell, *Combating modern slavery experienced by Vietnamese nationals en route to, and within, the UK*, Independent Anti-Slavery Commissioner (IASC), 2017, p. 19-20; UK Home Office, *Modern Slavery: National Referral Mechanism and Duty to Notify statistics UK, end of year summary 2021*, 3 March 2022.

⁴ M. Vu and N. Sebtaoui, “Smuggling and trafficking from Vietnam to Europe”, *Forced migration review*, no. 64, June 2020, p. 63.

However, some of them emigrated to Western Europe, resulting in a third wave of migration in the 1990s which, for the first time, was essentially illegal. As for the most recent wave of migration, it is composed of newcomers. For several decades, this younger generation of migrants has been coming directly to Europe from Vietnam (especially from northern and central-northern regions) mainly for economic reasons⁵, and often with the help of smugglers.

1.2. | The Vietnamese diaspora today

Vietnamese communities can still be found today in European capital cities such as Paris (13th arrondissement), Berlin (Lichtenberg) and Prague, as well as in smaller towns across the continent⁶. Hierarchies have emerged within the diaspora over the years, based on socio-economic status, place of origin in Vietnam and length of stay in Europe⁷. In some diaspora communities, such as the one in Paris, there is also a significant socio-cultural gap between the ‘generations’ of Vietnamese migrants, for instance, between long established boat people (mainly from southern Vietnam) and newcomers (from the north). The older diaspora (Việt Kiều) can help newcomers find jobs and accommodation, but often do so on a contractual basis rather than out of solidarity⁸. Newcomers with no links to the local diaspora are less likely to be offered help or work and are more likely to be exploited by their own community⁹. For instance, this seems to be the case in Asian markets located on the outskirts of Eastern European capital cities, such as the SAPA (‘Little Hanoi’) market in Prague, Wólka Kosowska in Warsaw and the Dong Xuan Center in Berlin¹⁰.

2. Smuggling of Vietnamese nationals into and within Europe

2.1. | Departure

Profile of migrants in control of smugglers

The majority of Vietnamese nationals smuggled into Europe in recent years are from northern Vietnam, especially from (certain districts of) the region of Nghe An (see Fig. 1). Up until now, this region hasn’t been in a position to benefit from the general growth of the Vietnamese economy: with high unemployment rates and limited access to education, upward mobility is low¹¹. The lack of opportunities is the main reason many people from Nghe An choose to emigrate (legally) within or outside Vietnam¹², or they are swayed by the false promises of smugglers.

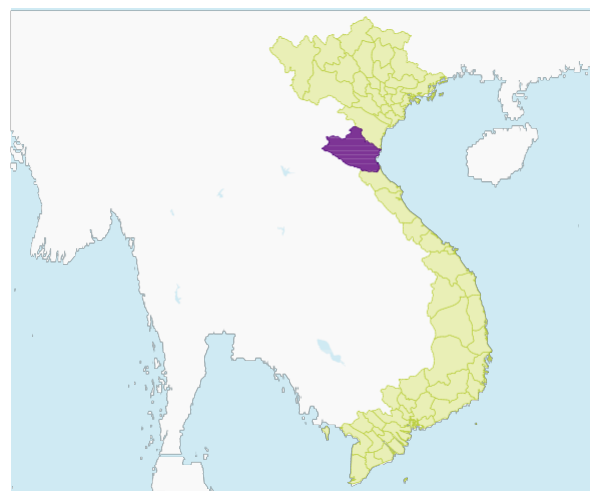


Fig 1: Nghe An region, Vietnam, Southeast Asia

5 D. Silverstone and C. Brickell, *op. cit.*, p. 19–20; T. Nguyen, “Government-sponsored crime. The case of Vietnamese undocumented immigrants in Germany and the UK” in P. Van Duyne et al. (eds.), *Constructing and organising crime in Europe*, Eleven International Publishing, 2019, p. 53–55.

6 D. Czarnecki, “Was hat Deutschland mit 39 toten Vietnamesen/innen in Großbritannien zu tun?“, *NDV*, March 2020, p. 136–141.

7 D. Beadle and L. Davison, *Precarious journeys: Mapping vulnerabilities of victims of trafficking from Vietnam to Europe*, Anti-Slavery International, ECPAT UK and Pacific Links Foundation, 2019, p. 14.

8 D. Tan and T. H. Nguyen, *En route to the United Kingdom. A field survey of Vietnamese migrants*, IRASEC and France terre d’asile, March 2017, p. 48.

9 D. Beadle and L. Davison, *op. cit.*, p. 54.

10 D. Beadle and L. Davison, *op. cit.*, p. 55, 75 and 85; D. Czarnecki, *op. cit.*, p. 137. Also see the analysis of the Essex case in the following chapter of this focus and the recent documentary by A. Bartocha and J. Wiese, “Handelsware Kind – Die Mafia der Menschenhändler”, 2021.

11 D. Beadle and L. Davison, *op. cit.*, p. 43.

12 D. Tan and T. H. Nguyen, *op. cit.*, p. 34–36.

It is especially young adult men who use smugglers to leave this region and travel to Europe. Women and minors sometimes use them too, but they are in the minority¹³. According to the majority of sources, the people smuggled are usually single and in their 20s, with a low level of education. Prior to leaving Vietnam, they are often working as fishermen, farmers, shopkeepers, workers or handymen, earning a very modest income¹⁴. Those who leave don't necessarily belong to the poorest class, as they are able to finance the expensive journey to Europe, or they are at least sufficiently creditworthy to take out a loan. However, poorer people can also be brought to Europe if they take out a loan directly from the smuggling network, for instance, which consequently puts them in a debt bondage situation (see below). Finally, it is striking that the Vietnamese who have recently been smuggled into Belgium are mostly (and even exclusively, according to certain stakeholders in the field) Catholic.

Reasons to leave

Vietnamese newcomers mainly come to Europe for economic reasons. Some leave their country owing to a specific personal situation, such as job loss, company bankruptcy or old debts they hope to pay off by working in Europe. Others escape their region because of a general lack of opportunities¹⁵. In almost all cases, those who leave intend to earn an income for themselves and their families in Vietnam. Their goal is to work in a European country — especially the United Kingdom — for a few years, then, after having paid off their travel debts in the short term,

to send part of their salary to their family in the form of remittance payments¹⁶. They often consider this migration as temporary and ultimately aim to return to Vietnam.

The family plays a key role in irregular migrants' decision to leave.

In some cases, the money earned in Europe can be used to build a house, finance studies or start a business¹⁷.

However, leaving for Europe is more than a purely economic choice for individual migrants. In general, the families of the (mostly relatively young) Vietnamese who use smugglers also play a key role in their decision-making process. Sometimes, the family simply encourages the irregular migrant to earn money abroad, or gives them advice on the matter. However, it is often family members, especially parents, who take the initiative to let one of them go, and they take out a loan in Vietnam for this purpose (which the smuggled person must then pay back)¹⁸. The person who leaves is expected to show loyalty and solidarity towards the family (in the broadest sense), and to support these relatives financially from Europe¹⁹.

The majority of people who are smuggled from Vietnam to Europe leave the country owing to a combination of economic reasons and family expectations. A smaller proportion of irregular migrants leave for other reasons. Some of them leave Vietnam for (alleged) fear of political or religious persecution (and may or may not seek asylum upon arrival in Europe). Some sources also mention Vietnamese orphans and neglected children who are smuggled into Europe to be exploited²⁰.

Recruitment in Vietnam

Many irregular migrants initially leave Vietnam voluntarily or owing to pressure from their own families. However, their decision to leave is often based on limited or unreliable information concerning the journey to Europe and the situation after arrival. Since many of these people have never travelled before and don't speak English²¹, they are highly vulnerable to the fake stories circulating around them.

Potential Vietnamese irregular migrants are usually influenced and recruited by the local community or online. For instance, in their region, they hear rumours about job opportunities

in Europe, or see (some) families living in apparent prosperity thanks to their income from abroad²².

¹³ Also see the Essex case analysed in greater detail in the following chapter of this focus.

¹⁴ See especially D. Tan and T. H. Nguyen, *op. cit.*, p. 22.

¹⁵ See especially D. Silverstone and C. Brickell, *op. cit.*, p. 21-22.

¹⁶ A 'remittance payment' is a cross-border financial transaction between private individuals. In the context of the EU, it specifically refers to a payment made by a migrant to a beneficiary (or beneficiaries) in the migrant's country of origin.

¹⁷ D. Tan and T. H. Nguyen, *op. cit.*, p. 25.

¹⁸ D. Beadle and L. Davison, *op. cit.*, p. 38; Also see the analysis of the Essex case in the following chapter of this focus.

¹⁹ D. Silverstone and C. Brickell, *op. cit.*, p. 27.

²⁰ P. Hynes et al., 'Between two fires': *Understanding vulnerabilities and the support needs of people from Albania, Viet Nam and Nigeria who have experienced human trafficking into the UK*, International Organization for Migration (IOM), June 2019, p. 52; Europol, *Criminal networks involved in the trafficking and exploitation of underage victims in the European Union*, October 2018, p. 19; D. Silverstone and C. Brickell, *op. cit.*, p. 21.

²¹ P. Hynes et al., *Vulnerability to human trafficking: A study of Viet Nam, Albania, Nigeria and the UK*, International Organization for Migration, September 2018, p. 32.

²² P. Hynes et al., *op. cit.*, 2019, p. 49; T. Nguyen, *op. cit.*, p. 63; Europol, *Criminal networks involved in the trafficking and exploitation of underage victims in the European Union*, October 2018, p. 19.

Potential migrants can easily come into contact with a smuggler through their entourage, for instance, through friends and relatives who promote the services of a certain network²³. Sometimes, the smugglers are part of mafia-like organisations with a strong presence in the region, and offer services other than smuggling (e.g. funding to build a house or to buy land). In addition, many potential migrants receive advertisements about travel to Europe on social media and messaging applications such as Facebook Messenger or the Vietnamese version Zalo, especially through selfies of apparently successful compatriots in European cities. Sometimes, they are even directly recruited by smugglers on these platforms²⁴. According to one NGO that is trying to raise awareness among inhabitants in certain heavily affected regions of Vietnam, it is extremely difficult to dispel persistent rumours circulating locally and online: it is a “constant battle against fake news”²⁵.

Vietnamese smuggling networks control the flow of information on migration to Europe. They usually promise their ‘clients’ a well-paid job in Europe (e.g. in a restaurant or nail bar) and the possibility of quickly paying back their travel debt (e.g. in two years)²⁶. The risks associated with smuggling aren’t mentioned or are minimised. Many of these potential irregular migrants therefore have little information about the cost, duration or route, and sometimes even the destination, let alone the living conditions in transit and after arrival²⁷. According to the experts interviewed and a statement from a victim in the Essex case, smugglers are also taking advantage of the increasing regular migration of labour from Vietnam by tricking their clients into believing that they will be traveling legally to Europe.

Vietnamese smuggling networks control the flow of information on migration to Europe.

The success of these rumours and the extent of the smuggling phenomenon can be partly explained by insufficient government control and, in some cases, possible corruption. In recent years, Vietnam has seen an increase in legal labour migration in the agriculture and health sectors to countries such as Japan, Thailand, Malaysia, Australia, Saudi Arabia and Germany. This economic migration is strongly encouraged by the Vietnamese state, which also has an interest in the international mobility of its citizens: their remittances to the country of origin account for a significant share of the gross national product (GNP)²⁸. However, the recruitment sector in the country is poorly regulated, with little control over the countless agencies, brokers and other intermediaries that offer labour migration²⁹. Combined with widespread corruption³⁰, this lack of regulation leaves smugglers free to develop their criminal activities³¹.

According to experts, the Essex tragedy had little, if any impact on recruitment in Vietnam. Criminal networks changed their modus operandi shortly after the events, in particular by modifying their recruitment rhetoric. Hence, smugglers claimed that the Essex victims chose the wrong network, or that they hadn’t paid enough for their journey — the consequence being an overall price increase³².

Cost and payment

The cost of illegal migration to Europe is particularly high. Vietnamese smugglers generally charge their ‘clients’ tens of thousands of euros or pounds to transport them to the European continent or directly to the United Kingdom. In principle, prices depend on the route and the means of transport chosen, but they can also fluctuate significantly regardless.

²³ D. Silverstone and C. Brickell, *op. cit.*, p. 30.

²⁴ M. Vu and N. Sebtaoui, *op. cit.*, p. 63.

²⁵ This also explains the importance of raising awareness in the country of origin by organisations such as the Pacific Links Foundation, which explains its prevention campaigns in more detail in an external contribution at the end of the focus in this annual report.

²⁶ D. Silverstone and C. Brickell, *op. cit.*, p. 28; D. Beadle and L. Davison, *op. cit.*, p. 41.

²⁷ See especially D. Silverstone and C. Brickell, *op. cit.*, p. 28-29, 38; P. Hynes et al., *op. cit.*, 2019, p. 10, 69-70; A. Bartocha and J. Wiese, “Handelsware Kind – Die Mafia der Menschenhändler”, 2021; also see the analysis of the Essex case in the following chapter of this focus.

²⁸ Vietnam is among the top 10 countries where (official) remittance payments are the highest (D. Beadle and L. Davison, *op. cit.*, p. 39).

²⁹ International Labour Organization (ILO), *Complaint mechanisms for Vietnamese migrant workers. An overview of law and practice*, 2015, p. 14; D. Beadle and L. Davison, *op. cit.*, p. 47.

³⁰ Interviews with experts; T. Nguyen, *op. cit.*, p. 65-66.

³¹ However, in January 2022, a law on the rights of migrant workers abroad came into force, banning excessive brokerage fees in particular (see Pacific Links Foundation’s external contribution further on in this annual report).

³² Interviews with experts in spring 2022; H. T. Luong, “Undocumented Vietnamese migrants: what is going on since the Essex tragedy?”, *Institute for Asian Crime and Security*, 7 October 2021; “Vietnamese account for record rise in channel migrants”, *The Sunday Telegraph*, 29 August 2021.

For the whole journey from Vietnam to the United Kingdom, prices between EUR 10,000 and EUR 40,000 have been commonly quoted in the past few years³³.

After the Essex tragedy, smugglers sometimes raised the asking price in Vietnam by several thousand euros³⁴.

Prices between EUR 10,000 and EUR 40,000 are paid to be smuggled from Vietnam to the United Kingdom.

This crossing can be financed in different ways. Some borrow from relatives or acquaintances in the form of a ‘tontine’, a traditional interest-free group loan system that

supports the financial projects of community members based on trust⁴⁰. Others even take out a loan from a local bank with a mortgage on their house or land, or ask relatives in Europe to take out such a loan.

In some cases (such as Essex), different prices are charged for the first part of the journey, from Vietnam to the European continent, and the second part, from the continent to the United Kingdom. Prices for these separate routes can also vary considerably. According to one author, the cheapest route to Europe via Russia, for instance, costs between USD 12,000 and USD 20,000, while the most expensive route with false documents and a direct flight to the EU costs between USD 16,000 and USD 25,000³⁵. Prices for the final leg between the continent and the United Kingdom also seem to vary considerably depending on the mode of transport (see below): for instance, between EUR 10,000 and 12,000 for ‘VIP’ transport, compared to only EUR 3,000 to EUR 4,000 for ordinary transport to the United Kingdom³⁶. Prices also seem to be lower for the last crossing to date on small boats: a recently dismantled network was charging Vietnamese, and other nationals crossing the English Channel with them, an average of EUR 2,500 to EUR 3,500 per person³⁷.

Sooner or later, however, many families have to turn to informal lenders or loan sharks. This might be because they can’t take out a loan from an official financial institution, or because they can’t repay their initial loan on time, or because they need an additional loan to finance the next leg of the journey⁴¹. This accumulation of debts makes irregular migrants highly vulnerable to exploitation and human trafficking (see below).

2.2. | Routes

Routes to the EU

Vietnamese smuggling organisations use several routes between Vietnam and the European continent: the traditional route via Russia, direct flights to the European Union and other more recent ones. The routes are indicated on the map below (Fig. 2) and explained in the text hereafter.

In general, the family of the smuggled person is responsible for paying the smugglers³⁸. As a rule, the payments are made in Vietnam. Sometimes (as was the case for one of the Essex victims, for instance), the smuggled person’s family pays the entire amount up front. However, it is more common for only part of the amount to be paid before leaving Vietnam and the rest to be repaid in stages, or after arrival at the destination³⁹. If the family in Vietnam doesn’t (immediately) pay the amount when the smuggled person arrives, the Vietnamese smuggling networks often resort to coercive means. For instance, in the Vietnamese cases in which Myria filed a civil suit (analysed later in this report), several victims were detained on arrival in the United Kingdom until their families had paid the entire amount for the crossing.

33 See especially D. Beadle and L. Davison, *op. cit.*, p. 68; P. Hynes et al., *op. cit.*, 2019, p. 67.

34 M. Vu and N. Sebtaoui, *op. cit.*, p. 63. Also see the analysis of the Essex case and Pacific Links Foundation’s external contribution further on in this annual report.

35 T. Nguyen, *op. cit.*, p. 57. In the Essex case, the average asking price for this first part of the journey was EUR 13,000.

36 D. Tan and T. H. Nguyen, *op. cit.*, p. 39–42. See also D. Silverstone and C. Brickell, *op. cit.*, p. 37. In the Essex case, the average asking price for this second part of the journey was EUR 12,000.

37 Europol, “39 arrests in cross-border operation against migrant smuggling in small boats across English Channel”, 6 July 2022.

38 Interviews with experts; D. Tan and T. H. Nguyen, *op. cit.*, p. 88.

39 Interviews with experts; D. Beadle and L. Davison, *op. cit.*, p. 68; D. Tan and T. H. Nguyen, *op. cit.*, p. 88.

40 D. Tan and T. H. Nguyen, *op. cit.*, p. 87.

41 Interviews with experts; D. Tan and T. H. Nguyen, *op. cit.*, p. 87; D. Silverstone and C. Brickell, *op. cit.*, p. 30.

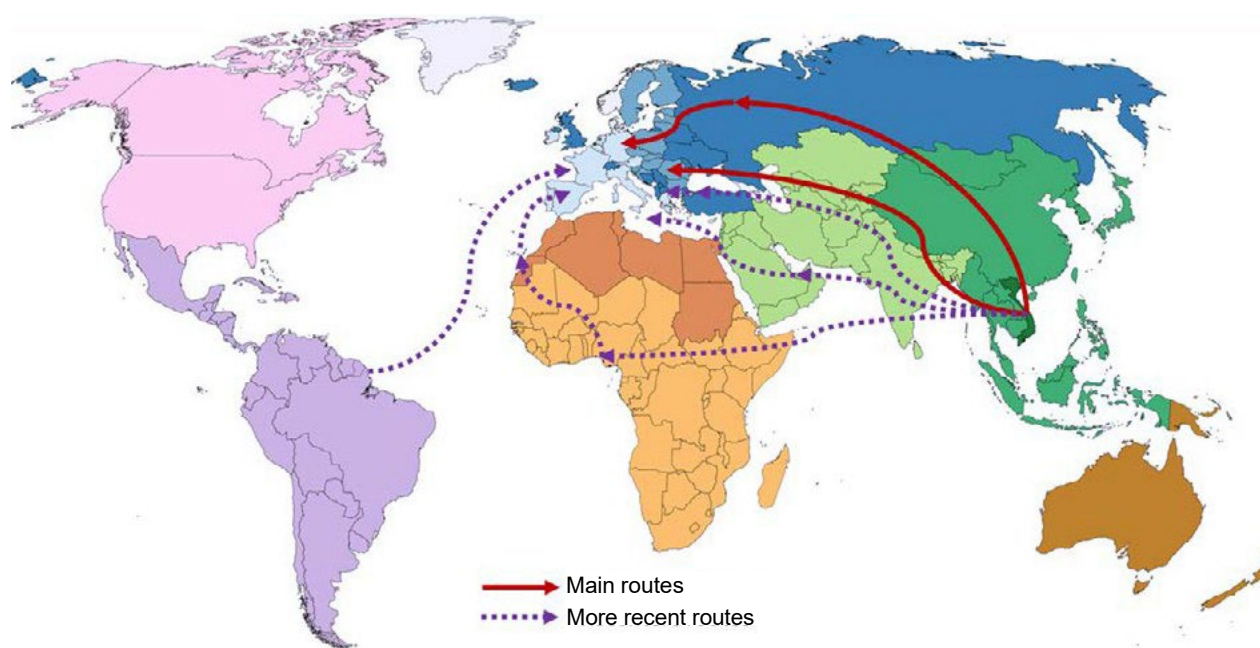


Fig. 2: overview of the routes from Vietnam to Europe

The route traditionally used by smugglers goes from Vietnam to Russia⁴², either directly or via another Asian country (China, or possibly Japan or Korea). For the first part of the journey, which is by air, the smugglers generally re-use valid passports with a Russian visa. From Russia, the journey continues by vehicle or on foot to Belarus, Latvia and Lithuania or Ukraine (prior to the Russian invasion). On the last part of this route via Russia, the Vietnamese are smuggled from the countries bordering Europe (if they are coming from the Baltic States, it isn't uncommon for them to pass through the Russian exclave of Kaliningrad) to Poland, the Czech Republic or Slovakia⁴³. Once they have arrived in the European Union (EU), some irregular migrants continue to work (temporarily or permanently) in Eastern Europe, while others are immediately smuggled into Western Europe.

Another route that also came to light in the Essex case, and sometimes described as 'VIP', consists of a direct flight from Vietnam or neighbouring China to an EU member state. Forged or falsified passports and/or visas are used in this case⁴⁴, and sometimes valid visas obtained fraudulently or not⁴⁵. These are mainly tourist, study and work visas. The work visas are often issued by more recent EU Member States such as Poland, Hungary and Romania, where emigration of their own population to Western Europe has led to an increasing demand for foreign workers, who may be employed under bad conditions⁴⁶. Vietnamese smuggling networks appear to abuse this context of legal migration by applying for work visas in these Member States on false grounds and on the basis of fictitious invitations⁴⁷. A recent variant of the direct route to the EU is an indirect flight from Southeast Asia (Vietnam itself, but also Malaysia or Taiwan, for instance) to Russia or South America with a transit in a European airport such as Charles de Gaulle (Paris) or Schiphol (Amsterdam)⁴⁸.

42 For this paragraph, the following sources were consulted: D. Beadle and L. Davison, *op. cit.*, p. 56–65; D. Silverstone and C. Brickell, *op. cit.*, p. 34–36; D. Tan and T. H. Nguyen, *op. cit.*, p. 37–38; P. Hynes et al., *op. cit.*, 2018, p. 32; P. Hynes et al., *op. cit.*, 2019, p. 70–71. The classic route to Russia was probably changed (temporarily) after the Russian invasion of Ukraine in 2022, following the suspension of Vietnam Airlines flights between Moscow and Hanoi for practical reasons ("Vietnam Airlines to suspend regular flights to Russia from March 25", Reuters, 23 March 2022).

43 In the older Vietnamese case analysed in this annual report, the smuggling victim was allegedly brought to Belgium via Ukraine through Portugal. However, this route has not been confirmed by other sources.

44 Interviews with experts; Europol, "9 arrested for smuggling Vietnamese migrants across Europe", 11 July 2022.

45 Europol, "6 arrested in Germany for smuggling over a hundred Vietnamese migrants to Europe", 3 March 2020; Europol, "3 arrested for smuggling over 250 Vietnamese migrants to Germany", 31 May 2021; Belga, 11 July 2022, *Neuf arrestations dans une opération européenne visant des trafiquants d'êtres humains*.

46 The dynamics in Poland are described, among other things, by S. Nguyen, "Vietnamese migrants fill Romania's worker crunch but face risk of exploitation", *South China Morning Post*, 16 March 2022; also see the analysis of the Essex case in the following chapter of this focus.

47 Europol, "6 arrested in Germany for smuggling over a hundred Vietnamese migrants to Europe", 3 Mar 2020; Europol, "3 arrested for smuggling over 250 Vietnamese migrants to Germany", 31 May 2021.

48 D. Beadle and L. Davison, *op. cit.*, p. 61; Expertisecentrum mensenhandel en mensensmokkel (EMM), *De vermissing van Vietnamese amv's en de relatie van Vietnamese met mensenhandel en mensensmokkel in Nederland* (2015 tot en met 2018), 5 December 2019, p. 20; Europol, *Criminal networks involved in the trafficking and exploitation of underage victims in the European Union*, October 2018, p. 18.

Depending on the amount of money paid and the agreements made, the illegal immigrants can then leave the airport in order to be sent to a specific location for the continuation of the journey⁴⁹.

The literature and the interviews with experts also indicated the following new routes:

- by plane via Latin America (Peru, Brazil, Dominican Republic, possibly Chile and Panama too) to Spain or France⁵⁰;
- by plane via Malaysia and Azerbaijan to Turkey and from there by boat to Greece (like one of the Essex victims)⁵¹;
- via Nigeria, Morocco and the Canary Islands to Spain;
- via the United Arab Emirates.

Route to the United Kingdom

For many Vietnamese smuggling victims, the United Kingdom is and remains the ultimate destination. They are convinced by their entourage and the smugglers that it is easier to find well-paid work or to obtain a residence permit in the United Kingdom, and that there are fewer identity checks⁵². Some Vietnamese are smuggled directly into the United Kingdom, while others are first smuggled into another country (such as Germany or Romania) and are only convinced at that point to go to the United Kingdom with the promise of better earnings.

Northern France is traditionally the penultimate stop on the route to the United Kingdom. Up until a few years ago, the camps at Angres (near Lens), Tétèghem and Grande-Synthe (near Dunkirk)⁵³, which have now been dismantled, were major assembly points for the smuggling of Vietnamese migrants.

The Angres camp, also known as ‘Vietnam City’, was widely known as an optional stopover, where Vietnamese migrants could be accommodated while waiting to be transported by lorry to the United Kingdom. This camp was well hidden in woods a few hundred metres from a service station along the A26 Reims-Calais motorway. It was a well-equipped squat, managed by and for Vietnamese, with heating, water and electricity thanks to the support of the local mayor and a citizens’ group⁵⁴. Today, in northern France, Vietnamese migrant smugglers mainly operate in small camps around Calais, according to an NGO active there. In many cases, smuggled Vietnamese don’t even go through a camp in northern France: they are taken directly by car or taxi from a (Belgian or French) safehouse to a specific departure point off the North Sea. This happened not only in the Essex case but also in an earlier case, where a taxi driver drove between Paris, Brussels and De Panne⁵⁵. There is also an alternative route via the Netherlands, described as ‘emerging’ in 2019⁵⁶, which was used during a previous attempt to smuggle two minor victims of the Essex tragedy⁵⁷.

Just like the journey between Vietnam and the European continent, there are also different ‘packages’ for the second journey to the United Kingdom. In the normal or ‘low cost’ package, the smugglers only offer an escort and access to certain areas where lorries bound for the United Kingdom are parked. The irregular migrants can then try to board a lorry without the driver’s knowledge. While waiting for an opportunity to cross, they are provided with food and shelter by the smuggling network⁵⁸. In this circle, the “low cost” package apparently goes by the term ‘cò’ (grass).⁵⁹ There is also VIP transport, where people are smuggled into the United Kingdom with the driver’s knowledge. According to one player in the field, this type of ‘guaranteed’ transport is on the rise in Vietnamese organisations⁶⁰.

49 D. Beadle and L. Davison, *op. cit.*, p. 59.

50 D. Beadle and L. Davison, *op. cit.*, p. 63; Europol, “From Vietnam to Spain: An illegal journey costing EUR 18 000”, 6 December 2018.

51 K. Pham and V. Vu, “Pray for me”, *Die Zeit*, 17 May 2020.

52 D. Tan and T. H. Nguyen, *op. cit.*, p. 28.

53 D. Tan and T. H. Nguyen, *op. cit.*, p. 58-76. The situation in the camps in the north of France has already been extensively covered in previous Myria annual reports, in particular the 2018 *Annual Report Trafficking and smuggling of human beings, Minors at major risk*, p. 30-34.

54 UNICEF, *Neither Safe Nor Sound: Unaccompanied children on the coastline of the English Channel and the North Sea*, June 2016, p. 45; D. Tan and T. H. Nguyen, *op. cit.*, p. 37.

59-60. Also see the analyses of the old Vietnamese case and the Essex case further on in this annual report.

55 Ghent Court of Appeal, 9 December 2020, 8th ch.

56 D. Beadle and L. Davison, *op. cit.*, p. 56-57.

57 See documentary by Argos, “De laatste reis van Quyen en Hieu”. For older examples of smuggling of Vietnamese nationals to the Netherlands, see EMM, *op. cit.*

58 D. Tan and T. H. Nguyen, *op. cit.*, p. 39-40.

59 T. Nguyen, *op. cit.*, p. 59; Reuters, “‘Grass’ or ‘VIP’? How rural Vietnamese make treacherous journey to Europe”, 27 October 2019.

60 Report of the Special Commission to review legislation and policy on trafficking and smuggling of human beings, 6 May 2022, CRIV 55 M002, p. 5-6. Examples of this smuggling with guarantee can be found in the Essex case and in the Bruges judgment discussed later in this report in the chapter on case law (West Flanders Crim. Court, Bruges division, 13 October 2021, ch. B.1: see Part 2, Chapter 2, point 3.2.).

Sometimes, this VIP transport is specifically chosen to smuggle young Vietnamese women in order to avoid any risk of sexual abuse in the camps of northern France⁶¹. In this case, the irregular migrants don't have to stay in these camps before departure, but are sent to a hotel for a few nights or put up in safehouses⁶². The cases analysed by Myria clearly show that these safehouses are used as a base not only for VIP transport, but also for other means of transport.

The final leg to the United Kingdom is often by lorry, but sometimes also in refrigerated lorries — a method favoured by smugglers to escape detection. However, it is extremely dangerous for smuggling victims, as painfully demonstrated once again by the Essex tragedy⁶³. These refrigerated lorries and vans carrying Vietnamese migrants take the Eurotunnel to the United Kingdom⁶⁴, or leave from a port such as Calais, Zeebrugge or the Hook of Holland.

As of spring 2021, smugglers have also been using small boats to cross to the United Kingdom⁶⁵. Since then, French and Belgian coastal police have regularly intercepted small boats carrying dozens of smuggling victims, including groups of Vietnamese. The victims are sent across the Channel in life-threatening conditions: unsuitable craft, insufficient fuel, inappropriate life jackets, etc.⁶⁶ There are several reasons for this partial shift from lorries to small boats: increased motorway controls, less risk of detection from the beach or the fact that, on average, far fewer attempts are required to make the crossing than being smuggled on board a lorry. One source mentions one or two attempts instead of eight to ten⁶⁷.

Since 2021, Vietnamese migrants have also been smuggled on small boats across the Channel.

Unlike crossings in lorries or refrigerated lorries, in which only Vietnamese are generally smuggled (as in the Essex case)⁶⁸, Vietnamese victims who illegally enter the United Kingdom by small boat share the craft with other nationalities, especially Kurds⁶⁹.

2.3. | Structure of the smuggling networks

The above-mentioned smuggling of human beings from Vietnam to Europe is generally carried out by well-organised Vietnamese smuggling networks. These are international networks in the countries of departure, transit and destination, which are subdivided into small operational units. It is therefore often difficult for authorities to determine the true structure of a specific network⁷⁰. It is also sometimes difficult to know the extent to which an organisation has infiltrated the diaspora's local community⁷¹. However, it is clear that the Vietnamese networks prefer to work with their compatriots, both for the actual smuggling and for its facilitation.

Nevertheless, this doesn't mean that partnerships aren't formed with other nationalities. For instance, in neighbouring countries, individuals or groups of Albanian, British, Bulgarian, Chinese, Congolese, Iranian, Latvian, Dutch,

Polish and Russian origin are involved⁷². Vietnamese networks choose to outsource to non-Vietnamese groups especially for the last part of the journey to the United Kingdom: for instance, they may

provide lorry drivers, such as the Irish hauliers in the Essex case, or organise the illegal boarding of lorries, such as the Kurdish organisations operating from the camps in northern France⁷³.

61 Also see the old Vietnamese case further on in this annual report.

62 D. Tan and T. H. Nguyen, *op. cit.*, p. 42-43.

63 See especially D. Tan and T. H. Nguyen, *op. cit.*, p. 39 and D. Silverstone and C. Brickell, *op. cit.*, p. 40.

64 A. Boussemart, "Coquelles: un vaste réseau de passeurs démantelé, dix individus interpellés", *La voix du nord*, 21 October 2021.

65 In the past, Vietnamese smugglers rarely seemed to use small boats. See, for instance, the smuggling attempts of the Albanian-Vietnamese networks by sailing boat from IJmuiden ("25 vluchtelingen gevonden op zeiljacht in IJmuiden", *Het Parool*, 15 August 2015) and by dinghy from Dunkirk (A. Lasjaunias, "Le pêcheur passeur de migrants qui met le port de Dunkerque en émoi", *Le Monde*, 6 November 2015).

66 See, for instance, Europol, "9 arrested for smuggling Vietnamese migrants across Europe", 8 July 2022 and the Bruges judgment mentioned in the footnote on page 60.

67 "Small boats carrying migrants across Channel hit record levels in May", *The Guardian*, 2 June 2021; "Vietnamese account for record rise in channel migrants", *The Sunday Telegraph*, 29 August 2021.

68 However, there are also examples of attempted smuggling of Vietnamese with other nationalities, including Afghans and Iraqis in particular (see especially EMM, *op. cit.*, p. 32).

69 E.g. see the Bruges decision mentioned in the footnote on page 60.

70 Europol has identified this international structure in Vietnamese human trafficking networks, but it also seems to apply to smuggling networks (Europol, *Criminal networks involved in the trafficking and exploitation of underage victims in the European Union*, October 2018, p. 18).

71 D. Beadle and L. Davison, *op. cit.*, p. 58.

72 D. Silverstone and C. Brickell, *op. cit.*, p. 36; EMM, *op. cit.*, p. 33; D. Beadle and L. Davison, *op. cit.*, p. 103.

73 D. Tan and T. H. Nguyen, *op. cit.*, p. 44; D. Silverstone and C. Brickell, *op. cit.*, p. 37. This Vietnamese-Kurdish cooperation also emerged in two older cases in which Myria was a civil party (see below in Chapter 2 on case studies and the "Ishtar" case in Myria, *2010 Annual Report Trafficking and smuggling of human beings, Combating social fraud to prevent trafficking in human beings*, p. 56-60 and *2011 Annual Report on human trafficking and smuggling, The money that matters*, p. 98-99).

These Kurdish organisations are (or were?) also used for crossings in small boats⁷⁴. In the past, Vietnamese smugglers also worked with Albanian groups for these ‘low cost’ packages by lorry or by boat⁷⁵. In addition, they regularly use facilitators of European nationality for transportation or accommodation within the EU, among other things⁷⁶.

Vietnamese smuggling groups operating in Europe are often guilty of other offences, such as human trafficking, drug trafficking and cigarette smuggling (see below). Sometimes, these groups aren’t initially prosecuted for smuggling but for forgery and use of false documents: for instance, the French part of the Essex investigation in Grenoble first focused on the false residence permits of Vietnamese working in restaurants, and only on smuggling and trafficking afterwards⁷⁷. Some groups have also been involved in the organisation of sham marriages and false acknowledgement of children. In Berlin, for instance, Danish marriage certificates are openly advertised⁷⁸ and pregnant Vietnamese women are put in contact with German citizens to acknowledge their child⁷⁹.

2.4. | The fate of smuggling victims

Vietnamese smuggled into Europe are often very dependent on their smugglers: with no knowledge of the countries they are crossing (see above), they depend entirely on the smuggling organisation for instructions. For instance, the organisation orders them to hand over or destroy their documents after their arrival in Europe, not to share

any information with the authorities, and to disappear from reception facilities⁸⁰. According to the testimonies of various smuggled persons, they can be exposed to fatal risks during the journey. For instance, several victims reported that they had been locked in a refrigerated vehicle, (the underbody of) a van or the boot of a private car for part of the journey⁸¹. Recently, Vietnamese migrants have even been found in a suitcase or travel bag in the boot⁸². Violence may also be used: an IOM report even explicitly mentions ‘extreme levels’ of violence and abuse against victims of smugglers from Vietnam, and cites several examples of Vietnamese being beaten and starved by smugglers⁸³. Sometimes, smugglers temporarily lock up their ‘clients’, restrict their freedom or forbid them to make phone calls⁸⁴. They also exploit the irregular migrants’ fear of being stigmatised and discriminated against community as a in ‘failed’ order to migrant strengthen within ties their own with them. However, the main control mechanism for Vietnamese smuggling organisations is probably (financial) debt in Vietnam⁸⁵. Victims who have fallen into debt as a result of human smuggling may end up in situations of exploitation and human trafficking (see below).

Previous criminal investigations conducted at home and abroad have revealed that safehouses in the EU play a key role in Vietnamese smuggling networks. In recent years, several such safehouses have been discovered throughout Europe. In Belgium, these included several addresses in Brussels⁸⁶ and ,more recently, in Flanders (Wichelen, Leuven and Leopoldsburg)⁸⁷.

74 See especially, “Migrants, la mafia des passeurs”, *Paris Match*, 8 January 2022 and possibly also the Bruges judgment mentioned in the footnote on page 60.

75 See footnote on page 65 and maybe also the Albanian “Albatex” case involving Vietnamese smuggling victims, analysed in Myria, *2018 Annual Report Trafficking and smuggling in human beings, Minors at major risk*, p. 86-91.

76 Europol, *Criminal networks involved in the trafficking and exploitation of underage victims in the European Union*, October 2018, p. 18-19; Also see the analysis of the Essex case in the following chapter of this focus.

77 F. Hardy, “Un réseau de traite d’êtres humains jugé à Lyon”, *Le Monde*, 18 December 2021; also see the analysis of the Essex case in the next chapter of this focus.

78 D. Czarnecki, *op. cit.*, p. 137. A Pacific Links Foundation meeting on 26 January 2022 revealed that some victims of Vietnamese smugglers arrive in Berlin on (fake) tourist visas via Eastern Europe and then have three months to enter into a sham marriage in Denmark. The cost is estimated at EUR 30,000. Human smuggling in the Netherlands has also been linked to sham marriages in the past (e.g. see EMM’s external contribution in this annual report).

79 “Bundespolizei geht gegen Schleuser vor”, *Der Spiegel*, 1 December 2021.

80 D. Tan and T. H. Nguyen, *op. cit.*, p. 68; Europol, *Criminal networks involved in the trafficking and exploitation of underage victims in the European Union*, October 2018, p. 19.

81 D. Silverstone and C. Brickell, *op. cit.*, p. 30.

82 “Blow for Priti Patel as more than 550 migrants cross the Channel in two days”, *The Times*, 3 May 2022.

83 P. Hynes et al., *op. cit.*, 2019, p. 76-77. Also see the example of the Vietnamese man who tried to travel from Angres to the United Kingdom by his own means and was severely punished by a smuggling organisation for doing so (D. Tan and T. H. Nguyen, *op. cit.*, p. 39).

84 D. Silverstone and C. Brickell, *op. cit.*, p. 30.

85 P. Hynes et al., *op. cit.*, 2019, p. 19, 46; M. Vu and N. Sebtaoui, *op. cit.*, p. 63.

86 See the Vietnamese case analyses further on in this report (Chapter 2 of this part).

87 Belga, 11 July 2022, *Neuf arrestations dans une opération européenne visant des trafiquants d’êtres humains*.

These lodgings serve as a ‘terminus’ for smuggled persons: they are housed here after their arrival in a European country until their family in Vietnam has paid for the smuggling service; and/or they are assembled here to be smuggled to the next destination⁸⁸. Some Vietnamese live in these safehouses for several months at a time, crammed by the dozen in cramped and inhumane conditions⁸⁹. Sometimes these secret places of residence also serve as a hub for human trafficking activities⁹⁰.

3. Exploitation and trafficking of Vietnamese nationals in Europe

3.1. | Debt caused by human smuggling

Many Vietnamese who are smuggled into Europe are crippled by debt⁹¹. The cost of being smuggled into Europe can quickly reach tens of thousands of euros. Most Vietnamese take out a loan at some point to pay the smuggler this fee, usually in instalments (see above). In the informal credit market, in particular, and for the less well-off, such a loan can carry very high interest rates. In the case of money borrowed from loan sharks, there is often no clear repayment deadline, but the interest (and thus the debts) increases over time. If the debts can't be repaid, an additional loan is taken out with even higher interest, resulting in excessive debt⁹². Sometimes irregular migrants have to repay not only their own debts, but also those of their family members, e.g. the smuggling debts of a relative after their forced return from Europe⁹³.

It is difficult to know to what extent moneylenders are linked to smuggling organisations in Vietnam. In some situations, they seem to act separately. In this case, it isn't the smugglers the irregular migrants fear (at least not for financial reasons), but their creditors in Vietnam, who threaten the family back home or threaten to sell their mortgaged house, for instance⁹⁴. Owing to the heavy burden of debt, this first category of irregular migrants is more vulnerable to exploitation and human trafficking along the way or after arrival. In other situations, moneylenders do indeed appear to be part of, or at least linked to, the smuggling network⁹⁵. This second category of smuggled person may therefor find themselves bound by debt to the smugglers.

3.2. | From human smuggling to human trafficking

Vietnamese who have been smuggled, frequently report travelling for months or even years to their final destination (usually the United Kingdom) and being exploited along the way in one or more countries⁹⁶. However, it is often difficult to know whether this exploitation was carried out by the smuggling networks directly or by other criminal organisations, whether related or not⁹⁷. In some investigations concerning human smuggling, such as the old Vietnamese case analysed later in this annual report, human trafficking is only briefly touched upon. In other cases, however, the exploitation angle is prevalent from the outset. For instance, recent Europol operations have revealed that hundreds of Vietnamese victims were detained immediately after arriving on the European continent until they paid off their debts by working without pay⁹⁸.

88 The way these Vietnamese safehouses are run in Germany is described in detail in the documentary by A. Bartocha and J. Wiese, “Handelsware Kind – Die Mafia der Menschenhändler”, 2021; also see the analysis of the Essex case in the next chapter of this focus.

89 Europol, *Criminal networks involved in the trafficking and exploitation of underage victims in the European Union*, October 2018, p. 19.

90 See especially Europol, *Criminal networks involved in the trafficking and exploitation of underage victims in the European Union*, October 2018, p. 19; A. Bartocha and J. Wiese, “Handelsware Kind – Die Mafia der Menschenhändler”, 2021.

91 E.g. see the analyses of the two Vietnamese cases in the next chapter of this focus.

92 D. Tan and T. H. Nguyen, *op. cit.*, p. 87-88.

93 M. Vu and N. Sebtaoui, *op. cit.*, p. 64; P. Hynes et al., *op. cit.*, 2019, p. 55.

94 Interview with experts; D. Tan and T. H. Nguyen, *op. cit.*, p. 86-88; D. Beadle and L. Davison, *op. cit.*, p. 69.

95 P. Hynes et al., *op. cit.*, 2019, p. 46, 68; D. Silverstone and C. Brickell, *op. cit.*, p. 30; also see the analysis of the Essex case in the next chapter of this focus.

96 D. Tan and T. H. Nguyen, *op. cit.*, p. 45; P. Hynes et al., *op. cit.*, 2019, p. 71-72.

97 Europol, *Criminal networks involved in the trafficking and exploitation of underage victims in the European Union*, October 2018, p. 18.

98 Europol, *6 arrested in Germany for smuggling over a hundred Vietnamese migrants to Europe*, 3 March 2020; Europol, *3 arrested for smuggling over 250 Vietnamese migrants to Germany*, 31 May 2021.

The trafficking – just like the smuggling – of Vietnamese victims always appears to be controlled by their compatriots: the suspects identified by Europol in the past were mostly middle-aged people (men and women) of Vietnamese nationality or origin⁹⁹.

There is a continuous risk of exploitation throughout the migration process: the Vietnamese are sometimes exploited immediately in their country of origin or in neighbouring countries like China¹⁰⁰, and sometimes only further afield, on the way or after their arrival in Europe. The exploitation of Vietnamese victims has also been reported in the construction sector and (counterfeit) clothing industry in Russian and Ukraine, among other places¹⁰¹. In the EU and in the United Kingdom, other forms and sectors of exploitation are prevalent: not only labour exploitation (especially in nail bars and restaurants), but also sexual exploitation and forced crime (chiefly in drug production and illegal cigarette sales). These forms of human trafficking in Europe are discussed below, one by one.

3.3. | Forms of human trafficking

Labour exploitation

Vietnamese victims are increasingly exploited in nail bars in European cities.

Nail bars have grown spectacularly in Europe over the last few decades. Owing to relatively limited regulation, these businesses are an attractive place for criminal organisations to engage in labour exploitation and the laundering of the proceeds of crime.

Vietnamese victims are increasingly exploited in nail bars in European cities.

In the United Kingdom, nail bars have long been known as places of illegal employment and sometimes the exploitation of Vietnamese (minors)¹⁰². In the Netherlands, several criminal investigations into human trafficking in nail bars have also been initiated in recent years. These nail bars can also be used to launder money from cannabis farming¹⁰³. Human trafficking is widespread in Germany, with victims sent from Berlin to be exploited in nail bars in towns in other parts of the country (e.g. Cologne, Bonn, Fulda, Gelsenkirchen, Dorsten and Siegen)¹⁰⁴. Several minors have been found among the victims¹⁰⁵.

The number of nail bars has also increased considerably in Belgium in recent years, doubling between 2008 and 2019, from 12,000 to 24,000¹⁰⁶. The massive presence of nail bars in Brussels today is particularly striking¹⁰⁷. Previous Myria annual reports already mentioned suspicions of labour exploitation in some of these businesses¹⁰⁸. According to the experts Myria spoke to, this exploitation takes place mainly in premises in Brussels, although there are also suspicions of human trafficking in nail bars in other parts of the country. The victims are mainly young men who have recently arrived in Europe and who seem to be getting younger and younger. During the hearings of the Special Commission on Human Trafficking and Smuggling, the police and the social inspectorate recently indicated that labour exploitation in nail bars is also linked to human trafficking in the form of contacts and transportation¹⁰⁹.

Vietnamese victims are also exploited in other sectors. As regards restaurants, for instance, there are sometimes suspicions of human trafficking, with or without a link to human smuggling.

In the wider context of the Essex case, French investigators were able to establish a link between smuggling activities, for instance, and employment in restaurants in cities and smaller towns in the South of France (particularly Grenoble, Marseille,

⁹⁹ Europol, *Criminal networks involved in the trafficking and exploitation of underage victims in the European Union*, October 2018, p. 18.

¹⁰⁰ See, among others, the detailed reports on *Trafficking in Persons (TIP)* from the US Department of State.

¹⁰¹ D. Beadle and L. Davison, *op. cit.*, pp. 6-7, 65.

¹⁰² H. Baxter, "Nail bars: modern-day slavery in plain sight?", *The Guardian*, 20 August 2013; D. Silverstone and C. Brickell, *op. cit.*, p. 49-50.

¹⁰³ EMM, *op. cit.*, p. 38-39. Also see EMM's external contribution further on in this report.

¹⁰⁴ Documentary by A. Bartocha and J. Wiese, "Handelsware Kind – Die Mafia der Menschenhändler", 2021.

¹⁰⁵ Bundesamt für Migration und Flüchtlinge (BAMF), *Länderreport 34, Vietnam: Aktuelle innenpolitische Entwicklungen und Menschenhandel aus Vietnam*, 2021, p. 19-20.

¹⁰⁶ D. Islamaj, "De echte prijs van goedkope nagels: steeds meer moderne slavernij en uitbuiting in Belgische nagelsalons", VRT, 2 July 2019.

¹⁰⁷ Report of the Special Commission to review legislation and policy on trafficking and smuggling of human beings, 30 May 2022, CRIV 55 M004, p. 20.

¹⁰⁸ See the external contributions of the Thematic Directorate for Trafficking in Human Beings of the NSSO, *2020 Annual Report Trafficking and smuggling of human beings. Behind closed doors*, p. 40 and in Myria, *2021 Annual Report Trafficking and smuggling of human beings. Visibly invisible*, p. 116-117. In 2020, the NSSO Inspectorate checked 68 businesses and 137 workers in the nail bar sector. Eight official reports were drawn up for 20 Vietnamese workers who were illegally staying in Belgium. Thanks to the NSSO checks, two presumed victims of human trafficking were detected.

¹⁰⁹ Reports of the Special Commission to review legislation and policy on trafficking and smuggling of human beings, 6 May 2022, CRIV 55 M002, p. 31 and 30 May 2022, CRIV 55 M004, p. 44.

Carpentras and Ambérieu-en-Bugey)¹¹⁰. According to the experts interviewed by Myria, exploitation in restaurants also occurs in Brussels. In addition, trafficking victims have also been detected in Europe in other economic sectors such as construction (e.g. in the recent Linglong case involving a Chinese company in Serbia)¹¹¹, the meat industry (e.g. in Germany)¹¹² and farming (e.g. in Finland)¹¹³.

Sexual exploitation

Vietnamese newcomers to Europe are at risk of sexual exploitation. In the United Kingdom, this form of ‘modern slavery’ appears to be largely under-reported, even though there are accounts of victims who have been forced into prostitution (in particular, after having worked in a nail bar)¹¹⁴. In the Vietnamese camp of Angres in northern France, which served as an assembly point for human smuggling until 2018, there were also suspicions of violence and trafficking of Vietnamese women¹¹⁵. Berlin also appears to be a centre for the sexual exploitation of Vietnamese: a smuggling network was recently discovered that forced women to pay off their smuggling debts by prostituting themselves in brothel-like premises in apartment buildings, nail bars and massage parlours¹¹⁶. The sexual exploitation of female victims of smuggling is also said to occur in small, discreet towns in Poland and the Czech Republic, close to the German border. In each case, the Vietnamese community owns a market, a brothel and a casino¹¹⁷.

Some Vietnamese domestic workers in Europe are also victims of (labour or sexual) exploitation by their employers. According to one expert, there have been several cases of exploitation of domestic workers (mostly women) in Brussels who accept a job in the homes of fellow Vietnamese in return for room and board and to fund their onward journey to the United Kingdom.

In this case, the employers are mainly families from southern Vietnam (boat people) who have been living in Europe for decades. There are also cases of Vietnamese domestic slaves, especially women, in the United Kingdom¹¹⁸.

Forced criminality

Vietnamese victims of human trafficking in Europe are also forced to commit criminal acts, including drug trafficking and cigarette smuggling. In the United Kingdom, newcomers have been employed on cannabis farms for years. They are usually given the most dangerous tasks in cannabis cultivation: bridging electricity or tending and harvesting the plants as gardeners. Some Vietnamese knowingly choose this risky work because they believe they can pay off their travel debts in a relatively short amount of time (and even pocket part of the profits from their harvest according to one system). Other migrants, on the other hand, don't realise that they are involved in criminal activities, or are forced to carry them out. In cases of forced criminality, the victims - usually young men and minors - are employed in the lowest positions of cannabis cultivation and are held in private houses. These are often blatant cases of debt bondage linked to human smuggling¹¹⁹. Victims of this form of human trafficking not only live and work in degrading conditions, but also run the risk of being prosecuted as perpetrators of the offence when the crime is discovered¹²⁰. In the United Kingdom, these practices seem to take place mainly in and around cities such as London and Manchester, although farms have also been found in Scotland¹²¹.

110 F. Hardy, “Un réseau de traite d’êtres humains jugé à Lyon”, *Le Monde*, 18 December 2021.

111 ASTRA Anti-Trafficking Action, *Would you really buy this? The mass case of trafficking in human beings for the purpose of labour exploitation in Serbia*, June 2022. The Linglong case is also discussed in the Pacific Links Foundation’s external contribution further on in this annual report.

112 T. Cornelius, *Menschenhandel und Ausbeutung vietnamesischer Staatsangehöriger in Deutschland: Sekundäranalyse*, Bundeskriminalamt, 2021, p. 50.

113 “Finnish greenhouse owner arrested for exploitation and human trafficking of Vietnamese workers”, *ScandAsia*, 6 April 2022.

114 D. Silverstone and C. Brickell, *op. cit.*, p. 50-52.

115 D. Tan and T. H. Nguyen, *op. cit.*, p. 68.

116 BAMF, *op. cit.*, p. 19-20; “Razzia gegen deutsch-vietnamesische Schleuser”, *Die Zeit*, 17 March 2021.

117 D. Czarnecki, *op. cit.*, p. 137.

118 E.g. see D. Silverstone and C. Brickell, *op. cit.*, p. 14, 32.

119 For instance, there is the French court case concerning Vietnamese people who were smuggled from Veurne to pay off their debts by working on cannabis plantations in the United Kingdom (“Une vaste filière vietnamienne de passeurs démantelée”, *La voix du nord*, 19 June 2016).

120 The information in this paragraph is taken from D. Silverstone and C. Brickell, *op. cit.*, p. 43-45 and D. Tan and T. H. Nguyen, *op. cit.* p. 31. The non-punishment of victims was explored in Myria, *2012 Annual Report Trafficking and smuggling of human beings, Building trust*.

121 K. Goodwin, “Trafficked: concerns over criminalisation of young Vietnamese found in cannabis factories”, *The Ferret*, 22 August 2021.

Cannabis farms have also been found on the European continent in recent years, in France, Spain, Germany and the Netherlands¹²², among other places, but not (yet?) in Belgium, according to the experts. The phenomenon has also been known to exist in Poland and the Czech Republic for many years.

In Eastern Europe, Vietnamese criminal organisations have recently shifted from cannabis cultivation to the production of the synthetic drug methylamphetamine, better known as crystal meth. This development is of particular concern for Vietnamese newcomers, who are likely to be involved in these

activities: crystal meth production has a negative impact on health, often takes place in an unsafe environment, such as in the back of a van, and — owing to its mobile nature —

To build trust, it is necessary to be better acquainted with the Vietnamese language and culture in the field.

is difficult to trace¹²³. This new trend is said to originate mainly from Prague, which is considered the centre of the Vietnamese mafia in Europe¹²⁴.

Vietnamese newcomers to Europe are not only involved in cannabis cultivation, but also in cigarette smuggling. This is particularly the case in Berlin, where the black market for cigarettes has been exclusively in the hands of Vietnamese for decades. Illegal cigarettes are mainly sold in places in former East Berlin, such as railway stations, supermarkets and shopping centres. Once again, the sellers are mainly young men and minors who are trying to pay off their smuggling debts through these jobs¹²⁵. Besides the traditional cigarette smuggling in Berlin, there is also evidence of Vietnamese migrants selling counterfeit medication in Eastern European towns¹²⁶.

4. Detection and protection of Vietnamese victims

According to players in the field, it is often difficult to win the trust of Vietnamese victims of human smuggling and trafficking. Afraid of their smugglers or exploiters, many of them refuse to make statements or make false statements to the authorities¹²⁷. The few Vietnamese minors — potential victims of human smuggling and/or human trafficking — who are taken in by a Fedasil

observation and orientation centre for unaccompanied minors (UAM) disappear almost immediately without trace¹²⁸. However, a minority of Vietnamese irregular migrants are perfectly willing to cooperate with the authorities and thus acquire victim status. The Essex case shows that in some cases, it is possible to establish a relationship of trust with child and adult victims.

According to experts, in order to win and maintain trust, it is necessary to get to know the Vietnamese language and culture in the field. As a result, language barriers can be overcome through better contact with the Vietnamese diaspora community¹²⁹. However, frontline services need to take into account the rivalry between North and South Vietnam, which can interfere with the relationship between the victim and the interpreter. It is also necessary to understand the Vietnamese culture of shame: many Vietnamese victims feel a strong sense of shame because of the false promises they believed before leaving and the excessive debts they have accumulated as a result¹³⁰. Lastly, according to the experts, when interviewing Vietnamese victims, attention should be paid to specific cultural customs, such as addressing them correctly and using the Vietnamese horoscope for questions about age¹³¹.

122 D. Beadle and L. Davison, *op. cit.*, p. 95, 104; A. Bartocha and J. Wiese, “Handelsware Kind – Die Mafia der Menschenhändler”, 2021; EMM, *op. cit.*, p. 36-38 and interviews with experts. Also see EMM’s external contribution in this annual report.

123 D. Beadle and L. Davison, *op. cit.*, p. 77, 88.

124 D. Czarnecki, *op. cit.*, p. 137.

125 D. Tan and T. H. Nguyen, *op. cit.*, p. 49, 56; A. Bartocha and J. Wiese, “Handelsware Kind – Die Mafia der Menschenhändler”, 2021. Also see the analysis of the Essex case further on in this annual report.

126 M. Vu and N. Sebtaoui, *op. cit.*, p. 63; D. Czarnecki, *op. cit.*, p. 137; also see the analysis of the Essex case in the next chapter of this focus.

127 For instance, regarding their age, as EMM observed among illegal Vietnamese who stated they were minors in the Netherlands (EMM, *op. cit.*, p. 19-20).

128 Report of the Special Commission to review legislation and policy on trafficking and smuggling of human beings, 10 June 2022 afternoon, CRIV 55 M006, p. 25. For an example of such a disappearance, see W. Woussen, “Met zes in een maïsveld”, De Standaard, 27 June 2020. The recent disappearances of Vietnamese minors following interception in the Netherlands were analysed in EMM, *op. cit.*

129 See especially D. Tan and T. H. Nguyen, *op. cit.*, p. 95-96.

130 D. Beadle and L. Davison, *op. cit.*, p. 39.

131 Vu and Sebtaoui, *op. cit.*, pp. 63-64; interview with an expert.

Chapter 2

Vietnamese cases in Belgium

1. Brussels human smuggling case in 2012-2013

This case concerns a Vietnamese network that regularly smuggled Vietnamese nationals from Belgium and northern France to the United Kingdom in 2012 and 2013. It bears many similarities to the later Essex case (discussed further on in this chapter). Again, it involves the activities of a Belgian cell within a larger smuggling network, with safehouses in various locations in Brussels and partnerships with other groups for transfers to the United Kingdom.

Of the six defendants in this smuggling case, the majority were convicted of human smuggling with aggravating circumstances and criminal organisation¹³². Three of them, including the leader of the organisation, didn't appear at their trial at the French-speaking Criminal Court of Brussels in 2016. In 2020, the leader was arrested under a different name in Berlin and, after filing an objection, was again found guilty¹³³.

1.1. | Smuggling network

The criminal case file shows that most of the smugglers had Vietnamese nationality and were from the northern province of Nghe An¹³⁴. One of them was a Belgian of Vietnamese origin. For the final leg of the journey to the United Kingdom, Vietnamese smugglers collaborated with unidentified 'Westerners'¹³⁵ (probably Iranian Kurds).

The Belgian smuggling cell was headed by a Vietnamese man in his 20s who had been living in Belgium since at least 2012. He established the 'crossing rights'¹³⁶, was in contact with other smugglers and sometimes travelled to France himself for his smuggling activities. This leader was assisted by a 'treasurer' who was also in charge of logistics, and a 'driver' who also organised certain transfers of money and documents. In addition, the organisation was supported by at least one occasional driver, an intermediary who was in contact with prospective migrants in the country of origin, and one last person whose exact role in the network couldn't be clarified.

Belgium was only one stage of the illegal migration routes from Vietnam to the United Kingdom. Most of the smuggled persons appear to have been brought to Belgium either via Russia, the Czech Republic and Poland, or via Ukraine and Portugal. The phone investigation¹³⁷ revealed that smugglers were in regular contact with people in Vietnam and England, and to a lesser extent with people in France, Germany and Eastern Europe. In Belgium, migrants were first briefly housed in safehouses in Brussels (in Ixelles and Anderlecht) and then taken to the United Kingdom via Calais. The organisation in Brussels seemed to be mainly in charge of this last part of the journey.

¹³² Brussels French-speaking Crim. Court, 22 April 2016, 47th ch. Myria, *2016 Annual Report Trafficking and smuggling of human beings, Beggars in the hands of traffickers*, p. 165. The decision is available on Myria's website (www.myria.be).

¹³³ Brussels French-speaking Crim. Court, 25 November 2020, 47th ch. Myria, *2021 Annual Report Trafficking and smuggling of human beings, Visibly invisible*, pp. 83. The decision is available on Myria's website (www.myria.be).

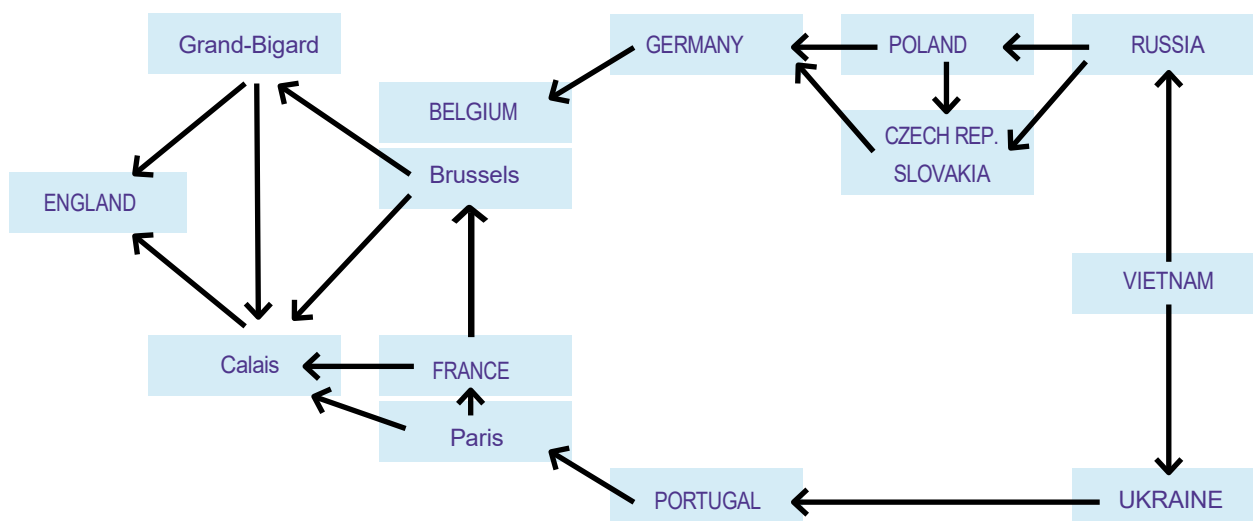
¹³⁴ This region is discussed in more detail in the first chapter of this focus (overview).

¹³⁵ The term "Westerners" is used for all nationalities west of Vietnam. In this case, these were Kurds, according to one of the smuggling victims.

¹³⁶ Among other things, the leader determined who could be smuggled into the United Kingdom, where, when, at what price and under which conditions.

¹³⁷ Using a retroactive phone investigation ('retro-zoller'), the public prosecutor can check the incoming and outgoing call history of a specific phone number, without listening to the actual calls.

Smugglers' phone contacts during the various stages of the smuggling



Transportation to Calais was either directly by 'taxi' (private car) or by lorry from the E40 parking area at Grand-Bigard with the cooperation of 'Westerners'. The phone investigation revealed that some of the people smuggled were probably staying temporarily in a camp in the town of Angres in northern France, better known as 'Vietnam City', pending transfer to the United Kingdom. Thanks to police information from France, Belgian investigators were able to get a more precise idea of the location and characteristics of this camp: it was a kind of squat with facilities along the Reims-Calais motorway near Lens, occupied exclusively by Vietnamese and authorised by the mayor¹³⁸.

From its base in Calais, the Vietnamese network again called upon 'Westerners' to get migrants onto lorries bound for the United Kingdom. The circumstances under which people were smuggled appear to vary considerably: for instance, phone and Facebook conversations between smugglers and migrants regularly refer to a VIP package (presumably 'with guarantee' or the complicity of the driver, possibly also with false documents), but also to a failed attempt in a refrigerated lorry (*Failed, in a refrigerated lorry 1 p.m. and it broke down*).

Prices for crossing from continental Europe to the United Kingdom could also vary considerably, from EUR 2,500 for an ordinary crossing to EUR 6,000 for a VIP crossing. These amounts are in addition to the - often very high costs - of the previous journey to Russia and Western Europe. The payments were made almost entirely in Vietnam: the families of the smuggled persons had to pay the money to the relatives of the leader of the Belgian organisation.

For the crossing to the United Kingdom, half of the amount had to be paid in advance and the other half afterwards. If the second half wasn't paid on time, the victims and their families in Vietnam were at serious risk. Exchanges between smugglers indicate that migrants were repeatedly detained after arriving in the United Kingdom and that families were pressured to pay the full amount.

The smuggling network developed various counter-strategies to thwart police and criminal investigations. For instance, the smugglers appeared to frequently change their phone numbers. As it wasn't clear to whom one of the phone numbers belonged, it wasn't possible to determine the exact role of one of the suspects in the end. In addition, the perpetrators also instructed the smuggled persons to switch off their phones during transportation. Lastly, the smugglers' extensive social media network enabled some of them (at least initially) to stay out of reach. For instance, after the arrest of several suspects and the escape of two others, two acquaintances indicated in a phone conversation that they were going to warn these fugitive suspects not to return for the time being. By hiding, they prevented the whole organisation from being dismantled: "*If they come back, the 'whole lot' will be tried – Yes, it will be 'the whole gang'. It's like an invitation to prison. That will be it*". This conversation also reveals that the Vietnamese group was a separate and well-established Belgian smuggling cell.

¹³⁸ The Angres camp is also discussed in the first chapter of this focus (overview) and in the analysis of the Essex case below.

1.2. | Investigation

The investigation into the activities of the smuggling network was launched after police intercepted four Vietnamese nationals, including three presumed minors. They were found in a lorry in the Grand-Bigard parking area along the E40 motorway, following a call from the lorry driver. Over the next day and night, French authorities in Calais intercepted first nine and then two more people in lorries coming from Grand-Bigard.

The subsequent phone investigation and phone tapping led to several Vietnamese smugglers in Belgium. Observations made in Brussels and information provided by the public transport providers SNCB and STIB (surveillance images and routes) allowed the network of smugglers to be better identified. One of the victims contributed to the criminal investigation and the identification of the suspects through their statements (see below). The financial investigation uncovered money transfers between Western Europe and Vietnam via Western Union.

Social media searches also provided vital information. Through an open source search on Facebook, the police found, among other things, the location of the main suspect on the run in France, and images of travel documents and smuggled persons on their way from Vietnam to France. It was possible to link some of these Facebook images with surveillance footage¹³⁹ of one of the smuggling activities recorded at Brussels-Midi railway station. Through computer searches, investigators also gained direct access to the suspects' Facebook and Yahoo! accounts and messages¹⁴⁰. Among other things, this research shed light on the division of labour within the network, financial transactions and the frequency of crossings to the United Kingdom.

Finally, it is worth noting the importance of the parallel action of the social inspectorate in this case. While observing a place designated as a safehouse by a smuggling victim, the social inspectorate carried out a check in the adjoining Vietnamese restaurant. During this action, several of the people present, including the main suspect in the smuggling case, were checked. Based on the personal data he provided, the simultaneous phone tapping (in which only his first name was used) and one of the victims recognising him, it was possible to (provisionally) identify the main suspect.

When the search took place, a passport was also found, which also appeared on Facebook and could therefore be linked to one of the smuggled persons.

1.3. | Victims

Between September 2012 and June 2013, at least 30 people were victims of the Vietnamese smuggling network. Several of them were identified by the police during interceptions in Grand-Bigard and Calais.

Of the four victims intercepted in Grand-Bigard, three disappeared almost immediately: the adult victim vanished after being ordered to leave the territory, and two of the minor victims escaped from the reception centre in Neder-Over-Heembeek. Only the fourth victim, who had also initially declared themselves to be a minor, was willing to cooperate with the Belgian authorities and acquired victim status. On the basis of their statements and other elements of the criminal case file, Myria was able to draw up a profile of the victims.

The victims of the Brussels smuggling network were all of Vietnamese origin. Some of them were smuggled into the United Kingdom under perilous conditions. The four victims found in the lorry in Grand-Bigard, for instance, had been placed in the middle of poorly secured pallets that were in danger of falling or slipping, and thus seriously injuring them.

The criminal case file also contains indications that the female victims were also at risk of abuse along the illegal migration route between Western Europe and the United Kingdom. For instance, in a conversation on Facebook, the main suspect states that 'girls' had to go through Belgium for security reasons, while boys could leave from Belgium as well as from France. This statement suggests a risk of sexual abuse within the (related?) smuggling networks in northern France¹⁴¹.

¹³⁹ For more information on linking personal photos with surveillance or observation images, for instance using Google Image, see Myria, *2017 Annual Report Trafficking and smuggling of human beings*, Online, p. 48-49.

¹⁴⁰ The suspects logon details and passwords were identified on the basis of an analysis of their text message conversations.

¹⁴¹ Myria already discussed acts concerning the sexual exploitation of young girls in the smugglers' camps in northern France in a previous annual report. Some of these girls had to provide sexual services in exchange for a crossing to the United Kingdom, or for the payment of their journey or for access to certain areas (Myria, *2018 Annual Report Trafficking and smuggling of human beings, Minors at major risk*, p. 36-37).

Some victims of the network were not only smuggled in precarious conditions, but also found themselves in dire situations which seemed to suggest debt bondage¹⁴²: the criminal case file shows that the Vietnamese smuggled into the United Kingdom were bound to the smugglers if their families did not pay their debts (see above). The Vietnamese restaurant on the ground floor of one of the safehouses was also investigated for trafficking by the social inspectorate.

The account of one of the Vietnamese victims (X) reveals that owing to the accumulation of debts — along with high interest rates — for their journey, smuggled persons risk remaining under the smugglers' control. For instance, X stated that he had left Vietnam in search of an income for himself and his family.

For the first part of the journey — a flight via Ukraine to Portugal, which cost him USD 10,000 —, he took out 'loans' in Vietnam. Once in Portugal, he first worked in farming for a few months to pay back his debts. He then paid another EUR 4,000 for the crossing to the United Kingdom, where he

hoped to earn more. During the hearings, X stressed several times that he absolutely had to work to pay off his debts and that he feared reprisals against his family in Vietnam:

- *If I don't pay, my family... me, I won't have any work.*
- *You're asking me what my plans are, my answer is that I absolutely have to work, because my family is now in debt and is counting on me to pay it back, the interest on arrears amounts to about 10% per month, which is a lot.*
- *I am not so much afraid for myself, but more for my family in Vietnam. This organisation could well take revenge on me.*

The victim's statements not only shed light on the personal situation and debts of the illegal migrants linked to the Brussels smuggling network, but also played a crucial role in the criminal investigation. During his interception and first hearing, X made false statements about his identity, age and travel route, presumably under the influence of the smugglers. However, it was possible to win his trust in the end: during the second and third hearings, he rectified his initial statements and shared important information with the Belgian authorities. The victim's cooperation therefore enabled not only the organisation's leader to be identified, but also to partly clarify his modus operandi and his collaborative relationships.

2. Essex case: the Belgian part

This case was initiated after the tragedy of 22 and 23 October 2019 in Essex, in the United Kingdom, which cost the lives of 39 Vietnamese smuggling victims, including several minors, who suffocated in a refrigerated container. In this extensive case file containing more than 25,000 pages, the Belgian part of the smuggling network was examined from an international perspective. This led to a conviction for human smuggling

By accumulating debts along with interest for their journey, smuggled persons risk remaining under the smugglers' control.

and criminal organisation, as discussed in the chapter on case law¹⁴³. The only prosecutions were for human smuggling, but the file also contains evidence connected with human trafficking. In addition, the Belgian judgment refers to

convictions in the United Kingdom and Vietnam, and there is also an ongoing investigation in France. The file also refers to an ongoing investigation in Germany.

2.1. | Introduction

The Belgian part of the Essex case is based on the two safehouses which housed many of the victims of the ill-fated illegal transportation. These safehouses were managed by the Vietnamese criminal organisation responsible for the Essex tragedy. Several other old cases concerning Vietnamese smugglers in Brussels¹⁴⁴ and Bruges, featuring these safehouses where Vietnamese victims stayed, were also included in the Essex file. It was revealed that this Vietnamese criminal organisation had been active in Belgium at least since May 2018 and that it was responsible for many other transportations in addition to the fatal one on 22 October 2019.

It cost an average of EUR 13,000 to be smuggled from Vietnam to Europe, while from Europe to the United Kingdom it cost an average of EUR 12,000 to be regularly smuggled in a refrigerated truck. According to the victims' statements, the price could even be as high as EUR 40,000.

¹⁴² This mechanism is explained in the first chapter of this focus (overview).

¹⁴³ See Part 2, Chapter 2 (Case law overview, point 3.2.); West Flanders Crim. Court, Bruges division, 19 January 2022, ch. B17 (appeal).

¹⁴⁴ See below point 2.4.4. Unaccompanied minors (15-year-old Vietnamese girl, 16-year-old Vietnamese girl).

The majority of the smuggling victims had to make an advance payment before their departure. When they arrived at the safehouse in the destination country, i.e. Germany and/or the United Kingdom, the money for the smuggling had to be paid so that the smuggled victims could be released. Straight after the Essex smuggling tragedy, the smugglers had no qualms about increasing the cost of being smuggled into the United Kingdom by GBP 7,000.

2.2. | Smuggling network

The Essex tragedy led to an international investigation in the United Kingdom, France, Ireland, Germany and the Netherlands, as well as to the dismantling of a criminal organisation involved in smuggling Vietnamese migrants via various supply routes. There were several safehouses along the way, in particular in Germany, France and Belgium.

The international smuggling network was mainly composed of Vietnamese and was run from Vietnam. The migrants eventually ended up in Berlin (Germany) and from there, they were transferred to Brussels (Belgium), the Netherlands and France (including Paris) for the final leg of their journey to the United Kingdom. The North Sea crossing was subcontracted to a criminal organisation consisting of the director of an Irish haulage company, several drivers working for the company and a Romanian. On arrival in the United Kingdom, the migrants were again placed in the hands of Vietnamese smugglers.

2.2.1. | International smuggling system for Vietnamese nationals

There was mention of a large and flexible international smuggling organisation, with smuggling cells operating in Vietnam, Germany, France, Poland, Belgium, etc. Certain service providers supplied false documents.

Several smuggling coordinators were responsible for a specific smuggling route between certain countries, such as Russia and Germany or Poland and, therefore, maintained the necessary contact with local smugglers.

In Denmark, there were smugglers who could arrange a Scandinavian route. It emerged from the conversations that the various Vietnamese smuggling groups were also competing for specific illegal migration routes and were trying to

monopolise key service providers. One of the smugglers for Poland and Germany boasted in conversations that he had been operating since 2001 and had never been caught. The main smugglers travelled between safehouses in Belgium, Germany and France with the help of regular taxi drivers. According to numerous victim statements, safehouses also existed at ports of call in Eastern and Southern Europe, sometimes staffed by Chinese guards.

In Germany, a key safehouse located in the Vietnamese Dong Xuan Center in Berlin played a central role in the European smuggling system. After arriving in Europe, the families in Vietnam had to pay the organisation the travel costs. The victims were detained until the family had made the payment or until an arrangement was found to pay off their smuggling debts by working in a debt bondage situation. The victims were essentially brought to the Dong Xuan Center in Berlin. In Germany, the victims were mainly working in restaurants or selling counterfeit goods¹⁴⁵.

In France, the Vietnamese managers of a camp for illegal migrants and one or more safehouses were located in Vitry-sur-Seine near Paris, among other places. In addition, there was a person in Grenoble who was responsible for the reception and subsequent employment (see below: “Link to human trafficking”) of Vietnamese illegal migrants who arrived in France directly from Germany by train or by coach.

In their exchanges, the smugglers referred to the existence of major service providers in Vietnam, responsible for bringing illegal migrants from Vietnam, and the subcontracting of the final journey to the United Kingdom to Europeans. In Vietnam, organisations took care of the crossing. They recruited victims through social media or through social contacts with relatives of potential candidates for illegal migration. They also issued work visas through temporary employment agencies in countries such as Romania, Hungary and Poland.

An international smuggling organisation operating out of Vietnam, with various cells.

For instance, work visas were issued for a chicken slaughterhouse in Romania, and for seasonal work and a food shop in Hungary.

Some family members had to sign a contract stating that they would have to pay a heavy fine if they failed to respect the time frame mentioned in the work visa.

¹⁴⁵ On this subject, see Chapter 1 of this focus (overview).

Some also provided student visas and tourist visas. They operated with both genuine and fake visas.

In the United Kingdom, the Vietnamese smuggling organisation worked with an Irish haulage company for the final leg to the United Kingdom. However, once the Vietnamese irregular migrants had arrived, the organisation resumed its management of them in a safehouse. An analysis of the messages revealed that one of the leader's lieutenants¹⁴⁶ had been smuggled into the United Kingdom himself in June 2019, after which he was then responsible for reception and the management of the safehouse in Birmingham. He still had to pay the leader for the cost of being smuggled.

2.2.2. | Illegal migratory routes

The main irregular migratory route across continental Europe was via Russia to Germany. To be precise, the route passed through Belarus, Latvia, Lithuania, Poland, the Czech Republic, Slovakia, Germany, Belgium, the Netherlands and France to the United Kingdom. Transit routes via Ukraine and Kaliningrad in Russia were also identified. The case revealed a more recent trend, dating from 2020, with the route passing through Russia, Latvia or Belarus, followed by a car journey to Poland, Germany, France or the United Kingdom. Most smuggled victims wanted to go to the United Kingdom or explicitly stated that they only wanted to go to Germany.

The analysis of Viber messages also revealed the existence of an illegal migratory route in Scandinavia. The contact person for the organisation in Denmark for smuggling activities helped them to obtain regular tourist visas for Finland, Sweden and Norway. Vietnamese school group trips were used for this purpose.

For a fee of EUR 16,000, naturalisation was offered in Finland after a five-year stay. Several victims took other routes from Vietnam. Some victims first went to China, then took a direct flight to Paris. Another itinerary involved taking a flight to Malaysia, with a stopover in Turkey, where they then continued the journey by car and on foot to Greece, and then onto Malta, Spain and France.

Victims who arrived in Europe with a work visa for Romania/Hungary/Poland then went to Germany a few days or months later. There, they were taken to the safehouse at the Dong Xuan Center in Berlin to be assigned to forced criminal activities and labour exploitation (see section 2.2.5. below: "Link to human trafficking"). They were then transferred to safehouses in Belgium or France.

The last leg of the journey often began in northern France, where the smugglers hid the victims in lorries, or passed through the port of Zeebrugge or the Netherlands. At the time of the investigation, a camp for illegal Vietnamese migrants was located in the vicinity of Calais, near the motorway, in the municipality of Angres¹⁴⁷. Housed in a municipal gymnasium with the authorisation of the municipality, or in disused buildings or on a vacant lot, dozens of Vietnamese were ready to leave for England. If going via the Netherlands, attempts were often made through the port of Hook of Holland, where there is a daily ferry to Harwich (United Kingdom).

Lorries are the most common means of transport between France and the United Kingdom. In this case, a choice of 'packages' was available: a 'standard package' that seemed cheaper but was less efficient, and 'VIP transport' that was more expensive but took less time. Fares for VIP transport ranged from EUR 10,000 to EUR 14,000 and even EUR 19,000. These VIP transports were either in a cabin instead of a container, or in dog or horse transports, where there was less chance of detection by the police owing to the overwhelming stench associated with these transports, which misled the police dogs during checks.

The cost of 'VIP' smuggling with dogs or horses could reach EUR 19,000.

The cost for being transported in a horsebox was EUR 19,000. Transporting people using 'luxury transportation' sometimes turned out to be an outright lie. During a phone tapped conversation, one

victim expressed their dissatisfaction, as they thought they were being transported in a 'cabin'. In reality, they were simply been crammed into a refrigerated container with other people¹⁴⁸.

¹⁴⁶ Lieutenant A. was convicted in the Essex case *bis*: West Flanders Crim. Court, Bruges division, 22 June 2022, ch. B17 (appeal).

¹⁴⁷ On this subject, also see Chapter 1 of this focus (overview) and the analysis of another Vietnamese smuggling case in point 1 of this chapter.

¹⁴⁸ The network also used taxi drivers to transport victims. This aspect of the case isn't analysed here. See the judgment in this case: West Flanders Crim. Court, Bruges division, 19 January 2022, ch. B17 (appeal) in the 'Case law' chapter later in this report: Part 2, Chapter 2, point 3.2.

According to the statement of a child victim, a small boat was also offered as an option, suggesting transport by boat via the North Sea (see below, section 2.4.4.: UAM). The United Kingdom's European Investigation Order (EIO) report also contained a victim statement which revealed that, in addition to the GBP13,000 paid to cross from France to the United Kingdom, they had to pay GBP 6,000 on arrival to obtain a 'minor's life story'.

2.2.3. | Belgian safehouses

Upon arrival in Belgium, the victims became the responsibility of the Belgian smuggling cell which operated in symbiosis within the largest international smuggling network. The Belgian part of the investigation identified two safehouses in Brussels (two flats) that played a central role in the smuggling of people to the United Kingdom. These two safehouses had already been monitored as part of previous ongoing investigations into smuggling, but according to the public prosecutor's office, there was insufficient evidence at the time. The safehouses acted as people 'warehouses', in the words of the Vietnamese victims. The investigation showed that at least 14 Vietnamese left from these addresses to embark on their ill-fated journey.

From the statements of the victims identified in the case file, it can be concluded that as of July 2018, the flat was being used as an assembly point for migrants waiting for their clandestine crossing; that approximately 10 people were staying in the flat at the same time; that they weren't allowed to make any noise; that guards were present in the flat; and that there was a constant flow of people. One of the victims stayed in the flat for six months because of problems with paying for the crossing.

The investigators were able to identify four victims as having lived for some time in the flat that served as a safehouse. Three of them were given the status of victims of human smuggling with aggravating circumstances. The fourth one disappeared in the meantime.

Several elements in the criminal case file clearly show that these safehouses weren't just normal dwellings, but actually served as temporary 'warehouses' for many victims who wanted to travel to the United Kingdom.

During a phone tapped conversation, it clearly appeared that dozens of victims had indeed stayed in safehouses run by the criminal network. This is what emerged from the statements of several victims. One local resident, who was afraid of reprisals, testified that he saw a group of about five to seven people show up there every five to seven days. Most stayed for a week and then left. Most of them were between 18 and 30 years old.

The search also revealed the precarious administrative situation of the irregular migrants. In one safehouse, guards were found with suitcases.

containing the residence documents of several smuggled persons.

According to the investigators, this confirmed the victims' statements that they were obliged to hand over their identity cards, thus preventing them from leaving the house alone and without authorisation.

A phone tapped conversation between a safehouse guard and a smuggling coordinator in the United Kingdom, following the escape of a minor from the safehouse in Brussels, also provided evidence. The smuggling coordinator was angry because he was supposed to keep the 'chickens' inside and not let them escape. He added, "You're incapable of doing your job properly. The chickens are locked up, but you let them escape all the same".

2.2.4. | Smugglers who are victims

The smuggling leader managed the Brussels safehouses and was in contact with the smugglers in Vietnam, and with the smuggling coordinators in the German and French safehouses. He had four fake Vietnamese passports and two fake Chinese ones. At his hearing, he pretended to be a victim. He considered himself a victim of the people who had lured him and forced him to go to England. According to his statement (with no further details), he came from the illegal migrant camp in Calais and claimed to still have EUR 40,000 in debts in Vietnam, including EUR 20,000 for his illegal transportation to Belgium. He stated that members of the Vietnamese embassy had visited him twice in prison.

One of the smuggling leader's assistants, the second defendant V. D., had gone from being a smuggling victim to a smuggler. He worked as a safehouse supervisor and was partly responsible for the ill-fated transport of two victims. He was in middle management and reported directly to lieutenant Z. who managed the safehouse. This lieutenant was also staying in Berlin, where he was helping to run the safehouse.

During his hearing, V.D. stated that he flew from Vietnam to Russia in April 2019 and then went by car and on foot to Germany, where he arrived in July 2019. In Berlin, he stayed at a safehouse where he sold cigarettes illegally for several months to reimburse part of his smuggling debts.

His family had paid EUR 17,000 for him to be smuggled from Vietnam to Germany. He then went from Berlin to Belgium with lieutenant Z. at the beginning of September 2019 and stayed in the safehouse managed by lieutenant Z., where V.D. began working as a supervisor. He also served as an intermediary for the smuggling victims.

It emerged from a confrontation hearing that V.D. had to justify the smuggling rates in force to the victims:

"Yes, I spoke with these people and we discussed the price. They had to pay GBP 15,000, GBP 16,000 and GBP 17,000. I told them it was cheap because I had had to pay GBP 19,000."

One of the jobs of V. D., the second defendant apparently consisted of convincing the victims of the smuggling network that they were in fact 'getting a good deal', which is entirely consistent with the network's ruse of making as much money as possible in the shortest amount of time.

2.2.5. | Link to human trafficking: means of repayment and debt bondage situations

The Essex smuggling case is linked to a number of other acts in different countries, where victims of smuggling have found themselves in human trafficking situations (exploitation) to pay off their smuggling debts (debt bondage situations)¹⁴⁹. These situations can involve work or forms of forced criminality. Some victims had paid for illegal transportation from Vietnam and had gone to Hungary, Poland and Romania on a work visa to work there. In Romania, this was the case in a chicken slaughterhouse where 50 Vietnamese worked. In addition, it transpired that there were direct links between the smuggling network and the system of reimbursement through debt bondage situations. In one Viber message, the smuggling leader stated: "When you arrive here, you work to pay off the loan bit by bit".

The phone tapped conversation between two smugglers revealed that the smuggling network also directly provided loans with interest to their clients who wished to be smuggled.

The families of several victims were asked to make the payments to reimburse the loan for being smuggled to the leader's sister, who lived in Vietnam. Other families borrowed money for smuggling from parallel creditors, including loan sharks in Vietnam.

The Brussels Vietnamese case file submitted to the investigation, with the same safehouses, revealed that during a multi-disciplinary check in October 2018, a victim was intercepted in a nail bar. The victim stated that they had taken a smuggling route from Vietnam to England via Belgium and had worked in a nail bar while waiting for their crossing to England. It wasn't possible to interview the victim further because they disappeared after receiving an order to leave the territory (OLT). Text messages from one of the victims who died in the Essex tragedy revealed that one of their friends was also doing a manicure course in Berlin. Another (male) victim was intercepted in a nail bar in Brussels where he worked and was given victim status. This man had previously been exploited in a Vietnamese restaurant in Antwerp (see below, point 2.4.3.: "Victim status for adults"). A child victim was in turn exploited as a domestic worker in Brussels (see below under 2.4.4.: "Unaccompanied minors").

Two defendants (father and son) ran a nail bar which played a role in repayments for smuggling. The father's wife owned an estate agency in Vietnam, through which he was able to finance the setting up of his nail bar. The money was divided into three parts and transferred in cash by plane. A witness stated that she had paid her between USD 15,000 and USD 17,000 in Vietnam more than 10 years ago to be smuggled to Belgium. She said that this woman acted as an intermediary for the repayments for the smuggling. The defendant (father) also stated that when people wanted to transfer money to Vietnam, they would deposit the money at his nail bar and the money would then be transferred to Vietnam.

In France, Vietnamese victims were exploited in restaurants in Grenoble or in the 13th arrondissement in Paris to pay back their smuggling debts.

The French investigation into smuggling in Grenoble was launched on the basis of false documents and not on Vietnamese victims who had fallen prey to labour exploitation:

The victims ended up in several countries in debt bondage situations.

"An investigation was launched on the basis of information relating to the trade in false residence permits that were being produced in Grenoble."

¹⁴⁹ Also see Chapter 1 of this focus (overview).

This trade allowed irregular Vietnamese nationals in France to work in restaurants owned by fellow Vietnamese”. The safehouse in Berlin played a key role, not only within the smuggling system, but also as an intermediary stage in the repayment of smuggling debts through debt bondage situations. The statements revealed that many Vietnamese smuggling victims, employed in restaurants or in the sale of counterfeit products such as illegal cigarettes, were staying in the safehouses. A Vietnamese unaccompanied minor who had been awarded victim status, testified that they sold illegal cigarettes at the Dong Xuan Center in Berlin (see below, point 2.4.4.: “Unaccompanied minors”). A fingerprint comparison showed that at least five victims of the fatal smuggling operation had been arrested in Berlin for selling illegal cigarettes, although no link to human smuggling or human trafficking (forced criminality) was ever established. It was the network itself, operating out of Germany, that was responsible for the wide scale smuggling of these illegal cigarettes. They were delivered from Vietnam and each shipment contained 3,000 or 4,000 boxes with a selection of different models accompanied by a photo. This is what emerged from the exchanges between the smugglers on Viber. Hence, it was the smuggling network that organised the debt bondage situations of the smuggling victims, which also implies a direct link between the smuggling network and forced criminality. Besides smuggling and the sale of illegal cigarettes, the smugglers were also involved in smuggling counterfeit drugs, which their Viber messages clearly showed.

The smuggling network was also directly linked to a cannabis plantation in Spain, where smuggled victims were taken to pay off their smuggling debts through forced criminality. Co-defendant V.D. stated that the smuggling leader suggested to him in Berlin that he go to Spain to work on a cannabis plantation to finance his illegal transportation to the United Kingdom. The journey to Spain would have cost him an additional EUR 3,000. One minor stated that during their illegal journey to Russia, they were offered work on a cannabis plantation (see below 2.4.6.: “Two minors escape from a Dutch centre for minors”).

2.3. | Investigation

2.3.1. | Opening the investigation

The investigation by the federal public prosecutor's office was launched immediately after the British authorities informed the Belgian authorities of the Essex tragedy on 23 October 2019, as the refrigerated container involved had been transported to the United Kingdom by ship via the port of Zeebrugge.

The federal public prosecutor's office included several Vietnamese cases from Brussels and Bruges, because the criminal organisation's safehouses in Brussels had already been discovered at the time. The Brussels case of 2018 was opened after the discovery of a Vietnamese child victim in one of these safehouses (see below, point 2.4.4.: “Unaccompanied minors”). The investigation into the smuggling interceptions showed that this criminal organisation's smuggling activities started at the least in May 2018. This came to light thanks to the interception of 18 Vietnamese migrants at the Eurotunnel in France with the same British driver who left from Bierne (French disembarkation point near Calais) on 22 October 2019 for the ill-fated transport from ZeebThis trade allowed irregular Vietnamese nationals in France to work in restaurants owned by fellow Vietnamese”.

An investigating judge was immediately appointed so that all necessary investigative actions could be carried out.

2.3.2. | Internet and social media investigation

The police and the judiciary used social media as an essential investigative tool. They were able to find the smuggling leader's Facebook account with a recognisable photo. Internet searches revealed that the leader had fled to Berlin after the discovery of the fatal smuggling operation.

In addition to the online searches, a network search ordered by the investigating judge provided access to the protected digital data of the various apps linked to the phone numbers of the eight smugglers.

The investigating judge issued a court order to obtain the smugglers' identification and registration data, geographical location and social media account histories and email addresses from Google, Microsoft and Facebook, based in Dublin, Ireland, through the Federal Computer Crime Unit (FCCU).

It emerged that the smugglers were communicating mainly via WhatsApp, Viber and Facebook. According to the conversations, they weren't only guilty of human smuggling, but also of smuggling counterfeit cigarettes. Communication about human smuggling between the client and the smuggler was mainly via Viber and Facebook and never by phone. Upon arrival in the United Kingdom, the smuggled client was supposed to receive instructions from the smuggler through their Facebook account on a smartphone lent to them by a smuggler.

The internet and social media were used as investigative tools in the victims' hearings. Several child victims used Google Street View to locate the safehouse where they had stayed in Brussels and in France (Vitry-sur-Seine, near Paris). Another child victim was able to show the Facebook account of their deceased travelling companion so that this victim could be identified. The smartphones of the victims of the fatal smuggling run were also fully analysed to determine their route.

Several victims stated that upon arrival at the airport, the smugglers forced them to delete the Facebook or other social media accounts they had used to communicate with the smugglers.

Money transfers between the smugglers and the clients were arranged via Viber and Facebook. The account number to which the money was to be paid was sent via a Viber account, while proof of payment was sent via Facebook. Some messages also included evidence of payments for smuggling.

2.3.3. | Financial investigation

The family of the smuggling leader played an important role in the payments. The smuggling leader used social media to inform the smuggled persons or their families that the money had to be transferred to his sister in Vietnam. Sometimes, lieutenant Z.'s brother also collected money from the family.

A nail bar also appeared in the financial arrangements (see above, point 2.2.5.: "Link to human trafficking"). The total financial benefit for the Belgian part of the Vietnamese criminal organisation amounted to at least EUR 7,075,832, and at least EUR

460,000 just for the fatal transportation by refrigerated lorry.

The investigators based themselves on the average smuggling fee and the minimum number of victims. On average, EUR 11,877 was charged for smuggling from Belgium and France to the United Kingdom. Some 195 Vietnamese migrants were intercepted in an illegal transportation to the United Kingdom. If the amount charged for a smuggling operation to the United Kingdom is multiplied by the number of migrants (195), the result is EUR 2,832,245.

The average amount charged for smuggling from Vietnam to Europe was EUR 12,677. If we multiply the amount charged for smuggling to Europe by the number of migrants (335) transported from Vietnam to Europe, the result is EUR 4,243,587.

By adding both parts of this smuggling operation, the total amounts to EUR 7,075,832.

2.3.4. | International cooperation

An agreement to set up a joint investigation team (JIT)¹⁵⁰ was concluded between Belgium, France, Ireland and the United Kingdom under the coordination of Eurojust and Europol. The main task of the JIT was to investigate the discovery of the bodies of the 39 victims of human smuggling, the journey of the deceased to the United Kingdom and previous incidents of human smuggling. The JIT agreement also emphasised the importance of the financial investigation: "The parties will initiate and complete the financial investigations necessary to achieve the objectives of the JIT". In addition, European Investigation Orders (EIO) were issued for Germany and the Netherlands, among other countries, on the basis of observations, phone taps and smuggler identifications. In the German EIO, a key lieutenant of the safehouse was found thanks to information from an anonymous source, whose anonymity is guaranteed by the public prosecutor's office in Berlin. and smuggler identifications.

The total financial benefit amounted to at least EUR 7,000,000, and at least EUR 460,000 for the fatal smuggling operation alone.

In the German EIO, a key lieutenant of the safehouse was found thanks to information from an anonymous source, whose anonymity is guaranteed by the public prosecutor's office in Berlin.

Z., the lieutenant in question, fled from Brussels to Berlin after the smuggling tragedy and, according to the anonymous witness, was jointly responsible for the smuggling of 10 deceased victims.

¹⁵⁰ A JIT (Joint Investigation Team) is a cooperation between the competent authorities of two or more Member States to conduct criminal investigations into offences involving suspects in more than one Member State. A JIT will initiate and conduct the investigation under the direction of a single Member State. The legal framework is formed by the laws and regulations of the country in which the team operates. Once the investigation has finished, the case is forwarded to the prosecuting authority of the most relevant Member State. In Belgium, the terms and conditions of JITs are laid down in Chapter 3 of the Act of 9 December 2004 on the international police transmission of personal data and information for judicial purposes, international mutual legal assistance in criminal matters and amending Article 90ter of the Code of Criminal Procedure (M.B. 24.12.2004).

Furthermore, thanks to undercover measures, the German investigation was able to locate and arrest the smuggler who had organised the transportation from Russia to Germany.

The German EIO report refers to the French investigation, which didn't originally concern human smuggling, but false residence documents intended to legalise residence and employment in France: "As you can see, the ongoing proceedings in France objectively, though not originally, concern the investigation into the 39 Vietnamese nationals found dead in a refrigerated lorry in the United Kingdom on 23 October 2019. The original proceedings concerned an investigation into alleged smuggling of false residence permits issued to Vietnamese nationals with a view to 'legalising' their stay and subsequent employment in France".

The Belgian judiciary also sent international letters rogatory to Vietnam through the liaison officer, but these did not yield many results. The fingerprints of the arrested leader, the main defendant in the case, were forwarded, but the Vietnamese authorities were unable to find any match with their data. During the trial, the real identity of the leader still didn't appear to be known. In addition, Belgium asked the Vietnamese authorities to identify three Vietnamese passports used to buy prepaid SIM cards from the smugglers.

The Belgian investigators found the following: "The Vietnamese authorities have provided the data sheets of three people with poor quality photos, but despite our specific request, they haven't told us whether these people are officially still in Vietnam or whether they are

unfavourably known to their police and judicial authorities".

Sometimes, the smugglers decided that the victims' final destination was the United Kingdom so that they could increase their profits.

The statement of a Vietnamese child victim, a boy, highlights this: "First, my brother left. After a while, my dad asked me if I wanted to leave too. I said yes. I left soon after. It was my dad who suggested that I leave. Life is very difficult in Vietnam, I wanted to leave too, to have a better life and to help my family".

Another boy, also a minor, added that victims couldn't always choose their final destination: "My motivation for leaving Vietnam and going to Russia was economic, I was living in poverty. I didn't decide my final destination, the smugglers decided that my final destination would be Great Britain".

Several other victims confirmed that the smugglers decided on their final destination¹⁵². The young boy who disappeared from a centre for minors in the Netherlands, even said that in Berlin, the smugglers had encouraged him to travel illegally to the United Kingdom to find better job opportunities¹⁵³. This of course meant an extra cost of EUR 12,000 for the victims and further profits for the smuggler.

For their illegal journey, migrants turned to organisations in Vietnam to organise the crossing and provide work, student or tourist visas.

Victims were required to hand over their passports, which were collected prior to departure, to be stamped with the necessary visas. The trips were always made in groups.

2.4. | Victims

For the period May 2018 to May 2020, the case has linked a total of 156 smuggling operations to the smuggler network responsible for the Essex tragedy and its 39 victims who died while being smuggled. A total of 335 Vietnamese victims were identified as having been smuggled from Vietnam into Europe and 195 Vietnamese victims as having been smuggled into the United Kingdom from Belgium and France.

All the victims were Vietnamese who wanted to leave Vietnam to find a job in Europe that would allow them to earn more money for themselves and their families¹⁵¹.

2.4.1. | Victims of the fatal smuggling operation

On 23 October 2019, 39 bodies were found in the trailer of a lorry in the United Kingdom (Essex) and the British investigation revealed that the trailer had come from Belgium (Zeebrugge) by boat. There were eight women and 31 men, all of Vietnamese nationality. Four of them were of them were minors, two of whom were 14 years old.

Two young Vietnamese women who had come from Brussels with a taxi driver were only saved by being late for the pickup in Bierne, France. The French gendarmerie intercepted them before releasing them on the orders of the public prosecutor in Dunkirk (France).

¹⁵¹ Also see Chapter 1 of this focus (overview).

¹⁵² See point 2.4.5.: 'Unaccompanied minors: victim status'.

¹⁵³ See point 2.4.6.: 'Two minors escape from a centre for minors in the Netherlands'.

The investigation in Belgium and France revealed that several of the deceased had been transported by taxi from Anderlecht, Paris and Berlin to Biere, where they had boarded the ill-fated trailer. The articulated lorry then travelled to Zeebrugge and left the trailer at the port. The trailer was then loaded onto a ship and, on arrival in the United Kingdom, was collected from the port by another lorry. The trailer was refrigerated and the UK investigation revealed that the 39 victims died of suffocation in British waters because the refrigeration (and therefore air circulation) of the trailer wasn't switched on. Hence, it wasn't the temperature in the trailer, but the lack of oxygen that caused the deaths.

The criminal case file reveals that some of the victims took photos, audio and video recordings of themselves suffocating in the trailer. On 22 October 2019 at 19:25, a victim took a selfie which clearly shows her sweating inside the container. At 19:37, an audio recording was made by another victim of a person in respiratory distress. People can be heard banging against the walls. Some can be heard gasping and crying, and the first signs of people are dying are discernable. At one point a voice says: "... is dead". The victims were therefore fully aware that they were dying. This is also apparent (besides the revealing audio fragments) from certain (unsent) text messages found in a victim's mobile phone. Investigators linked two text messages to one victim. In the first message, she identifies herself to the outside world and in the second one she writes: "Sweetheart, I might die in the container, I can hardly breathe".

The British authorities analysed the smartphones of the deceased victims and handed them over to the Belgian judiciary for inclusion in the case file. As a result, it was possible to determine the routes of several victims on the basis of the photos, messages and location data recorded by the smartphones. This data was used to help determine the smuggling network's various routes (see above). The fingerprint comparison showed that the fingerprints of thirty-eight of the thirty-nine fatalities had been registered in the Netherlands based on information obtained on behalf of the United Kingdom. The comparison with the national system in the Netherlands resulted in 2 hits. In Germany, some relatives of the deceased victims were questioned and were included in the German report of the European Investigation Order.

One of the smartphones contained a photo of a three-month work visa from 26 March 2019 and a recruitment form for a chicken slaughterhouse in Romania, issued by a temping agency in Vietnam. The monthly salary was USD 530.

Investigators found an article stating that 50 Vietnamese were working in this Romanian chicken slaughterhouse. Apparently, the owner of the phone wasn't travelling alone, as there was a photo of a list of seven passengers for a journey from Hanoi (Vietnam) to Bucharest (Romania) with a stopover in Doha (Qatar). It appears from the texts that on 20 October 2019, he and another victim travelled from Germany to France via Belgium and ended up in the ill-fated refrigerated lorry.

A female victim had contacted the lieutenant via Facebook in August 2019 and wanted to work in the United Kingdom. Her father initially objected, but then relented. Lieutenant Z. arranged illegal transportation and explained via Facebook how she was to pay the EUR 39,500 (USD 47,000) upon arrival in the United Kingdom. The money was collected by lieutenant Z.'s brother from the father of the family with acknowledgement of receipt on 23 October 2019. However, it was returned to the family in full after the Essex tragedy was made public. She had left Hanoi on 25 August 2019 and travelled to Greece via Malaysia, eventually arriving in Brussels. On 22 October 2019, she sent a message to her sister saying that she was leaving for the United Kingdom.

According to other statements by family members, some of the victims had travelled to Poland on a work visa through another temporary employment agency in order to be employed there. One of them then travelled to Belgium via Germany. His family had to pay EUR 12,500 to the smugglers and had taken out a loan for this purpose. The victim's wife is still paying the family back for this debt.

In another case, according to the family, the victim had travelled to Hungary through a company on a work visa to work in the seasonal industry. He had left Vietnam on 29 September 2019 and his family had paid EUR 10,000 for his trip to Hungary. He was then offered work in the nail sector in the United Kingdom, where he could earn much more money. On 18 October 2019, he took a train from Hungary via Germany to Belgium. Here, he wanted to travel to the United Kingdom and for that he needed GBP 15,000. Once there, he needed another GBP 3,000. On 20 October 2019, his wife went to Hanoi to hand over the money and on 21 October 2019, the victim reported that he was about to leave for the United Kingdom, after which there was no more contact.

Afterwards, family members made a victim statement when they met with the police. They said that the situation was difficult, but that they had to deal with it. The mother became ill and was hospitalised. The wife suffered a similar fate, but was able to recover enough to return to work. They are in debt to a company in Vietnam. The family is in a particularly complicated situation, as the deceased was the only son.

2.4.2. | Exploitation of precarious circumstances and threats

Besides the deceased victims, the smuggling network claimed many other victims. These victims of smuggling were in a vulnerable position during the journey, not least because their fate was in the hands of the smuggling network. They regularly found themselves in appalling conditions, which increased their social and administrative vulnerability:

- Their passports and smartphones were confiscated during their illegal transportation;
- Armed guards and smugglers confiscated their mobile phones and/or threatened them with violence;
- The victims sometimes had to walk for hours through woods, or were crammed into cars or buses for journeys lasting several hours to other sites;
- There wasn't always food or only in return for additional payment.

After the Essex tragedy, smugglers increased their fees by GBP 7,000.

Several victim statements revealed the particularly difficult conditions – sometimes on the move for months on end – to which they were subjected.

This was the testimony of a young Vietnamese minor who became a victim and ended up in Belgium after travelling through Russia, Latvia, Poland and Germany:

- To get from Russia to Latvia, a group of four had to walk for hours through a forest:
"We had to walk at night, we had no idea where we were. There was an escort at the front and one at the back. It was so dark that I couldn't see the people. We had to hold hands because it was so dark (...). By the end of the walk, all our clothes were torn, it was very cold."
- Even though there was no violence, there was a real risk of it:

"There was no problem if we obeyed the escorts. They also didn't know that I still had my mobile phone on me. If they had, they definitely would have used violence (...). They had firearms, like revolvers, and a telescopic truncheon";

- The young boy who escaped from a centre for minors in the Netherlands, gave evidence about the smuggling conditions in Ukraine:
"We entered the town. We were running out of air. We banged on the sides because we couldn't breathe. Suddenly, armed people opened the door in a forest. One of them had an automatic weapon and the other had a knife. They told us to be quiet and then the door closed again";
- The smugglers didn't hesitate to further push up the price of smuggling after the fatal Essex transportation of 22 October 2019. The child victim was in a safehouse in France at the time and said: "Yes, I was there for four to five days before 22 October 2019. After 22 October 2019, the 'leader' said they would wait to make another attempt to reach the United Kingdom, but then I had to pay EUR 20 per day or leave. The safehouse 'leader' said the price would be increased by GBP 7,000 after the events of 22 October 2019, i.e. GBP 19,000 instead of GBP 12,000.

In the meantime, my brother had also called to tell me to come back to Belgium, because he didn't want me to go to the United Kingdom."

Despite the large sums of money already owed for smuggling, the smugglers involved didn't hesitate to further financially exploit the - vulnerable - smuggled people:

- The same Vietnamese minor stated that at one point, he and several other Vietnamese arrived at a place to stay in Latvia, exhausted after a gruelling journey. Once they arrived, the victims had to pay if they wanted to eat. If not, there was no food.
- At a hearing of the relatives of the victims of the fatal transportation of 22-23 October 2019 by the English police, the relatives of the deceased (...) stated:

"He also told his father that the smugglers collected all the mobile phones of the people being transported and then returned them to the victims in order to monitor incoming and outgoing phone communications, but he later specified that he never got his mobile back [...]. The victim contacted his family on 21 October 2019 via Facebook Messenger and said he had borrowed money in Belgium and bought a new phone."

If the mobile phone was taken away by the smugglers and lost, the victims apparently had to borrow or spend more money to buy a new one.

Various other aspects revealed how smuggling victims were viewed and treated by the suspects. For instance, the language used was indicative of a dehumanisation of the victims.

Smuggling victims were called 'chickens'. Other intercepted communications also revealed that smugglers talked about 'chickens' among themselves and wondered if they would soon 'have chickens'. In another conversation between two smugglers, they both talk about 'nailing the chickens' (so that they can't escape).

Besides 'chickens', the victims are also referred to as 'goods' or 'pieces' to be transported. And the price is paid 'per piece'.

It is precisely this way of speaking and the specific choice of words (chickens, goods, coins, utensils, etc.) that reveals the objectification of victims who are being or who are to be smuggled. The smuggling organisation reduced them to commodities that could be used to make a lot of money quickly.

The smuggling victims weren't allowed to decide for themselves where they wanted to go and couldn't leave a safehouse of their own accord, seeing as they apparently had to be 'restrained' or they could 'escape'.

The criminal organisation was prepared to do anything to actually collect the amounts charged. If the families weren't able to get the required amount, the smugglers simply held their relatives until the sum was paid.

For instance, the conversation between the smuggling leader and the father of a smuggling victim, who was unable to raise the money needed to transport his son:

The victims were locked in safehouses and their families were threatened if they didn't pay for their illegal transportation.

Father: "I've tried everywhere, but I don't have enough money. You must be familiar with my situation, help me".

Smuggling leader: "I can't help you. If you don't have enough money, your son has to stay here. He'll stay at the house (the safehouse)".

At other times, the smuggling leader also threatened to kill people if they didn't pay, as revealed in a recorded conversation he had with relatives of the victims:

Smuggling leader: "The money (...), I know you don't want to pay me. If I find the woman, I'll kill her. There's no question of her escaping. I'm telling you. You have to pay me. She can't escape me".

Family: (unintelligible);

Smuggling leader: "Tell your wife in England that she'll never be able to escape me. That's what I said from the start. I've worked hard, I've worked my socks off for this. I've done everything for her, don't lie [...] Tell your wife she can never escape me, can she remain locked up at home for the rest of her life?"

2.4.3. | Victim status for adults

Several victims were granted victim status, as can be seen below. However, there were also problems detecting people. For instance, in the attached Brussels Vietnamese case of 2018, there was a problem with the detection of a victim in a nail bar. After being intercepted in a nail bar on 4 October 2018 by the local police in Brussels, they received an OLT from the IO and vanished (see above point 2.2.5.: "Link to human trafficking").

Victim detected at repatriation centre 127bis

One of the victims was detected at repatriation 127bis and was put in contact with a specialised reception centre for victims of human trafficking. During his hearing with the police, the victim was able to identify one of the smugglers from the safehouse from the photo file.

He had paid EUR 21,000 for the entire journey from Vietnam to Belgium via Malaysia. His passport was checked by the police so that they could work out the route taken. It was then discovered that his Schengen visa had been falsified.

The police contacted the federal public prosecutor's office to obtain an authorisation and informed the victim that he could apply for the status of victim of human trafficking. The victim confirmed that he would like to and declared himself an injured party.

Victim as an anonymous witness

Another victim was heard as an anonymous witness after consultation with the investigating judge and the federal public prosecutor's office for a field investigation at the safehouse in Brussels. On 29 September 2020, the human trafficking and smuggling section of the Federal Judicial Police (PJF) interviewed the victim after consultation with a specialised reception centre for victims of human trafficking. Accompanied by an interpreter, they drove through Brussels to visit several addresses known to the police. The victim pointed out two addresses where he had stayed. It also turned out that the victim had spent the night in a nail bar. He lived with a smuggler and, through him, he had worked in a Vietnamese restaurant in Antwerp and Brussels.

The Smuggler had a friend who owned a chain of restaurants in Antwerp. In this restaurant, the victim had to sleep on the floor and work 15 hours a day for a monthly salary of EUR 300.

Afterwards, he also worked in a nail bar in Brussels where he was arrested by the police and referred to a specialised centre for victims of human trafficking. He was able to benefit from the status of victim of human trafficking. Upon his request, his brother, who had also been smuggled into Belgium, was referred to a specialised reception centre so he could be granted victim status.

He also said that he had travelled by train from Lens (France) to Brussels-Midi station during August-September 2018. In Lens, he stayed in a safehouse in the middle of a forest with a hundred or so people. He said that it was a place where the smugglers assembled people to smuggle them to the United Kingdom.

His statement also revealed that there was competition among the smugglers, who were given orders from Vietnam. In order to be smuggled to the United Kingdom, he had to return to the safehouse in Lens:

"When I realised that things weren't really going well in terms of work here, I started to look for a way to go to the United Kingdom. I had to go back to Lens to be smuggled into the United Kingdom. I contacted my parents and they told me to stay in Belgium and look for work there."

Question from the police: "Who told you you had to go back to Lens?"

Answer: "Someone in Vietnam."

2.4.4. | Unaccompanied minors: detection, hearing and statements

Several unaccompanied Vietnamese minors were detected during their interception and taken in by a specialised reception centre for unaccompanied child victims of human trafficking. The police organised the hearings of the unaccompanied Vietnamese minors in such a way as to gain their trust.

The young people were heard in the presence of a person of trust in the familiar environment of the reception centre. Next, the six minors at the centre were each given a file with photos of the safehouses, photos of the surroundings, suspects and victims to see if they could recognise them and make comments. However, problems could arise. Not all the Vietnamese minors were referred to this centre after being detected.

Several unaccompanied Vietnamese minors were detected and taken in.

On 21 August 2019 at 20:00, local inhabitants contacted the local police regarding the suspicious behaviour of a car with two Asian occupants, that kept driving around the neighbourhood.

One of men walked around a house. When the local inhabitant called out to him, he asked to use the toilet. Finding this suspicious, the local inhabitant asked the police to come and check. During the check, the police officers found that they didn't have any identity documents or residence permits and took them down to the police station. They were placed under administrative arrest and a report was drawn up for illegal residence. One of them insisted he was a minor. The youth court magistrate was notified and the administrative data alongside the UAM form were filled out and sent to the Immigration Office and the Guardianship Service at 23:15. The youth court magistrate ordered that it was necessary to wait for the decision of the Guardianship Service, which would be open again the next day. Therefore, the Vietnamese minor was detained in the local police cells. On 22 August 2019, the Guardianship Service ordered the police to release him. The 17-and-a-half-year-old Vietnamese boy then left the police station with his personal belongings.¹⁵⁴

¹⁵⁴ The case file doesn't contain any further information on what happened to this child victim.

15-year-old Vietnamese girl

According to the statement of an unaccompanied Vietnamese minor, one of the two safehouses in Brussels that would play a central role in the Essex tragedy of 22 October 2019 appeared in the 2018 Brussels case file. The girl had just turned 15. The FJP in Brussels said that it had been contacted on 26 April 2019 by a leader from a reception centre specialised in UAM victims of human trafficking. This person informed them that a Vietnamese minor had been intercepted by the local police in Londerzeel and that she had found herself in a Vietnamese smuggling network through a safehouse in Brussels.

On 30 April 2019, the FJP heard her at the centre's premises. During her first hearing, she stated that she had left Vietnam in July 2018 and had arrived in Belgium at the end of September 2018. However, she was unable to find the safehouse using Google Street View.

According to investigators, the victim froze and had an emotional reaction when shown a picture of the safehouse. The police concluded in the report:

- "The interested party perfectly describes the route taken to get to the safehouse. However, in the immediate vicinity of the address, which is already well known in our investigation, she appears confused, claiming to have lived in a dilapidated blue house, while all the descriptive elements of the route to (...) are present. We therefore conclude that it is more than likely that she stayed in that safehouse."
- "We also note that when describing her journey, X is perfectly at ease and this is also demonstrated by her body posture. As soon as we approach the address of the safehouse and we show her the photo, the person completely freezes, both physically and verbally. She stutters, turns red, stops looking us in the eye and makes nervous gestures. All this seems to confirm her presence at some point in the safehouse (...)."

17-year-old Vietnamese boy

Another child victim, who had declared themselves an injured party in the Brussels case of 2018, attached, was also questioned at a specialised centre for trafficked UAM on 12 December 2018 and was able to locate the same safehouse in Brussels connected with the subsequent Essex tragedy using Google Street View. He stated that the smugglers prevented them from even looking out of the safehouse window and that they were not allowed to go outside.

He had been left alone by a guide who was supposed to smuggle him after a failed attempt and was intercepted without a ticket by train personnel on 9 July 2018. Earlier, he had gone to a motorway parking area near Bruges in a group with this escort in order to slip into a semi-trailer. The escort was clearly a fellow victim who was responsible for exercising control and authority over the victims:

"He stayed in the building with us for a week, this person had already attempted the crossing to Britain and knew the way, he had been arrested in France before. Apparently, the smuggling network uses these people as guides. The others got into the vehicle. The 'guide' said I couldn't get in, so I was left to my fate there. I took a bus, then a train to Bruges, I didn't know where I was going, I wanted to go back to Brussels. Then I was arrested by train personnel and taken to the police in Kortrijk."

He had flown to Russia from Vietnam in mid-May 2018 and continued his journey through Latvia, Poland and Germany. He had tried to leave the reception centre for minors abroad to return to the smuggling organisation that had transported him from Vietnam to Belgium. On this subject, he said:

"You are informing me that during my stay in Belgium in a reception centre for victims, I tried to contact my family in Vietnam, and that they tried to contact me again through the smuggling network in Belgium. I also asked the smugglers to come and get me. They were supposed to come and get me."

On 9 July 2020, he was again heard by the police at the centre to provide further explanations regarding the photo file. He recognised two victims who died in the Essex tragedy whom he had met along the way at a hotel in Malaysia and in a safehouse in Turkey, and confirmed that they had all gone through the same network.

16-year-old Vietnamese girl

During a search on 20 November 2020 in the context of the Essex case, the police intercepted a 16-year-old Vietnamese girl. She had been recruited by acquaintances and had chosen Belgium as her destination on the advice of smugglers because it is easy to find work there. She was smuggled into Belgium in July 2019 with false documents via Thailand, South Korea, Turkey and Greece for EUR 20,000. Her family had had to take out a loan from the bank to pay this sum and were still in the process of paying it back in January 2021. The smugglers had put the girl in contact with several couples in Belgium, who exploited her as a domestic worker in exchange for board and lodging.

She eventually met a friend with whom she now lives and was therefore not taken to a specialised reception centre for unaccompanied minors who are victims of human trafficking.

At her hearing in January 2021, she also explained how the smugglers had used violence against her during the journey and had tried to sexually abuse her:

"During the journey from Turkey to Greece I was really scared, I didn't want to be in the boot of the car where I couldn't breathe. I escaped from the car, but someone grabbed me violently and kicked me back into the car. This person hit me on the head."

"In Greece, the leader of the safehouse asked me if I wanted to sleep with him, by which I mean have sex. If I did, I could leave earlier. When he asked me, I was terrified."

In Belgium, she was told she could be smuggled in a 'small boat'¹⁵⁵ for EUR 6,000 and for EUR 15,000, she could be transported in a car. Transportation by lorry would cost between EUR 14,000 and EUR 15,000. When she responded and the smuggler asked her, via Facebook Messenger, which route she wanted to take, she asked him to choose a safe means of transport.

When the day of departure arrived, she received a message saying that the transportation had been postponed.

In Greece, a 16-year-old girl received a proposition to sleep with a smuggler.

Two or three days later, the smuggler sent her the following message: "Thank goodness I postponed your transportation, otherwise you would have been among the 39 Vietnamese who died."

2.4.5. | Unaccompanied minors: victim status

Several unaccompanied minors were also granted victim status. The statements of a 16-year-old Vietnamese boy have already been widely reported in accounts about precarious smuggling conditions and cooperation in the investigation on social media.

17-year-old Vietnamese road traffic accident victim

This Vietnamese minor was involved in a road traffic accident in 2018 and was seriously injured.

Local police in Brussels spotted an injured Asian man, sitting in the street without his left shoe, who didn't speak any French and very little English. His leg was swollen. The man just managed to say that he was here for work. The victim had clearly moved from the place where the road traffic accident occurred. At the police's request, he wrote down his name and said he was a minor. The police called for an ambulance. The subsequent investigation revealed that he had been involved in a fatal hit-and-run road traffic accident close to the Jabbeke motorway parking area, in which his friend had died. At a later hearing, he gave the Facebook account of his deceased friend. He was granted victim status and declared himself an injured party.

The duty magistrate was contacted by the judicial police officer. The magistrate asked the police to perform the following duties:

- "To contact her again later to give her time to establish a better policy concerning the facts"
- "To contact her again immediately if the person wishes to leave"

According to the hospital, the victim had to be operated on and was sedated. The doctor believed the injuries to be 24-48 hours old. The police then contacted the magistrate again an hour later, who ordered a "hearing with an interpreter, preferably someone familiar with human trafficking".

The police then contacted the Guardianship Service, asked it to prepare a UAM form in the context of human

trafficking and to find a place in a reception centre for minors. This form was emailed to the IO and the Guardianship Service, with mention of potential indications of human trafficking.

"The person's statements aren't consistent with our findings. According to the doctors, the injuries were sustained 24 to 48 hours ago. But according to the person concerned, the accident happened today. We didn't find a shoe, passport or backpack. The person concerned seems clean. The type of injury he has is consistent with a car accident (a car hitting him) or a fall from a car (from which he was thrown out?)."

In the meantime, the Brussels FJP's Human Trafficking Unit and the reference magistrate for human trafficking in Brussels took over the case, and the Guardianship Service appointed a guardian. This guardian had written a letter to a specialised centre for victims of human trafficking that provides support for (minor) victims, asking it to initiate proceedings for human trafficking.

¹⁵⁵ Probably a clandestine crossing of the North Sea by small boat; see also Chapter 1 of this focus (overview) and Part 2, Chapter 2 ('Case law overview').

At the end of September 2018, it was possible for the minor victim to be heard at the reception centre for UAM victims of human trafficking¹⁵⁶. He had left Vietnam in April 2018 and the smugglers decided that his final destination would be the United Kingdom. He and his late travelling companion had spent a night in the safehouse later involved in the Essex tragedy. He was taken from the safehouse to the Jabbeke motorway parking area but the smuggling attempt failed. Following a police investigation in the field in December 2018 close to Brussels-Midi station, he still wasn't able to locate or point out the safehouse.

A few months later, on April 13 2019, the specialised centre responsible for supporting this victim reported his disappearance and the termination of his support within the framework of victim status. The police concluded that he had "always been quite reticent, during his hearing, about giving exact information on the circumstances of his journey in Belgium. Based on the above-mentioned elements, we can only conclude that the interested party considered that he was better, and that he had left everything behind in the centre to continue his journey to Great Britain".

Based on a comparison with other cases, the police found that the child victim in question was listed as a smuggler in a human smuggling case in Bruges in 2019, which featured the Essex tragedy safehouse that he hadn't been able to find as a victim:

"Our victim (...) became a smuggler himself within the framework of the main case (...) handled by the public prosecutor's office in Bruges (FJP West Flanders), which includes the record numbers (X and Y) and the safehouse used by the organisation in their investigation is the same as the one in our investigation, i.e. the house located at (...)."

17-year-old Vietnamese girl

A 17-year-old Vietnamese girl was intercepted by police in Brussels at a metro station where she had been left to fend for herself for quite a while already. She was heard on 2 February 2020 and wished to acquire victim status, and declared herself an injured party. She stated that she had met two victims of the Essex tragedy along the way, at a hotel in Malaysia and in a safehouse in Turkey. She had got in contact with the smugglers through acquaintances of her mother.

She had had to pay USD 20,000 for the illegal migratory route from Vietnam to Greece and USD 18,000 for the journey from France to the United Kingdom. She had left Hanoi airport as a minor on 8 August 2019, along with three others, to travel to Malaysia, where she had to stay in a hotel for more than 10 days. The smugglers took care of the plane tickets via social media.

"I got the plane tickets via 'Zalo' (messaging app) and had to print them at home for the flight to Malaysia. I was forced to delete my Facebook account and my Zalo account as soon as I arrived at the airport. The person who gave me the tickets via Zalo insisted on it. At that time, I had no personal contact with this man; I didn't see him."¹⁵⁷

From Malaysia, she flew to Azerbaijan, where she stayed for about four days. There, she had to book a return flight to Vietnam, with a stopover in Turkey. During this stopover, they left Istanbul airport as a group using false passports obtained at the airport. They then flew with false documents to Greece, Italy and France, where they ended up in the safehouse in Vitry-sur-Seine, near Paris. They had no trouble getting through the airport in Greece with their false documents:

"We used our Vietnamese passport, but with a fake visa. It was very easy to get through the controls in Greece. When they noticed that the visa was fake, we just had to try again until it worked. I easily passed the control, because I speak some English and they thought I was a tourist."

She concluded her hearing by pointing out that the illegal migration system had recently been adapted.

"I would like to add that from what I know, the last groups to leave Vietnam are no longer staying in a motel in Malaysia, but in a safehouse. I have also learned that they operate differently for the journey from Vietnam to Europe. Now, false statements are made at the embassy. They pretend to be a manager and his secretary in order to get a work visa. Vietnamese people are now leaving Vietnam and going directly to France with fraudulently obtained visas."

¹⁵⁶ Unaccompanied minors who are presumed victims of human trafficking or smuggling are generally housed and cared for by a reception centre specifically for this purpose. The support related to victim status is provided by one of the three specialised reception centres (for adults).

¹⁵⁷ See also point 2.3.2.: 'Internet and social media investigation'.

2.4.6. | Two minors escape from a centre for minors in the Netherlands

Several rounds of questions were held in the Belgian and Dutch parliaments, during which MPs questioned the respective ministers of justice about two Vietnamese minors who escaped from a Dutch centre for minors and ended up in the Brussels safehouse with the aim of being smuggled into the United Kingdom, before losing their lives in the Essex tragedy. The Dutch authorities informed the Brussels public prosecutor's office, which didn't take any action¹⁵⁸.

The Essex file contains several reports on this subject. On 21 January 2020, a spontaneous communication was sent by the Netherlands to the Federal Public Prosecutor's Office regarding an investigation into two minors who had disappeared from the secure reception centre in the Netherlands. They had been dropped off at a Brussels safehouse by a Belgian taxi under the supervision and in the presence of the smuggling leader's lieutenant on 11 October 2019.

These two minors were later identified as T. and C. (adults at the time of the Essex tragedy) who were among the 39 dead.

Interception of smuggling in the Hook of Holland and escape from a Dutch reception centre for minors

On 27 May 2019, two undocumented minors were intercepted in the Netherlands while being transported in a refrigerated lorry in the Hook of Holland with some 13 other Vietnamese. The aim was to reach the United Kingdom illegally. The police considered this to be human smuggling and opened an investigation. The two minors were taken into care at a reception centre for minors in the Netherlands, where they were assigned a guardian.

This secure reception centre in (...) housed unaccompanied Vietnamese minors, among others, on several occasions in 2019. According to the Dutch police, it was striking that while none of them wished to apply for asylum in the Netherlands, they did express a desire to travel to England during their hearing.

Both boys were suspected of wanting to run away. The pattern of running away among Vietnamese minors who had previously disappeared, showed a number of similarities:

1. Running away on a Friday;
2. Isolation from the rest of the group;
3. Dropping out of school;
4. Possible possession of a mobile phone.

In view of all the above-mentioned information, it was suspected that C. might leave the secure reception centre in (...) with the aim of leaving the Netherlands, and that one or more unknown persons would help him to do so.

The trigger for this investigation was that on Friday 11 October 2019, information came to light that C. had a mobile phone in his room. The phone was subsequently taken away from C. by staff at the secure reception centre. As a result of this incident with the phone, it was suspected that C. was at risk of leaving the secure reception centre in the near future, which had already happened in recent months to other Vietnamese minors.

On 11 October 2019, he ran away from the reception centre with T. Observation carried out by the Dutch police revealed that they had got into a taxi that was waiting for them, which then transported them directly to the Brussels safehouse (one of the two safehouses in the Essex case). The Dutch police followed and observed the taxi up until the Brussels safehouse where the two boys stayed for about ten days before leaving for the ill-fated crossing.

Request from the Dutch police

The imminent border crossing and observation by Dutch police officers were reported to the Landelijk Coördinatiepunt voor Grensoverschrijdende Observaties (National Coordination Point for Cross-Border Observations) within the KLPD/LCGO national police force in the Netherlands, which immediately informed the Belgian authorities. This border crossing and observation occurred on Friday 11 October 2019 between 18:15 and 21:40.

The Dutch magistrate from the Limburg public prosecutor's office phoned the Brussels magistrate on duty, requesting all relevant information about the address of the safehouse in question. This request was made again through the Europol exchange system for liaison officers (SIENA), stating "emergency, concerns a case of human smuggling involving Vietnamese minors".

¹⁵⁸ After several parliamentary questions on the incident in the summer of 2020, the then Belgian Minister of Justice stated that, based on the information available, the magistrate on duty at the Brussels public prosecutor's office considered that there wasn't enough evidence to carry out an immediate further investigation. The Minister also confirmed that the magistrate hadn't informed either the reference magistrate for human trafficking and smuggling or the Guardianship Service (Chamber of Representatives, Written Questions and Answers, Q RVA 55 026, 8 September 2020, p. 18). The current Minister of Justice indicated shortly after taking office that the case of the two minors should be used as a guideline for the revision of circular COL 13/2018 on human smuggling (Just. Comm., Full report, CRIV 55 COM 324, 6 January 2021, p. 28).

The Belgian EUROPOL liaison officer then asked the Brussels police zone for the address. The Brussels police checked their police database and referred to an ongoing investigation in Bruges for smuggling which would be added to the Essex case after the fatal transportation.

This safehouse isn't the same as the one previously identified by the victims in their statements and for which a surveillance operation took place between the end of September and the beginning of October 2019. However, the file indicates that this Brussels safehouse where the two Vietnamese boys from the Dutch centre for minors were kept was also monitored by the Belgian police at the request of the investigating judge in Bruges. The authorisation for the surveillance was granted by the investigating judge on 2 August 2019 with certain additions and with reference to an execution period ranging from 22 October to 6 November 2019. However, the surveillance report of 22 October 2019 only started at 10:15 and the victims had already left for their ill-fated clandestine transportation.

Victim statement from a male minor without victim status in the Netherlands

One of the two minors, i.e. T., had already had an informative conversation with a Dutch police inspector on 11 September 2019 about his journey from Vietnam to Europe.

There is no smuggling victim status in the Netherlands, and the purpose of the interview was to check whether the minor was eligible for the Dutch trafficking victim status (procedure B8¹⁵⁹). However, the final conclusion was that there was no indication of trafficking and that the victim wasn't eligible for Dutch victim status:

"Police: I'll tell you what we're going to do. We'll first have an informative conversation to see if there are any signs of human trafficking. If this is the case, we'll take a statement for human trafficking directly after our interview. The lawyer made it clear to us that there might be signs of human trafficking a case of human smuggling involving Vietnamese minors".

you're legally entitled to stay. You can start the so-called B8 procedure. This involves a number of rights and obligations, but we'll discuss these later. In short, if you enter the B8 procedure you can stay legally in the Netherlands. You can stay in the Netherlands until the criminal case is over. After that, we'll see."

"Let's first see what you have to say in relation to human trafficking and/or human smuggling. You've decided to make a statement. We'll have to see what it's about, but I should warn you that making a false statement is a punishable offence."

It emerged from this conversation that this minor was offered work on a cannabis plantation in Russia in June 2018. Some Vietnamese asked him if he wanted to work in Europe. After saying yes, he was taken to lodgings where he had to sleep on the floor. The people there had to stay inside, could never go out and had to tend to plants. These plants were called 'grass'. The minor stayed there for about a month and a half.

He also encountered corruption and ended up in the hands of smugglers again. When the minor was in Ukraine, he wanted to return to Vietnam, so he and others went to the police. However, the interpreter present relocated them to a safehouse and advised them to continue the journey anyway. The police took them to the Vietnamese embassy and they were again approached by a smuggler who took them to a flat.

He was supposed to pay off his smuggling debts by working at the final destination and was manipulated by the smugglers in Germany to continue the illegal journey for EUR 20,000 more, a journey that would eventually lead to his death.

"If we reached the destination, we had to work to pay back the money. It's up to the family or me to pay it. This is what they had agreed with me beforehand. It was EUR 18,000 to Germany. If I wanted to go further, I had to pay more. For the crossing to England, I had to pay another EUR 20,000. My aim was to work. I didn't really have a plan. I was told in Germany that I would have better job opportunities in England. This is what a Vietnamese man told me. He lives in England. I never met him. I spoke to him on the phone."

159 Regarding this procedure, see: Dutch National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children, Slachtoffermonitor 2016-2020.

Conclusions

The overall picture of the phenomenon of trafficking and smuggling Vietnamese and the analysis of the ‘Essex’ human smuggling case revealed both good practices and areas of improvement.

Consider Vietnamese nationals discovered in risk sectors as presumed victims of human trafficking (debt bondage) and implement the national referral mechanism for victims

Frontline services that discover Vietnamese nationals working illegally in certain sectors such as nail bars, exotic restaurants, cannabis plantations or the sale of counterfeit products such as cigarettes, must consider them, on the basis of relevant indicators, as presumed victims of human trafficking and apply the national referral mechanism for victims.

This is because in some cases they may be in situations of debt bondage to pay for the smuggling, even though it isn’t always clear whether the exploitation is organised by the smuggling network itself or by another criminal organisation, which is or isn’t linked¹⁶⁰.

In the Essex case, for instance, it appears that the smuggling victims had to work in several

countries to pay off their debts. Some victims detected in Belgium (including one in detention centre 127bis and another in a nail bar who had previously worked in a restaurant¹⁶¹) were able to benefit from victim status.

Others, on the other hand, weren’t properly detected, either because they were ordered to leave the territory¹⁶² or, as was the case in France, because an investigation had initially been opened for false documents¹⁶³.

Training of frontline services in human trafficking indicators is therefore essential and should be actively pursued.

Make the link with possible debt bondage situations for Vietnamese victims of human smuggling

The literature review and the Essex case showed that in some instances, the victims of smuggling had been in debt bondage situations in Belgium or abroad. It is important to hear them on this matter in order to establish the link with human trafficking and to apply the national referral mechanism. This approach also adds value to the investigation by trying to dismantle the entire criminal network or uncover a related human trafficking case, or, if the acts occurred abroad, to provide important information in the context of international cooperation or information exchange.

Frontline services, magistrates and political players can thus be made aware of the links between these two phenomena and the vulnerable situation of these smuggling victims.

The overall picture of the phenomenon of trafficking and smuggling Vietnamese and the analysis of the ‘Essex’ case have revealed both good practices and areas of improvement.

Have sufficient means to detect the most vulnerable victims ‘without agency’ such as the Vietnamese

Vietnamese victims in debt bondage represent a group of victims in a highly vulnerable situation and in a position of strong dependence on their exploiters. They often have no freedom of movement or self-determination and are socio-culturally isolated as their exploiters are themselves Vietnamese.

¹⁶⁰ See Chapter 1 of this focus (overview), point 3.2. (From human smuggling to human trafficking).

¹⁶¹ This victim explained that he lived with a smuggler and worked in the restaurant of a friend of the smuggler. He had to sleep there and work 15 hours a day for a monthly salary of EUR 300. See above the analysis of the Essex case, Chapter 2, point 2.4.3 (Victim status for adults).

¹⁶² In the Brussels case attached to the Essex case, a Vietnamese man intercepted in a nail bar by the local police in October 2018 was issued with an OLT and subsequently disappeared. See above the analysis of the Essex case, Chapter 2, point 2.4.3 (Victim status for adults).

¹⁶³ The Essex investigation in France (Grenoble) was indeed initiated for forgery and use of false documents on the basis of false residence permits of Vietnamese working in restaurants and only secondly for trafficking and smuggling. On this subject, see Chapter 1 of this focus (overview), point 2.3 (Structure of the smuggling networks) and the analysis of the Essex case, Chapter 2, point 2.2.5 (Link to human trafficking).

In the Essex case, the victims were even locked up in safehouses. In addition, it was also found that many victims weren't always able to decide on their final destination themselves. Unlike other groups of victims who have greater capacity for action (freedom of action or self-determination), they are unlikely to be able to present themselves as victims to a frontline service or reception centre on their own initiative.

It is essential that frontline services are aware of this and have the necessary means to investigate and respond.

Pay special attention to the cultural specificities of Vietnamese victims of human trafficking or smuggling in order to build trust

When detecting, hearing and accompanying Vietnamese presumed victims of human trafficking or smuggling, it is essential to create conditions that foster trust. This includes good knowledge of Vietnamese culture and of north-south rivalries in Vietnam, which may have an impact on the hearing of a presumed victim if the interpreter is of a different origin.

At the same time, it is important to be aware that a Vietnamese national feels a strong sense of shame and distrust, and feels indebted to the family that has got into debt to enable them to undertake the clandestine journey. The pressure of the family back home to continue to repay the debt, because it is under pressure itself from the criminal network, is also a factor to be taken into consideration.

Confidence building with a reliable and trusted interpreter and, for minors, security measures such as temporarily depriving them of mobile phone access may help to facilitate disclosure. Security measures such as these provide greater protection for child victims against the criminal network that continues to exert pressure on them.

The training of all players by NGOs with expertise in Vietnamese culture, as has already been organised, is an example of a good practice that should be continued.

The inclusion of the victim's non-verbal behaviour in the transcripts is also likely to help understand statements that are sometimes incoherent.

Investigation methods: using social media, financial investigations and international collaboration

The analysis of the Essex case shows the extent to which the analysis of social media and mobile phones contributes to the gathering of evidence, both in terms of tracing the (financial) activities of smugglers, making links between smuggling and trafficking (including possible debt bondage), and in terms of understanding how the victims were recruited, or locating the places they passed through. The involvement of the Federal Computer Crime Unit (FCCU) is an added value in this respect.

Magistrates must have the means to conduct computer and network searches. The cooperation of internet companies (Google, Microsoft, Facebook in particular) is essential in this regard.

Furthermore, setting up a large-scale investigation within an international framework, involving joint investigation teams, one of whose tasks is to carry out financial investigations, makes it possible to apprehend the network as a whole and to trace suspicious financial flows in order to get to the heart of the criminal activity.

The Essex case and several recent Europol operations demonstrate the value of close international cooperation in dismantling Vietnamese smuggling networks.

Detection and care of unaccompanied (Vietnamese) minors suspected of being trafficked or smuggled: the importance of a safe and secure environment

When (Vietnamese) unaccompanied minors are detected, it is important to refer them to a specialised reception centre for unaccompanied minors such as Esperanto. They can find proper support here and the existing security measures can limit the risk of disappearance.

(Police) hearings in a secure setting such as this, and with a person of trust, also make it easier to establish a relationship of trust.

The Essex case demonstrated that several Vietnamese minors were successfully referred to and supported by such a centre.

Several unaccompanied minors were also correctly reported to both the Guardianship Service and the Immigration Office with the comment 'presumed victim of trafficking/smuggling'¹⁶⁴. They were able to benefit from victim status. On the other hand, the lack of knowledge of human trafficking or smuggling among certain players in the field, and the fact that no-one was on duty at the Guardianship Service outside office hours or at weekends at the time, led to some Vietnamese minors being placed in Fedasil's observation and orientation centres, from which they quickly disappeared¹⁶⁵, or even in a police cell overnight¹⁶⁶.

It is essential that these minors receive appropriate care, by continuing the ongoing training of frontline services. The fact that there is someone on call again at the Guardianship Service since August 2022 may also help to address this problem.

Reinforce know-how and raise awareness

Pacific Links is an NGO that carries out awareness-raising and awareness and empowerment activities¹⁶⁷. It has also trained and raised awareness of Vietnamese culture among several Belgian players. Such collaborations should be encouraged and continued.

¹⁶⁴ This was the case of a 17-year-old minor who was the victim of a road traffic accident and was detected by the local police in Brussels. He was admitted to a specialised centre for presumed child victims of trafficking and was granted victim status, even though this presumed minor, who was supported by a centre for adults, disappeared.

¹⁶⁵ See Chapter 1 of this focus, point 4 (Detection and protection of Vietnamese victims).

¹⁶⁶ See Chapter 2, point 2.4.4. (Unaccompanied minors: detection, hearing and statements).

¹⁶⁷ On this subject, see the external contribution of *Pacific Links Foundation* hereafter.

External contribution

Cross-organisational picture of Vietnamese in the Netherlands in relation to the trafficking and smuggling of human beings

Expertise Centre on Human Trafficking and People Smuggling (EMM)¹⁶⁸

Introduction

Vietnamese have been associated with hemp farms (cannabis plantations) and nail bars in Europe for years. There is often talk of human trafficking, especially when Vietnamese are found to be staying illegally, but in practice (legally) it is often difficult to prove. This is because (illegally staying) Vietnamese are reluctant to report anything and don't see themselves as victims of trafficking. The human smuggling aspect can't be considered separately from their situation in the Netherlands and in Europe. In their search for a better life, Vietnamese often turn to people smugglers for the journey to Europe. The debts accumulated with the human smugglers remain the responsibility of family members back in Vietnam, and are subsequently used to put pressure on the migrant. This makes them extremely vulnerable to exploitation, because they don't want their relatives in Vietnam to have to live in fear. To pay off their debts, Vietnamese are forced to work in nail bars and hemp nurseries, among other places, both on the way and at the destination.

Purpose of the study

In 2019, the Expertise Centre for Human Trafficking and People Smuggling (EMM) conducted a phenomenological study, on behalf of the then State Secretary for Justice and Security, on the disappearance of unaccompanied child migrants (AMV)¹⁶⁹ and the relationship of Vietnamese with human trafficking and human smuggling in the Netherlands¹⁷⁰.

This study showed, among other things, that there is a lack of insight into Vietnamese criminal networks involved in human trafficking and smuggling. The Netherlands labour inspectorate (NLA) conducted a study on the phenomenon in 2019, pointing to a close link between migration fraud and nail bars. The investigations by both the EMM and the NLA revealed that Vietnamese people in the Netherlands are registered by various organisations in relation to (possible situations of) human trafficking¹⁷¹ or human smuggling. However, there is no clear cross-organisational picture of how this information is interlinked. This shortfall has led to the present analysis.

Aim

The aim of this analysis is to gain a better understanding, at national level, of the nature and extent of trafficking and smuggling of Vietnamese nationals in various criminal networks, as well as to identify (previously undetected) Vietnamese individuals and companies that play a central role in human trafficking and smuggling. The study covers the period from 1 January 2018 to 1 November 2020. The operational findings and recommendations for the benefit of EMM's investigative partners will be set out in a confidential national operational intelligence overview by the end of 2021. The main results of a general technical nature have been summarised in a publication available to the public and in this contribution for Myria.

¹⁶⁸ The Dutch Expertise Centre for Human Trafficking and People Smuggling (EMM) is a partnership between the national police, the Royal Netherlands Marechaussee, the Dutch labour inspectorate, the Immigration and Naturalisation Service and the public prosecutor. EMM collates signals and criminal investigations concerning human trafficking and people smuggling and translates them into operational, tactical and strategic products on the basis of which partner organisations can apply their criminal or public law prerogatives.

¹⁶⁹ Equivalent of 'MENA' (UAM) in Belgium.

¹⁷⁰ Expertisecentrum Mensenhandel en Mensensmokkel, *De vermissing van Vietnamese amv's en de relatie van Vietnamezen met mensenhandel en mensensmokkel in Nederland (2015 tot en met 2018)*, December 2019.

¹⁷¹ In the Netherlands, trafficking in human beings is punishable under Article 273f of the Criminal Code. This article punishes the person who recruits, transports, transfers, harbours or holds another person by force, (threat of) violence, extortion, fraud, deception, abuse of a dominant position resulting from factual circumstances or abuse of a vulnerable position with a view to the exploitation or removal of their organs.

Research method

For the purpose of this study, information was collected from EMM partner organisations for the period between 1 January 2018 and 1 November 2020. This includes not only information classified as trafficking or smuggling, but also information that could be related or potentially relevant in the context of (identifying) trafficking or smuggling, such as money laundering or soft drug production.

The recording of (Vietnamese) personal data is neither unambiguous nor consistent, making it difficult to superimpose and compare information (from different organisations).

To address this problem insofar as it is possible, the information used for this analysis has been compiled in a separate database within EMM. In this database, information has been duplicated as much as possible. However, if the partner organisations have been negligent or incomplete in the recording of this data, the results may be affected.

After collecting and duplicating information, information clusters are created to address the issue from an inter-organisational perspective. These clusters aim to gather information that matches; in this case, gathering information from the perspective of Vietnamese persons¹⁷², companies or incidents. In other words, the information clusters highlight the link between Vietnamese persons and/or companies and different forms of crime (related to human trafficking and smuggling). For capacity reasons, only the content of the most important clusters was analysed.

Study results

The biggest clusters provided an overview of several main categories of incidents involving Vietnamese. These categories are named and explained here.

Hemp farms and criminal exploitation

In the past few years, Vietnamese have regularly been spotted (as suspects) on (several) hemp farms in the Netherlands.

Sometimes, these are Vietnamese living in the Netherlands, but there have been several incidents where illegally staying Vietnamese have been found on a hemp farm where there are indicators of human trafficking. As the Vietnamese are a homogeneous community, it comes as no surprise that Vietnamese living in the Netherlands are often linked to these incidents. Vietnamese with residence status in Poland or the Czech Republic are also involved. (Illegally staying) Vietnamese in a possible exploitative situation are reluctant to make a statement, for various reasons.

In-depth investigations (digital, financial) can lead to the identification of persons playing a role in facilitating the employment of (illegally staying) Vietnamese in hemp cultivation, or to the identification of connections between different hemp-related incidents. However, it has proved difficult to obtain information on those who play a role in facilitating the travel and illegal stay of Vietnamese in the Netherlands.

Persons who have disappeared from secure reception centres and human smuggling

Almost all of the Vietnamese (minors) who are housed in secure reception centres after being caught climbing into a lorry, or discovered during a smuggling operation, seem to disappear from these centres. Human smuggling organisations are suspected of playing a role in this. England appears to be the destination for the majority of this group of Vietnamese.

Nail bars and labour exploitation/human smuggling

Signs of labour exploitation (human trafficking)¹⁷³, sham relationships, bogus jobs and forgery are particularly prevalent among Vietnamese in nail bars. However, Vietnamese are also affected by abuses of the programme for highly skilled migrants ("kennismigrantenregeling")¹⁷⁴. In the above-mentioned cases, a stay is obtained illegally and they may have to provide a 'quid pro quo'. This position of dependency means that the risk of exploitation is certainly present.

¹⁷² Vietnamese persons are defined as persons recorded in the collected sources with Vietnamese nationality or Vietnam as their country of birth.

¹⁷³ Labour exploitation is one of the forms of trafficking punishable under Article 273f of the Dutch Criminal Code. Other forms are sexual exploitation, criminal exploitation, forced begging and the forced removal of organs.

¹⁷⁴ In the Netherlands, a 'kennismigrant' is a highly qualified migrant, for example a teacher, a scientific researcher or a doctor. A non-European highly skilled migrant can come to the Netherlands to work under certain conditions. The employer must be a referrer approved by the Immigration and Naturalisation Service (INS). The INS processes residence applications for highly qualified migrants in a fast-track procedure.

Hard drug production and trafficking

In a number of clusters, Vietnamese are involved in the trafficking and production of synthetic drugs. In some cases, there is a link to the Czech Republic and/or Germany or to Vietnamese living there. The clusters analysed didn't reveal any signs of human trafficking. Belgium and Germany also stress that Vietnamese are involved in the trafficking and production of synthetic drugs in their countries.

In several information clusters examined, Vietnamese are associated with cash finds, (illegal) gambling and/or casinos and suspicious financial transactions.

Conclusion

The cross-organisational picture of Vietnamese in the Netherlands shows that they are involved in various forms of crime related to human trafficking and smuggling. Criminal exploitation is regularly highlighted, especially when Vietnamese residing illegally in the Netherlands are found on hemp farms. As regards nail bars, Vietnamese often show signs of labour exploitation (human trafficking), sham relationships, forgery, bogus jobs and abuse of the Highly Skilled Migrant Programme. It is difficult to know who is involved in smuggling Vietnamese to the Netherlands. Human smuggling organisations are suspected of being involved in the disappearance of Vietnamese (minor) from secure reception centres in the Netherlands.

External contribution

Preventing human trafficking through empowering at-risk communities in Vietnam

Authors: Christina Bui, Diep Vuong, Diane Truong, Loan Luong, Tien Nguyen

Non-profit organisation: Pacific Links Foundation

Introduction: migration from Vietnam to Europe

Over the past 10 years, the number of Vietnamese migrants undertaking the journey from Vietnam to Europe has increased. European countries with a significant Vietnamese diaspora, such as Germany, Poland, France, and the UK, are popular destinations for migrants to seek work, whether as contract-based or irregular migrants. Other peripheral countries have also become transit or destination countries (or both) for such migrants. For example, due to its location between Germany and France and having access to the English Channel, Belgium has become a popular transit country for traffickers to smuggle irregular migrants through before moving them to France and/or the UK.

In October 2019, the deaths of 39 Vietnamese migrants in a refrigerated truck in Essex sparked widespread international attention to the phenomenon of inconspicuously smuggling and trafficking irregular migrants from Vietnam through Europe to the UK. Driven by economic, familial, and social factors, migrants pay upwards of €50,000 for their risky, irregular journeys to Europe. In reality, once they arrive in Europe, they are vulnerable to labor and/or sexual exploitation with limited resources at their disposal to receive assistance.

It is not always the case that only irregular migrants are vulnerable; even those who come to Europe with legal work contracts are at risk of exploitation. In November 2021, 500 Vietnamese migrant workers who had valid work contracts were found living and working in horrid conditions at a Chinese tire factory in Serbia. All 500 migrants had paid brokerage fees up to US\$4,000 (€3,240) to secure the work contracts and for their travels. After the discovery, the migrants had to decide to go back to Vietnam, stay with the factory in Serbia, or irregularly migrate to other European countries. With debt stemming from the brokerage fees, many felt they had very limited options to choose from.

Through our work on the ground, Pacific Links Foundation has identified three key issues, especially when vulnerable people search for jobs far away from home: 1) fake news, 2) misinformation and 3) false job opportunities. A term that is often linked to false job recruitment is “*việc nhẹ, lương cao*” (“easy work with a high salary”). A typical story of deceit could involve making upwards of £3,000 (€3,542) a month working in a nail salon in the UK, which they could then use to pay off their debts.

In addition, the resulting economic impact of COVID-19 since 2020 has left more people searching for work far from home, increasing their vulnerability to trafficking and exploitation. Industrial zones, for example, reduced working hours or laid off thousands of workers due to COVID-19 restrictions or a reduction in orders from buyers. This left many unemployed or underemployed at home, where they may be spending more time on social media and exposed to false job promises.

What is promised to job seekers and potential migrants may not be their reality once they leave Vietnam. Once trapped by the false narrative, they are essentially locked into debt bondage, struggling to find any means to pay off the huge amount owed.

All Vietnamese migrants in Europe who we have spoken with have expressed going into debt to fund their journey. Many women have encountered dangerous situations. They often do not inform their families back home in Vietnam for fear of having them worry or putting their families in danger. By staying quiet about the dangers and mistreatment they encountered in their journey, potential migrants in Vietnam are unaware of the true situation in Europe. Migrants may inadvertently perpetuate the myth that overseas work is more lucrative than seeking a job domestically, when in reality it may not be better than jobs at home in Vietnam. Therefore, the work of preventing unsafe migration in the origin country is important now more than ever.

Empowerment as a form of prevention

Pacific Links Foundation is an American non-governmental organization (NGO) with over 20 years of experience delivering innovative, evidence-based solutions to increase access to education and prevent human trafficking in Vietnam and transit and destination countries across Europe and Asia. Since 2001, we have served over 200,000 youth, women, and men in communities, factories, and schools with culturally competent content. Over the years, we have built a diverse network globally in the public and private sectors to build capacity while incorporating technology to scale reach.

We know that access to reliable information is key to reducing trafficking and unsafe migration. Throughout all of our prevention and protection programs for at-risk communities, we empower beneficiaries with the knowledge and skills to make the right decisions for themselves and their families.

Empowerment in supply chains

In recent years, Vietnam has become one of the fastest growing markets for manufacturing and sourcing. As a result, there is a steady increase in youth migrating from rural areas to industrial/urban areas. Many of these workers are vulnerable to smugglers and traffickers posing as labor brokers falsely promising better jobs. As a response to the issues, we developed Factory Awareness to Counter Trafficking (FACT), PAXU safe migration and workers' well-being app, and Empower Migrants (EMMI) as solutions to sustainably reduce forced labor and trafficking risk for low-wage labor workers in Vietnam and beyond.

The FACT Training Program equips factory managers and workers with the knowledge they need to protect themselves, their workplace, and communities from human trafficking and forced labor risks.¹ FACT also helps brands and suppliers better comply with international supply chain transparency laws on modern slavery. FACT training modules include:

1. the current state of forced labor and human trafficking;
2. tactics used by traffickers and the different forms of exploitation;
3. laws on modern slavery and supply chain transparency;
4. safeguarding oneself and one's families and coworkers from trafficking/forced labor;
5. recommendations for managers on protecting their workers and proactively monitoring recruitment channels; and
6. financial literacy to prevent debt bondage.

The EMMI programme transforms women migrant workers into leaders, giving them, their families and their communities the skills and networks needed for safe migration and recruitment. We also strengthen the capacity of stakeholders in companies, factories, provincial recruitment offices and legal aid centres to protect workers from trafficking and forced labour in the supply chain. Through EMMI, we are establishing more robust systems of ethical recruitment to improve access to safe economic opportunities and reduce the vulnerability of communities at risk to trafficking and forced labour.

Case study: Meet Kim

Kim* is a migrant worker participating in Empower Migrants (EMMI) program activities since 2018. Back then, Kim did not prioritize attending EMMI activities because she wanted to spend time with her family during the weekend. After attending several leadership training sessions, she realized that EMMI activities improved her knowledge about caring for her family and protecting relatives and friends from human trafficking and forced labor. She became an enthusiastic member and tried to learn everything the trainers taught her.

¹⁷⁵ We make distinctions based on the definitions outlined by the United Nations Human Rights Office of the High Commissioner (OHCHR)'s Palermo Protocol of 2000 (for human trafficking or trafficking in persons") and the International Labour Organization's Forced Labor Convention of 1930 (for "forced or compulsory labour"). In the Anti-Trafficking Review's 2015 Issue 5, they laid out the importance of acknowledging overlapping and distinguishing factors between the terminology—for example, in combating the systemic differences, biases, interventions, and punishments; and how victims are received and protected.

Since Vietnam's worst Covid-19 wave hit in May 2021, Kim had her work hours reduced. When factories shut down, she quarantined at home. She used her free time at home to complete 10 online courses through Pacific Links Foundation's online learning platform. She learned more about safe migration and Covid-19 government support—information she shared with others in her EMMI group.

Kim also used this opportunity to participate in local Covid-19 prevention efforts to support community members facing hardships, including sharing information on Covid-19 vaccines and complying with public health measures. "Awareness is the best vaccine," Kim shared.

*Name changed for confidentiality

Empowerment through continual learning

Vietnam's Revision of the Law on Contract-Based Vietnamese Overseas Workers, also referred to as "Law 69," contains provisions on the rights and protections for migrant workers seeking work or currently working abroad. Included in Law 69 is a provision prohibiting excessive costs related to brokerage fees to obtain an overseas work contract. With the law adopted in November 2020 and enacted in January 2022, migrant workers may not be aware of the constantly changing news regarding their rights.

Our safe migration and workers' well-being app, PAXU, enables users to think through their decision to migrate for work far away from home. The proliferation of fake news and misinformation, driven by social media, may lead people to make dangerous, life-changing decisions based on this misleading information; therefore, PAXU is pertinent to fight against misinformation by providing vetted information to users, which is constantly updated.

Information related to Law 69, for example, is provided on PAXU. The self-learning feature in the app focuses on workforce readiness skills such as financial literacy and English language through microlearning. All aspects of the app continually provide updated information pertaining to job seekers' migration journey.

Empowerment through cross-sector and cross-border partnerships

We recognize the importance of partnerships across borders and sectors in trafficking prevention, especially because the act of human trafficking itself transcends boundaries. Our Capacity Building for Responders (CaRes) program provides tools, resources, and training for frontline responders. Through our cultural competency training, available as in-person or online real-time training workshops and as modularized online self-paced courses, we equip responders with the knowledge and culturally sensitive skills to identify and provide Vietnamese migrants and victims of trafficking (VoTs) with timely and proper care through adopting an empathetic approach.

Our goal is to make resources available on an ongoing basis with flexibility for responders. Our pocket guide, which contains interview questions in both Vietnamese and English or another European language, is a tool responders can use to break down language barriers. Our online support line is supported by our culturally fluent mediators who help facilitate conversations with Vietnamese migrants and advise frontline responders and organizations on cases involving Vietnamese migrants and VoTs.

Our previous cross-border partnership with two UK-based nonprofit organizations, ECPAT UK and Anti-Slavery International, resulted in the 2019 "Precarious Journeys" report, which outlined the vulnerabilities Vietnamese migrants face at each stage of their journey from Vietnam to Europe. In addition, we supported ECPAT UK with releasing their three-minute fiction video, "The Secret Gardeners," on a Vietnamese boy's journey to the UK and subsequent exploitation.

In collaboration with The British Council Vietnam and 021 Station, we released a Vietnamese language podcast called “Bước tới tương lai (Step to the Future),” for youth and local communities in Vietnam to better understand the different facets of safe migration and human trafficking prevention. Topics explored include working abroad, studying abroad, visiting another country, and financial literacy.

Case study: Effective cross-border collaboration

In January 2020, Pacific Links Foundation partnered with Allison*, a law enforcement officer based with an embassy in Berlin, to organize an in-person training for frontline responders. We invited her to partake in our online training for German police and customs officers in May 2021 with an updated curriculum to reflect the current realities.

“Really interesting to see how you have adapted/expanded the presentation. And very cool that so many police colleagues have joined from all across Germany!” Allison said. “Everyone in the break-out and networking sessions seemed motivated and interested. These workshops can make a real difference, making the officers look at the migrants from a different perspective. Impressive work from all of you.”

Through surveys and focus group discussions, participants have often expressed to us that they found the group discussions to be most helpful: “To have the experiences of other colleagues, to hear their problems, to hear their solutions, from the research perspective it was like a workshop we normally do in the course of our project.”

**Name changed for confidentiality*

Look into the future

Throughout our decades of prevention activities, a common theme is that constant exposure and continual information are needed to keep at-risk communities up-to-date. This is supported by all of our programs; now that target communities have easier access to new technologies, we are able to provide information from trusted sources and train those communities on the dangers of trafficking. Prevention is key in countries of origin like Vietnam to give us a chance at preventing at-risk individuals from falling victim to traffickers’ promises of high-paying, easy work abroad.

Pacific Links Foundation is an American non-governmental organization based in Vietnam. More information about our work can be found on our website <http://www.pacificlinks.org> and our Facebook page <http://www.facebook.com/PacificLinks>. Our team can be contacted via email at cares@pacificlinks.org or through our 24/7 support line (+84 988 488 000).

Part 2

Evolution and fight
against the phenomena of
trafficking and smuggling of
human beings



Chapter 1

Recent developments in the legal and political framework

1. Developments in the European legal and political framework

1.1. | Human trafficking

EU strategy on combating trafficking in human beings

In the European Union, one of the main recent developments is the adoption of the EU Strategy on Combating Trafficking in Human Beings (2021-2025)¹⁷⁶. Presented on 14 April 2021 by the Commission, it focuses on: reducing the demand that fosters human trafficking, breaking the business model of traffickers, protecting and supporting victims and promoting international cooperation. It was discussed in detail in Myria's previous report¹⁷⁷. The Commission also launched an evaluation of anti-trafficking directive 2011/36¹⁷⁸ to examine whether it still corresponds to the objectives pursued and whether the currently optional provision on the criminalisation of the use of services provided by victims of human trafficking should be amended. This was discussed at a meeting of national rapporteurs and equivalent mechanisms and the EU Civil Society Platform in May 2022.

On 1 July 2021, Diane Schmitt was appointed EU Anti-Trafficking Coordinator. She is responsible for improving coordination and coherence, avoiding duplication of efforts between EU institutions and agencies, and between Member States and international players, contributing to the development of new or existing policies and strategies.

Joint anti-trafficking plan to address the risks of human trafficking and support potential victims among persons fleeing the war in Ukraine

Since the beginning of the war in Ukraine on 24 February 2022, several million people have arrived in the European Union¹⁷⁹, mainly women and children. While civil society has mobilised to welcome them, it has also provided ill-intentioned individuals or organised groups with an opportunity to take advantage of the situation. The risk of human trafficking therefore exists. European bodies such as Europol have sounded the alarm, warning Member States of the risk that organised criminal groups may take advantage of the crisis to recruit people fleeing Ukraine for sexual or labour exploitation, or other purposes such as begging or forced crime¹⁸⁰.

In March 2022, the European Commission also adopted a 10-point action plan¹⁸¹, including, among other things, the creation of a European registration platform;

¹⁷⁶ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the EU Strategy on Combatting Trafficking in Human Beings 2021-2025, 14 April 2021, COM(2021) 171 final: see [document](#).

¹⁷⁷ Myria, *2021 Annual Report Trafficking and smuggling of human beings, Visibly invisible*, pp. 9-10.

¹⁷⁸ 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, O.J., L101 of 15 April 2011.

¹⁷⁹ As of 6 May 2022, this figure amounted to over 5.4 million people (source: [A new Anti-Trafficking Plan to protect people fleeing the war in Ukraine \(europa.eu\)](#))

¹⁸⁰ War in Ukraine – refugees arriving to the EU from Ukraine at risk of exploitation as part of THB, see [Europol website](#).

¹⁸¹ [The 10-Point Plan: For stronger European coordination on welcoming people fleeing the war from Ukraine \(europa.eu\)](#).

a mapping of reception and accommodation capacities; the development of standard operating procedures and uniform guidelines for the reception and support of children, and the adoption of a common anti-human trafficking plan to prevent trafficking and exploitation.

Published on 11 May 2022, this anti-trafficking plan, developed under the leadership of the EU Anti-Trafficking Coordinator, is based on the EU Strategy on Combating Trafficking in Human Beings (2021-2025)¹⁸².

The plan is structured around five main objectives and provides for a series of concrete actions at EU level as well as recommendations to Member States:

- increase awareness of the risks of human trafficking and set up specialised helplines. Among other things, the Commission has set up a dedicated website for people fleeing the war in Ukraine¹⁸³ and made a video on human trafficking, which gives concrete advice to Ukrainians entering the EU and seeking shelter¹⁸⁴;
- strengthen prevention of human trafficking, in particular through the registration of entities and individuals intending to provide shelter, transport or other assistance and the training of helpline staff;
- reinforce the law enforcement and judicial response to human trafficking, in particular through increased collaboration between the competent authorities of the Member States with a view to the early detection of potential cases of trafficking;
- improve the early identification, support and protection of victims of human trafficking, in particular through the implementation and effectiveness of national referral mechanisms for victims;
- combat the risks of human trafficking in third countries, especially in Ukraine and Moldova, in particular through awareness-raising campaigns.

1.2. | Human smuggling

In September 2021, the European Union adopted a new action plan (2021-2025) to combat migrant smuggling¹⁸⁵. It is one of the results of the new pact on migration and asylum. The action plan sets out actions to counter and prevent the smuggling of migrants and to ensure that migrants' human rights are fully protected.

The action plan is based on the following pillars of action:

- strengthen cooperation with partner countries and international organisations, especially by establishing special, tailor-made operational partnerships with third countries or regions crossed by the migration routes leading to the EU to combat migrant smuggling;
- implement legal frameworks and punish smugglers active within and outside the EU, especially by improving the implementation of legal frameworks applicable by Member States and partner countries based on the UN protocol on the smuggling of migrants;
- prevent the exploitation of migrants and ensure their protection, especially by providing protection and assistance to vulnerable migrants who are victims of smugglers, and by paying particular attention to children and women;
- strengthen cooperation and support the work of law enforcement and judicial authorities to meet new challenges, especially by making greater use of Eurojust's support, in particular for joint investigation teams, by tackling the use of digital technologies and by strengthening financial investigations and asset recovery procedures;
- improve knowledge of smugglers' modus operandi, especially by supporting the development of new technologies, including artificial intelligence, to broaden the knowledge base on irregular migration and smuggling.

¹⁸² [A new Anti-Trafficking Plan to protect people fleeing the war in Ukraine \(europa.eu\)](#)

¹⁸³ [Information for people fleeing the war in Ukraine | European Commission \(europa.eu\)](#)

¹⁸⁴ [EC AV PORTAL \(europa.eu\)](#)

¹⁸⁵ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, *Renewed EU action plan against migrant smuggling (2021-2025)*, 29 September 2021, COM(2021) 591 final: [Fighting migrant smuggling: 2021-2025 EU action plan \(europa.eu\)](#)

2. Developments in the Belgian legal and political framework

2.1. | Special commission trafficking and smuggling of human beings

A special commission to review legislation and policy on trafficking and smuggling of human beings was set up within Parliament in February 2022¹⁸⁶. This was proposed at the Conference of Presidents on 16 February 2022. It is composed of 13 full members and 13 substitutes from the different political parties in the Chamber of Representatives¹⁸⁷.

This special commission is tasked with taking stock of the current situation in the fight against trafficking and smuggling of human beings, reviewing the existing legal provisions both for the prosecution of perpetrators and the protection of victims, and examining international cooperation in the fight against human trafficking. It must also pay special attention to the fate of minors and other vulnerable profiles. Lastly, it is also responsible for tabling a report whose conclusions and possible recommendations will, after a debate in plenary, be put to the vote within eight months of the establishment of the commission.

The commission hears people and asks for any documents it deems necessary. It has decided to call on two experts to support its work and, in particular, to draft recommendations. The commission's meetings are public in principle and the reports of the hearings are published on the Chamber's website¹⁸⁸.

Myria welcomes such a commission, which can once again¹⁸⁹ assess the phenomena and policies of the fight against human trafficking and smuggling. It had indeed recommended implementing a parliamentary follow-up, as announced in the government agreement¹⁹⁰.

Myria was among the stakeholders to be heard¹⁹¹. It hopes that this work will lead to progress in the fight against these phenomena and the protection of victims.

2.2. | Reform of the sexual criminal law: new law comes into force

On 1 June 2022 the new Sexual Criminal Law Reform Act, introduced by the Minister of Justice, came into force¹⁹². In its previous report, Myria discussed aspects of the bill on prostitution and expressed concerns about the possible impact of the bill on the fight against human trafficking and the protection of victims¹⁹³. The main points of the provisions on the prostitution of adults are summarised below.

The bill was the subject of lively discussions and numerous amendments in Parliament, especially on aspects related to prostitution. The Committee on Justice also held numerous hearings, including with Myria¹⁹⁴. Even after the adoption of the text at first reading, the Council of State was again asked for its opinion on the articles that had been amended during the parliamentary debates, especially those related to prostitution¹⁹⁵.

The new law aims to adapt sexual criminal law to our times. The goal was also to harmonise prostitution-related offences with the criminal provisions on human trafficking.

186 Creation of a special commission to review legislation and policy on trafficking and smuggling of human beings, text adopted by the plenary session of 24 February 2022, S.O. 2021-2002, Doc 55 2530/001 and full report of the Chamber of Representatives, plenary session of 24 February 2022, S.O. 2021-2022, CRIV 55 PLEN 166, p. 22.

187 Its members were appointed by the Chamber of Representatives from among its members, according to the rule of proportional representation of political groups.

188 See the website of the Chamber of Representatives of Belgium.

189 The last working group on human trafficking was created in 2011 in the Senate. See the report compiled on behalf of the "Human Trafficking" working group by Ms. Désir on 27 March 2012, *Parl. doc.*, Senate, session 2011-2012, Doc 5-1073/1.

190 See recommendation 1 of Myria's 2020 annual report, *2020 Annual Report Trafficking and smuggling of human beings, Behind closed doors*, p. 132.

191 Special commission to review legislation and policy on trafficking and smuggling of human beings, full report of Monday 25 April 2022, S.O. 2021-2022, CRIV 55 001, available at: [The Chamber of Representatives of Belgium](#).

192 Act of 21 March 2022 amending the Criminal Code with regard to sexual criminal law, *M.B.*, 30 March 2022. The law explicitly provided for its entry into force three months after its publication.

193 Bill to amend the Criminal Code with regard to sexual criminal law, *Parl. doc.*, Chamber, S.O. 2021-2021, DOC 55 2141/001. See Myria, *2021 Annual Report Trafficking and smuggling of human beings, Visibly invisible*, pp.14-19 and 35-40.

194 Report on the first reading on behalf of the Committee on Justice by Ms. Claire Hugon and Mr. Christoph D'Haese on the bill to amend the Criminal Code with regard to sexual criminal law, *Parl. doc.*, Chamber, S.O. 2021-2021, DOC 55 2141/006, p. 280 and seq.

195 Opinion of the Council of State No. 70.817/3 of 3 February 2022 on the bill amending the Criminal Code with regard to sexual criminal law, *Parl. doc.*, Chamber, S.O. 2021-2021, DOC 55 2141/008.

It also aims to decriminalise certain offences related to incitement to debauchery. The new law repeals the existing provisions of the Criminal Code on pimping¹⁹⁶ and introduces a new chapter in the Criminal Code, entitled “abuse of prostitution”, containing several articles¹⁹⁷. The wording in the articles finally adopted differs significantly from the initial draft following the adoption of amendments¹⁹⁸. Pimping (new Article 433*quater*/1), advertising for prostitution (Article 433*quater*/2), public incitement to prostitution (Article 433*quater*/3) and aggravated abuse of prostitution (Article 433*quater*/4) are punishable.

New definition of pimping

The initial definition contained in the bill was amended¹⁹⁹. This offence, provided for in Article 433*quater*/1 of the Criminal Code, is now defined as “without prejudice to the application of Article 433*quinquies*” (human trafficking), having committed one of the following acts against an adult:

- "organising the prostitution of others for the purpose of obtaining a benefit, except as provided by law;
- promoting, inciting, encouraging or facilitating prostitution²⁰⁰ for the purpose of deriving, directly or indirectly, an abnormal economic or other benefit;
- taking measures to prevent or make more difficult the abandonment of prostitution".

The authors of the amendment thus wanted to make a clearer distinction in relation to a situation where there is a form of coercion, which would then, according to them, fall under the definition of human trafficking. However, Myria would like to stress that the definition of trafficking in Belgian law doesn't require a coercive element²⁰¹.

The authors also stress that preference should always be given to prosecution of the offence of human trafficking, the meaning of the wording "without prejudice to the application of Article 433*quinquies*", which is positive.

The definition of the term "organising the prostitution of others" bears the characteristics of an employment contract²⁰². The result is that without the adoption of a law (which doesn't exist at present), a sex worker can't (yet) work within a salaried framework. A specific law will have to determine the recognition procedure and thus the basic conditions imposed on the person organising the prostitution of another person²⁰³.

This article also aims to punish third parties who abuse the offer of sexual services related to the prostitution of another person. This includes all possible abuses, not directly related to the income from prostitution (e.g. excessive rent, etc.).

Myria is of the opinion that many questions will arise in practice, especially on the interpretation of the notion of (abnormal) benefit. Also, how will magistrates make the differentiation with human trafficking (recruiting for the purpose of exploiting prostitution) in the field?

Isn't there a risk that some victims, especially the most vulnerable ones (such as third country nationals), will escape the specific protection provided for victims of trafficking if the magistrate considers that the new provision on pimping is easier to establish than trafficking in human beings?

Following the hearings in the Committee on Justice, the same authors of the amendment decided to change the original wording of aggravated abuse of prostitution²⁰⁴, because it led to confusion with human trafficking and could therefore be detrimental to victims.

¹⁹⁶ Articles 379 and following of the Criminal Code.

¹⁹⁷ Chapter IIIbis/1 containing articles 433*quater*/1 to 433*quater*/9.

¹⁹⁸ See amendments 71 to 75 and 79 tabled by Ms. Gabriëls et al: amendments to the bill amending the Criminal Code with regard to sexual criminal law, *Parl. doc.*, Chamber, S.O. 2021-2021, DOC 55 2141/005.

¹⁹⁹ Amendment no.79 by Ms Gabriëls et al. to the bill to amend the Criminal Code with regard to criminal sexual law, *Parl. doc.*, Chamber, S.O. 2021-2021, DOC

55 2141/005. Furthermore, as this new definition of pimping covers Article 433*quater*/4 of the bill (seeking an abnormal benefit through the prostitution of another person), another amendment has replaced it (see amendment 72, *ibid.*, p. 3).

²⁰⁰ This refers to the situation where a third party allows sex in their establishment in order to make an abnormal benefit.

²⁰¹ In Belgian law, the definition of trafficking only includes the act (recruiting, transporting, harbouring, etc.) and the purpose of exploitation (sexual or other) as essential elements of the offence. The means (*modi operandi*), such as coercion, violence, abuse of vulnerability, which appear as a third essential element of the offence in international and European instruments, are considered aggravating circumstances in Belgian law.

²⁰² See amendment to the bill to amend the Criminal Code with regard to sexual criminal law, *Parl. doc.*, Chamber, S.O. 2021-2021, DOC 55 2141/005, pp. 13-14: “Organising the prostitution of others, with the aim of obtaining a benefit”, means: subjecting in return for remuneration to hierarchical control or a specific way of operating, coordinating in return for remuneration the activity of persons providing paid sexual services, for instance coordinating work or determining working hours or times.

²⁰³ As the amendment makes clear, these aren't conditions imposed on the sex worker. Sex work is an occupation with specific characteristics that requires robust protection for the sex worker. Adaptations will therefore have to be made to labour law and social security law to take account of these specificities.

²⁰⁴ See amendment no. 71 by Ms Gabriëls et al to the bill amending the Criminal Code with regard to sexual criminal law, *Parl. doc.*, Chamber, S.O. 2021-2021, DOC 55 2141/005.

This was one of Myria's concerns, raised in the previous report²⁰⁵ and during its hearing²⁰⁶.

The new Article 433*quater*/4 therefore only provides for the vulnerability of the victim as an aggravating circumstance, but has dropped the reference to other means (such as coercion, specific to human trafficking).

Advertising for prostitution: prohibited with some exceptions

The Council of State was critical of the text contained in the bill adopted at first reading, following the adoption of an amendment. It considered its scope to be too vague, with the result that it was doubtful whether the envisaged criminalisation was sufficiently predictable. In particular, it referred to the type of medium on which advertising could be permitted.

This article (Article 433*quater*/2) was therefore amended again at second reading²⁰⁷. The text finally adopted provides for a ban on advertising the prostitution of an adult, except in three cases²⁰⁸:

- where the adult advertises their own sexual services behind a window in a place that is specifically intended for prostitution;
- where the adult places advertising for their own sexual services on an internet platform or other medium or part of a medium, specifically intended for that purpose;
- where a provider of an internet platform, other medium or part of a medium, specifically intended for this purpose, advertises sex services, or establishments in which such services are offered. Advertising by the latter shall be lawful if the provider can demonstrate that it takes measures to protect sex workers and to prevent abuse of prostitution or trafficking in human beings by immediately reporting suspicions of abuse or exploitation to the police or judicial authorities and by complying with the terms determined by the King. However, these terms have yet to be defined.

Multidisciplinary evaluation

The new Article 433*quater*/9 of the Criminal Code provides for an evaluation of the provisions of the chapter on abuse of prostitution by the Chamber of Representatives two years after their entry into force and every four years thereafter. This provision was also introduced as a result of an amendment to the bill under discussion²⁰⁹. The authors of the amendment considered that the social importance of this subject justified a periodic evaluation. This should make it possible to objectify the situation and monitor its evolution, not only to verify the positive effects (protection, access to rights, etc.) but also to establish whether or not some of the risks mentioned have emerged (in particular, the impact on the fight against human trafficking).

The law specifies that this evaluation is multidisciplinary and relies in particular on the expertise of representatives of the stakeholders in the judiciary and the police, representatives of specialist public bodies, representatives of civil society organisations and academic experts. The terms of this evaluation must be laid down in law by 31 December 2022.

2.3. | Amendments to the act of 1995: Belgian victims and national referral mechanism

The government took advantage of the discussion on the Sexual Criminal Law Reform Bill to make changes to the Act of 13 April 1995 on trafficking in human beings²¹⁰ through an amendment²¹¹.

The aim was to clarify what is meant by victim of trafficking and (aggravated) smuggling of human beings and to emphasise that Belgian victims of human trafficking also benefit from the support of specialised reception centres²¹².

205 Myria, 2021 *Annual Report Trafficking and smuggling of human beings, Visibly invisible*, p.16 and 122.

206 Report of the first reading made on behalf of the Committee on Justice by Ms. Claire Hugon and Mr. Christoph D'Haese on the bill amending the Criminal Code as regards criminal sexual law, *Parl. doc.*, Chamber, S.O. 2021-2021, DOC 55 2141/006, p. 282.

207 Amendment no. 140 by Ms. Gabriëls et al. to the bill to amend the Criminal Code with regard to sexual criminal law, *Parl. doc.*, Chamber, S.O. 2021-2021, DOC 55 2141/016. Also see the report of the second reading on behalf of the Committee on Justice by Ms. Sophie De Wit, *Parl. doc.*, Chamber, S.O. 2021-2021, DOC 55 2141/017, pp.30-35.

208 Advertising the prostitution of a minor is totally forbidden (new articles 417/39 and 417/40 of the Criminal Code).

209 Amendment no. 124 by Ms. Hugon, Mr. Van Hecke et al. to the bill to amend the Criminal Code with regard to sexual criminal law, *Parl. doc.*, Chamber, S.O. 2021-2021, DOC 55 2141/012, p. 14.

210 Act of 13 April 1995 containing provisions for the suppression of trafficking and smuggling of human beings, *M.B.*, 25 April 1995.

211 Amendment no. 114 by Ms. Gabriëls et al. to the bill to amend the Criminal Code with regard to sexual criminal law, *Parl. doc.*, Chamber, S.O. 2021-2021, DOC 55 2141/011, p. 3.

212 New Art. 11, §1, 3° of the Act of 13 April 1995. The act specifies that "victim of human trafficking" should be understood as "any person, Belgian or foreign, against whom the offence referred to in Article 433quinquies of the Criminal Code is committed".

Article 11 of this act now explicitly incorporates the general principle of referring all victims of human trafficking, whether Belgian or foreign, as well as victims of aggravated smuggling, to specialised reception centres²¹³.

Myria welcomes this clarification.

The amendments also create a legal basis for the principle of subsidising the specialised reception centres²¹⁴. The Inspector of Finance considered that the current bases of the 1980 and 1995 acts were too vague. The law now distinguishes between 'recognition' and 'authorisation'. 'Recognition' consists of the ability to implement the residence procedures referred to in the Aliens Act, and to act as a referral point for the services in charge of detecting victims of human trafficking and aggravated forms of human smuggling, with the aim of involving these victims in the judicial process. 'Authorisation' refers to the consent given by the King to take legal action. The law therefore provides that recognised and approved centres can be subsidised within the framework of the tasks they perform in connection with their recognition and authorisation²¹⁵.

2.4. | Other measures

Unenforceability of the nullity of an employment contract of persons engaged in prostitution

On 31 March 2022, another act came into force that should be mentioned. This is the Act of 21 February 2022 concerning the unenforceability of the nullity of an employment contract of persons who engage in prostitution²¹⁶.

The aim of this act is to render unenforceable the potential nullity of an employment contract of persons engaged in prostitution. The act thus provides for both an autonomous provision and the amendment of certain existing provisions in labour and social security law. Therefore, the nullity of the contract can't be invoked against the rights of a person working as a prostitute under an employment contract.

This act falls within the framework of the implementation of the government agreement. The agreement stipulates that the fight against sexual exploitation will remain a priority in the area of prostitution. The act adopted falls under the agreement's second priority: the implementation of a reflection process, in consultation with the stakeholders in the field, in order to improve the living and working conditions of sex workers²¹⁷.

This will prevent certain employers or third parties in the future from invoking the nullity of the contract in order to avoid their obligations²¹⁸. The consequence of the nullity of the contract was that the contract was presumed never to have existed. Therefore, the worker couldn't claim any rights or protection.

Hence, this act is a step forward for sex workers.

Measures taken to limit the risk of human trafficking of people fleeing the war in Ukraine

Various measures have been taken by the Belgian government to inform people fleeing the war in Ukraine and prevent the risk of human trafficking:

- Information tool on human trafficking²¹⁹ : there is an information tool on the info-ukraine.be website to warn people from Ukraine, who may be victims of exploitation, about the indicators of human trafficking and to urge them to contact one of the three specialised reception centres. This tool also exists as a flyer and was displayed on a big screen at Heysel.
- Fedasil has also produced a brochure on the reception of asylum seekers including a short reference to human trafficking and the contact details of specialised reception centres.
- There will also be brochures available for both stakeholders working with minors and for the minors themselves.
- Screening of persons wishing to offer a home to persons fleeing the war in Ukraine: in order to prevent the risk of human trafficking, special provisions have been made for persons wishing to offer a home to persons fleeing the war in Ukraine: they must provide a certificate of good conduct²²⁰. In addition, the regions and municipalities are responsible for checking housing facilities for those fleeing and the standards of safety, hygiene, quality and/or equipment of the housing. Persons wishing to offer a home must register through an online platform.

213 New Article 11, §1/1 of the Act of 13 April 1995. The victim referral mechanism was already defined in the Aliens Act of 15 December 1980 but was only aimed at foreigners since these provisions concern the conditions for issuing residence permits (Articles 61/2 to 61/5).

214 Art. 11, § 2 of the Act of 13 April 1995.

215 Art. 11, § 2, paragraph 4 of the Act of 13 April 1995.

216 Act of 21 February 2022 concerning the unenforceability of the nullity of the employment contract of persons engaged in prostitution, *M.B.*, 21 March 2022.

217 Explanatory memorandum to the bill concerning the unenforceability of the nullity of the employment contract of persons engaged in prostitution, *Parl. doc.*, Chamber, S.O. 2021-2021, DOC 55 2385/001, p. 4.

218 *Ibid.*, p.5.

219 [I am being exploited - Ukraine \(info-ukraine.be\)](https://info-ukraine.be)

220 Circular of 18 March 2022 on the control of applicants for accommodation of persons fleeing the armed conflict in Ukraine, *M.B.*, 8 April 2022.

Chapter 2

Case law overview 2021 - start 2022

1. Trends

What were the main trends in human trafficking and smuggling cases in 2021 and at the start of 2022? The case law analysis in this edition is based on the cases in which Myria filed a civil suit, on decisions it received from the three specialised reception centres for victims and the decisions provided by magistrates or other partners. Myria also presents two decisions of the European Court of Human Rights, one on human trafficking and the other on migrant smuggling.

Finally, the Council for Alien Law Litigation (Conseil du Contentieux des Étrangers) granted refugee status to a young woman from Sierra Leone who was a victim of human trafficking. Myria also discusses this decision at the end of this overview.

Myria was informed of a particularly high number of decisions rendered by the judicial authorities this year, i.e. 107²²¹ : 87 Dutch-speaking decisions and 18 French-speaking decisions.

The most interesting and relevant decisions are listed below: 57 decisions²²² relating to 50 cases in the country's different jurisdictions²²³.

- Among the decisions in this selection, 35 concern human trafficking and 21 human smuggling.
- 19 decisions relate to sexual exploitation. They were handed down in the jurisdiction of the courts of appeal of Antwerp (Antwerp division and court of appeal), Brussels (French- and Dutch-speaking and court of appeal), Ghent (East Flanders/Oudenaarde) and West Flanders (Bruges and court of appeal), Liège (Liège division) and Mons (Charleroi division).

Once again, a large proportion of the sexual exploitation cases concern Nigerian prostitution networks. This year, there are also cases from East Flanders and West Flanders. One case from Bruges is of particular note: a former victim recruited girls in Nigeria herself and exploited them in Dubai from Belgium. Another major case, dealt with in Brussels and discussed in detail below, concerns a Nigerian network with international ramifications and dozens of victims, and also has a link to the older 'Mama Leather' case.

In addition, a large number of cases concern the 'loverboy' technique or pimping of teenagers, frequently involving minors, including Belgians from vulnerable families or who have run away from a centre for minors.

Myria also notes a trend involving victims of sexual exploitation from Latin American countries, both on the French- and Dutch-speaking sides of the country. These are often transsexual women.

In several cases, the defendants were actually former victims.

In one of the French-speaking cases involving the loverboy technique, the recent non-punishment provision was applied to one of the victims, who had acted as a 'lovergirl'.

²²¹ Compared with 42 decisions in 2021 and 58 decisions in 2020.

²²² In a number of cases, the judgment at first instance has already been discussed in previous reports. ²²³ These decisions will also be published on Myria's website: www.myria.be (jurisprudence).

In several cases involving child victims, the clients had reported their presence on the prostitution website to the police or to Child Focus.

It is worth noting that judges attach great importance to victims' statements if they can also be supported by other objective evidence.

- 16 decisions deal with labour exploitation in various sectors. They are presented below per sector: construction, transport, bakery, hospitality industry, night shops, domestic work (including a diplomat and a European public servant), cleaning, as well as atypical sectors (travel agency, hairdressing salon and metal sorting sector). These decisions were rendered in the jurisdiction of the courts of appeal of Antwerp (Antwerp division and court of appeal), Brussels (French- and Dutch-speaking), Ghent (West Flanders (Bruges) and court of appeal), Liège (Liège and Luxembourg (Marche-en-Famenne)).

One case on appeal concerns a posting carousel and manslaughter in the transport sector. The decision at first instance was already mentioned in the previous annual report.

It should be noted that in one case of domestic work where the employer was a European public servant, the job was perfectly legal.

In order to establish the existence of working conditions contrary to human dignity - which is an element of human trafficking - Myria notes that judges take into account various elements such as working conditions and environment (excessive working hours, excessively low wages, no days off), poor accommodation, withholding of wages under various pretexts, dependence on the employer (e.g. use of surveillance cameras). It is worth noting that in many cases, courts give great weight to workers' statements, provided they are accurate, consistent and supported by other objective evidence. However, some courts still show a lack of knowledge of the provisions on human trafficking (e.g. based on the more restrictive ILO criteria for forced labour, such as restriction of freedom of movement).

- One case involves acts of forced criminality combined with sexual exploitation using the loverboy technique. This case is discussed below, among the decisions relating to sexual exploitation.
- This year, there was no decision concerning human trafficking for the purpose of begging.
- The human smuggling decisions mainly come from West Flanders (Bruges) but also from the jurisdictions of the courts of appeal of Antwerp (Antwerp division and court of appeal), Brussels (Dutch-speaking Brussels and court of appeal), Ghent (East Flanders (Dendermonde, Ghent)) and Liège ((Namur division) and court of appeal).

Human smuggling often involves well-structured, even criminal organisations, such as the Vietnamese, Albanian and Iraqi-Kurdish networks. But there are also less well organised smugglers, such as Ethiopian/Eritrean and Sudanese.

One major case relates to the smuggling of Vietnamese nationals into the United Kingdom, which resulted in 39 deaths. In this case – in which Myria filed a civil suit – 23 defendants were prosecuted, including Vietnamese smugglers as well as various Brussels taxi drivers who transported the victims of smuggling to lorries in West Flanders or in northern France. Several smaller cases also involved the smuggling of Vietnamese nationals, either in lorries or across the North Sea in makeshift boats. It should be noted that in the latter case, Vietnamese smugglers use Iraqi-Kurdish smuggling organisations.

Another Iraqi-Kurdish smuggling case, reheard on appeal, relates to the tragic death of the Kurdish girl Mawda following a police shooting.

According to a general trend, aspiring migrants are not only climbing into heavy goods vehicles in parking areas in Flanders but also increasingly in parking areas further from the coast, sometimes even in Wallonia. In one case, illegal boarding took place in parking areas on the Luxembourg border, and it seems that this also happened in the Grand Duchy.

The new *modus operandi* of smuggling people in small boats or sailboats, already observed last year, is continuing. In addition, a large part of the smuggling cases received concerned logistical support for the crossings by small boat. This involves the transportation of logistical material from abroad via Belgium to Calais in France, where the majority of the boat crossings take place, as this is the shortest stretch of the North Sea between Europe and the United Kingdom. The majority of the cases are from West Flanders, but there is also a case from Namur.

It concerns cars that were stopped, often in areas where human smuggling takes place on the coast and on the French border, with equipment used for smuggling found in the boot: dinghies, outboard motors, life jackets and jerry cans filled with petrol. Very often, they were cars with German number plates, or sometimes Dutch or French, which were found at night or at dusk, and usually with the windows blacked out. This was all the more conspicuous at the time given the strict health restrictions linked to the coronavirus epidemic. The defendants were usually resident in Germany.

It should be noted that in almost all smuggling cases, defendants are prosecuted as perpetrators or co-perpetrators under Article 66 of the Criminal Code, for which there is no need to prove a financial benefit for the defendant.

There were also several cases concerning the smuggling of Albanian nationals. On the one hand, there were cases of smuggling by car via the Zeebrugge ferry or by yacht or sailboat from marinas on the Belgian coast. Several cases involved a *modus operandi* whereby an Albanian smuggling organisation operating from the United Kingdom and Italy used Italians who were in financial difficulty. These Italians are used as drivers or their Italian identity documents are used to produce false identity documents (with a different photo). They take Albanian aspiring migrants to boats in marinas or drive them to England by ferry.

On the other hand, there are several decisions concerning the smuggling of Albanian nationals in lorry cabs. The point of departure is a hotel on the outskirts of Ghent. The smuggling is carried out with the knowledge of Italian or Albanian lorry drivers who work for an Italian haulage company.

Myria also presents a judgment of the Brussels Court of Appeal in a case where the human smuggling acts were reclassified under Article 77 of the Aliens Act and the humanitarian clause was applied.

2. Human trafficking

2.1. | European Court of Human Rights, *Zoletic and others v. Azerbaijan*, judgment of 7 October 2021

This judgment concerns the failure to open and effectively investigate allegations of forced labour and human trafficking in the construction sector²²⁴.

The applicants were 33 nationals from Bosnia and Herzegovina, recruited in Bosnia and Herzegovina as temporary construction workers to work in Azerbaijan. In particular, they argued that they had been victims of human trafficking and subjected to forced or compulsory labour while working on construction sites. Among other things, they allegedly worked without a contract or work permit, had their papers confiscated by their employer, who restricted their freedom of movement, and were left without pay.

The Court considered that the three elements of human trafficking were present in the case: the recruitment of the applicants in Bosnia and Herzegovina, their transportation in groups to Azerbaijan by a private company and their collective accommodation in purpose-built housing, which they were forbidden to leave without their employer's permission, can be considered as 'the recruitment, transportation, transfer, harbouring or receipt of persons' (the 'act'); the allegations relating to the recruitment of the workers depict a situation that may pass for recruitment by deception or fraud (the 'means'); and the Court's finding as to the arguability of the applicants' claim of 'forced or compulsory labour' indicates that they may have been sought to be exploited by being forced to work (the 'purpose').

The Court found a violation of Article 4 § 2 (prohibition of forced labour) of the Convention in its procedural aspect. It found that the Azerbaijani authorities had failed to fulfil their procedural obligation to initiate and conduct an effective investigation into the applicants' complaints of forced labour and human trafficking.

224 ECHR, *Zoletic and Others v. Azerbaijan*, judgment of 7 October 2021, application no. 20116/12.

2.2. | Sexual exploitation

2.2.1. | Nigerian networks

As in the previous case law overviews, there are several decisions concerning Nigerian networks, sometimes also involving minors. This year, there are also decisions from East Flanders and West Flanders.

Child victims in an international Nigerian network

The Dutch-speaking Criminal Court of Brussels tried a large-scale case involving a Nigerian prostitution network with international ramifications on 10 December 2021²²⁵.

In this case, five defendants of Nigerian and Belgian nationality were prosecuted for trafficking in human beings for the purpose of sexual exploitation with aggravating circumstances, in particular the fact that the victims were minors. Other charges included running a criminal organisation, acquiring financial benefits of criminal origin, possession of child pornography, etc. Dozens of victims were involved.

In May 2019, the federal police in Brussels were contacted by a French NGO in Lille that supports victims of human trafficking. Two young girls had reported being trafficked from their home country to Belgium as minors in 2015 by a Nigerian network and exploited there for years. Over the years, the victims had repaid a debt of almost EUR 30,000 to the defendants.

The leaders of the organisation were the main defendant, who remained mainly in Italy, and his assistant, the second defendant.

The police launched an investigation and interviewed the victims, examined their mobile phones, analysed their accounts, searched a safehouse, and verified past checks during which the two victims had been spotted by the police on several occasions in the red-light district.

In October, a third victim, the civil party, came forward and made identical statements. She also made statements about her harrowing journey from Nigeria to Belgium, during which she attempted to cross the Mediterranean up to seven times, was caught by the Libyan coastguards, ended up in prison, was raped several times and was sold to a stranger.

She stayed in the safehouse in the presence of the second defendant and other girls. New girls arrived on a regular basis. When she became pregnant, she was taken to Italy where the two main defendants made her have an abortion against her will. She also witnessed the forced abortion of a 16-year-old girl who was seven months pregnant. The little boy was born alive and was drowned in a bucket. In 2018, she stopped paying her exploiters. Threats were then made against her and her family. Two of her Belgian friends made statements. One stated that he knew she was being exploited and that he regularly gave her money so that she could pay off her debt more quickly. The other was her former boyfriend. He confirmed that the victim had gone to Italy, but at the time he didn't know the exact reasons for the trip. It was only afterwards that she told him that she was pregnant by him and had been forced to have an abortion.

A judicial investigation followed in November 2019. The victims were heard again. Information was requested from the Immigration Office (IO). The various Facebook and Instagram accounts were investigated, which also established links between the first defendant and Norway, Denmark and Italy. An investigation was carried out at Ryanair, where it was found that return flights were always booked in the same name from Italy to Denmark, but that there was never anyone on the return flight, indicating that it was being used to transfer the girls to Denmark. Requests for mutual legal assistance were sent to Norway, Denmark and Italy.

The safehouse was observed, the phone numbers of the various defendants were tapped and a financial investigation was conducted. As a result, numerous international contacts were uncovered, particularly with people in Libya. Large flows of money were identified within Europe and between Europe and Nigeria. There were numerous financial transactions, especially through the 'Black Western Union' system, investments in real estate, property and businesses in Nigeria. False identity documents were used.

It was an international organisation that brought over women from Nigeria to Europe to exploit them for prostitution. When the women arrived in Italy, they were distributed throughout Europe by the Turin organisation. The women were subjected to voodoo practices and had to pay off large debts. Dozens of girls were involved, which, according to the court, was just the tip of the iceberg. The girls had to pay back debts of EUR 30,000 to EUR 45,000. If the girls did something wrong, their debts were increased.

²²⁵ Brussels Dutch-speaking Crim. Court, 10 December 2021, ch. 23N (appeal).

According to the court, this was a well-structured and organised association. The organisation was masterminded by a number of people. The first defendant was clearly one of the leaders of the organisation. He brought the girls to Italy and distributed them among several countries. The second defendant was clearly also at the head of the organisation. The girls were 'divided' between the first defendant and the second defendant. The first defendant also had girls in Greece, Italy, France, etc. He came to Belgium every two months to collect the money. The role of the second defendant was to collect the money for the first defendant. Sometimes the money was also transferred directly to Italy. She kept the victims under control. She herself had girls in Belgium, France and Italy. She wasn't always in Belgium and often went to Spain.

The girls stayed in the flat of the second defendant and prostituted themselves in windows through the 'Yemeshe' system²²⁶. Several girls also stated that they had to work in the window of 'Mama Leather'²²⁷.

The investigation revealed that the second defendant was assisted by several friends who also took on her role and kept an eye on things during her absence abroad, namely the third, fourth and fifth defendants.

The third defendant was the right arm of the second defendant. She kept a close eye on the girls. She was an active member of the organisation, liaising with Nigeria for the transfer of new girls from Nigeria and organising the related voodoo rituals. Her mobile phone contained dozens of videos of voodoo rituals. She was also involved in sending and receiving money and falsifying documents. She also assisted the girls on their way by phone, in Nigeria and in Europe. She herself had girls in windows.

The fourth defendant was also an active member. She lent her own daughter's passport so that other girls could travel from Italy to Belgium. She regularly travelled to Nigeria to bring back belongings and money.

She was the financial intermediary who organised the 'Black Western Union system'²²⁸. She was caught with a large sum of money in her shoe during airport checks. Her passport revealed that she took about ten flights to Nigeria every year. Accounts were discovered during a search and numerous conversations were heard about exchange rates, 'fundraising' and the Black Western Union system. The investigation revealed the following modus operandi: the defendant received the money and had to hand it over to someone in Nigeria. She would send a message via an intermediary with the recipient's details (surname, first name, account number, bank and amount). The intermediary then transferred the money to this account. In addition, the defendant also managed the 'fundraising'. A group of people make a financial contribution. The organiser determines who can contribute and who receives the money. In Europe, this system is mainly used in criminal circles. In this case, the pimp's contribution to the fund was covered by the victims' income. In addition, her phone contained photos of severe violence, mutilation and corpses, as well as child pornography.

Some of the defendants were known in other Member States and often used different identities and passports. In the end, two defendants were arrested in Belgium, one in Italy and the second defendant in France, where she had fled after learning of the police investigation against her. The third defendant had already been convicted in Germany of attempted intensive prostitution and particularly intensive forced prostitution.

During the investigation, Payoke contacted the police about threats made against the civil party by the defendants and their entourage.

The main defendants were given prison sentences of 12 and 10 years and fines of EUR 96,000 and EUR 64,000 respectively. The other defendants were given prison sentences of five, four and three years and fines of EUR 48,000, EUR 32,000 and EUR 16,000 respectively. An amount of EUR 13,300 was confiscated. The first defendant and the fifth defendant were sentenced in absentia. One victim filed a civil suit and was awarded EUR 55,500 in compensation, including EUR 10,000 for non-pecuniary damages.

226 This is a typical modus operandi of the Nigerian prostitution scene, whereby a young girl who has no fixed place of prostitution is offered the opportunity to prostitute herself for a few hours in the window of a contract prostitute. The girl then has to pay a sort of rent by handing over 50% of her income to the contract prostitute.

227 'Mama Leather' is a Nigerian madam who was convicted in 2019 in a vast case concerning a Nigerian prostitution network. See Brussels Dutch-speaking Crim. Court., 31 May 2018, 60th ch. and Myria, 2018 *Annual Report Trafficking and smuggling of human beings, Minors at major risk*, p. 65 and foll., and 130-132 and Myria, 2019 *Annual Report Trafficking and smuggling of human beings, Empowering victims*, p. 118.

228 The Nigerian criminal underworld avoids official money transfer companies and has its own system for transferring cash to beneficiaries in the country of origin without leaving a trace: *Black Western Union* (which has nothing to do with the well-known Western Union company). An African shop is often used as a hub for regularly sending cash to Nigeria. People bring their cash to this shop with the request to transfer the same amount to the beneficiary in Nigeria. They are then given a code number. The courier regularly flies to Nigeria with the collected money (hidden in luggage). In Nigeria, a family member runs an office where the beneficiary can go and receive the amount due, in return for a commission. On this subject, see Myria, 2018 *Annual Report Trafficking and smuggling of human beings, Minors at major risk*, p. 92-93.

Exploitation of a young Nigerian woman with the testimony of a priest

On 22 March 2022, Antwerp Criminal Court²²⁹ ruled on a case in which a defendant of Nigerian nationality was prosecuted for trafficking and smuggling of human beings, in both cases with aggravating circumstances. The victim filed a civil suit.

The investigation was launched in the autumn of 2019 after Antwerp federal judicial police (FJP) was informed of a potential victim of sexual exploitation. The victim made very detailed statements. In Benin City, the victim was approached by a lady who said she could offer her work as a hairdresser in Europe. For this purpose, she had to take a voodoo oath and pay EUR 20,000. She was then taken to Italy via the Libyan route and the Mediterranean Sea with other girls, before being driven to Antwerp in a 'black taxi'²³⁰. Once there, she had to prostitute herself in a café. Her 'madam' gave her instructions on how to approach the clients, how much she should charge (EUR 100 per hour), which hotel to go to with her clients, how to use a condom, etc. The victim had to hand over EUR 500 of her earnings every week, plus EUR 200 per month for rent and EUR 50 per week for food. She had already paid back between EUR 7,000 and EUR 8,000 in total. She also had to apply for asylum in France and hand over the allowance of EUR 360 per month. In 2018, the victim fainted in the train station, was admitted to hospital, fell into a coma and was found to have diabetes. After she was discharged from hospital, her 'madam' didn't care about her illness and forced her to continue working.

The victim stated that she was in contact with a priest who could also make statements about her situation. This priest confirmed the victim's account and also stated that he had been approached by the defendant, who asked him to remind the victim that she had debts and that if she defaulted she would be 'destroyed'. He was able to produce an audio fragment in which the defendant threatened him and indicated that she had a network that would pursue the victim. The victim's family in Nigeria was also threatened.

The court found that the victim's particularly consistent, detailed and credible statements could be supported and substantiated by the police findings, the statements of the priest and the audio fragments of conversations between the priest and the defendant.

In addition, the investigators had access to a similar case of human trafficking involving other girls, in which the defendant also appeared. The defendant had been assisted in her activities by several other persons who couldn't be identified during the investigation.

The defendant was convicted of trafficking in human beings with the aggravating circumstance of using fraudulent schemes (voodoo ritual and threats against the victim and her family). She was also found guilty of human smuggling with the aggravating circumstance of endangering the life of the victim (Libyan route and crossing the Mediterranean). She was sentenced to four years in prison and fined EUR 8,000. She was also ordered to pay the victim EUR 15,700 in pecuniary damages (including money from prostitution, the allowance linked to the asylum application in France, rent and food) and EUR 3,750 in non-pecuniary damages.

Ghanaian 'madam' and child victim

In a judgment of 3 February 2022, Brussels Dutch-speaking Criminal Court²³¹ ruled on a case in which the defendant was prosecuted for human trafficking for the purpose of exploitation of prostitution and for exploitation of prostitution with the aggravating circumstance of the victim being a minor. The defendant had Belgian nationality, but was Ghanaian by origin.

In early 2018, a patrol in the red-light district discovered an apparently very young girl behind a window. The girl stated that she had been brought from Nigeria to Belgium by her 'madam' to work there. Apparently, her 'madam' was in Spain. Before her departure, she had been made to take a voodoo oath. Before taking the oath, she was told that she would have to work as a prostitute and that she would have to pay back a debt of EUR 25,000 for the crossing. She arrived in Italy via the Libyan route and a boat crossing. From there, she was flown to Spain, where she had to prostitute herself with her 'madam'. After a few months, she was flown to Belgium, which cost her EUR 1,000. She was housed with the defendant on the outskirts of Brussels. The defendant had initially thought that the victim was the sister of the 'madam' in Spain and became angry when she discovered her true status. After a few days, she brought the girl to the Brussels North district and put her in contact with another lady with whom she could work in a window according to the 50/50 system ('Yemeshe' system).

229 Antwerp Crim. Court, Antwerp division, 22 March 2022, ch. AC10 (in absentia).

230 These are unofficial taxi drivers.

231 Brussels Dutch-speaking Crim. Court, 3 February 2022, ch. 26 (final).

The defendant collected the money for the 'madam' in Spain. At the same time, the victim had to regularly hand over money to the defendant. This amounted to a total of EUR 500, in addition to the repayment of her debt. The defendant also confiscated the victim's passport when she wanted to leave her house.

The victim was helped by Payoke and stated during the investigation that she had been contacted by the defendant and that her parents were also being pressured by the 'madam' in Spain and her entourage.

The investigation revealed that the victim was still a minor when the acts began.

The defendant was heard. She said that at first she didn't know that the girl was a victim of trafficking. She stated that she didn't want the victim to be a prostitute, but that she had indeed brought her personally to the Brussels North district. She also denied receiving any money from the victim, except for food.

The court found that the elements of human trafficking were established. "Trafficking in human beings for the purpose of the exploitation of prostitution is not aimed at the person who recruits a person to exploit them themselves - an act already punishable under Article 380 § 1, 1° of the Criminal Code - but is aimed specifically at persons who enable others to carry out the exploitation by helping to 'deliver' the victims to make them work in prostitution". The defendant may not have been aware of the reason and circumstances of the victim's presence in Belgium at first, but after a week she nevertheless found her a place to work. In doing so, she acted in a way that made the exploitation of prostitution by others possible. She didn't refer her to the emergency services that could have supported her better owing to her vulnerable situation and status as a minor. This is sufficient to qualify as human trafficking.

For the other aggravating circumstances, the court didn't find sufficient evidence. The defendant didn't deliberately want to be part of an association, and it wasn't established that she wanted to abuse the victim in any way, unlike the other persons directly involved in the transfer. It couldn't be proved that this activity had become customary for her. The charge of exploitation of prostitution wasn't upheld and the defendant was acquitted.

She was given a one-year prison sentence and a fine of EUR 8,000, both suspended for three years.

Nigerian prostitution network in West Flanders and links to human trafficking in Dubai

In a judgment of 26 May 2021²³², Bruges Criminal Court ruled on a case of human trafficking for the purpose of sexual exploitation in the context of a Nigerian prostitution network. This was a large-scale case in which 15 defendants of Nigerian, Sierra Leonean or unknown nationality were prosecuted for being perpetrators or co-perpetrators of human trafficking, human smuggling, money laundering, belonging to a criminal organisation, etc. The main defendant was also prosecuted for assault and battery of a victim. Two victims filed a civil suit.

In autumn 2018, the local police in the Bruges area noticed that more prostitutes of African origin than usual were offering their services on a sex website. The advertisements were analysed and it was found that they could be linked to different phone numbers and were managed from IP addresses based in Nigeria, France and the United Kingdom. In total, 33 different logins were used.

An investigation revealed that several clients of the sexual services website had complained: they had to pay the prostitute's driver; the prostitute was accompanied by a man who waited at the door in an intimidating manner; the prostitute didn't do the work willingly; the services offered didn't correspond to those advertised; the prostitute turned out to be someone other than the one depicted in the photos. One client was confronted with a girl who was clearly underage and didn't seem to have any experience in the field of sexual services.

Several perpetrators and victims appeared in court.

Evidence from the investigation indicates that human smuggling from Nigeria to Europe and then onto Dubai was taking place. The women transferred were then employed in prostitution to pay back the money owed to those responsible for the smuggling.

The investigation was conducted on the basis of phone tapping, an analysis of the advertisements and querying the advertising platform, searches, examination of the laptops found during the searches, hearings of victims, witnesses and defendants.

²³² West Flanders Crim. Court, Bruges division, 26 May 2021, ch. B17 (appeal: Ghent Court of Appeal, 4 February 2022, 10th ch.).

The investigation revealed that the first defendant was clearly the key figure in the criminal organisation. She had several Nigerian girls under her control. She organised the transportation of Nigerian girls to Europe via Libya under false pretences, using voodoo as a means of pressure. Once in Europe, the girls had to pay back their 'debts' by prostituting themselves. The first defendant was responsible for the advertisements on the sex website and for dispatching the prostitutes from Belgium and abroad. She made appointments with clients, after which she sent prostitutes accompanied by a 'black taxi', an unlicensed taxi service that transports prostitutes for a fee. The first defendant took the lion's share of the proceeds.

The proceeds were then laundered and transferred. Several phone tapped conversations concerned the purchase of property in Nigeria by the first defendant. The practices involved constant attempts to avoid detection by relying on social media such as WhatsApp and Facebook Messenger, using numbers in another person's name, many different online logins, etc. The use of violence as a means of pressure was common. One of the victims was found by the police after being beaten by the first defendant, leaving her with a serious permanent eye injury. She was granted victim status.

The second defendant was also high up in the hierarchy of the criminal organisation and was called 'sister' by the first defendant. Together with the first defendant, she was responsible for the organisation and management of the prostitutes both in Belgium and abroad. Like the first defendant, she made appointments with clients for the prostitutes who were brought to them by 'black taxis'. She also supervised the execution of the orders and was involved in transportation orders. She also actively tried to avoid detection, used social media, different numbers and logins, etc.

By listening to a conversation, the investigators got a good idea of how the payments were made: an order for two girls brought in a total of EUR 250, of which EUR 30 was paid to the 'black taxi'. The remaining EUR 220 was distributed among the victims. Both had to pay EUR 10 for a SIM card and of the remaining EUR 100 each had to give half to the first defendant. So, after the payment, each of the escorts had EUR 50 left.

The third defendant was the partner of the second defendant, whom helped to manage the prostitutes (transportation, payments, etc.). His mobile phone number was connected with the advertisements and he was the beneficiary of the financial transactions associated with the prostitution.

As for the fourth defendant, it appears that she organised financial transactions and money laundering, among other things. Initially, she was a prostitute herself, managed by the first and second defendants. However, she went beyond her role as a victim and became involved in (financing) the smuggling and trafficking of human beings from Nigeria and Dubai and sexual exploitation. She attempted to generate income from the same practices she had previously been subjected to by the first two defendants, and then transfer these gains to Nigeria to build properties there. She and her partner, the fifth defendant, were financing the transfer of girls from Nigeria to Dubai. As soon as the girls arrived there, they had to prostitute themselves to pay off their debts, which they paid back to the sixth defendant in Dubai, on the orders of the fourth and fifth defendants. They controlled all this from Antwerp. The sixth defendant was also involved in the smuggling practices of the fourth defendant between Nigeria and Dubai. Her role was considered more extensive than that of the fifth defendant.

The seventh defendant brought two ladies to the fourth defendant with a view to getting them to work in prostitution. At least one of them was indeed used as an escort by the defendant. He also worked as a 'black taxi' within the organisation for the fourth defendant. The other five defendants in this case also worked in the organisation as 'black taxis'.

The fourteenth defendant was employed by the fourth defendant to launder income from prostitution and used a false identity with a separate mobile phone number for this purpose. He organised the money laundering scheme known as 'Black Western Union' on commission. The fifteenth defendant was also involved in laundering the organisation's prostitution proceeds and facilitating human smuggling between Nigeria and Dubai. One of the defendants died during the proceedings.

Several defendants couldn't be traced during the proceedings and were sentenced in absentia.

The first and second defendants were sentenced to 10 and seven years in prison respectively and fines of EUR 8,000. They were stripped of their rights for 10 years. Large sums of money were confiscated.

The fourth defendant, the fifth defendant, the sixth defendant and the fifteenth defendant, involved in human smuggling and trafficking from Nigeria to Dubai, were given five-year, 40-month and 30-month prison sentences respectively and each fined EUR 8,000.

The taxi drivers were sentenced to 18 months in prison and fined EUR 8,000. The other defendants were sentenced to 30 months in prison and fined EUR 8,000.

The victims were each respectively awarded EUR 25,000 and EUR 12,000 for pecuniary and non-pecuniary damages.

An appeal was lodged by several defendants and Ghent Court of Appeal re-examined the case in a judgment of 4 February 2022.

The court largely upheld the decision, with the exception of certain aspects. The first three defendants were acquitted of human trafficking and recruitment of a specific person owing to lack of evidence.

The prison sentences were reduced to seven years, three years, two years and five years respectively for the first four defendants and the fines were also reduced. One of the taxi drivers received a one-year prison sentence and a fine of EUR 8,000.

Nigerian prostitution in a nightclub in Oudenaarde

In a judgment of 16 April 2021²³³, Oudenaarde Criminal Court ruled on a case of human trafficking for the purpose of sexual exploitation, in which three defendants, of Belgian, Italian and Nigerian nationality, were prosecuted for acts of human trafficking with aggravating circumstances, as well as exploitation of prostitution and hiring adults for the purpose of prostitution, among other things. The first two defendants were also charged with running a brothel and renting out rooms for the purpose of prostitution. The various events took place between 2014 and 2018.

At the beginning of 2017, the police noticed advertisements of two girls of African origin offering their services as prostitutes/escorts in a nightclub in Ronse.

The first defendant turned out to be the owner and manager of this nightclub. The second defendant was responsible for ensuring the club ran smoothly. The first defendant was known for acts of prostitution and money laundering. An investigation was opened, also for money laundering. It transpired that advertisements of other girls could also be linked to the nightclub and that the accounts through which the advertisements were posted were linked to the first defendant.

It also emerged that the defendant was receiving large sums of money through European Merchant Services, a service that processes credit card payments and the money is then withdrawn in cash. The investigations were carried out by means of a phone investigation, searches, phone tapping, questioning the girls, witnesses and defendants, etc.

In the meantime, two victims, supported by a centre, filed a complaint with the police. The police had already intercepted them in the nightclub. The two young African women turned out to be two sisters from Nigeria. They stated that they had been brought to Europe from Nigeria under false pretences. They were bound by a debt of EUR 36,000 and had been subjected to a voodoo ritual. In Europe, they had been brought to Belgium from Italy. Their 'madam', the third defendant, received them in Belgium. The latter took them to the first defendant's nightclub where they stayed from December 2016 to July 2017. They had to give money to their real pimp and the first defendant. The pimp was the friend or brother²³⁴ of the third defendant, who was in Italy. Part of their earnings were transferred to Italy by 'Black Western Union'. They also acted as escorts, with the first defendant acting as their driver. If they didn't earn enough, they were threatened and abused. Their families in Nigeria were also threatened.

While working in the club, they had to hand over the money to the first defendant. He kept track of the payments and also of what the girls gave to their 'madam'. They slept above the club and had to pay EUR 700 per person per month. They were available to clients 24 hours a day, seven days a week, with no days off. When the police came by every week, they had to hide and the door was locked.

Several people stated that the girls in the club worked on a 50/50 basis. The first two defendants refuted this claim and said that the girls could keep their money and that they only earned money from drinks and room rentals. They were completely unaware of the EUR 36,000 debt and the victims' illegal stay in Belgium.

The various statements of the girls, victims, defendants and other witnesses were sometimes contradictory. The sisters' statements also contradicted each other on certain points.

²³³ East Flanders Crim. Court, Oudenaarde division, 16 April 2021, 3rd ch.(appeal).

²³⁴ The investigation couldn't specify whether it was his brother or his friend.

The three defendants were found guilty of human trafficking in relation to the two victims. The court held that Article 433^{quinquies} § 1 of the Criminal Code defines the crime of human trafficking as the recruitment, transportation, transfer, harbouring, taking or transferring of control of a person for the purpose of exploitation of prostitution or other forms of sexual exploitation. One of these behaviours is sufficient. The defendant doesn't have to be part of a network that set up the trafficking. The exploiters at the end of the chain are also punishable if they are guilty of at least one of these acts. The offence doesn't require the perpetrator to make any profit from it.

The consent of the person to the sexual exploitation is irrelevant. The investigation didn't reveal whether the girls actually had to give up their earnings to the first two defendants, but they were housed and harboured above the nightclub. They earned money from the rent of the 'accommodation', which was in fact unfit for habitation, and from the consumption of drinks. Thus, the defendants received income from prostitution at least indirectly.

The third defendant housed the sisters and took them to the first defendants' nightclub. According to the court, there was no evidence in the file that the victims had to give money to the third defendant, so it wasn't proven that she benefited from a share of the income of the prostitution. On the other hand, she was a co-perpetrator of the human trafficking, as she was the one who put the sisters in contact with the nightclub and thus provided the necessary assistance to the first two defendants. She was well aware that the women would be prostituting themselves in the bar. However, according to the court, she wasn't involved in the recruitment of these women.

The court found that there was every indication that the sisters had to hand over their money to their pimp, the brother or friend of the third defendant. He couldn't be found during the investigation.

The first two defendants were therefore found guilty of human trafficking and all the other charges relating to the two victims and several other girls. They were sentenced respectively to 18 months and 12 months in prison, both suspended, and fined EUR 16,000 and EUR 8,000.

The third defendant was charged with human trafficking in relation to the two victims, but not with recruitment or exploitation of prostitution. She was sentenced to 12 months in prison and fined EUR 8,000.

Two victims filed a civil suit and obtained EUR 2,500 in compensation.

2.2.2. | Latin American victims

Three decisions concern victims from Latin America, including transsexuals. One decision was handed down in Charleroi, the other two in Bruges.

Exploitation of young South American women in private prostitution

Charleroi Criminal Court tried a major case of exploitation of prostitution of young Latin American women in private prostitution.

Fourteen defendants of various nationalities (Brazilian, Belgian, Peruvian, French and Moroccan) were prosecuted in this case: the majority of them for exploitation of prostitution with aggravating circumstances, human smuggling with aggravating circumstances and criminal organisation. Some defendants were prosecuted for hotel pimping and one of them for possession and sale of drugs. Two defendants were also prosecuted for human trafficking with aggravating circumstances. Two defendants failed to appear. Three defendants were repeat offenders.

They were accused of exploiting the prostitution of young Latin American women in flats. Three victims and Myria filed a civil suit.

The case consists of two parallel investigations that were joined and revealed two prostitution networks.

The first nine defendants were involved in the first network, the other five in the second. One defendant was singled out by both investigations, as he rented flats to both networks.

In a judgment of 27 October 2021, Charleroi Criminal Court²³⁵ convicted the defendants of the majority of charges brought against them. The evidence was based on the confessions of several defendants, victim statements, phone analyses, and mobile phone and laptop analyses. In the first prostitution network, the main defendant, a Brazilian woman, admitted to operating such a network. She had set up the network, managed it by defining the role of the various members and giving instructions on how to deal with the prostitutes when they arrived at the airport, how to allocate them in the areas of prostitution and how to manage the phones. She received half of the earnings of the young women who worked for her.

235 Hainaut Crim. Court, Charleroi division, 27 October 2021, 6th ch. (appeal).

She also determined the working conditions (hours, rates and locations). The young women had to be available in case a client called between 09:00 and midnight, or even 02:00 or 03:00 at weekends. They weren't free to come and go as they pleased and were under pressure to be constantly available.

A second defendant, her partner, assisted her, in particular by writing and publishing advertisements on the 'Quartier-Rouge' website and by buying the materials required for prostitution. He also collected the money from the prostitution and took care of renting a flat.

Three other defendants acted as receptionists, answering phone calls from clients, making appointments and directing them to the places of prostitution, notifying the prostitutes, checking the duration and terms of the service and reporting back to the main defendant.

Two other defendants, one of whom was the son of the main defendant, acted as drivers, picking up prostitutes when they arrived in Belgium at Charleroi or Brussels airport and taking them to the places of prostitution, as well as driving them from one place of prostitution to another.

One of the defendants was a professional photographer who, at the request of the main defendant, took 'sexy' photos of the prostitutes for advertisements on the internet in return for payment.

The court also found aggravating circumstances of abuse of vulnerability, coercion and criminal association for the majority of the defendants.

The court considered the charge of human smuggling to be established, because the exploitation of the prostitution of the victims provided them with them a means of subsistence and accommodation in Belgium. This exploitation therefore contributed to the victims' stay in Belgium.

In the second network, the main defendant operated a prostitution network in several flats that she rented to another defendant in a building he owned. Some of the girls worked for her, paying her 50% of the earnings. She was also in charge of publishing advertisements on the internet and acted as a receptionist. Another defendant was her partner and ran the prostitution network with her. Another one acted as a security guard for the building.

He also took the clients to the rooms and collected the money. He kept an eye on the prostitutes. Yet another acted as a driver and procurer for the network. The last one rented his flats to the network.

Here too, for the majority of the defendants, the court found the aggravating circumstances of abuse of vulnerability, coercion and association.

For the two defendants also prosecuted for human trafficking, the court considered that it was well established: these defendants recruited the victims who worked for them, inciting them to come to Belgium to work in their prostitution network; they transported them to their place of prostitution, harboured them and controlled them, all for the purpose of exploiting their prostitution.

The sentences varied from 18 months to four years in prison and from EUR 2,000 to EUR 14,000 in fines, most of which were suspended.

The court ordered the confiscation by equivalent of the rent received for the rental of the flats and the confiscation of the sums seized from the defendants.

Myria received EUR 1 and the victims EUR 2,500 as plaintiffs, *ex aequo et bono*.

Prostitution of transsexual women in Flanders — exploitation by a former victim

Two cases were tried in Bruges.

In the first case, tried by Bruges Criminal Court on 5 November 2021²³⁶, nine defendants, including one company, were prosecuted for various offences such as running a brothel and prostitution, pimping and child pornography. However, four defendants, of Belgian, Dominican and Thai nationality, were also prosecuted for the charges of human trafficking with aggravating circumstances. The first defendant and the fifth defendant were married. The second defendant and the third were also a couple.

The starting point of the case was the observation of an increase in the offer of sexual services by Latin American women (often transsexuals) on a sex website in certain parts of West Flanders.

236 West Flanders Crim. Court, Bruges division, 5 November 2021, ch. B15 (appeal).

At the same time, an excessive number of visits to certain houses was observed. An initial inspection was carried out in July 2018, during which several women without valid residence permits were found. This was followed by further checks and searches, and both victims and defendants were heard. It emerged that the second defendant acted as an intermediary between the girls and the first defendant. She was in charge of renting out the rooms, placing the advertisements, collecting the rent and answering the clients' phone calls. The girls had to pay a daily rent for the room; for some it was EUR 30, for others EUR 80 per day. If the second defendant took the calls herself, the girls had to hand over up to 50% of their earnings. A bank investigation found that the first defendant's accounts showed large cash deposits and other transactions suspected of being income from prostitution.

The investigation included hearings of victims and defendants, phone investigations, phone tapping, an analysis of email and WhatsApp exchanges, and a financial investigation.

The first defendant, the main defendant, died during the proceedings, which terminated the criminal proceedings against him.

His wife, the fifth defendant, was acquitted of the offences because she was able to prove that she had remained in Thailand during the period of incrimination, even though the income from prostitution and rent were deposited on her account, over which the main defendant had power of attorney. Neither the other defendants nor the victims named her as the perpetrator.

The second defendant, a Dominican national, had arrived in Belgium in 2010. She was sexually exploited and obtained victim status through Payoke. She was found guilty of human trafficking and other charges. The court ruled that even if she had to collect the earnings for the main defendants, and consequently didn't make any great profit herself, this didn't make her any less guilty. She acted as a co-perpetrator in making an abnormal profit for the first defendant, even though she herself received a rather small financial benefit as a result. Furthermore, the bank investigation showed that she benefited from a significant flow of income through cash deposits for a certain period at least.

Moreover, the defendant didn't have a clean record: she had been convicted of similar acts of sexual exploitation in 2020, committed after the acts referred to in the present decision. She was sentenced to 30 months in prison and a fine of EUR 76,000 (EUR 250 multiplied by 38 victims), part of which was suspended for three years. An amount of EUR 3,500 was confiscated.

The third defendant was also convicted of human trafficking and several other charges, but only for part of the period when the offences were committed. The other part was considered unproven. He was sentenced to three years in prison, part of which was suspended for five years, and a fine of EUR 304,000 (EUR 1,000 multiplied by 38 victims), part of which was suspended for three years.

A special confiscation order was issued for two properties as well as for several sums of money.

Two victims of Colombian nationality filed civil suits. They obtained compensation worth EUR 1,500 and EUR 3,000 respectively for pecuniary and non-pecuniary damages.

The second case was tried by Bruges Criminal Court on 13 July 2021²³⁷.

A defendant of Belgian nationality was prosecuted for human trafficking, but also for other offences such as exploitation of prostitution, renting rooms for the purpose of prostitution and forgery.

In March 2020, the police noticed that a certain address in Bruges was mentioned on a sex website and suspected hidden prostitution. After checking, it turned out that the property was rented by the defendant, who was already known to the police for exploitation of debauchery by renting out property that he then sublet to sex workers.

Several checks were conducted, which led to the discovery of Latin American women who were often transsexuals. They didn't want to be awarded the status of victim of human trafficking. Their mobile phone was examined and the information revealed human trafficking and drug-related offences. A judicial investigation was opened and a tap on the defendant's phone was ordered. Several searches and a retroactive phone investigation were carried out.

237 West Flanders Crim. Court, Bruges division, 13 July 2021, ch. VK1 (final).

The court found that the defendant was clearly guilty of human trafficking and exploitation of debauchery. The system of sexual exploitation consisted of charging exorbitant prices for the rental of rooms in properties rented by the defendant in different cities in Belgium, with full knowledge that this allowed the exploitation of the tenants' prostitution. This was done under conditions that the ladies were forced to accept because, owing to their vulnerable (residence) situation, they simply had no other choice and no possibility of entering the regular labour or rental market.

The defendant already had a criminal record and was a repeat offender. He was sentenced to 40 months in prison and a fine of EUR 56,000, half of which was suspended for three years.

An amount of EUR 54,700 was confiscated.

2.2.3. | Loverboy technique (with application of the non-punishment clause)

Several decisions concern victims recruited and exploited using the loverboy technique, including minors. In the Dutch-speaking cases, the victims were usually Belgian underage girls in a precarious family situation or who had run away from a centre for minors. Some of the major French-speaking cases also involved minors, but also other Albanian victims of the loverboy technique.

In one of the decisions, a victim, also prosecuted as a perpetrator, was acquitted on the basis of the non-punishment clause.

Loverboy technique among Belgian minors and forced criminality

On 22 September 2021, Bruges Criminal Court ruled on a case involving a defendant who pimped out teenagers²³⁸.

The defendant, a Belgian national, had several victims, all girls of Belgian nationality, several of whom were still minors. Some of the victims and Payoke filed a civil suit.

The defendant was prosecuted for human trafficking for the purpose of sexual exploitation and for human trafficking for the purpose of forced criminality, with the aggravating circumstance, among others, that some of the victims were still minors. In addition, he was also prosecuted for incitement to debauchery and prostitution of minors over the age of 14, exploitation of debauchery and prostitution of minors over the age of 16, exploitation of prostitution (of adults), rape with violence against children under the age of 14, and assault and drug trafficking, also in relation to minors under the age of 16.

In the course of the investigation, 16 people were identified as victims, but it wasn't possible to identify all of them. Several of them were questioned and admitted to being victims.

The defendant systematically targeted very young and particularly vulnerable girls, who had often spent time in an institution or had a difficult family background. He would first approach them as their boyfriend and make empty promises, which would eventually turn into threats and even violence to force them into prostitution. This happened over a longer period of time, and with a very high frequency and intensity regarding some of the girls. They had to give him the money they earned. The defendant took advantage of this to satisfy his gambling addiction. The prices agreed with the customers varied between EUR 250 and EUR 300 and sometimes reached EUR 1,000. During the investigation, his gains were estimated to be between at least EUR 120,000 and EUR 670,000. The appointments were arranged by the defendant through online advertisements on various platforms. He often encouraged the girls to use drugs and narcotics.

The defendant also actively sought girls online who were willing to work for him. He approached them and suggested they work for him. Some of the victims were already familiar with the prostitution business.

He also asked some of the girls to make 'rip deals', i.e. to make an appointment with a client and then run off with the money before carrying out the act.

The defendant was assisted in his activities by his brothers and friends. He was even in contact with several girls while in prison or they were approached by his entourage.

238 West Flanders Crim. Court, Bruges division, 22 September 2021, ch. B.17 (appeal).

The investigation included several hearings of the victims, searches of the victims' and the defendant's homes, an extensive phone investigation, observations, forensic analysis of laptops, mobile phones and SIM cards, internet searches, ANPR capture records²³⁹, questions concerning the sex website, etc.

The defendant was examined by a forensic psychiatrist who found no mental disorder, but rather a development of an anti-social personality. An expert doctor found several injuries among the victims.

The defendant already had a long criminal record, with several convictions, and was a repeat offender. Even in prison, he had been caught in possession of drugs and had assaulted a prison officer.

The court ruled that on the basis of the numerous statements of the various victims - which could be confirmed by objective elements in the file - the facts were proven.

He was finally handed a 10-year prison sentence and a fine of EUR 8,000. He had to pay damages of EUR 45,000 and EUR 12,000 respectively to the various victims. Payoke was awarded compensation of EUR 2,500. A large sum was confiscated and allocated to the victims.

Loverboy method and non-punishment clause

The non-punishment clause was applied in a major case of trafficking for the purpose of sexual exploitation in Liège.

In this case, eight defendants, most of them Belgian nationals, were prosecuted in various capacities for various offences: human trafficking for the purpose of sexual exploitation of several Belgian women and teenagers, including minors; hiring and exploitation of prostitution of adults and minors; and criminal association. For the charges of trafficking and recruiting and exploitation of prostitution, aggravating circumstances were also referred to, including the fact that some of the victims were minors, the abuse of their situation of vulnerability, violence, threats and coercion. Some of the defendants were also prosecuted for acts of false imprisonment, intentional assault and battery, threatening to attack people or destruction of property. One of the defendants, a defaulter, was also prosecuted, in an associated case, for attempting to recruit two young girls for prostitution, one of whom was a minor.

One of the victims figured among the defendants prosecuted, and she filed a civil suit. Another victim – a minor – also filed a civil suit through her mother, as well as Myria.

The case was initiated in October 2020 when the mother of one of the victims received several messages from her on Instagram reporting that she and other young girls were being held by several men.

The police officers deduced that she was the victim of a network that was prostituting her. The girl was domiciled at her mother's, but she didn't live there, and had been monitored by the Youth Care Service (Services de l'aide à la jeunesse - SAJ) and the Youth Protection Service (Service de la protection de la jeunesse - SPJ). An investigation was conducted on the basis of phone analyses and advertisements on the 'Quartier-Rouge' website; observations of the places where the photographs were taken for the advertisements; and hearings of the victims and the defendants.

The young girls, often in a difficult family situation, were recruited using the loverboy method to then be prostituted in various places.

In a judgment of 15 December 2021²⁴⁰, Liège Criminal Court upheld the majority of the charges and aggravating circumstances in a detailed reasoning, except for one defendant, who was acquitted of all the charges and another, who was also a victim.

As regards human trafficking, the court found that the victims were received, harboured, transported and controlled for the purpose of exploitation of prostitution. The taking or transfer of control was accomplished through the loverboy attitude exercised by the main defendant. He also encouraged several young girls who were prostitutes to continue this activity. He also managed the advertisements and the clients. The girls had to hand over half of their earnings.

The other defendants fulfilled various roles: control and surveillance of prostitution activities, renting out places (including Airbnbs) where prostitution activities were carried out, transportation to clients' homes, recruiting via the Snapchat application, placing advertisements on the 'Quartier-Rouge' website.

The defendants interacted constantly and regularly and there was a high turnover of girls, who were regularly 'moved' to different locations.

²³⁹ Automatic number plate recognition.

²⁴⁰ Liège Crim. Court, Liège division, 15 December 2021, 19th ch. (final).

One victim was also prosecuted as a perpetrator: she admitted having participated in the exploitation of the prostitution of several young girls, in particular by taking photographs for advertisements to be placed on the 'Quartier-Rouge' website or by making reservations in various hotels in the Liège region.

At the hearing, both the defendant and the prosecution invoked a cause of justification that compelled her to commit the alleged acts. The public prosecutor requested the application of the non-punishment clause, provided for in Article 433 *quinquies*, § 5 of the Criminal Code²⁴¹. This is a ground for an absolute discharge.

The court applied this clause to this defendant: she never filed a complaint against the main defendant with whom she had a love affair for several months and who exploited her prostitution. He hit her, but also played a protective role. She had to share her earnings with him. When she separated from this defendant, she went to another defendant and dragged one of the other victims into prostitution, thus playing the role of 'lovergirl'.

The court therefore considered that she was above all a victim, as the two defendants had taken advantage of her vulnerable position. The court based this on the investigators' findings that she was a prostitute like the other girls, her hearing (especially the non-verbal parts during the hearing) and her surveillance by one of the defendants. On the subject of coercion, the court considered that she didn't have enough control over the other girls who were victims to encourage their prostitution. She herself was made to work as a prostitute by her successive partners in a state of submission and dependence.

The court therefore acquitted her of the human trafficking charges. The court stressed that the idea behind the concept of non-punishment, which must be assessed on a case-by-case basis, is that, despite the commission of offences, the victim acted without real autonomy, either because of the degree of control exercised by the perpetrator or because of the methods used by the latter.

The court also acquitted this defendant, on the basis of coercion, of the charge of recruitment for the purpose of prostitution.

Several defendants were also acquitted of certain charges of exploitation of prostitution, including the defendant who was also a victim. The court handed down sentences of 18 months to six years imprisonment and fines of EUR 8,000 (multiplied by the number of victims), some of which were partly suspended.

The court also pronounced confiscation orders. The court ordered the defendants to pay the mother of a victim, who had filed a civil suit, EUR 500 and a provisional EUR 1,000 for her daughter.

The defendant, who filed a civil suit and was acquitted of the charge of human trafficking, received one provisional euro and Myria received one final euro.

In another case tried by Antwerp Criminal Court, in which a victim was both a plaintiff and a defendant, the principle of non-punishment wasn't applied.

The judgment of 29 July 2021²⁴² concerned a case of procuring adolescents involving several minors. Four defendants, of Belgian, Spanish and Dutch nationality, were prosecuted as perpetrators or co-perpetrators of human trafficking for the purpose of sexual exploitation with aggravating circumstances, in particular the fact that the victims were minors.

Three child victims and the mother of one of the victims filed a civil suit. A defendant also filed a civil suit as a victim. She herself had been a victim of the loverboy technique used by one of the defendants in the past.

The majority of the girls were minors and were staying at a centre for minors.

Some of the charges concerned the sexual exploitation by the first and second defendants of the fourth defendant and another victim. In June 2020, the fourth defendant filed a complaint against them with the police. She had been forced to prostitute herself in hotels and in an empty house for several months. The defendants posted advertisements online and arranged appointments with clients. She had to hand over her earnings, or at least a part of them. The police intervened several times at the request of her mother. The defendants provided the victims with drugs so that they could work longer.

The court found the facts to be true. The detailed statements of the fourth defendant were supported by various objective elements (phone investigation with determination of the base station, examination of the mobile phones, police findings, analysis of the profiles on the classified ads platform). The fact that the victims agreed to prostitute themselves wasn't relevant to determining the defendants' guilt, the court ruled. According to Article 433quinquies § 1 of the Criminal Code, the victim's consent to the exploitation is irrelevant.

241 This article states that "a victim of human trafficking who takes part in offences as a direct consequence of his or her exploitation shall not be liable to punishment for of these offences". 242 Antwerp Crim. Court, Antwerp division, 29 July 2021, ch. ACV3. (final).

The other charges concerned the sexual exploitation by the third and fourth defendants of four underage girls and one adult. On the basis of a review of profiles on a sex website and reports made to Child Focus by a number of concerned clients, some underage girls were identified and questioned.

The fourth defendant, who had initially been a victim herself, was persuaded by the third defendant, with whom she had started a relationship and eventually had a child, to recruit young victims herself and live off the proceeds.

The two defendants mainly approached girls in institutional care for minors and helped them to escape. They allowed the girls to live at their place, went out a lot together and used drugs and alcohol. In return, they persuaded the girls to become prostitutes. The defendants organised the appointments, booked the hotels and collected the money. In some cases, they locked the girls in the hotel room. The third defendant also frequently used violence and threats against the girls. He was also reportedly in possession of an alarm pistol. Several clients found these situations suspicious and reported them to Child Focus or the police.

The court found that the other charges were proven, except in relation to one girl, because of the uncertainty about her identity.

Despite their young age, the defendants already had several criminal convictions. One defendant was a repeat offender. The fourth defendant had no criminal record. The court took into account her precarious personal situation and the birth of her child in prison when determining her sentence. The defendants were sentenced to prison terms of three years, 40 months and five years respectively and fines of EUR 16,000 and EUR 24,000. The fourth defendant was sentenced to three years in prison and a fine of EUR 24,000, part of which was suspended. Property and money were confiscated and partly allocated to the victims.

The victims were awarded provisional compensation of EUR 5,000 and EUR 1 respectively. The mother of one of the victims was awarded EUR 1,546.51 in pecuniary and non-pecuniary damages, and the fourth defendant, also a plaintiff, was awarded EUR 2,500 in compensation. One of the victims had also requested a ban on contact, but this was rejected by the court.

Albanian loverboy

Several cases concern young Albanian women who were victims of loverboys. These cases were tried in Brussels and Liège.

Brussels Court of Appeal reviewed a case involving the trafficking of young Albanian women, which was tried at first instance by Brussels Criminal Court on 28 June 2019 and discussed in a previous report²⁴³.

In this case, seven Albanian defendants were prosecuted for human trafficking for the purpose of sexual exploitation with aggravating circumstances against seven young Albanian women; for falsification and use of false passports and for criminal association. One defendant failed to appear. The first six were also prosecuted for recruiting and exploiting the prostitution of these young women.

The young women, who were prostituting themselves in windows, all came from the same Albanian town or from nearby villages. The main defendants were from the same sibling group and came from the same town, where a neighbourhood bears their name and where the family is said to have a strong influence. The money from the prostitution was brought back to Albania in cash so as not to leave any traces of transfers via agencies or banks.

The criminal court convicted the defendants on all the charges. It found that human trafficking had been established: the defendants recruited their victims using the loverboy technique; they participated in their transport from Albania to Belgium, took charge of them upon their arrival in the country and provided them with accommodation. The victims were under constant control and their earnings were used to maintain the defendants and/or to pay off their debts (real or supposed). The investigation was able to demonstrate the links between the defendants, the organisation set up to transport the victims, and their collaboration in monitoring and housing them. Furthermore, the defendants had set up a network with a common forger to obtain false documents in order to allow the victims to stay in Belgium.

243 Brussels French-speaking Crim. Court, 28 June 2019, 47th ch. See Myria, *2020 Annual Report Trafficking and smuggling of human beings, Behind closed doors*, pp.76-77 and www.myria.be/jurisprudence.

The six main defendants were sentenced to five years in prison and fined EUR 84,000. The defendant who failed to appear was sentenced to four years in prison and a fine of EUR 42,000.

Three defendants lodged an appeal. One of them failed to appear.

In a judgment of 28 April 2022, Brussels Court of Appeal²⁴⁴ outlined the chronology of events and, in particular, the initial report of the arrest at Zaventem airport in June 2005 of the defendant – who failed to appear in court – in possession of false documents. He was accompanied by a young woman (one of the victims), whose passport had a false Schengen entry stamp. The young woman stated that the defendant was a friend and that she was coming to work in the windows on Rue d'Aerschot in Brussels to support her family. The research carried out by the investigators revealed that a case had already been initiated against this defendant concerning another victim.

The investigation would reveal that other members of this family clan were involved in the exploitation of the prostitution of several young Albanian women.

The investigation was conducted on the basis of phone taps, observations, information obtained from the Albanian authorities, and searches.

At their hearing, several young women stated that they didn't consider themselves to be victims, that they had come over of their own accord to work in prostitution and that they weren't aware of the activities of the members of the clan, which was contradicted by the phone taps.

The court upheld the convictions and sentences pronounced at first instance, with the aggravating circumstances of abuse of vulnerability, criminal association and habitual activity.

It also upheld the defendants' order to pay Myria damages amounting to EUR 2,500.

Two other cases were tried in Liège, all in absentia.

In the first case, an Albanian defendant was prosecuted for various offences: smuggling and trafficking of human beings, recruitment for prostitution and exploitation of prostitution and exploitation of prostitution, fraud and, secondarily, breach of trust.

He was accused of profiting from his partner's prostitution for almost 15 years by convincing her that they could build a life together and that he wanted to invest in real estate in Albania. He allegedly pocketed at least EUR 804,000 from her prostitution.

The victim and Myria filed a civil suit.

The case was initiated in 2015 when the victim filed a complaint for exploitation of prostitution. She explained that she had met the defendant in 1999, i.e. 16 years earlier, that she had been seduced and had begun a romantic relationship with him. He quickly made it clear to her that he had no more money and that she would have to become a prostitute. To make her accept this activity, he promised her that all the earnings would be invested in a joint real estate project in Albania. She had to prostitute herself in different places of prostitution in Belgium. In June 2014, she realised that all the earnings given to the defendant had been invested in property in his name or in the name of his family members.

During her exploitation, she was stopped several times by the police and deported. Each time, the defendant bought visas for her and brought her back through Austria. He also tried to arrange a marriage of convenience for her, which was refused by the municipality because she was known for prostitution. She was subjected to 13 abortions.

Various investigative actions were carried out, including international letters rogatory in Albania in order to verify his statements.

In its judgment of 10 November 2021, Liège Criminal Court²⁴⁵ convicted the defendant – who failed to appear – of the charges. The court considered that the victim's statements were coherent and precise, corroborated by the information gathered during the investigation. With regard to trafficking, the court relied in particular on the testimonies collected, which showed that the defendant pretended to have a romantic relationship with the victim (loverboy attitude).

The defendant was sentenced in absentia to four years in prison and a fine of EUR 30,000, as well as confiscation by equivalent of EUR 804,000, which the court awarded to the plaintiff.

The second case concerns an Italian defendant who exploited the prostitution of a young Albanian woman in Italy and then in various places in Belgium.

²⁴⁴ Brussels, 28 April 2022, 12th ch.

²⁴⁵ Liège Crim. Court, Liège division, 10 November 2021, 19th ch. (in absentia).

In a judgment of 30 November 2021 rendered in absentia, Liège Criminal Court²⁴⁶ convicted him of human trafficking with several aggravating circumstances and of exploitation of prostitution.

The case was initiated when the victim filed a complaint with the federal judicial police. She explained that as a young student in Albania, she had met defendant during a holiday in Italy and he had seduced her. She then decided to stop her studies. The defendant then confiscated her passport and identity card and forced her into prostitution by telling her that he had money problems. She had to prostitute herself on the street and was beaten if she refused. She arrived in Belgium with false documents and had to have an abortion. After her abortion, she was forced to work as a prostitute in bars in Sint-Truiden and Seraing, having to take home at least EUR 500 per day.

The victim's statements were confirmed by numerous inquiries.

The defendant was sentenced to four years in prison and a fine of EUR 24,000 and ordered to pay the victim EUR 307,200 in damages. She asked to be awarded the sum of EUR 4,100, which was seized following the inspection of the defendant's vehicle, but the court rejected this request. According to the court, it had not been shown that this sum of money corresponded to a financial benefit derived from the two offences referred to in the summons, as the seizure had taken place well after the end of the period when the offences were committed.

Sham marriage and statute of limitations on appeal

In a judgment of 4 November 2021, Antwerp Court of Appeal²⁴⁷ ruled on a decision of Antwerp Criminal Court of 22 December 2020²⁴⁸. In this case, the loverboy method was used and a sham marriage was arranged. This decision was already discussed in a previous annual report²⁴⁹.

Two defendants were prosecuted at first instance for human trafficking and exploitation of the debauchery or prostitution of a victim, with various aggravating circumstances. The first defendant and the second defendant formed a family unit with three school-age children.

The victim filed a civil suit.

The victim had to work as a prostitute between 2000 and 2012 and was sexually exploited by her ex-boyfriend, the first defendant. She had met him in Albania when she was studying there. The loverboy technique led to their relationship. She came to Belgium to start a family and the first defendant took care of everything for her visa, her flight and then a sham marriage with a Belgian to obtain a residence permit. He then forced her to work as a prostitute to pay back the costs incurred. The victim worked as a prostitute in Antwerp or Ostend on a daily basis and sometimes stayed in the Netherlands. She earned a lot of money, which she had to give to the defendants, who invested it in real estate in Albania and Belgium.

The defendants had already invoked the time limit for court action at first instance.

The court found that the offences weren't time barred and that the charges were established. The first defendant was sentenced to three years in prison and a fine of EUR 6,000. The financial benefits amounting to EUR 37,570 were confiscated and partly allocated to the plaintiff. The second defendant was sentenced to two years in prison, of which one year was suspended, and a fine of EUR 6,000. The two defendants had to pay non-pecuniary damages of EUR 7,500 to the plaintiff.

The court of appeal considered that it could be inferred from the evidence in the file that the relationship between the first defendant and the victim had ended in June 2011. There was no evidence of any control after this date. The victim filed a complaint in August 2016 for forced prostitution between 2001 and 2012. The court found that there was no evidence of guilt for these acts and that the period of crime in relation to the charge should be limited to the period between September 2005 and June 2011. Therefore, the time limit for court action had already expired.

²⁴⁶ Liège Crim. Court, Liège division, 30 November 2021, 19th ch. (in absentia).

²⁴⁷ Antwerp Court of Appeal, 4 November 2021, ch. C6.

²⁴⁸ Antwerp Crim. Court, Antwerp division, 22 December 2020, ch. AC10.

²⁴⁹ See Myria, 2021 Annual Report Trafficking and smuggling of human beings, *Visibly invisible*, pp. 67-68 and Antwerp Crim. Court, 22 December 2020 | Myria.

2.2.4. | Sexual exploitation of young Romanian women

A case concerning the exploitation of young Romanian women was tried in Brussels.

In this case, a Romanian defendant was prosecuted for human trafficking and exploitation of prostitution, both with aggravating circumstances, of several unidentified young Romanian women. He was prosecuted for acts committed in Belgium, as well as in Germany and the Netherlands. He was also accused of raping a victim.

One of the victims, who was in the care of a reception centre, filed a civil suit. She initiated the case by making a long statement to the police about her life and her relationship with the defendant. She lived in an orphanage before meeting a couple who lured her into prostitution in different countries. She met the defendant when she was working at Schiphol. He seduced her, they started a romantic relationship and she joined him in Germany where she worked in a club. She had to hand over all her earnings to the defendant. She then worked in the Netherlands. In order to keep up with the clients, she used a lot of cocaine. She earned more than EUR 1,000 per night, which she handed over entirely to the defendant. She was then taken to Brussels where she worked as an escort. The defendant beat or strangled her when she challenged him. She wanted to stop seeing clients during the lockdown, but the defendant forced her to continue. One of her clients at the time was giving her money not to prostitute herself, which she gave to the defendant. She finally explained her story to him and he referred her to an association.

One of her former clients, with whom she lived for a while, explained during her hearing that he never suspected that she was under the control of a pimp.

The defendant was known in Romania for having been convicted of a theft which led to the death of the victim.

Following the defendant's arrest, he and his sister had contacted the victim to ask her to withdraw the complaint.

In a judgment of 30 June 2021, Brussels Criminal Court²⁵⁰ convicted the defendant of the charges, based on the credible statements of the victim, corroborated by the statements of the other victims. It also found the aggravating circumstance of endangering the victim's life, as she was consuming large quantities of drugs with the defendant and he had forced her to continue her activities during the lockdown.

The court convicted him of the same charges concerning other victims who had been kidnapped and forced into prostitution. One of the victims had met the defendant through Facebook and started working as a prostitute in Italy. Once in Brussels, she had to hand over all her earnings to the defendant, who was aggressive. The court also upheld the rape charge.

He was sentenced to six years in prison and a fine of EUR 24,000 and ordered to pay the plaintiff EUR 5,000 in compensation.

2.2.5. | Exploitation of underage girls by an urban gang

A major case of trafficking in underage girls was tried in Brussels.

In this case, 12 defendants were prosecuted in various capacities for various offences, including human trafficking with aggravating circumstances, especially of underage girls; recruiting and exploiting the prostitution of underage girls and adults, with aggravating circumstances, and supplying drugs (cannabis) to underage girls. Several defendants were repeat offenders. Child Focus, Myria and the parents of one of the exploited underage girls filed a civil suit. Two defendants failed to appear and were tried in absentia.

In 2019, investigators in a Brussels police zone learned from a police source that the main defendant was allegedly exploiting the prostitution of underage girls on the ground floor and in the basement of a building, as well as in a flat. The advertisements were published on the 'Quartier-Rouge' website. They called the number advertised in order to make an appointment. It was an underage girl who had been on the run for almost a year who opened the door. When this young girl was heard, she declared that she was willingly working as a prostitute. She had met the main defendant at various parties five months earlier. She also stated that she knew other underage girls who had worked as prostitutes with her, one of whom had returned to France and another to her parents.

An investigation was also initiated in December 2019 concerning another young girl, when investigators from another Brussels police zone learned, also from a police source, that another of the defendants was allegedly exploiting the prostitution of two young girls aged 17-18 years old. Each time he would rent two hotel rooms for two or three days and then change hotels. He would occupy one of the rooms with an accomplice and the other room would be occupied by girls who would prostitute themselves on his behalf and under his control.

250 Brussels French-speaking Crim. Court, 30 June 2021, 47th ch. (final).

Advertisements were placed on the 'Quartier-Rouge' website. Shortly afterwards, the French gendarmerie contacted the Belgian police to report the worrying disappearance of an underage girl, whose father had learned from a friend of his daughter that she was being held in a flat and had been registered on the 'Quartier-Rouge' prostitution website. He had recognised his daughter on this site.

Phone tapping and observations were carried out, as well as a search in a building where the French underage girl was discovered. When heard, she explained that she had willingly accompanied a French friend and three Belgians to Belgium from Paris to work as a prostitute. She arrived directly at the flat of the main defendant. She then understood that her friend had 'sold her to the Belgians'. She explained that the friend of the main defendant managed the photos and the appointments with the clients. Others were responsible for accompanying her when she moved around or for ensuring her safety.

The rates varied between EUR 80 and EUR 250 depending on the duration of the 'trick' and the location (at home or somewhere else). She worked on average from 17:00 to 06:00. She gave the money earned directly to the person who was 'looking after' her. At the end of her working day, she usually received a joint from this person to help her fall asleep faster.

Phone tapping was set up to locate certain defendants, and phone investigations were also carried out. Analyses of advertisements on the 'Quartier-Rouge' website and of mobile phones were also conducted.

However, some of the network's victims were never identified.

In its judgment of 30 June 2021, Brussels Criminal Court²⁵¹ upheld the majority of the charges. For the human trafficking, this was based in particular on the checks carried out by the investigators, especially on the 'Quartier-Rouge' website, which supported the police information collected, the phone tapping, the hearings of two victims and the analysis of their mobile phones, the phone investigations, and the observations.

The sentences ranged from 50 months and eight years in prison (for the main defendant) and fines between EUR 8,000 and EUR 40,000. Some of the sentences were suspended.

The court awarded Child Focus EUR 2,000, EUR 5,250 to the parents of the young victim and another EUR 15,000 to them as the legal representatives of their child, as well as EUR 1 to Myria.

Four defendants appealed. In a detailed reasoning, Brussels Court of Appeal confirmed, in a judgment of 27 January 2022, the convictions pronounced at first instance regarding the defendants who appealed, but reduced some of the sentences²⁵². One defendant failed to appear and was sentenced in absentia.

The court stressed that the operational role played by one of the defendants in the appeal, the partner of the main defendant (who wasn't in the appeal), in the exploitation of prostitution was central, since she received calls from clients, quoted prices and described the services. She then forwarded these calls to the men who looked after the girls engaged in prostitution and directed the clients to the girls. She was also actively involved in harbouring the girls and abusing their vulnerability.

Another defendant managed the phone calls of the young French girl and 'prepared' her for prostitution. In this respect, the court pointed out that the aggravating circumstance of the girl being a minor establishes the offence as human trafficking when it is proven that the victim is under the age of 18 at the time of the events. It is irrelevant whether the perpetrator knew or should have known that the victim was a minor.

A third defendant was responsible for renting the hotel rooms where the young girls prostituted themselves, took care of their accommodation and exploited their prostitution. He also supplied the young French girl with drugs. The last one acted as a 'guard' and also supplied the drugs.

The court awarded the young girl, now an adult, who filed a civil suit, and her parents the sums seized by equivalent, up to the amounts allocated to them.

251 Brussels French-speaking Crim. Court, 30 June 2021, 47th ch. (appeal).

252 Brussels, 27 January 2022, 16th ch.

2.3. | Labour exploitation

2.3.1. | Construction

Bogus postings orchestrated from Spain

In a judgment of 11 February 2022²⁵³, Bruges Criminal Court ruled on a case of labour exploitation in the construction sector involving several victims.

Seven defendants of Bulgarian, Chilean and Moroccan nationality were prosecuted for a number of things including human trafficking with aggravating circumstances with regard to 14 victims, offences under social criminal law and belonging to or leading a criminal organisation. Five victims filed civil suits.

During an inspection at a construction site in West Flanders, evidence of human trafficking was discovered. Four victims were found and heard, and other victims were subsequently identified.

In January 2017, a judicial investigation was opened, followed by a phone investigation, phone tapping and searches.

The victims were recruited in Spain, mostly through advertisements on a website. If the victims responded, they were put in contact with the Spanish companies of the first, second or third defendant. The Spanish companies then called in a Belgian company that worked as a subcontractor for the final general contractor. The Belgian company was run by the fifth and sixth defendants. The seventh defendant was in charge of logistics.

The workers were sent directly to Belgium and none of them had ever worked in Spain. They used bogus postings with falsified A1 documents. There was a fraudulent carousel with circumvention of Dimona declarations and contribution obligations.

The court ruled that the Belgian judge had jurisdiction and that Belgian labour law applied to the situation. There was no legal posting of workers.

The workers were promised that they would earn about EUR 1,800 a month. In reality, they received small advances and otherwise weren't paid. They were housed in dreadful conditions, first in flats close to the building sites where they had to sleep on mattresses on the floor, then at a campsite.

The court found that there was indeed human trafficking. The workers were in a vulnerable position and, given their precarious social and residence situation, they had no choice but to accept these living and working conditions. They worked six days a week, had no paid holidays, received virtually no wages and had no social protection.

The court also found that this was a criminal organisation. Based on the number of acts and the group's long period of activity, it could be deduced that the organisation was continuous. The first four defendants recruited the workers and the fifth and seventh defendants organised the work in Belgium. The second and fifth defendants were clearly at the head of the organisation.

The defendants were handed suspended prison sentences ranging from six months to two years, and fines of EUR 6,000, partly suspended. One defendant received 120 hours of community service. The civil parties were awarded damages ranging from one provisional euro to EUR 9,025.43.

Renovation of a private house

Ghent Court of Appeal²⁵⁴ ruled, in a judgment of 7 October 2021, on a decision of Dendermonde Criminal Court of 18 September 2020²⁵⁵.

Three defendants were prosecuted at first instance for, among other things, the human trafficking of two Moroccan brothers for the purpose of labour exploitation in the construction sector.

The case was initiated when the police were called to a house for a civil dispute. The two workers were discovered there. They had been staying there until they discovered that the locks had been changed and their belongings left outside the door.

One of the victims was active in the construction sector in Spain, where he had his own company. One of the defendants had found his company on the internet and recruited him to carry out renovation work on a house in Belgium. It was agreed that he would earn EUR 25 an hour and his brother EUR 15 an hour. He worked 10 hours a day, including weekends. He was paid EUR 500. They had to pay EUR 1,500 in rent for three months, deducted from the salary. The accommodation was dirty and there was only a small water heater. There was no place to shower or cook. Things started to escalate when they asked one of the defendants for a copy of the employment contract and their money. They were then threatened.

The workers were admitted to a reception centre specialised in the reception of trafficking victims.

²⁵³ West Flanders Crim. Court, Bruges division, 11 February 2022, ch. B.17 (final).

²⁵⁴ Ghent, 7 October 2021, 3rd ch.

²⁵⁵ East Flanders Crim. Court, Dendermonde division, 18 September 2020, ch. 13 D. See Myria, *2021 Annual Report Trafficking and smuggling of human beings, Visibly invisible*, pp. 70-71 and Dendermonde Crim. Court, 18 September 2020 | Myria.

The court found two of the defendants guilty of trafficking. The third defendant, however, was acquitted. They were sentenced to one year in prison (with a suspended sentence for one of them) and a fine of EUR 8,000 (partly suspended for one of them). The victims who had filed a civil suit received damages of EUR 7,120 and EUR 8,852 respectively for pecuniary and non-pecuniary damages.

The defendants and the public prosecutor's office appealed against the decision.

In the case of the first defendant, the court ruled that he could also be given the benefit of the doubt and be acquitted. He acted as an intermediary and interpreter between the second defendant and the victims. In this factual role, the elements of human trafficking couldn't be cross-checked: there was no evidence that he wanted to take on the role of employer. Furthermore, it couldn't be concluded that he deliberately engaged in human trafficking. On the basis of the information in the file, it was only at a final stage that it became clear to the defendant that the victims wouldn't be compensated and would be thrown out like dirt. The evidence in the file shows that he had already distanced himself from the other defendant.

In the case of the second defendant, the court ruled on the sentence only because of the time limit of the referral on appeal. Only the alternative custodial sentence was reduced from 150 days to three months.

The acquittal of the third defendant was confirmed by the court.

The action of the civil parties against the first defendant was declared unfounded as a result of his acquittal.

The second defendant appealed to the Court of Cassation, because the court of appeal had wrongly ruled on the sentence only and not on all the other provisions of the first judgment against which he had appealed.

Indeed, in its judgment of 1 February 2022, the Court of Cassation²⁵⁶ held that the court of appeal should also have ruled on all the other grievances of the first defendant and annulled the judgment in this respect. It referred the case back to Antwerp Court of Appeal.

2.3.2. | Transport

Carrousel of fraudulent postings and manslaughter

In a judgment of 20 January 2022, Ghent Court of Appeal ruled on a case of human trafficking for the purpose of labour exploitation in the transport sector²⁵⁷. Bruges Criminal Court had already expressed its opinion on this case in a judgment of 27 November 2020, which was discussed in the previous annual report²⁵⁸.

In this case, six defendants were prosecuted for a carousel of fraudulent postings and manslaughter. The second and third defendants were transport companies. The first defendant (natural person) was responsible for the day-to-day management. The fourth defendant (company) was the managing director of the second, third and fifth defendants (also companies). The fifth defendant was specialised in the sale of new and used pallets. The sixth defendant was the employer of the pallet repairers.

The six defendants were prosecuted for the human trafficking of five Polish workers, two of whom died in a fire in a warehouse they used as a dormitory. The main defendant and two companies were also charged with the manslaughter of the two deceased Polish mechanics. The other charges concerned involuntary assault and battery, non-compliance with social criminal law and slum landlordism.

The case reveals that the various companies prosecuted had been set up in a postings carousel to fraudulently evade the application of Belgian law. The staff was fraudulently employed simultaneously in Poland and Belgium, and the Polish workers active in Belgium didn't even know which Polish company they were working for. In reality, the supposed Polish subcontractor was simply a channel for cheap labour employed solely in Belgium and therefore under the authority of the Belgian client.

The court found the facts to be established, including human trafficking.

The first defendant was found guilty of involuntary manslaughter, involuntary assault and battery, human trafficking of several workers and slum landlordism.

²⁵⁶ Court of Cass., 1 February 2022.

²⁵⁷ Ghent, 20 January 2022, 3rd ch. (appeal to Court of Cass.).

²⁵⁸ West Flanders Crim. Court, Bruges division, 27 November 2020, ch. B17. See also Myria, *2021 Annual Report Trafficking and smuggling of human beings, Visibly invisible*, pp. 71-72 and *Bruges Crim. Court, 27 November 2020* | Myria.

He was sentenced to three years in prison, partly suspended, and a fine of EUR 60,000, half of which was suspended for three years. The sixth defendant was sentenced to 15 months in prison, partly suspended, and a fine of EUR 15,000, EUR 3,000 of which was suspended for three years. The other defendants (companies) were handed fines of EUR 18,000 and EUR 45,000 with partial suspension. An amount of EUR 1,475,408.03 was confiscated.

The mother of one of the deceased Polish mechanics, who had filed a civil suit, was awarded EUR 15,000 in pecuniary and non-pecuniary damages. Myria was awarded EUR 5,000 in pecuniary and non-pecuniary damages.

On appeal, the defendants argued that the rights of the defence had been violated and that the statute of limitations had expired, but the court rejected their argument. The court found that the five Polish workers who died or were injured in the warehouse fire should be considered victims of human trafficking without question. The five victims had all been recruited and harboured by the first defendant and the companies constructed around him. The court found that they were in a situation contrary to human dignity. According to the court, the facts were established.

The court found that it was clear the warehouse was used as a place to sleep, which in no way could be considered as a proper family home that could accommodate 16 people in dignified conditions, with only one toilet, one washbasin and one shower. In addition, the electricity was faulty and basic, the warehouse had been refurbished with flammable insulating materials, etc.

The working conditions and wages were also contrary to human dignity. It is particularly important to take into account the amount actually paid for the number of hours worked. Belgian salaries must be used as a benchmark when determining whether a salary is acceptable or not. The criminal case file sufficiently demonstrates that the victims were employed in exchange for wages that didn't meet the threshold of human dignity. For example, the court refers to the statements of a victim who earned EUR 6 per hour and EUR 1,500 per month (which amounts to 250 hours of work and 25 ten-hour working days). Others had stated that they earned EUR 800 per month, i.e. EUR 5 per hour, with the added bonus of 'free' accommodation. In view of these findings, it was clear to the court that the pay was contrary to human dignity, also taking into account the duration of the work.

According to the court, it was clear that all the defendants had provided the necessary assistance by cooperating in the recruitment, transfer and harbouring of the Polish workers.

In the case of the fifth and sixth defendants, including a company, the court reversed the judgment and acquitted the defendants of the charge of human trafficking with regard to the three victims employed as mechanics. They were only liable for the pallet repairers and not for the mechanics and drivers.

The first defendant was again found guilty of involuntary manslaughter, involuntary assault and battery, human trafficking in relation to several workers, and acts of slum landlordism. He was sentenced to three years in prison, suspended for five years, and fined EUR 25,000. He was stripped of his rights for ten years and EUR 924,000 were confiscated. The sixth defendant was sentenced to 15 months in prison, suspended for five years in its entirety, and a fine of EUR 18,000.

The other defendants were sentenced to fines of between EUR 30,000 and EUR 60,000. Significant amounts were confiscated, but the amounts were adjusted by the court.

The compensation awarded to the civil parties was confirmed, except for the partial acquittals of the fifth and sixth defendants.

2.3.3. | Hospitality sector

A case concerning acts of trafficking in a pizzeria was tried in Marche.

In this case, a couple of Tunisian nationality was prosecuted, as well as their company as civilly liable, for various charges: human trafficking for the purpose of labour exploitation of a Tunisian worker, with aggravating circumstances, and several social criminal law charges (including failure to pay wages).

The worker filed a civil suit.

The case was initiated when police officers were conducting a neighbourhood investigation in Vielsalm in connection with another case of human trafficking. They entered a pizzeria, where they were greeted by a person, the worker who filed a civil suit, dressed as a 'pizzaiolo' who was busy preparing pizza dough. He seemed stressed and, in broken French, made them understand that it was his first day at work. The defendant then showed the police an identity card issued by Italy for this worker. An official report for illegal residence was then drawn up.

The worker was heard a few months later by the police, having come forward on his own initiative, and having been referred to them by another department. He wished to report his situation. He explained the conditions under which he had arrived in Belgium, via Italy, the circumstances of his employment in the pizzeria and those of his accommodation. A few days later, he was heard by social inspectors, who found indications of human trafficking.

Various checks and investigative actions then took place (hearings, neighbourhood inquiries, etc.).

In a judgment of 19 November 2021, Marche Criminal Court²⁵⁹ upheld the charges, but limited some of them. It considered that this was a case of human trafficking: the worker had been recruited by the defendants so that he could work for them. In this respect, the fact that the worker contacted the defendants himself because he was looking for work was irrelevant. He was also harboured by the defendants. This work took place in conditions contrary to human dignity for more than two years (wages of EUR 150 to EUR 200 per week; six days a week, between nine and eleven hours of work per day; undeclared work, with false promises of regularisation).

The court sentenced the defendants respectively to suspended prison sentences of 12 and 10 months and a partly suspended fine of EUR 8,000, and to pay the plaintiff, together with the company liable for damages, EUR 1,500 for non-pecuniary damages and EUR 1 as a provisional payment for pecuniary damages.

2.3.4. | Bakery

Several decisions concern acts of trafficking in bakeries. They were judged in Brussels, Mechelen and Marche.

In a judgment of 16 February 2022, Brussels Dutch-speaking Criminal Court²⁶⁰ ruled on a case of human trafficking in a Moroccan biscuit factory.

Two defendants of Dutch nationality were prosecuted for human trafficking for the purpose of labour exploitation, employment of illegally staying workers and other social law violations. There were several victims from Morocco, but only one of them filed a civil suit.

In October 2019, a control was carried out by the social inspectorate and the police in the Moroccan biscuit factory. Ten people were arrested at their workplace and heard.

The court found that, on the basis of all the evidence in the criminal case file, it was established that the working conditions were contrary to human dignity. The premises where the persons worked weren't suitable for the activities they performed, the work conditions were appalling and hazards and safety risks were very high (fire, toxic fumes, etc.). The workers worked long hours, sleeping together in a flat or on a mattress in an adjacent room in the bakery. Their wages were well below the minimum. They worked without social protection or insurance. They were all in a precarious situation, so it was easy to control them.

The bakery went bankrupt in 2021.

The defendants were found guilty of human trafficking, among other things. They were sentenced to 18 months in prison, partly suspended, and a fine of EUR 38,400. The victim was awarded compensation of EUR 10,727.46 for pecuniary damages and EUR 500 for non-pecuniary damages.

The case tried by Mechelen Criminal Court on 21 January 2022²⁶¹ concerned acts committed in a Moroccan bakery during the period 2011-2020.

The two defendants were, on the one hand, the manager of the multi-branch bakery and, on the other hand, the receiver of the bankrupt company. The company was the successor of another one previously declared bankrupt. In addition to human trafficking, they were also prosecuted for other social law violations.

During several checks, the inspection services had found illegally staying persons in the bakery, including the plaintiff.

In a judgment of 19 March 2021, Mechelen Criminal Court had convicted the defendant for similar offences, but for a shorter period of time, and therefore invoked the non bis in idem principle. The court ruled that the acts were indeed comparable, but that the conviction concerned other acts, other persons and another period.

The court found that the acts relating to human trafficking were established. The victim, who filed the civil suit, had to work nights for years – at least since 2012 – without a break and for a particularly low salary. He had no social protection, worked seven days a week and was monitored by the defendant with cameras.

²⁵⁹ Luxembourg Crim. Court, Marche-en-Famenne division, 19 November 2021, 14th ch, no. 2021/277. (final).

²⁶⁰ Brussels Dutch-speaking Crim. Court, 16 February 2022, ch. 25N (appeal).

²⁶¹ Antwerp Crim. Court, Mechelen division, 21 January 2022, ch. MC7 (final).

He lived in a room above the bakery, without a shower or toilet, where he slept on a mattress. He was in a vulnerable position, didn't speak Dutch and didn't have valid residence papers. This was established through detailed statements by the victim and other workers, findings by social inspectors and the police, fingerprints and photographs. The victim had already been found during an inspection in 2012 and fingerprints had been taken at that time.

The acts of human trafficking were also materially and morally imputable to the second defendant, the company, but the period of criminal liability was reduced, as the company was only established in May 2019.

The first defendant was sentenced to an additional one-year prison term, suspended on probation. The sum of EUR 15,000 was also confiscated. The second defendant was also given a confiscation order of EUR 5,000.

The victim was awarded a provisional amount of EUR 5,000 for pecuniary damages and a final amount of EUR 9,000 for non-pecuniary damages.

In the case tried in Marche, an Italian defendant and his company were prosecuted for human trafficking for the purpose of labour exploitation of a Congolese national, and for human smuggling of the same person, both with aggravating circumstances, as well as for various criminal social law charges concerning several workers, including the Congolese man.

The defendant was the manager of a bakery.

The Congolese worker filed a civil suit but failed to appear.

The case was initiated following a tip-off from a couple who had worked as volunteers for the restoration of the building in which the bakery was to be located. They reported the labour exploitation of the Congolese worker by the defendant. The worker slept in the cellar and worked at night doing cleaning tasks. A report was drawn up by the NSSO inspectorate stating various irregularities concerning this bakery. The case was put under investigation and several investigative actions were conducted (search of the bakery, where the Congolese worker was found to be working, but fled before being intercepted, visit to the residence above the bakery where the victim was reportedly sleeping). During his hearing, the worker explained that he had been working for approximately five years (initially as a trainee with the promise that at the end of the training he would take over a bakery) and that he earned approximately EUR 80 per week. The worker was taken in by a specialised reception centre for victims.

In a judgment of 19 November 2021, Marche Criminal Court²⁶² upheld the majority of the charges, without the aggravating circumstances, both for the defendant and the company. It considered this to be a case of human trafficking: the worker was recruited by the defendant to work in his bakery. In this respect, it is irrelevant whether the worker himself made or renewed contact with the defendant because he was looking for work or wanted training in the bakery. He was also harboured by the defendant. This employment took place under conditions contrary to human dignity and for more than four years (an average wage of EUR 80 per week; excessive working hours (from 83.5 to 87.5 hours per week); undeclared work; fear of being intercepted by the police; a dysfunctional relationship with the employer, who held onto him through empty promises, such as the takeover of a bakery or the hope of regularisation).

As regards smuggling, the court considered that the defendant had contributed to the illegal stay of the Congolese worker. He had received a financial benefit from the undeclared labour exploitation of the victim.

The court handed the defendant an 18-month suspended prison sentence and a partly suspended fine of EUR 24,000; the company was fined EUR 32,000 with a partial suspension.

262 Luxembourg Crim. Court, Marche-en-Famenne division, 19 November 2021, 14th ch., no. 2021/276 (appeal).

2.3.5. | Cleaning

Acquittal owing to doubt about inhumane conditions

In a case heard by Antwerp Criminal Court on 7 May 2021²⁶³, four defendants of Turkish, Dutch, German and Belgian nationality were prosecuted as perpetrators and co-perpetrators of (among other things) human trafficking for the purpose of labour exploitation of several victims. In addition, they were also prosecuted for various social law violations, participation in a criminal organisation and money laundering.

The defendants were the successive managers of a limited liability company during the period of the acts: 2009-2011, 2013-2016 and 2016. The company's corporate purpose was the cleaning of buildings. The company was declared bankrupt in 2016.

There were two parts to the criminal investigation.

Firstly, following two complaints about inhumane working conditions and several social inspections at the company's premises, an investigation was carried out into possible human trafficking and social law violations. Secondly, following a report by the Financial Intelligence Processing Unit (Cellule de Traitement des Informations Financières - CTIF) concerning indications of money laundering obtained through social fraud and illegal labour trafficking, an investigation was launched into economic-financial offences.

In mid-2014, at Payoke's request, a man of Algerian nationality was heard by the Social Legislation Inspectorate (SLI). The man, an illegal resident, stated that he was being exploited by the cleaning company. He had to work 13 hours a day for a very low salary, six days a week. Sometimes he received EUR 60 per week, sometimes nothing at all. In 2016, the Federal Judicial Police (FJP) was informed of a man of Moroccan nationality employed in degrading conditions and exploited by the cleaning company. He had to work many hours in unhygienic conditions, without protective clothing, and there were problems with the payment of his salary. He was paid from time to time and received EUR 30-50 per day. His living conditions were poor. Several checks were carried out by the social inspectorate in the company's buildings, and each time it was found that several people were working without residence or work permits, without employment contracts and without Dimona declarations. The social inspectorate also found a significant discrepancy between the turnover and the total gross wages declared by the employer to the NSSO.

In addition, considerable amounts of cash had been withdrawn from the company's account. A search was conducted at the private home of one of the defendants, during which all accounts and computer hard drives were seized.

For the acts of human trafficking, the court ruled that it couldn't be established beyond any reasonable doubt that the defendants had actually employed people in conditions contrary to human dignity and/or taken advantage of their situation of vulnerability. The mere fact that the workers concerned were in Belgium illegally and chose to rent a flat or room from the first defendant, or that the defendants may have committed social law violations, wasn't sufficient. The court also found that there had been no further investigation into the actual working and living conditions of the workers concerned. As such, the court couldn't find the defendants guilty of human trafficking and acquitted them of this charge.

On the other hand, the defendants were convicted of various social law offences and money laundering.

2.3.6. | Domestic work

Several decisions relate to the domestic work sector. Two of them concern acts committed respectively by a diplomat and a European public servant.

On 18 November 2021²⁶⁴, Ghent Court of Appeal examined a case of modern slavery concerning three Bulgarian victims in the domestic work sector. The case was tried at first instance by Ghent Criminal Court on 7 October 2020, and discussed in a previous annual report²⁶⁵.

The police investigation took place in two stages: in August 2018 and a year later between April and September 2019. The facts were first brought to the attention of the local police in Ghent following the compulsory de-registration of one of the defendants. During a neighbourhood inquiry, several residents reported serious violence against a resident with a disability, among others things. The defendants and the victims were questioned, but denied everything, so the police considered that the defendants were no longer of interest.

In April 2019, the police were again alerted to recurring injuries to one of the victims. The police had received several new complaints from local residents. Witnesses had described the victims as slaves of the defendants.

²⁶³ Antwerp Crim. Court., Antwerp division, 7 May 2021, ch. AC5 (final).

²⁶⁴ Ghent Court of Appeal, 18 November 2021, 3rd ch.

²⁶⁵ East Flanders Crim. Court, Ghent division, 7 October 2020, ch. G29. See Myria, *2021 Annual Report Trafficking and smuggling of human beings, Visibly invisible*, pp. 75-76 and Ghent Crim. Court, 7 October 2020 | Myria.

This time, the victim made statements about his wretched living conditions. Further investigation revealed that there was a second and third victim. The second victim made similar statements. The third victim worked as a so-called shareholder in the pita company of the second defendant. The defendants, together with members of their families, had set up a fraudulent scheme with companies.

The court found the two defendants (father and son) guilty of the crime of human trafficking. The court referred to the act of ‘keeping needy compatriots in a system of modern slavery, using extreme and senseless violence’. The victims were undeniably employed in conditions contrary to human dignity. The first defendant was also found guilty of assault and battery. Both defendants had extensive criminal records and were sentenced to four years in prison and a fine of EUR 24,000.

The plaintiffs obtained damages of EUR 21,232.62 for the first victim (pecuniary and non-pecuniary damages) and EUR 10,975.63 for the second (pecuniary and non-pecuniary damages). Payoke received EUR 2,500.

On appeal, the court also found that the charges were established. It followed the reasoning of the trial judge in its entirety. The court went into more detail about the material and moral elements of the offence of human trafficking. On the basis of the evidence in the criminal case file, the court found that the victims had undoubtedly been employed by the defendants in a manner contrary to human dignity. They had to live and work in degrading conditions, for very low wages or no wages at all. One of the victims was even involved as a partner in one of the pita companies without his knowledge. Two victims had been lured to Belgium by the defendants under false pretences, such as receiving medical treatment or to work here. Once in Belgium, their vulnerable position had been abused owing to their illegal and precarious administrative situation. Therefore, the aggravating circumstance was also established for the court. One of the victims was also the victim of chronic physical neglect and physical and psychological abuse by the defendant. This was established by a medical expert. However, the court took into account the fact that, for certain acts relating to the charge of the absence of a Dimona declaration, the first defendant had already been convicted in a previous judgment.

Both defendants were sentenced to a prison term of 36 months and a fine of EUR 24,000. The damages awarded to the victims were confirmed.

Domestic work for diplomats

In a judgment of 15 December 2021, Brussels Dutch-speaking Criminal Court²⁶⁶ ruled in absentia on a modern slavery case.

The defendants were a couple of diplomats from Kuwait. They were charged with human trafficking for the purpose of labour exploitation, non-payment of wages and other social law violations. The victim, a refugee from Ethiopia, had fallen into the hands of human traffickers and ended up with the defendants in Kuwait. In 2021, she started working as a domestic worker. She had to work seven days a week and be available 24 hours a day for the couple and their children. She had no contact with the outside world, no private life and hardly any personal belongings. She earned almost nothing. She could only eat after the family, and only the leftovers. If they were angry, they insulted her, the children too. In 2017, she followed the family to Belgium. She wasn't allowed to leave the house. All the doors were locked when the family was away. The couple had confiscated her passport. She could only escape when the couple forgot the keys on the door during the night. She escaped and later found refuge at PAG-ASA.

The court first ruled that the couple could be prosecuted for these acts under the Vienna Convention on Diplomatic Relations. In the meantime, the defendant had left his diplomatic post and the couple had returned to Kuwait. According to the Convention, once the diplomatic function has ended, diplomatic immunity only covers acts committed by the diplomat in the exercise of his or her functions as a member of the diplomatic mission. The exploitation of domestic staff within the private residence falls outside the scope of official and diplomatic acts.

The defendants failed to appear in court, but the court found that the facts were established on the basis of the criminal case file. In particular, the court found that the victim's statements were consistent and that there was no reason to doubt them.

The defendants were sentenced in absentia to a two-year prison term and a fine of EUR 12,000.

266 Brussels Dutch-speaking Crim. Court., 15 December 2021, ch. 25N (contested).

The victim and PAG-ASA filed a civil suit. The victim was awarded pecuniary and non-pecuniary damages totalling EUR 33,327.44 (EUR 5,000 of which was for non-pecuniary damages). PAG-ASA didn't obtain any damages, because the court couldn't clearly determine the damage suffered by the non-profit organisation.

Domestic work for a European public servant

A couple was prosecuted for the human trafficking of their African nanny and for social criminal law charges. The husband was a European public servant.

The victim filed a civil suit.

As part of the husband's work, the couple had lived in Senegal where they had recruited a domestic worker. The worker accompanied them when they moved to Belgium. A domestic work contract was signed and according to the pay slips issued, she was supposed to receive EUR 1,400 net, after tax and social security deductions. A bank account had been opened in her name and in the husband's name.

An analysis of the movements of this bank account revealed unjustified withdrawals and expenditures and the systematic recovery of sums paid as wages or annual holidays. The defendants didn't dispute that, throughout her period of employment (more than 10 years), the worker didn't have access to her wages or her bank account onto which her wages were paid.

Both the victim and the defendants were heard. A home visit on consent also took place.

The victim lived in a room in the cellar (she called herself 'madame cellar'), and cleaned and looked after the children. She worked from 06:30 to 23:30 (17 hours a day). She didn't have a bank card and couldn't withdraw money from her account because the wife kept the card. She never took a holiday.

In its judgment of 20 April 2022, Brussels Criminal Court²⁶⁷ considered that both members of the couple were employers, in the sense of 'any natural person with authority over staff, regardless of their title'.

In a detailed reasoning, the court considered that there was indeed human trafficking: the couple had harboured the victim in order to make her work in conditions contrary to human dignity.

In assessing this criterion, the court took into account several circumstances: availability to the defendants at all hours, material conditions of stay (basement of the building with very rudimentary and outdated facilities, with traces of mould and damp), no measures concerning safety, hygiene or well-being in the workplace, no access to information or culture (the possibility of watching television in a comprehensible language wasn't allowed), failure to pay wages, no possibility of having a social or family life.

The court also accepted the aggravating circumstances of authority over the victim and abuse of vulnerability, as well as the social criminal law charges.

It sentenced the defendants to a two-year suspended prison term and a EUR 6,000 fine, and to a 15-month suspended prison term and a EUR 6,000 fine. It ordered the confiscation of the building and allocated the proceeds in priority to the plaintiff. The defendants were ordered to pay her a gross sum of EUR 216,000 as a provisional payment.

2.3.7. | Hairdressing salon

A case concerning a hairdressing salon was judged by Brussels Criminal Court on 21 December 2021²⁶⁸.

Three defendants of Belgian nationality, but of Palestinian origin, were prosecuted for human trafficking for the purpose of labour exploitation of two Moroccan nationals and for various social criminal law offences.

The case was initiated when one of the defendants asked the police to intervene at a hairdressing salon, saying that he was allowed to use the premises and presented a lease contract. One of the workers was also there, explaining that he was a worker and that his boss, the main defendant, had all the lease documents. He explained his working conditions: seven days a week, from 10:00 to 20:00 for EUR 50 - 70 per week (never more than EUR 350 per month), and this had been the case for over two years. His boss has been promising him an employment contract since the beginning, but had never provided one. He slept at the back of the shop. Besides his boss, two associates were reportedly also benefiting from his exploitation. The police found that there was no bathroom or shower and no room for cooking. The cooking was done on a gas burner. He was staying illegally. His boss and his partners (the other two defendants) had several hairdressing salons and other undocumented people were being exploited there.

²⁶⁷ Brussels French-speaking Crim. Court, 20 April 2022, 69th ch. (appeal).

²⁶⁸ Brussels French-speaking Crim. Court, 21 December 2021, 69th ch. (appeal).

He also stated that the three defendants were transferring companies to each other and integrating some of these people in them to regularise them, before declaring bankruptcy.

The investigation was carried out on the basis of the workers' statements, an analysis of the base stations, a neighbourhood inquiry and various inspections in the hairdressing salons where the other worker who was a victim was found.

The court upheld the charge of human trafficking, but only in the case of the main defendant, in particular based on the workers' statements, corroborated, in the case of one of them, by the analyses carried out on his phone and by the neighbourhood inquiry. It considered that the two men had indeed worked in a hairdressing salon, in a position of insecurity and total dependence on their employer. Moreover, this work took place in conditions contrary to human dignity (substandard housing conditions, illegal residence making them vulnerable, no social protection, excessive number of working hours, reduced pay, well below the hourly minimum, impossibility of having a social or family life).

The court considered that the main defendant had indeed recruited and harboured the two victims in order to exploit them. On the other hand, it acquitted the other two defendants, owing to the lack of evidence implicating them in the acts and their denials.

It also upheld the social criminal law charges, but only for the main defendant, considered to be the employer.

It acquitted the other defendants of the charges.

The main defendant was sentenced to a 30-month suspended prison term, a fine of EUR 24,000 and a five-year professional ban. He was also ordered to pay the worker, the plaintiff, EUR 74,169.75 in compensation for pecuniary damages and EUR 14,000 for non-pecuniary damages.

2.3.8. | Other sectors

Religious order

In a judgment of 2 December 2021, Ghent Court of Appeal reviewed an extensive case of labour exploitation within a monastic order²⁶⁹. In a judgment of 26 June 2019, Ghent Criminal Court²⁷⁰ acquitted the defendants of the charge of human trafficking. This case was discussed in a previous annual report²⁷¹.

In this case, the Augustinian Fathers of Ghent and their superior, as well as the non-profit association responsible for organising events at the monastery, were prosecuted for various social law offences (employment of foreigners without a residence or work permit, failure to declare employment), human trafficking, aiding illegal immigration, forgery and incorrect or incomplete NSSO declarations.

According to the labour prosecutor's office, the superior of the monastic order in Africa recruited young seminarians, promising them an official position in the Catholic Church (training for the priesthood), while in reality they were also recruited as cheap labour for the monastery's commercial activities. The young seminarians came mainly from Benin, Togo and the Ivory Coast. The charge of human trafficking related to 13 people who filed a civil suit.

The defendants also allegedly drafted and used false invitations, certificates and sponsorship agreements in order to obtain residence permits for the seminarians, mentioning a false status as a monk or prior training as a monk in their country of origin.

In a lengthy and detailed reasoning, the court acquitted the defendants of the charges of human trafficking, aiding illegal immigration, forgery and most of the social criminal law charges.

As regards human trafficking, the court found that the postulants (and their families) were fully aware that they would be part of a religious community with all income going to that community and that they would have to live according to the rules of that community. They had indeed received the promised training and their services in the monastery were within the normal framework of monastic life. In addition, the fathers had paid for all the costs of their stay (travel, visa, accommodation and meals) and their training. Each month they received pocket money and also money to buy clothes. They were also allowed to go out, provided they had permission. They were also authorised to permanently leave the monastery and the monks made sure that they could return to their country of origin at their expense.

Concerning the charge of aiding illegal immigration, the court considered that nothing in the criminal case file showed that the defendants had knowingly aided non-EU nationals to enter or stay in Belgium in contravention of the law.

269 Ghent, 2 December 2021, 3rd ch.

270 East Flanders Crim. Court, Ghent division, 26 June 2019, ch. G29w. and Ghent Crim. Court, 26 June 2019 | Myria.

271 See Myria, 2020 Annual Report Trafficking and smuggling of human beings, Behind closed doors, pp. 91-92.

The criminal court only accepted a number of social criminal law charges concerning volunteers whose services went beyond that of pure voluntary work, as well as the non-declaration of overtime (paid unofficially) of two workers.

The court handed the superior a partly suspended fine of EUR 10,800, and the non-profit associations a fine of EUR 36,000, also partly suspended. In view of the acquittals, the court declared that it had no jurisdiction to rule on the plaintiffs' claims.

On appeal, Ghent Court of Appeal essentially upheld the judgment. For the charge of human trafficking, the court referred to the considerations of the first judge. The tasks and duties that the postulants had to perform should be seen in the context of a voluntary religious commitment in the monastic order. There was no evidence that they had to work in circumstances contrary to human dignity. The fact that the first defendant often behaved in an authoritarian, derogatory and even racist manner was not in itself sufficient to speak of overall working conditions contrary to human dignity. Furthermore, the abuse of their vulnerable position couldn't be proven.

However, the court considered that a number of social law offences and aiding illegal immigration were established against the first and second defendants, as were the charges of forgery. The first judge had found the first two defendants guilty of false and incomplete NSSO declarations, which the court confirmed.

The court sentenced the first defendant to three months in prison and a fine of EUR 27,000, as well as a separate fine of EUR 1,000 (for the charges of forgery and aiding illegal immigration), both suspended for three years. The second defendant was sentenced to a fine of EUR 9,000 and a separate fine of EUR 10,800, both suspended for three years. The third defendant was given a three-year suspended fine of EUR 14,400.

The fact that the reasonable time limit was exceeded (to a limited extent) was taken into account in the sentencing. The plaintiffs' claims were dismissed.

Administrative work in a travel agency

Antwerp Court of Appeal²⁷² reviewed a judgment of 9 September 2021 concerning a case of human trafficking for the purpose of labour exploitation and social law offences, previously tried by Antwerp Criminal Court on 14 December 2020 and discussed in a previous annual report²⁷³. The period of criminal activity was from December 2017 to December 2019. A defendant of Moroccan nationality was prosecuted. The Moroccan victim filed a civil suit.

The victim was discovered during a random inspection of a travel agency run by the defendant. He stated that he had been living and working there for two and a half years. He wasn't registered in Dimona and was working without the necessary work and residence documents, hence, he was in the country illegally and had already received an order to leave the territory. The defendant had promised to help him obtain his residence documents, but this promise had gone unheeded. He was housed in the basement of the building and worked without a contract and without a fixed salary, but in exchange for accommodation (in a damp, musty basement with no facilities), bread, coffee and occasionally a little money for cigarettes. He opened the agency at 10:00 and closed it around 19:00. He received customers, weighed their luggage and took care of all the administration for the dispatch of the parcels. All the transactions were recorded in notebooks.

The defendant argued that he had only been away for a short time and that - to please the plaintiff - he had allowed the man to help him from time to time with the business. He had offered accommodation to the plaintiff after being begged because the man was in an irregular situation.

The defendant was found guilty of human trafficking and social law violations (including failure to comply with the Dimona declaration obligation and employment of a foreigner not authorised to work). He was sentenced to one year in prison and fined EUR 24,000. The victim was awarded pecuniary damages of EUR 45,846.62 (calculation of the salary due) and non-pecuniary damages of EUR 5,000.

The court of appeal upheld the judgment pronounced at first instance concerning the human trafficking charge. The defendant didn't challenge the other charges. The court sentenced the defendant to one year in prison, but limited the fine to EUR 8,000. The victim received compensation of EUR 40,846.62 for pecuniary damages and EUR 2,500 for non-pecuniary damages.

²⁷² Antwerp Court of Appeal, 9 September 2021, ch. C6.

²⁷³ Antwerp Crim. Court, Antwerp division, 14 December 2020, ch. AC1. Myria, *2021 Trafficking and smuggling of human beings, Visibly invisible*, pp. 77 and [Antwerp Crim. Court, 14 December 2020 | Myria](#).

Metal sorting

Liège Court of Appeal reviewed a case concerning metal sorting, judged at first instance by Marche Criminal Court on 30 June 2017²⁷⁴. In this case, three Belgian defendants (two brothers and their father) were prosecuted for various offences: human trafficking for the purpose of labour exploitation of two illegally staying Burkinabe nationals, human smuggling of the same persons, aiding illegal residence and several social criminal law offences (including the employment of workers with no right to stay in Belgium and failure to pay wages).

The two workers filed a civil suit.

The defendants were convicted of the charges at first instance (without the aggravating circumstances of authority and abuse of vulnerability).

The case was initiated when a specialised reception centre for victims of trafficking contacted the social inspectorate in August 2013 in order to hear one of the two workers, who wished to report the acts of human trafficking of which he had been a victim. Originally from Burkina Faso, he explained his journey to Belgium, his two unsuccessful asylum applications, the numerous squats he lived in, the work for one of the defendants, which he found through a friend. First he had to clear a piece of land in order to set up a scrap yard, and then he had to sort the scrap. He lived in a caravan on the site with the other worker, with no hot water or heating. Although it was agreed that he would receive EUR 25 per day, he received EUR 300 for three months. He also worked for the father of this defendant at a yard for old scrap metal in Vielsalm, where he had to sort out the old scrap and dismantle car parts. He worked seven days a week, from 08:00 to 21:00. Another of the defendants, the brother, ran this yard. He also lived there in a caravan.

In March 2014, the reception centre notified the social inspectorate of another worker who was a victim of the same defendants' actions. The latter, also of Burkinabe nationality, was employed by two of the defendants at the Vielsalm yard, while seeking asylum (he had submitted three asylum requests which had all been rejected). While out shopping one day, he met the father who offered him work. He asked for an employment contract but he never got one and frequently wasn't paid. He also worked in the yard of the other defendant and also lived there in a caravan.

An investigation was then carried out to confirm the statements of the two victims, despite the defendants' denials: analysis of transactions, neighbourhood inquiry, material evidence provided by the victims (rail passes showing the routes between the various sites, photos, analysis of the victims' mobile phones).

In a judgment of 9 September 2021, Liège Court of Appeal²⁷⁵ confirmed the convictions pronounced at first instance, but contrary to the criminal court, upheld the aggravating circumstance of abuse of vulnerability concerning the two workers, both in relation to trafficking and smuggling. In a detailed reasoning, it specified that the plaintiffs had indeed been recruited in order to be put to work. Recruitment should be understood in the ordinary sense of hiring: it is sufficient for the employer to offer a job to a person who contacts them. The plaintiffs were also harboured, at least partly. The violation of human dignity was established by the unfair pay, the working hours, the failure to declare the work and the working conditions. The abuse of vulnerability was also established since the workers were in an illegal or precarious administrative situation at the time the work was carried out for the defendants (refugee status denied or under examination).

The court found that the reasonable time limit had been exceeded and therefore pronounced a simple declaration of guilt.

As regards the plaintiffs, contrary to the criminal court, it considered that the non-payment of wages resulting from undeclared work, as in the present case, could be compensated, since the workers had been victims of human trafficking. It therefore didn't follow the arguments of the Court of Cassation²⁷⁶ which established that the receipt of wages from undeclared work constitutes, as a rule, unlawful work, the loss of which can't be compensated.

It therefore ordered one defendant (one of the brothers) to pay the plaintiffs more than EUR 6,000 and more than EUR 32,000 respectively in pecuniary damages; the other two (the other brother and the father) were ordered jointly and severally to pay them more than EUR 6,000 and more than EUR 17,000 respectively in pecuniary damages. The three were also ordered to pay them EUR 2,500 in non-pecuniary damages.

²⁷⁴ Luxembourg Crim. Court, Marche-en-Famenne division, 30 June 2017, 14th ch. (unpublished).

²⁷⁵ Liège, 9 September 2021, 6th ch.

²⁷⁶ Court of Cass., 14 May 2013; RG P.02. 1204.F.

3. Human smuggling

3.1. | European Court of Human Rights, *Al Alo v. Slovakia* judgment of 10 February 2022

This case concerns the unfair conviction of a migrant smuggler based on statements given by witness who weren't heard at the trial. The issues were examined in light of Article 6 (right to a fair trial) of the European Convention on Human Rights²⁷⁷. The applicant, a Syrian national, claimed that his trial and conviction for migrant smuggling was unfair because much of the evidence against him came from the migrants he had assisted. However, they were only interviewed at the pre-trial stage of the proceedings, before being expelled from Slovakia, and didn't appear at his trial. He wasn't represented by a lawyer at the time, and wasn't present at their interviews.

In January 2017, he was accused of joining forces with others to smuggle migrants. Two police officers, who were watching him in Bratislava, saw him and two suspected migrants getting into a taxi which then headed for the border between Slovakia and Austria. The police intercepted the car and took the migrants into custody.

Both the applicant and the migrants were interviewed. The former stated that he considered the latter to be acquaintances of his father and that he had only provided them with accommodation and transport. However, the migrants claimed that he had organised their transfer to Germany on the basis of an agreement paid for in advance. In May 2017, he was found guilty of the charges against him and sentenced to five years in prison.

The Court²⁷⁸ concluded that there had been a violation of Article 6 §§ 1 and 3 (d) (right to a fair trial/right to obtain the attendance and examination of witnesses) of the Convention with regard to the applicant, finding that the proceedings against him as a whole had not been fair. In particular, it found that the person concerned had been deprived, without sufficient justification, of the opportunity to question, or have questioned, witnesses whose statements had been of significant importance to his conviction.

Although the fact that the migrants weren't present in Slovakia was in principle a valid reason for admitting the statements they had given at the pre-trial stage to the trial, there was no sufficient reason in practice for their non-appearance at the trial, since the authorities had their address and identity documents and hadn't used any of the means available to them to ensure their appearance remotely. The fact that the applicant had chosen not to attend the preliminary questioning of the migrants could in no way be regarded as an implicit waiver of his right to question or have questioned the witnesses against him. The authorities should have ensured that the applicant, who had made it clear from the outset that he had difficulty in understanding legal issues, was in a position to understand the consequences of not exercising his rights.

3.2. | Vietnamese smuggling networks

Essex case: 39 victims deceased in a refrigerated lorry

Bruges Criminal Court ruled in a judgment of 19 January 2022²⁷⁹ on a vast case of human smuggling by a Vietnamese smuggling network in which 23 defendants were prosecuted. The defendants were of Vietnamese, Belgian, Moroccan and Armenian nationality²⁸⁰.

On 23 October 2019, 39 bodies were found in the trailer of a lorry in the United Kingdom. The victims were all Vietnamese nationals and had been smuggled in a lorry trailer from Zeebrugge to the United Kingdom by boat.

The investigation in Belgium was conducted by the federal prosecutor's office and began on 24 October 2019. At the time of the events – 22 and 23 October 2019 – several judicial investigations were already underway in West Flanders for previous acts of smuggling of Vietnamese nationals. These investigations were added to the investigation into the events of 22 and 23 October 2019.

²⁷⁷ ECHR, judgment *Al Alo v. Slovakia* (application no. 32084/19).

²⁷⁸ Source: press release from the Court registrar of 10 February 2022.

²⁷⁹ West Flanders Crim. Court, Bruges division, 19 January 2022, ch. B17 (appeal set for December 2022).

²⁸⁰ In the meantime, two other Vietnamese defendants were convicted in the recent Essex-bis case. They were only arrested later and extradited from the United Kingdom to Belgium after the first trial in January.

Hence, the investigation covered the events both before and after the tragedy. As a result, it was possible to identify a whole series of activities and *modi operandi* of the smuggling network. Various methods were used during the investigation to identify the victims and link them to the smugglers, but also to identify the clandestine migration routes taken from Belgium to France, then back to Belgium and from there to the United Kingdom.

As the smuggling activities of this network took place in different countries, investigations were conducted in several countries: Belgium, France, United Kingdom, etc. Belgium and the United Kingdom reached an agreement for a joint investigation team (JIT) in early November 2019. Ireland and France also participated. EUROPOL and EUROJUST were involved too. A meeting was held with the families of the victims in Vietnam within the framework of a British letter rogatory. This information was used by the FJP in the case²⁸¹.

The victims found in the trailer consisted of eight women and 31 men, all Vietnamese nationals. Four of them were under 18 years old. The trailer in which the victims were found was a refrigerated trailer. A British investigation showed that the cooling (and therefore air circulation) of the refrigerated lorry wasn't working. As a result, the victims succumbed to a lack of oxygen. This certainly occurred on the ship during the journey.

The investigation revealed that several victims had been taken by taxi from Anderlecht, Paris and Berlin to northern France, where they had boarded the lorry's trailer. Several victims had previously stayed in safehouses in Brussels while waiting for their crossing. The trailer was then driven to Zeebrugge and left in the port to be loaded onto the ship, and then collected in Purfleet, United Kingdom, by another lorry. It was the lorry driver who discovered the bodies of the victims on arrival at their destination.

The investigation relied on a variety of techniques, including camera footage from ports and ships, as well as from service stations along the route, analysis of GPS tracking of lorries, ANPR²⁸² searches for the lorries and taxis, neighbourhood inquiries, especially among port companies and safehouses, information from customs, tractor cargo searches, base station checks, retroactive phone number searches, emergency switchboard and phone operator searches, and IMEI searches²⁸³. There were hearings, re-hearings and confrontations with the defendants, a hearing of a victim with a tour to identify addresses. There was a bank investigation and an examination of social media, including Facebook.

The investigating judge was asked to initiate various investigative actions. The various safehouses were observed for several months. Several numbers were put under surveillance as a result of the phone investigation. Numerous searches were carried out at various stages of the investigation, during which various defendants and victims were found, DNA traces were examined on mobile phones found in the safehouses, prison records were examined, such as account details, visitor lists and phone contacts. There were several European Investigation Orders (EIO) for the Netherlands, Germany and the United Kingdom. Data from 21 mobile phones recovered from the trailer containing the 39 victims was analysed by the UK police. The FJP received this data downloaded from the mobile phones and SIM cards via the JIT. The FJP combined all this information with the UK reports of visits to the victims' families as part of their letters rogatory in Vietnam. An IO investigation revealed that several visas were issued to the victims for France for alleged family reasons.

The investigation revealed that smuggling victims in Vietnam are often lured by criminal organisations with false promises of lucrative jobs in Europe.

The majority of victims are men, mostly between the ages of 20 and 40, often from certain regions of Vietnam. Social media plays a major role in attracting potential victims. The final destination is often the United Kingdom, with Belgium usually acting as a transit country for migrants. There are several routes: they often pass through Russia, Belarus, the Baltic States, via Poland, the Czech Republic, Slovakia, to Germany and from there to the Netherlands, Belgium and France, and often from there to the United Kingdom. Some routes also pass through Ukraine and Kaliningrad in Russia or through South America. Another route went through Vietnam, Malaysia, Greece, Portugal, France and then Belgium.

281 Because of the Covid-related restrictions, the Belgian research team wasn't able to travel to Vietnam at the time.

282 Automatic number plate recognition.

283 International Mobile Equipment Identity (IMEI): every phone has a unique IMEI number which can be useful in finding a lost or stolen phone. This number can be found by dialling *#06#.

The price of smuggling in Western Europe can reach EUR 40,000 euros, forcing families or migrants to borrow money. Ultimately, the migrant is responsible for the repayment.

The cost of a journey varies depending on whether it is a standard journey or a 'VIP route'. Those who want to go to the United Kingdom have to pay extra. The amounts can vary: one family paid EUR 11,000 to smuggle the victim to the UK. Another family had to pay EUR 11,500, EUR 5,500 of which they had to pay to one of the defendants; they borrowed this sum from a relative of a defendant. Another family paid EUR 10,000 for the journey to Hungary and then another GBP 15,000 to continue to the United Kingdom. Yet another family had to pay EUR 39,500 once they had arrived safely in the United Kingdom.

Most of the smuggling was carried out by the Vietnamese network, with local taxi drivers being called in for the last part, the transportation of the victims to the lorries. Several of these taxi drivers also appear in this case.

For the final part of the journey, i.e. the crossing to the United Kingdom, other smuggling networks were sometimes used, such as the Kurdish and Albanian networks. In the United Kingdom, local lorry drivers were used.

The victims who stayed in Belgium in Vietnamese-owned safehouses had absolutely no freedom of movement. They sometimes stayed there for a long time until their crossing to the United Kingdom.

The various defendants in this case can be subdivided as follows: 1) the defendants who played an important role in the Vietnamese network; 2) the defendants who had more of a secondary role as facilitators of the smuggling activities, such as the owners of the safehouses, and 3) the taxi drivers who transported the victims from their place of residence to different places in Belgium and neighbouring countries in order to hide them in lorries. One of the defendants was the director of a taxi company.

The various defendants were prosecuted as perpetrators or co-perpetrators²⁸⁴ of, among other things, human smuggling with aggravating circumstances, such as the fact that the offence resulted in the death of the victims without intent to kill, that the offence was committed against minors, etc. One defendant was prosecuted for attempted smuggling of human beings.

The defendants were also prosecuted for being leaders, or for having participated in the decision-making, or for having participated in the preparation or implementation of activities of a criminal organisation. In addition, several of them were prosecuted for fraudulent use of identity documents, for using false names and for illegal residence in Belgium.

The court assessed the role of each defendant. It was possible to directly link ten of the defendants to the events of 22 October 2019.

The first defendant was considered the leader of the safehouse in Belgium. He recruited victims to travel to the United Kingdom through him. He determined the prices and ordered the family members to pay the required amount to his family in Vietnam. It was also possible to link him to several smuggling runs before and after the events of 22 and 23 October 2019. The court found that he was the undisputed leader of the criminal organisation, and of its Belgian cell to be exact. He was in contact with the coordinators in Germany and France. He was in close contact with the Vietnamese facilitation network that the organisation used to smuggle victims into the United Kingdom. He decided who could and couldn't travel and how and when payment should be made on arrival in the United Kingdom.

The second and third defendants were also considered co-facilitators. They were responsible for the Brussels safehouses and both could be directly linked to the events of 22 October 2019.

The sixth and eighth defendants belonged to the middle management of the organisation, between the first defendants and the facilitators and taxi drivers.

The ninth, tenth and eleventh defendants were the owners of the safehouses and were therefore important facilitators in the criminal organisation. The thirteenth and fourteenth defendants were a father and son who ran a nail bar together. The fifteenth and sixteenth defendants bought SIM cards in their names.

Defendants 17 to 26 were taxi drivers who were in charge of transferring the victims to the lorries²⁸⁵. The eighteenth defendant was a taxi driver and co-manager of a taxi company, who transported the victims himself or organised runs for other taxi drivers. He determined the price of the runs. The routes passed through remote areas and weren't recorded on the log sheet.

²⁸⁴ In the sense of Art. 66 of the Criminal Code.

²⁸⁵ The prosecution of the 17th defendant was inadmissible because he had already been convicted of the same offence.

The nineteenth defendant was a taxi driver. He was the contact person for the Vietnamese network and was in contact with the Vietnamese smugglers. He took care of the runs himself or entrusted them to other taxi drivers. He took people to France, the Netherlands, Germany and back to Belgium. He also set the price and received the money from the Vietnamese smugglers. He would then pass the amount onto the taxi drivers who would carry out the runs. The taxi drivers had to pay him a percentage of the amount, as he had made the contacts. The twentieth defendant, the twenty-first defendant and the twenty-sixth defendant were also taxi drivers. According to the court, they must have been aware of the smuggling activities. Not only were the principals always the same and the transport paid for by third parties, but the clients were always allegedly 'family'. The clients also usually had no luggage and couldn't make themselves understood. The destinations were clearly suspicious, usually totally remote places on the coast. In addition, the drivers didn't generally record these journeys on the log sheets. They were professional drivers and could therefore tell the difference between these and regular rides. These journeys were frequent, over a long period of time, and they knew that they were illegal. One of the defendants had continued to accept assignments to transport Vietnamese migrants even after the dramatic events of 22 October 2019.

Four other defendants were also taxi drivers, but were acquitted. According to the court, they weren't directly approached by Vietnamese principals, but acted on behalf of a fellow taxi driver, a significant number of destinations weren't necessarily suspicious, nor were the earnings unusually high. There was insufficient objective evidence to assess whether they had knowledge of the nature or purpose of the runs for the criminal organisation.

The main defendant was sentenced to 15 years in prison and fined EUR 920,000. He was stripped of his rights for 20 years. A special confiscation of EUR 2,284,005.19 was ordered. The second and third defendants were sentenced respectively to prison terms of four years and 37 months, and fines of EUR 8,000. The sixth defendant was sentenced to ten years in prison and a fine of EUR 480,000. A special confiscation of EUR 337,335.25 was ordered. He was stripped of his rights for 10 years.

The eighth to sixteenth defendants were sentenced to prison terms ranging from 18 months to 50 months, some suspended, and fines of EUR 8,000.

One of the taxi drivers was sentenced to seven years in prison and a fine of EUR 368,000. A special confiscation order of EUR 17,103.50 was issued. The other taxi drivers were sentenced to two to four years in prison, suspended, and fines of EUR 88,000 to EUR 160,000, partly suspended. Special confiscations were ordered for several amounts.

Three defendants were sentenced in absentia.

Myria and PAG-ASA filed a civil suit together with eight other family members of the victims. Myria and PAG-ASA were each awarded EUR 5,000 in compensation. The claim of the other plaintiffs, namely the direct relatives and close friends of the deceased victims, was upheld against the defendants who could be linked to the events of 22 October 2019. Non-pecuniary damages ranging from EUR 4,500 to EUR 9,000 were awarded, depending on the relationship between the plaintiff and the victim. Pecuniary damages were estimated at between EUR 1,000 and EUR 2,000, plus interest.

Small boats transporting Vietnamese victims and Kurdish smuggling organisations

In a judgment of 9 February 2022²⁸⁶ Bruges Criminal Court ruled on a case of human smuggling using small boats to cross the English Channel. A defendant of Iraqi nationality was prosecuted. In May 2021, a patrol discovered a van with a French registration plate parked in Koksijde with its doors open. The patrol noted that several people were escaping into the dunes. There was suspicion of illegal smuggling by small boat.

A drone team arrived on the scene and searched the dune area with a thermal camera, locating around 60 people. The maritime information centre was alerted and a team of boats scoured the coast. In the dunes, inflated RHIB boats²⁸⁷, a few boxes of life jackets and several jerry cans of fuel were found. A backpack containing amphetamines, heroin, cannabis and ecstasy, among others things, was also found.

More than 80 transit migrants were found that night and were mainly of Vietnamese and Kurdish origin. One of the people, the defendant, had the key to the car found with the French number plate.

²⁸⁶ West Flanders Crim. Court, Bruges division, 9 February 2022, ch. B17 (appeal).

²⁸⁷ Rigid hull inflatable boat.

The investigation revealed that the car had been intercepted several times by the ANPR system in Belgium. Heroin was also found in the vehicle. The defendant and several people in his entourage were arrested and their mobile phones analysed. Several transit migrants were heard. Searches were made of vehicles, in the dunes, as well as searches for evidence on RHIBs and accessories, vehicles, and analyses of the transit migrants' mobile phones.

At the same time, an RHIB was intercepted by the maritime police with 15 women and 29 men of Vietnamese and Kurdish origin on board. There wasn't enough fuel on board to reach the United Kingdom, the life jackets were only suitable for inland waters, all the necessary equipment was missing and the boat didn't comply with any regulations. In the event of an emergency, outside the range of a mobile phone network, there was no way to send a distress signal. Among the passengers were victims who had also been intercepted during another intervention.

According to the court, there was sufficient evidence that the defendant was involved in smuggling and his statement that he was simply one of the illegal migrants wasn't credible and inconsistent with the other evidence. It was proven that he was in contact with a known smuggler. On his mobile phone, sufficient information was found about 'Hawala' banking services, information about RHIBs and outboard motors, and threats against a person who couldn't pay their debt.

The defendant was sentenced to seven years in prison and fined EUR 640,000. Payoke filed a civil suit and was awarded EUR 5,500 in compensation.

British lorry driver involved in smuggling Vietnamese victims

In a judgment of 13 October 2021²⁸⁸, Bruges Criminal Court ruled on a case involving the smuggling of Vietnamese nationals. A British defendant was prosecuted.

West Flanders FJP had police information showing that an organisation was active in bringing trailers to Belgium to transport transit migrants in them to the United Kingdom via the Zeebrugge-Purfleet route. Information from the British authorities established the identity of the suspects. The trailers involved were also known and it was possible to locate them. Ten people were found in the trailer, all of Vietnamese origin, including eight minors. The defendant was the driver and denied any knowledge of the stowaways in the trailer.

There was a phone investigation, camera footage was analysed, intelligence was gathered in France and the United Kingdom, forensic analyses were carried out in search of evidence, and WhatsApp conversations were thoroughly examined. The file also contained statements from the victims, as well as contradictory statements from the defendant.

The court found that the facts were established, with aggravating circumstances. The defendant had a criminal record. He was sentenced to 37 months in prison and fined EUR 8,000. He was stripped of his rights for 10 years.

3.3. | Iraqi smuggling network

Smuggling of Kurdish victims with a tragic outcome for one child victim

Liège Court of Appeal was called upon to review the acts of human smuggling in the case linked to the death of Mawda, the Kurdish girl who died following a police shooting during a chase with the van transporting the migrants. The part relating to the police shooting was tried by Mons Criminal Court on 12 February 2021. The smuggling acts were tried at first instance by Liège Criminal Court on 31 March 2021²⁸⁹. It concerned six Iraqi defendants, three of whom failed to appear. They were charged with human smuggling with aggravating circumstances, including endangering the lives of the victims and the fact that there were children among them on the fatal night. The migrants transported were of various nationalities: Iraqi, Syrian, Pakistani, Iranian and Afghan. Those prosecuted included the presumed driver of the van (convicted in the Mons case) and the smuggler (acquitted in the Mons case). The latter was also prosecuted for a number of other human smuggling charges, as was another defendant. All the defendants were prosecuted for participation in a criminal conspiracy and for illegal residence. The parents of the deceased girl filed a civil suit on their own behalf and as the legal representatives of their daughter Myria also filed a civil suit.

²⁸⁸ West Flanders Crim. Court, Bruges division, 13 October 2021, ch. B17 (appeal).

²⁸⁹ Liège Crim. Court, Liège division, 31 March 2021, 19th ch. See Myria, *2021 Annual Report Trafficking and smuggling of human beings, Visibly invisible*, pp. 81-82. This judgment is available on Myria's website.

The case was initiated at the beginning of May 2018, when investigators from Liège federal police drew up an initial report stating that an Iraqi-Kurdish group was active in human smuggling, with migrants transiting through the Liège region. This smuggling of migrants from Syria and Iraq was organised between France, Belgium and other countries, with England as the destination. The *modus operandi* consisted of gathering the migrants together in a camp near Dunkirk. Groups, each accompanied by a smuggler, would then be picked up in vans with false number plates. These vehicles would be driven by two drivers, who would trawl through motorway parking areas overnight to find opportunities to board trucks bound for Great Britain. Payment for the journey between Dunkirk and Great Britain would be made on arrival. However, to be able to make the crossing, the migrants would have to guarantee the sum via a money transfer 'agency', such as Western Union, by providing the name of the beneficiary and the code of the operation. The investigation carried out by the police in Liège suggested that certain organisations bought vans in Liège, mainly from the same garage, which were subsequently fitted out (removal of the partition between the driver's and the load space) and provided with false number plates.

On 17 May 2018, the police gave chase to a van with false number plates leaving a parking area on the motorway heading to Mons. The driver drove in a manner that endangered both his passengers and other road users, and then refused to obey police orders. The rear windows (obscured by black paint) were smashed and the occupants threw out objects in order to obstruct the traffic of other vehicles, including the police. A small child was even held up. After a police officer fired, the van was immobilised, revealing around 30 people crammed inside, the driver having mixed with the passengers. An Iraqi girl, hit by the shot, died.

An investigation was launched to identify the driver(s), facilitators, smugglers and organisers of these smuggling operations. Various means of investigation were used (open source searches on social media, mobile phone analyses, DNA analyses and fingerprinting, etc.). Anonymous witnesses were also heard.

The court considered that this was indeed a case of human smuggling and convicted the defendants of most of the charges.

The smuggler (acquitted in the Mons case) and another defendant, who drove the van at the start and then took the place of the facilitator, appealed against the decision. The former claimed to be just another migrant, which was disproved by several documents in the file.

In its judgment of 18 January 2022, Liège Court of Appeal²⁹⁰ confirmed the sentences pronounced at first instance.

Iraqi and Syrian human smuggling organisation

Another case was tried by Antwerp Criminal Court. In a judgment of 3 November 2021²⁹¹ the court ruled on a case of human smuggling in which eight defendants were prosecuted, as perpetrators or co-perpetrators, for smuggling human beings with the aggravating circumstance of being members or leaders of a criminal organisation. The defendants were either of Iraqi, Syrian or British nationality, or of unknown nationality.

The investigation started after a report of a person who was locked in a refrigerated lorry with other victims. They were able to call the police after the lorry's refrigeration system was activated and it was too cold.

The investigation was carried out on the basis of mobile phone analyses, phone tapping, a retroactive phone investigation, statements from defendants, photographs, and searches²⁹².

The investigation revealed that the criminal organisation had been active between August 2018 and January 2020 and had smuggled at least 91 people. They operated in parking areas along the E34 near Oud-Turnhout and Postel, but also in car parks in other parts of the country, in Liège, Ghent and Maasmechelen.

²⁹⁰ Liège, 18 January 2022, 18th ch.

²⁹¹ Antwerp Crim. Court, Antwerp division, 3 November 2021, ch. AC10 (appeal).

²⁹² The court excluded certain recordings of conversations from the French case file as evidence against one of the defendants. There was only a typed transcript of the audio files and, despite insisting the French authorities provide the audio files, they failed to do so.

They allowed migrants to board lorries to the United Kingdom in exchange for substantial sums of money. Victims paid around EUR 3,000 to EUR 5,000 and up to EUR 10,000 or EUR 11,000 for a clandestine crossing with a guarantee that the lorry driver was aware of the situation. Payment was made through the 'Hawala' system, where the money was given to someone for safekeeping. Only upon arrival at the destination did this intermediary hand over the money to the criminal organisation. The migrants were contacted in Brussels. They stayed in the vicinity of Brussels North station, in Maximilian Park. The smugglers would tell them when to leave and where to go in the parking areas. They either took public transport to the parking areas or were driven there by car.

Belgian investigators received information from a case in France in which some of the defendants were also involved.

The organisation was international with contacts in Belgium, France, the Netherlands, the United Kingdom and Iraq. It was composed of organisers/principals and field workers who provided logistical support. The members all had different tasks and roles, such as giving orders and instructions, acting as drivers, collecting victims as enforcers, opening trucks, guarding parking areas, etc. They didn't hesitate to use violence, including towards other members. Firearms were used to make threats. The organisation also made plans for smuggling activities via the North Sea on board boats.

The court found the facts to be true. The two main defendants were at the head of the criminal organisation. The other defendants were members of the organisation and carried out certain tasks in return for payment. Some of the defendants argued that they had participated in the smuggling activities to pay for their own crossing and that they hadn't collected any money themselves. However, the court found that their financial benefit in this case constituted a benefit in kind.

The sixth defendant was a recruiter and contact person for the new victims. He was in charge of the financial arrangements, the 'Hawala' transactions. He wasn't active in the parking areas. One of the defendants had meanwhile managed to get to the United Kingdom, from where he continued his smuggling activities.

The seventh defendant was a British national and the companion of the main defendant with whom she had a little boy. She regularly transported people. She was aware of the plans to organise smuggling activities by small boat.

Three defendants failed to appear.

The defendants were sentenced to heavy prison terms ranging from 50 months to 10 years and heavy fines ranging from EUR 256,000 to EUR 728,000, some of which were suspended. Large sums of money were also confiscated.

The first, sixth and eighth defendants appealed and Antwerp Court of Appeal reviewed the case in a judgment of 28 April 2022²⁹³.

The court largely upheld the judgment. The sentence of 10 years' imprisonment for the first defendant was confirmed. For the sixth defendant, the prison sentence was reduced to 40 months, suspended for five years, and the fine was reduced to EUR 134,000, partly suspended. The eighth defendant was sentenced to 50 months' imprisonment, suspended for five years, and the fine was reduced to EUR 208,000, partly suspended.

3.4. | Sudanese smuggling network

Smuggling network active up to the province of Luxembourg

Brussels Dutch-speaking Criminal Court ruled in a judgment of 2 April 2021²⁹⁴ on a human smuggling case in which nine defendants were prosecuted as perpetrators or co-perpetrators of human smuggling and attempted human smuggling with aggravating circumstances between November 2019 and July 2020. They were also prosecuted for participating in the decision-making, preparation or implementation of the activities of a criminal organisation, and for illegal stay.

It was an organisation composed mainly of men of Sudanese nationality. They were very active in the Brussels area and at motorway parking areas near Arlon, close to the border with the Grand Duchy of Luxembourg. Maximilian Park in Brussels was used as a place to recruit transit migrants to go to the United Kingdom for amounts ranging from EUR 700 to EUR 1,200 depending on the profile of the migrant. From Brussels, migrants were taken to parking areas near Arlon where they were loaded into lorries. Both the smugglers and the migrants sometimes stayed in the parking areas for several days in tents.

A phone investigation was carried out ('retro-zollers', analysis of base station traffic and tapping operations). Ten numbers were tapped. Observations were carried out at Brussels-North station and the motorway parking area, as well as searches.

293 Antwerp, 28 April 2022, ch. C6.

294 Brussels Dutch-speaking Crim. Court, 2 April 2021, 23rd ch. (appeal).

Two female victims, supported by PAG-ASA, gave statements to the police. They stated that the main defendant had threatened them with violence and sexually harassed them at different times. One of the girls was even injured. They were able to identify several smugglers in photos.

The court considered that there was a very well structured and organised relationship between the defendants, with a clear division of tasks between the large number of members (leaders, recruiters, boarding assistants, etc.). The material organisation (distribution of camps with tents in the parking area, distribution of tickets, organisation of a constant flow of victims, collection of money, multiple attempts to intercept migrants, etc.), the consistency of the organisation and the systematic and high frequency of the commission of offences were all elements that demonstrated the existence of a well-organised criminal organisation, distinct from an association. The acts were committed by mutual agreement. The recorded conversations also revealed that several members were transferring money abroad.

The court found that the acts of human smuggling were established, with aggravating circumstances.

Two defendants were also convicted as leaders of the criminal organisation. They decided when to go to the parking areas, who could go there and how many people could board. They were sentenced to prison terms of five years and 40 months respectively and fines of EUR 1,644 and EUR 832. Five defendants were also convicted of participating in decision-making within the criminal organisation. They collected the money and negotiated prices. They were sentenced to four years in prison and fines ranging from EUR 1,456 to EUR 10,192. Two defendants were convicted of participating in the preparation or implementation of activities. They helped people to board the lorries and carried out the tasks assigned to them by the other members. They were sentenced to 30 months in prison and fines of EUR 8,320 and EUR 8,944.

Separate sentences were handed down for the charge of illegal stay and all defendants received a three-month prison sentence.

Several defendants and the public prosecutor appealed. Brussels Court of Appeal reviewed the case in a judgment of 15 October 2021²⁹⁵. The court considered that the acts should be described according to their most severe classification. It redefined the charges by dropping the aggravating circumstance of human smuggling within an association (Article 77quater, 7° of the Aliens Act).

Prosecutions were also brought for the aggravating circumstance of participation in the activity of a criminal organisation (Article 77quinquies of the Aliens Act).

One of the defendants stated during the proceedings that he was a minor at the time of the events. The first judge considered that the age of majority was established on the basis of the report of the forensic expert (after an X-ray examination of the wisdom teeth, wrist and collarbone) according to which it could be established with reasonable scientific certainty that the defendant was older than 18 years. However, the court held that reasonable scientific certainty couldn't rule out any doubts concerning the person's age. The forensic expert expressed reservations about the fact that the study was based on the results of a 'Caucasian' and that it wasn't scientifically conclusive that the results also applied to other ethnic groups. The court considered that there were doubts about the defendant being of age at the time of the crime and therefore ruled the criminal proceedings against him inadmissible.

Furthermore, the court considered that the allegation by some of the defendants that they hadn't personally gained anything from their intervention wasn't relevant to define the acts as human smuggling. Complicity in human smuggling applies to any person who contributes in any way, directly or through an intermediary. Each of the defendants knowingly participated and provided the cooperation necessary for the success of the smuggling activities, with the ultimate goal of making money for the organisation. They are therefore all co-perpetrators, irrespective of any personal financial benefit they may have derived.

The court also found that the sentence should take into account the situation of the defendants, all of whom had fled humanitarian disasters or difficult situations in their countries. Perhaps they didn't initially act for the sole reason of making money, but were trying to earn some money despite their vulnerable situation.

The sentence of the main defendant was finally confirmed. For the other defendants, the prison sentence was reduced to 30 months. The fines were confirmed.

²⁹⁵ Brussels, 15 October 2021, 15th ch.

3.5. | Ethiopian-Eritrean smuggling network

In a judgment of 15 March 2022²⁹⁶, Dendermonde Criminal Court ruled on a case in which five defendants were prosecuted for human smuggling with aggravating circumstances. The defendants were from Eritrea and Ethiopia. A victim filed a civil suit²⁹⁷.

The smuggling activities mainly took place at the motorway parking area in Wetteren in January and February 2020.

The judicial investigation was conducted through observations, phone taps, retroactive phone investigations, examinations of mobile phones and interviews with transit migrants. British pre-paid SIM cards were often used.

The main defendant was clearly the leader of the smuggling group. He asked aspiring migrants for EUR 800 to smuggle them. He was the one who opened the lorries, checked the destination and closed the lorries. New transit migrants could only be smuggled with the express consent of the defendant.

The other four defendants assisted the first defendant. Some of the defendants argued that they hadn't received any money but were trying to enter the United Kingdom in exchange for their assistance. The court held that section 77bis of the Aliens Act doesn't require each co-defendant to receive money personally. Cooperating directly or through an intermediary and participating in a human smuggling organisation is sufficient to be considered a co-perpetrator. According to the court, they were looking for at least an indirect financial benefit.

The court found the defendants guilty, but limited the number of victims.

Aggravating circumstances were also established. The vulnerable position of the transit migrants was abused, they were loaded into refrigerated or bulk trailers, at great risk to their lives. There was also association: smuggling by one person is impossible. Human smuggling is a team effort and all the defendants had a specific role in the system, as guard (supervisor), enforcer or escort.

The association was clearly structured, with the other defendants in contact with the first defendant, their superior. He decided when to go to the parking areas, in which lorries the transit migrants were to be 'loaded' and ensured the opening and closing of the lorries. He did everything he could to remain unnoticed. The other defendants acted as intermediaries and were in contact with the transit migrants, helped to bring them to the parking areas, stood guard and provided the necessary equipment.

The first defendant was sentenced to four years in prison and a fine of EUR 46,000. The other defendants were sentenced to prison terms of one to three years and fines of EUR 5,000 to 24,000, partly suspended.

3.6. | Albanian smuggling networks

As mentioned in the trends at the beginning of this chapter, the decisions Myria received concerned, on the one hand, VIP smuggling of Albanian nationals in the cabs of lorries and, on the other hand, smuggling by ferry from Zeebrugge with forged Italian identity documents, or by means of sailing boats or yachts from marinas on the Belgian coast.

Italian drivers²⁹⁸

In a judgment of 12 May 2021²⁹⁹ Bruges Criminal Court ruled on a case of smuggling of Albanian nationals who used false identity documents.

Three defendants were prosecuted in this case, two of Albanian nationality and one of Italian nationality. Two of them failed to appear at their trial.

The case was initiated following information that one of the defendants was the organiser of an international human smuggling operation. He was living in the United Kingdom, but organised the clandestine crossing of Albanians to the United Kingdom via the port of Zeebrugge. He collaborated with his brother who lived in Italy.

²⁹⁶ East Flanders Crim. Court, Dendermonde division, 15 March 2022, ch. D19D (appeal).

²⁹⁷ The victim's application was inadmissible because it wasn't mentioned in the order for referral and the court can't accept new facts that haven't been submitted to it.

²⁹⁸ See other decision: West Flanders Crim. Court, Bruges division, 10 November 2021, ch. B17 (unpublished).

²⁹⁹ West Flanders Crim. Court, Bruges division, 12 May 2021, ch. B17 (contested).

The *modus operandi* was to approach Italians - mainly from the Tuscany region - who were in financial difficulties to let Albanian nationals use their identity documents or to act as drivers to drive the Albanian nationals to the United Kingdom. Italian identity documents were falsified (by changing the photo) so they could be used by the migrants. The Italian drivers reportedly earned between EUR 1,000 and EUR 3,000 for each successful crossing, plus compensation for all expenses. Migrants paid approximately EUR 35,000 for the crossing of a family of three.

Several cars were intercepted at Zeebrugge with Albanian nationals attempting to cross the Channel. It was possible to link those arrested to the defendants. In one of the cases, a witness had given detailed statements against the main defendants.

The two defendants, two brothers, were known for serious criminal offences, including human smuggling. The first defendant was the key figure in the organisation. He lived in the United Kingdom. His name appeared in several human smuggling cases. He used several British phone numbers and was also in contact with several people via Facebook. His brother lived in Italy.

The first and second defendants were sentenced to 50 and 40 months' imprisonment respectively and fines of EUR 56,000 and EUR 40,000. The Italian driver was sentenced to 37 months in prison and a fine of EUR 8,000.

On 8 December 2021, Bruges Criminal Court³⁰⁰ ruled on a human smuggling case in which a person had tried to reach the United Kingdom by ferry using false identity documents.

Four defendants were prosecuted, two Italian nationals and two Albanian nationals, as perpetrators or co-perpetrators of human smuggling, for using false passports and a false name. Two of them failed to appear at their trial.

Their car was checked at the border checkpoint at the port of Zeebrugge. The photo of one of the people didn't seem to match the individual present and the passport turned out to be a fake.

The Italian driver made statements. He said he travelled to Belgium in his car together with the other defendant of Italian nationality. In Belgium, the fourth defendant apparently got into the car pretending to be the second defendant.

The second defendant was arrested in Italy and extradited to Belgium. The real mastermind was an Albanian living in Italy who allegedly paid the first two defendants to bring the third defendant to the United Kingdom.

The first and second defendants were sentenced to 30 months in prison and a fine of EUR 8,000, both suspended. The third defendant was sentenced to 37 months in prison and a fine of EUR 8,000. The fourth defendant was sentenced for using a false name and false documents. He was sentenced to six months in prison and a fine of EUR 800.

Sailboats in the North Sea

In a judgment of 10 March 2021³⁰¹ Bruges Criminal Court ruled on a case of smuggling Albanian nationals on a sailboat. The defendant was of Lithuanian nationality.

Ostend maritime police received a call from the port that a badly lit sailboat had left the port of Blankenberge. They were able to escort the boat to the harbour. The defendant was the skipper. There were also four Albanians on board, including several close relatives.

The skipper had been approached by Albanians in Antwerp who had asked him to take them to the United Kingdom. The sailboat wasn't in good condition and was taking on water during the crossing. The passengers got scared.

The court considered the facts to be established and sentenced the defendant to four years in prison and a fine of EUR 8,000. The defendant appealed and Ghent Court of Appeal confirmed the judgment in a judgment of 30 June 2021³⁰². However, it reduced the prison sentence to three years.

300 West Flanders Crim. Court, Bruges division, 8 December 2021, ch. B17 (final).

301 West Flanders Crim. Court, Bruges division, 10 March 2021, ch. B17 (appeal).

302 Ghent, 30 June 2021, 8th ch.

VIP clandestine migration in the cab of a lorry

Myria received various decisions rendered at first instance and on appeal concerning this *modus operandi*³⁰³. These include a ruling by Antwerp Court of Appeal³⁰⁴ on a case in which Myria had previously acted as a civil party and in which, after a decision of the Court of Cassation, a new ruling was handed down, largely confirming the decision of the first judge with regard to a defendant and even imposing a heavier sentence.

Bruges Criminal Court ruled on³⁰⁵ several cases of human smuggling, mainly involving Albanian nationals. Myria has chosen to present two of these decisions.

A case tried on 13 July 2021³⁰⁶ concerned a defendant of Albanian nationality. He appealed against a judgment of 29 July 2020.

In January 2019, an intervention team was sent to a site in Veurne following a suspicion of smuggling activities. An investigation was initiated. It revealed that the smuggling organisation was based in London and was run from a bar.

Those wanting to leave were brought there via Albania or Greece. Initially, they were housed in safehouses in the Brussels area. This is where a selection was made and photos were taken.

Those departing left Brussels and gathered in a hotel close to the port of Ghent.

The organisation's henchmen picked up and transported the participants, housed them in hotels and safehouses, chose who would be leaving and sent their photos to their principals.

The taxi drivers took the departing passengers from the hotels or safehouses to the lorry, collected the money and redistributed it via money transfers. The departing passengers were transported clandestinely in the cab of the lorry, and therefore with the complicity of the drivers. The lorry drivers all worked for an Italian company. The migrants weren't allowed to bring any luggage; it was transferred to the United Kingdom afterwards, in the event of a successful crossing.

Members of the London bar were responsible for receiving the migrants when the lorries arrived in the United Kingdom, collecting the balances due on the spot and delivering the transit migrants to their guarantor in the United Kingdom.

The investigation was carried out through retroactive phone searches, phone taps, observations, interviews with the smugglers, searches and a phone investigation. The smugglers often changed their phone numbers and used false names. There were contacts with numbers in Belgium, Italy, Greece and the United Kingdom.

In this case, the defendant was an accomplice/helper. He was sentenced to forty months in prison and a fine of EUR 72,000, both partly suspended.

Ghent Court of Appeal dealt with another case in a judgment of 23 February 2021³⁰⁷. This case concerned the smuggling of Albanian nationals in the cabs of lorries. In its judgment of 6 November 2019, Bruges Criminal Court³⁰⁸ convicted the defendant of Belgian nationality.

He was prosecuted as a perpetrator or co-perpetrator of the human smuggling of two people. He made lorries available to other drivers. Two victims were found in the cab of one of his drivers. They were a woman and her child, who wanted to join the father of the family in the United Kingdom.

The defendant requested that the acts be reclassified under section 77 of the Aliens Act as humanitarian reasons or, at the very least, as aiding illegal migration. The court didn't agree. The defendant was well aware of the smuggling practices.

Furthermore, the court didn't believe his claim that he hadn't received any money. The defendant was prosecuted as a perpetrator or co-perpetrator. It isn't necessary for all the elements of the offence to be present to convict someone as a co-perpetrator. It is sufficient that they knowingly and willingly participated in the commission of the offence.

Therefore, they don't necessarily have to have received money personally.

The acts of human smuggling with aggravating circumstances were again considered established by the court. However, it found that there was a slight unjustified delay in the processing of the case, as the facts dated back to September 2016. This was taken into account when assessing the sentence.

The defendant's criminal record didn't help his case. He was sentenced to a prison term of 30 months.

303 See these decisions, among others: Ghent, 3 November 2021, 8th ch. (unpublished); Ghent, 4 May 2022, 8th ch. (unpublished); Ghent, 23 February 2022, 8th ch. (unpublished).

304 Antwerp, 10 June 2021, ch. C6 and West Flanders Crim. Court, Bruges division, 14 December 2018, ch. B17. Also see Myria, *2020 Annual Report Trafficking and smuggling of human beings, Behind closed doors*, p. 99 and Bruges Crim. Court, 14 December 2018 | Myria.

305 West Flanders Crim. Court, Bruges division, 13 July 2021, ch. B17 (unpublished); West Flanders Crim. Court, Bruges division, 23 March 2022, ch. B17 (unpublished); West Flanders Crim. Court, Bruges division, 23 February 2022, ch. B17 (unpublished).

306 West Flanders Crim. Court, Bruges division, 13 July 2021, ch. VK1 (contested and appeal).

307 Ghent, 23 February 2021, 8th ch.

308 West Flanders Crim. Court, Bruges division, 6 November 2019, ch. B17.

3.7. | Smuggling in small boats

Several decisions were rendered concerning the smuggling of human beings by small boat in the North Sea. On the one hand, there were cases concerning logistical helpers, i.e. those who bought or transported the small boats and other equipment³⁰⁹. Logistical equipment was transported from abroad via Belgium to Calais, where the Channel crossing is the shortest way to reach the United Kingdom by boat. On the other hand, there were cases where small boats were found at sea. Myria has chosen to present three of these decisions: two tried in Bruges and one in Namur.

Small boat logistics

In a judgment of 9 March 2022³¹⁰ Bruges Criminal Court ruled on a case in which the two defendants were of Dutch nationality.

They had been spotted during a police check, as the windows of their car were covered with cardboard. When the car was checked, it was found to be loaded with orange life jackets, an outboard motor, a rubber boat, a jerry can of petrol, a box full of documents and copies of passports. The FJP took over the investigation. It turned out that one of the defendants was known in the Netherlands for various previous convictions. A conversation in the cell complex was intercepted, in which the two defendants agreed on what each would say.

Eventually, one of the defendants confirmed that he had travelled to Germany to collect a boat, a duckboard and life jackets and that he was to transport them to an address in France for a principal in The Hague. It later turned out that the outboard motor had been stolen from a water sports club in the Netherlands.

The court found the defendants guilty of human smuggling and handed down a 30-month suspended prison sentence and a fine of EUR 8,000.

In May 2020, two defendants were found in their car with equipment intended for human smuggling. Information from the German police revealed that other defendants had also been found with equipment in their cars. One of the boats purchased by a defendant had already been intercepted earlier by the British Coast Guard. The German police reported that several outboard motors had been purchased in a specific sports shop. In another shop, several boats had been sold to the same person. The police found photos of boats and life jackets on the defendants' mobile phones.

One of the defendants had been buying boats and motors for a long time and organised smuggling operations, even with Vietnamese. The investigation revealed that between August and September 2020, he spent EUR 10,000 on boats in a shop.

The defendants were working with a person in Calais who was recruiting victims to be smuggled into the United Kingdom by small boat in return for payment. The boats weren't fit for the whole journey.

The court assessed the facts in the light of the ANPR camera search, the results of the 'retro-zoller', the results of the examination of the seized mobile phones, the WhatsApp conversations found, the mobile phone photos of small boats and outboard motors, the Google Maps photos, the fact that some of the defendants had been caught in a car with smuggling equipment, and the defendants' implausible and contradictory statements.

It ruled that the facts were established and that the defendants were clearly part of a criminal organisation. They received prison sentences ranging from six to 12 years and fines ranging from EUR 96,000 to EUR 240,000.

A similar case was tried in Namur.

In this case, an Iranian defendant was prosecuted for human smuggling, malicious obstruction of traffic and armed rebellion.

In September 2021, the vehicle he was driving was intercepted by the traffic police for speeding (161 km/h) on the E42 motorway towards Mons. The driver ignored instructions to follow the police and made several dangerous manoeuvres in an attempt to outrun the police. The vehicle was finally stopped after a 57 km chase.

Another person, also an Iranian national, was in the vehicle too. She filed a civil suit. Neither of them had any identity documents. The vehicle was reported (Schengen) by the French authorities in the context of illegal transit of foreigners to England, in which the defendant was one of the suspects. In the vehicle, the police found 30 life jackets, an inflatable dinghy in a bag provided for this purpose, as well as seats, oars, pumps and a motor in another bag.

The passenger burst into tears and said she didn't know the driver. She said she had come from Denmark and that he had picked her up to take her to England by boat with a life jacket via France.

309 Ghent, 21 April 2021, 8th ch.; Ghent, 10 March 2021, 8th ch.; Ghent, 14 April 2021, 8th ch.; West Flanders Crim. Court, Bruges division, 23 March 2022, ch. B17; West Flanders Crim. Court, division Bruges, 23 February 2022, ch. B17; West Flanders Crim. Court, Bruges division, 8 December 2021, ch. B17; West Flanders Crim. Court, Bruges division, 13 July 2021, ch. B17.

310 West Flanders Crim. Court, Bruges division, 9 March 2022, ch. B17 (final).

311 West Flanders Crim. Court, Bruges division, 23 June 2021, ch. B17 (contested and appeal).

The defendant explained that the vehicle had been entrusted to him in Germany, that he had to take it to a car park in Brussels and also had to pick up the passenger, who had arrived with three other people in a vehicle registered in Denmark. He denied being a smuggler. The passenger was an asylum seeker in Denmark, where she had just received a negative reply, and had planned to travel to England via France. She contacted people who had already done the journey and obtained the numbers of smugglers. It was going to cost her approximately EUR 1,700. She was taken to a reception centre for victims of trafficking and smuggling, which took her in.

In a judgment of 17 March 2022, Namur Criminal Court³¹² upheld all the charges. It was possible to establish, mainly on the basis of phone analyses and police findings, that the defendant had repeatedly made several trips from the Netherlands to Germany via Belgium to France and that the aim was to get people in an illegal and precarious situation to cross the Channel to England.

The court sentenced him to a partly suspended five-year prison term and a suspended fine of EUR 8,000, and ordered him to pay the plaintiff one final euro for non-pecuniary damages.

Small boats at sea

In a judgment of 8 October 2021 pronounced by Ghent Court of Appeal³¹³, a defendant of Iraqi nationality, residing in Denmark, was prosecuted as a perpetrator or co-perpetrator of human smuggling by small boat in the North Sea.

Police intercepted a small boat with 13 Syrians at sea after a complaint from witnesses who saw the boat collide with another boat in the marina. The defendant was transporting transit migrants from the Calais 'Jungle' to the marina in Nieuwpoort, where they boarded a small boat.

The defendant was handed a seven-year prison sentence and a EUR 12,000 fine.

3.8. | Reclassification as aiding illegal immigration (Article 77 of the Aliens Act) — acquittal under the humanitarian clause

Brussels Court of Appeal applied the humanitarian clause for acts of aiding illegal immigration.

In a judgment of 12 January 2022³¹⁴, it examined a case of human smuggling in which the defendants had been acquitted at first instance by a judgment of the criminal court of 4 February 2019³¹⁵. The public prosecutor appealed.

The two defendants, both Syrian nationals but resident in the United Kingdom, were prosecuted for human smuggling with aggravating circumstances. They had helped a friend, a Syrian living in Greece with whom they also had a family link, to fly to the United Kingdom with false documents, at the request of the man's brother.

The first judge reclassified the acts under Article 77 of the Aliens Act and acquitted the two defendants.

The court agreed with the first judge on the reclassification under Article 77. There was no evidence that the defendants acted with the aim of obtaining any financial benefit, either directly or indirectly. There was no evidence in the criminal case file that any financial benefit was promised or that the defendants received any financial benefit.

The court also examined whether the defendants' motivation couldn't be equated with aid 'primarily for humanitarian reasons' within the meaning of Article 77(2). According to the parliamentary work on the adaptation of this article, this aid must be 'understood in a broad sense and include all non-criminal and non-economic objectives'.

The court also ruled that 'offering disinterested help to a person claiming to be a Syrian refugee, brother of a friend or family member, who, after a long and difficult journey, finds himself in difficult circumstances in Greece and wishes to join his family elsewhere in Europe, after having fled the war himself as a refugee and having travelled to a place of safety, falls within the notion of offering help 'primarily on humanitarian grounds''. According to the court, there was no indication that the defendants acted with any economic or criminal intent.

The court confirmed the decision and acquitted the two defendants.

³¹² Namur Crim. Court, Namur division, 17 March 2022, 13th ch. (final).

³¹³ Ghent, 8 October 2021, 8th ch.

³¹⁴ Brussels Dutch-speaking Crim. Court, 12 January 2022, 13th ch.

³¹⁵ Brussels Dutch-speaking Crim. Court, 4 February 2019, 24th ch.

4. Recognition of a human trafficking victim as a refugee

The Council for Alien Law Litigation (Conseil du contentieux des étrangers - CCE) recognised a woman from Sierra Leone as a refugee in a decision of 13 January 2021³¹⁶. The woman claimed to have been recruited in Sierra Leone by a Nigerian woman to work abroad. In the end, she was trafficked for the purpose of sexual exploitation by a network. She was first exploited in Sierra Leone and then sent to Belgium, where she managed to escape at Brussels airport. She was held in a detention centre where she applied for asylum. She suffered from severe psychological problems due to the traumatic experiences. A first asylum application was rejected due to the implausible nature of the asylum story. She then contacted PAG-ASA, but didn't qualify for victim status. In a second asylum application, the victim was able to present additional evidence, but her application was again refused by the General Commission for Refugees and Stateless Persons (Commissariat Général aux Réfugiés et aux Apatrides - CGRA). Following her appeal against this refusal, the CCE recognised her as a refugee on the basis of her belonging to a specific social group, namely women from Sierra Leone.

316 CCE, 13 January 2021, no. 247 309.

Part 3

Data



Introduction

This part of the report contains the key figures given to Myria by the stakeholders likely to play a role in a human trafficking or human smuggling case in Belgium. It presents the most recent data on human trafficking and human smuggling, as well as a retrospective of the last 10 years, insofar as this is possible, in an effort to put this data into perspective.

The stakeholders who gave their figures to Myria are:

- the police, with information from the National General Database (NGD);
- the NSSO inspection department (Thematic Directorate for Trafficking in Human Beings, ECOSOC teams);
- the College of Prosecutors General, with information on the prosecutions made by the public prosecutors' offices and the labour prosecutors' offices;
- the Immigration Office (IO);
- PAG-ASA, Payoke and Sürya: centres specialised in the reception and support of victims;
- the Criminal Policy Service (CPS) of FPS

As usual, this chapter ends with an external contribution from the NSSO's inspection services. Lastly, the federal police's Central Directorate for Combating Serious and Organised Crime (Direction centrale de la lutte contre la criminalité grave et organisée - DJSOC) describes certain important developments in terms of human smuggling.

Warning



- The figures in this report in no way reflect the true extent of the phenomenon of human trafficking and human smuggling in Belgium. They only concern the acts, victims and perpetrators identified as such by the authorities. Nothing can be said about unidentified events.
- These figures and their evolution provide information about the action taken by the authorities to combat human trafficking and smuggling rather than about these phenomena as such.
- There is a lack of harmonisation between the figures from the various stakeholders and, therefore, there is no coherent and uniform image of these criminal phenomena. This limits the possibilities for policy evaluation, strategic analysis and reporting to the European institutions. It goes without saying that Myria collaborates with the above-mentioned stakeholders to collect figures of the best quality possible.

1. Human trafficking

Human trafficking offences (police data)

In 2021:

- The police detected 313 human trafficking offences, marking a slight increase compared with 2020, although this remains lower than the level before the coronavirus crisis.
- Labour exploitation (51%) and sexual exploitation (47%) remain the most detected offences of human trafficking.
- Only one case of exploitation of begging came to light. Strikingly, this form of exploitation has rarely been detected over the past few years, with an average of 15 offences reported per year between 2012 and 2017. A similar fall was also observed regarding forced criminality.

Evolution of human smuggling offences recorded in 2012-2021, per type



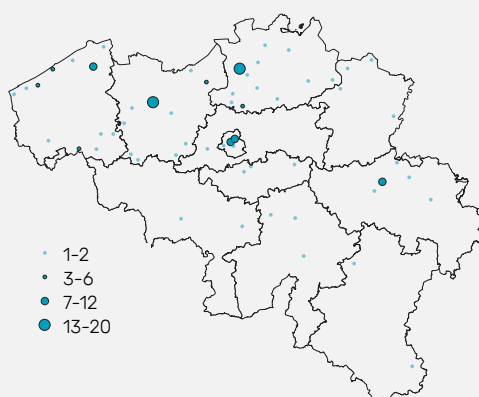
In 2021, offences concerning trafficking for the purpose of sexual exploitation **sexual exploitation** were those most often detected in large conurbations such as Brussels-Capital (24 offences in the 19 communes), Antwerp (20), Ghent (13), Liège (9) and Ostend (5). Offences were only sporadically observed outside cities.

Very few offences were recorded in some provinces over the past 10 years, with only 11 offences noted in Walloon Brabant. There were also only a few offences concerning sexual exploitation in Namur (36) and Flemish Brabant (38) during the same period.

The majority of offences of **labour exploitation** recorded in 2021 were in Brussels-Capital (22 offences in the 19 communes), Antwerp (10) and Liège (8). Contrary to sexual exploitation, the geographic expansion of these offences is more pronounced and those recorded seem far less connected to urban centres.

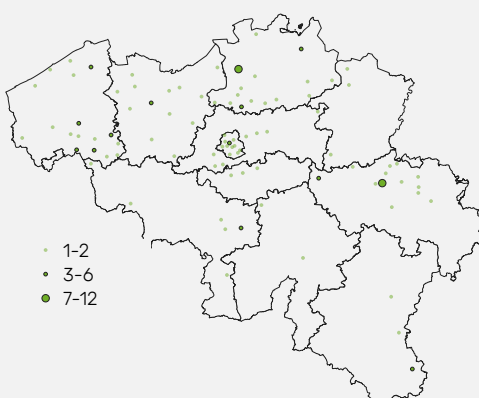
Only 48 offences concerning human trafficking for the purpose of labour exploitation were recorded by the police in the province of Luxembourg over the past 10 years. Relatively few offences were also recorded in Walloon Brabant (51) and Limbourg (55) during the period 2012-2021.

Offences recorded in terms of sexual exploitation in 2021



Province	Number of offences
Antwerp	34
West Flanders	29
East Flanders	28
Brussels-Capital	24
Liège	14
Limbourg	5
Namur	4
Walloon Brabant	3
Hainaut	3
Luxembourg	2
Flemish Brabant	1
Total	147

Infractions enregistrées en matière d'exploitation économique en 2021



Province	Number of offences
Antwerp	33
West Flanders	30
Liège	22
Brussels-Capital	22
East Flanders	18
Hainaut	10
Flemish Brabant	9
Luxembourg	5
Walloon Brabant	4
Limbourg	3
Namur	2
Total	158

NSSO inspection department (ECOSOC teams) Human trafficking for the purpose of labour exploitation

To present the work of the ECOSOC teams and their role in the fight against human trafficking, two indicators have been used:



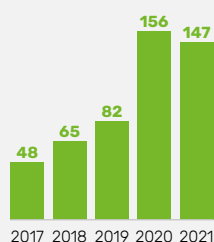
- The annual number of presumed victims of human trafficking, from closed investigations, given to the judicial authorities on the basis of criminal reports or police reports.
- The number of checklists prepared every year. In this case, a checklist is drawn up for every presumed victim as soon as there is sufficient evidence of a possible trafficking situation, regardless of the investigation's status (at the start, during, or at the end).

Not all investigations closed in 2021 were opened in the same calendar year; some investigations take several months or years to complete. This is also why the number of presumed victims from closed investigations isn't the same as the number of presumed victims from checklists.

» See the external contribution at the end of this chapter for more for more information on the results of the NSSO's inspection services.

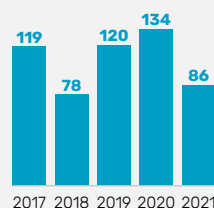
Presumed victims in closed investigations

In 2021, 147 potential trafficking victims were referred to the judicial authorities after the investigation was closed. This is three times more than in 2017. The vast majority of these victims were men (123). Of note is the large group of Romanian victims who were employed in the agriculture and horticulture sector.



Checklists drawn up

In the last five years, 537 check lists have been drawn up, which means that on average, more than 100 presumed victims are detected by the inspection services every year, even if the number of checklists drawn up varies significantly from year to year. For instance, 86 presumed victims were detected in 2021.

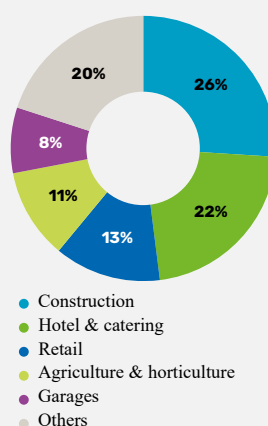


Nationality	Construction	Agriculture & horticulture	Hotel & catering	Garages	Retail industry	Metallurgy	Domestic worker	Food industry	Cleaning	Others	Total
Romania	3	37								2	42
Morocco			1	1	2		3	1	3	1	12
Portugal	10										10
Turkey		8					2				10
Ukraine	7									1	8
Guinea-Bissau	6		1	1							8
Bulgaria		1	4								5
Albania				1		4					5
Pakistan	1				3						4
Spain	4										4
Afghanistan				4							4
Brazil	2						1				3
Tunisia			1	1						1	3
Belgium		1	1							1	3
Palestine			1							1	2
Hungary			2								2
Egypt		2									2
Syria		2									2
Ecuador	2										2
Bangladesh		2									2
Algeria	1				1						2
Mali				1						1	2
Senegal	2										2
Others	3	1	2							2	8
Total	41	40	24	10	8	4	4	3	3	10	147

Almost half of the findings were in the construction and hospitality sectors, with 139 and 118 checklists respectively. Although the numbers are lower in the retail trade (69), agriculture and horticulture (59), and garages and car washes (45), they are nonetheless significant.

The most frequent nationalities in the past five years have been Moroccan, Romanian (38 cases in agriculture and horticulture), Ukrainian (37 cases in construction), Bulgarian and Afghan (20 cases in the garage and car wash sector).

Main sectors and nationalities featuring in the checklists 2017-2021



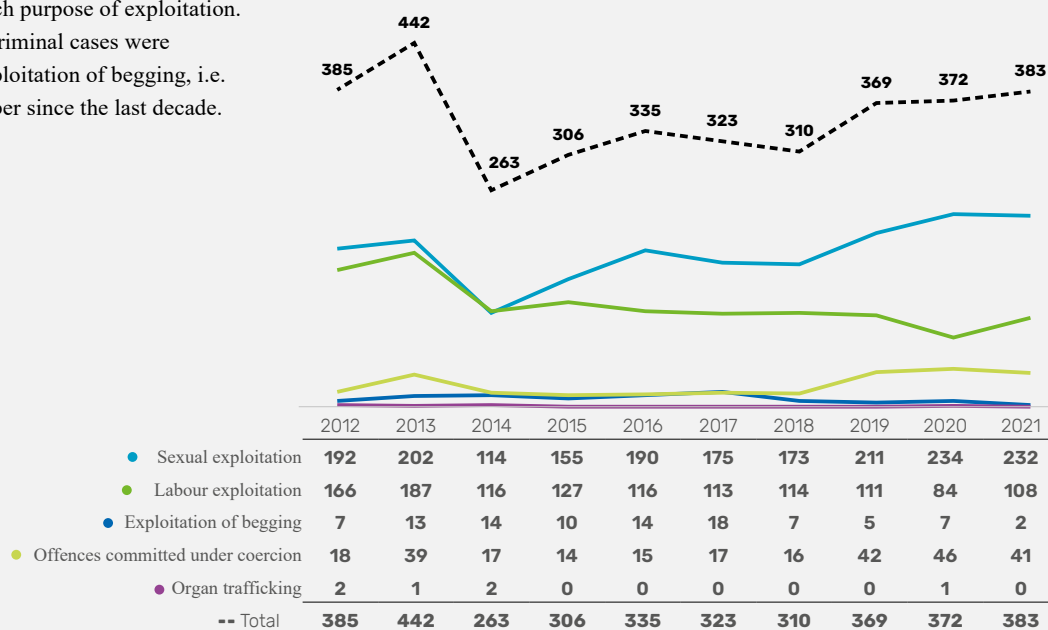
Morocco	63
Romania	62
Ukraine	40
Bulgaria	31
Afghanistan	26
Poland	25
Egypt	21
China	20
India	20
Belgium	18
Others	211
Total	537

Human trafficking cases dealt with by the public prosecutors

In 2021:

- The criminal prosecutors' offices received 383 criminal cases related to human trafficking, i.e. only slightly more than in 2020.
- With the exception of labour, a modest decrease in the number of cases was observed for each purpose of exploitation.
- Only two new criminal cases were recorded for exploitation of begging, i.e. the lowest number since the last decade.

A **new criminal case** is opened on the basis of an initial police report (subsequent reports won't lead to the opening of a new criminal case). A new criminal case can also be opened on the basis of a complaint or a civil action.



Methodological remarks

- This is data from the College of Prosecutors General dating from 7 May 2022.
- It relates to the number of criminal cases received by the criminal prosecutors' offices (including the federal prosecutor's office) and is limited to offences committed by adults.
- For a more complete view of judicial action on labour exploitation, it is also necessary to take into account the number of cases received by the labour prosecutors. In 2019, 2020 and 2021, 277, 198 and 231 new cases respectively were opened by the labour prosecutors for labour exploitation.
- The cases submitted to the public prosecutor's office of Eupen have only been included since 2019. They weren't included in the data in previous years owing to a harmonisation problem concerning the computer system.

As at 7 May 2022, more than one in four cases submitted in 2021 were dropped.

Of the 383 criminal cases submitted to the public prosecutors' offices during 2021, 137 cases were dropped, as at 7 May 2022.

In 97 cases, this decision was taken because the case couldn't lead to prosecution (mainly owing to a lack of evidence or the fact that the perpetrators couldn't be identified). In 40 cases, prosecution wasn't considered worthwhile.

Jurisdiction: extent of a jurisdiction's territorial competence. Belgium is composed of five major jurisdictions, each with a court of appeal. Each court of appeal has jurisdiction over several judicial districts.



- Antwerp → Antwerp and Limburg
- Brussels → Brussels (Brussels and Halle-Vilvoorde), Leuven and Walloon Brabant
- Ghent → West Flanders and East Flanders
- Liège → Liège, Eupen, Namur and Luxembourg
- Mons → Hainaut

Jurisdiction of Antwerp

- The total number of new criminal cases concerning human trafficking decreased for the second consecutive year. Nevertheless, this jurisdiction had the greatest number of new criminal cases in 2021, just like the jurisdiction of Brussels.
- Almost three out of every four new criminal cases was related to sexual exploitation (67).

Jurisdiction of Brussels

- With 92 new criminal cases concerning human trafficking in 2021, this figure has remained relatively stable over the past few years.
- Seven new criminal cases out of 10 were related to sexual exploitation (64).

Jurisdiction of Ghent

- The total number of cases returned to the pre-2020 level, a year marked by the coronavirus.
- There were 52 new criminal cases concerning sexual exploitation, a historical record for this jurisdiction.

Jurisdiction of Liège

- With 57 new criminal cases concerning human trafficking in 2021, this figure has remained relatively stable over the past few years.
- The only jurisdiction where there are consistently more criminal cases concerning labour exploitation than sexual exploitation.

Jurisdiction of Mons

- Avec 46 nouvelles affaires pénales, le ressort de Mons a enregistré le plus faible nombre de dossiers de traite des êtres humains.
- La plupart des dossiers ont été ouverts pour des crimes commis sous la contrainte (31 sur 46)

Federal public prosecutor's office

- More and more new criminal cases are being recorded by the federal public prosecutor's office, even though the absolute numbers remain relatively low.
- In 2021, there were 20 new criminal cases concerning human trafficking, 17 of which for sexual exploitation.

Classification of charges

■ Sexual exploitation	37L	Art. 433quinquies § 1 1°C. of the Criminal Code.
■ Labour exploitation	55D	Art. 433quinquies § 1 3°C. of the Criminal Code.
■ Exploitation of begging	29E	Art. 433quinquies § 1 2°C. of the Criminal Code.
■ Forced criminality	55F	Art. 433quinquies § 1 5°C. of the Criminal Code.
■ Organ trafficking	55E	Art. 433quinquies § 1 4°C. of the Criminal Code.





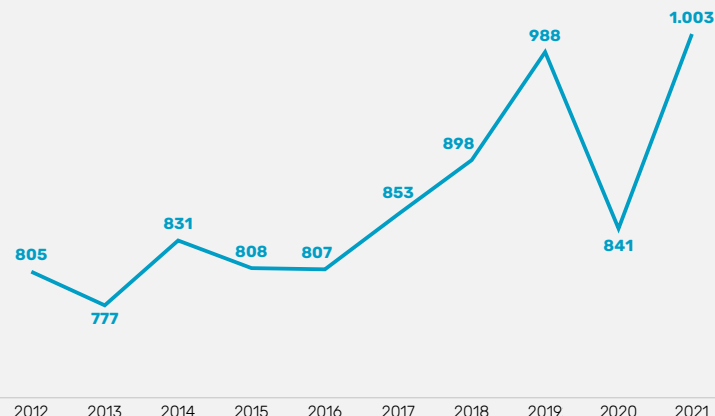
Reports to specialised centres

Over the past 10 years, the centres have received a total of 8,611 reports of presumed victims of trafficking and/or smuggling of human beings

The annual **number of reports** submitted to the specialised centres has increased significantly in recent years, except for the decrease in 2020, the year marked by the coronavirus. Hence, more than 1,000 presumed victims were reported for the first time in 2021.

The growing number of reports contrasts with the number of new cases of support initiated, which has averaged around 130 cases over the years.

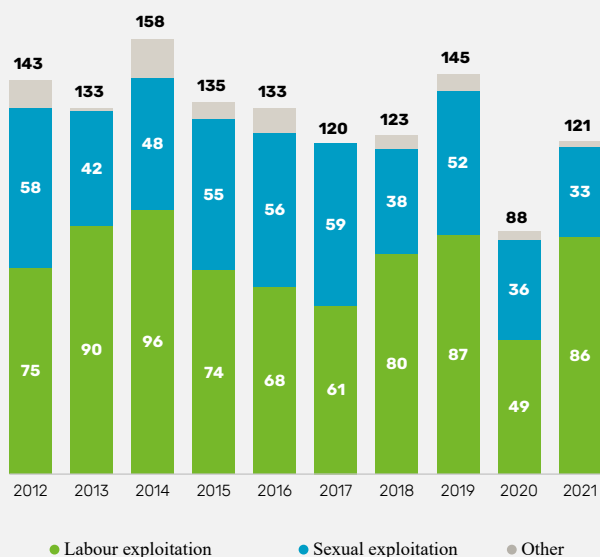
Number of reports of potential victims of human trafficking and/or smuggling 2012-2021




Source: Payoke, PAG-ASA, Surya

New support for human trafficking victims initiated by the specialised centres

Number of cases of support initiated for THB victims according to the type of exploitation 2012-2021



Support is discussed as soon as the first phase (period of reflection) has begun, i.e. when Annex 15 is issued. 
 >> See 'Documents issued by the Immigration Office' for more information.

In 2021:

- Un accompagnement a été initié pour 121 victimes de traite des êtres humains. Parmi elles : **86** étaient victimes d'**exploitation économique** et **33** d'**exploitation sexuelle**.
- Support was initiated for 121 victims of human trafficking. Among them: 86 were victims of labour exploitation and 33 of sexual exploitation.
- New support also concerned a Romanian victim of exploitation of begging as well as a Moroccan victim who was coerced into committing crimes.
- There were 18 Moroccan, 14 Bulgarian and eight Ukrainian victims. These are the three main nationalities of human trafficking victims who entered a support programme in one of three specialised centres in 2021.



Les dThe data relating to new support doesn't reflect the extent of the specialised centres' work.

Support may last several years, but its duration isn't discussed here as an indicator. However, the Immigration Office's figures

on the renewal of documents in the context of human trafficking proceedings can be used as an indicator in this respect.

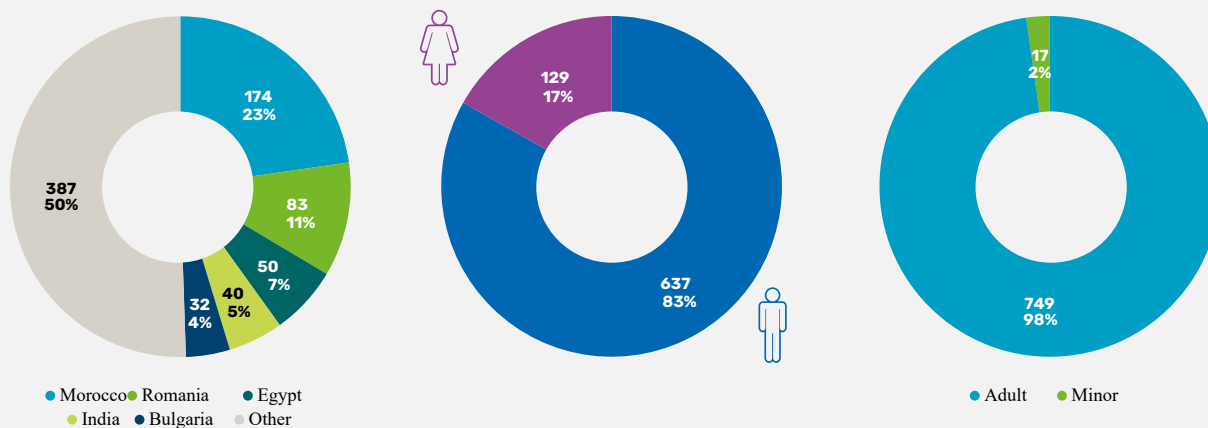
Source: Payoke, PAG-ASA, Surya

New support for THB victims initiated in 2021 per type and per nationality

Nationality	Labour exploitation				Sexual exploitation				Exploitation of begging				Forced criminality				Total
	Women		Men		Women		Men		Women		Men		Women		Men		
	<18	≥18	<18	≥18	<18	≥18	<18	≥18	<18	≥18	<18	≥18	<18	≥18	<18	≥18	
Morocco	1		13				2							1		17	
Bulgaria	1		12		1											14	
Ukraine			7		1											8	
Nigeria			1		5											6	
Brazil	3		1		1											5	
Columbia			3		2											5	
Romania	2		2						1							5	
Turkey	3		1		1											5	
Guinea			3		1											4	
Ivory Coast			4													4	
Albania					3											3	
Mali			3													3	
Senegal			1	2												3	
Spain	1		1		1											3	
China					2											2	
Congo	1				1											2	
Ecuador					1		1									2	
Egypt				2												2	
India				2												2	
Iran				1	1											2	
Moldavia	1		1													2	
Tunisia	1		1													2	
Venezuela					2											2	
Afghanistan				1												1	
Algeria				1												1	
Belgium					1											1	
Cuba				1												1	
Germany					1											1	
Ghana				1												1	
Hungary					1											1	
Iraq				1												1	
Italy				1												1	
Cameroon				1												1	
Kosovo				1												1	
Liberia				1												1	
Macedonia	1															1	
Serbia					1											1	
Surinam					1											1	
Syria				1												1	
Thailand					1											1	
Sweden					1											1	
Total	0	15	1	70	0	30	0	3	0	1	0	0	0	0	1	121	

Support initiated for THB 2012-2021 according to the type of exploitation

In the past 10 years, 766 victims of labour exploitation began receiving support

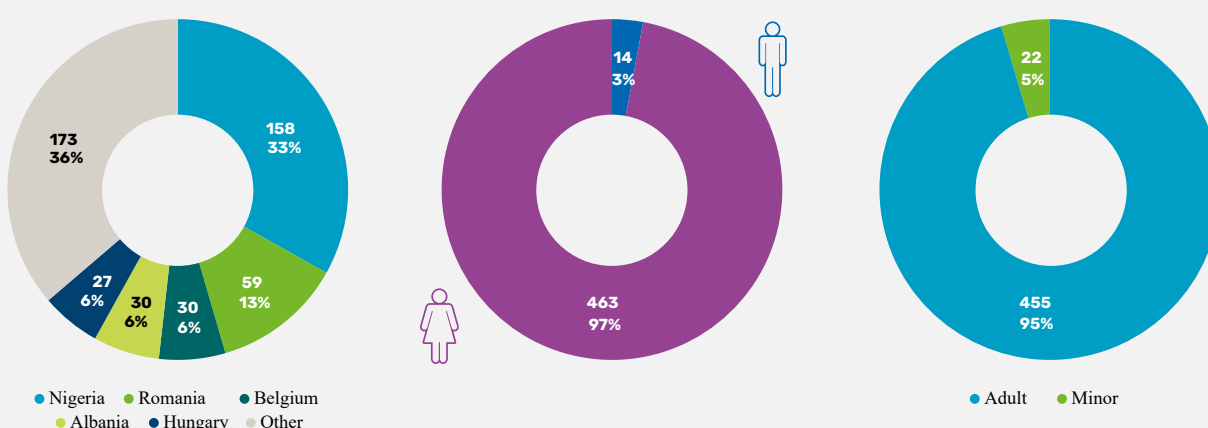


Between 2012 and 2021, almost one in four new cases of support involved a victim of Moroccan nationality (23%). Then, to a lesser extent, victims of Romanian (11%) and Egyptian (7%) nationality, Indian (5%) and Bulgarian (4%).

Among all the beneficiaries of new support initiated over the last decade, men are in the majority (637). They represent 83% of the total number of victims.

The majority of victims are adults, but in 17 cases support was initiated for a child victim. However, this proportion varies from one gender to another. Hence, there are nine minors for 120 adult women, compared with eight minors for 629 adult men.

In the past 10 years, 477 victims of sexual exploitation began receiving support



Over the past 10 years, no less than one in three victims was a Nigerian national. The other most represented nationalities were Romania (13%), Belgium, Albania and Hungary (6% each).

Victims of sexual exploitation are almost exclusively women; support was only initiated for men in 14 cases. One in two of these men was of South American nationality.

Between 2012 and 2021, support was initiated for 22 child victims, 21 of whom were girls.

Over the past 10 years, support has been initiated for 31 victims of exploitation of begging, including:

- The vast majority were Romanian nationals (24) and, to a lesser extent, of Slovakian (3) and Serbian (2) nationality;
- 18 men compared with 13 women;
- 7 child victims.

Over the past 10 years, support has been initiated for 22 victims of forced criminality, including:

- 7 Romanian victims;
- An equal number of male and female victims (11);
- 6 child victims

Victims of human trafficking who entered the procedure (IO)

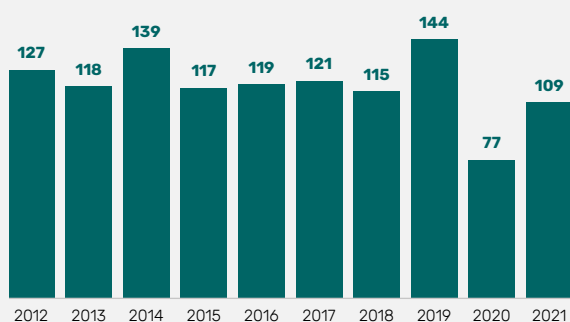
In Belgium, human trafficking victims who agree to cooperate with the judicial authorities can benefit from a specific residence status (articles 61/2 to 61/5 Aliens Act).



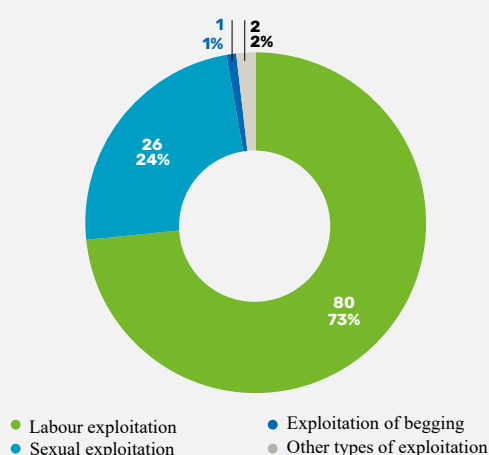
This is subject to three basic conditions, namely that the victim:

- cooperates with the criminal investigation into human trafficking;
- cuts off all contact with the exploiter;

Number of human trafficking victims who entered the procedure 2012-2021



TBH victims who entered the procedure in 2021, per type of exploitation



After the drop in 2020, there has been a modest increase in the number of trafficking victims who have entered the procedure

In 2021:

- 109 trafficking victims entered the procedure.
- More than 70% of these were victims of labour exploitation. Almost one in four was a victim of trafficking for the purpose of sexual exploitation and one person was exploited in the begging sector.
- According to the IO's data, no victims of organ trafficking or forced criminality entered the procedure in 2021. However, there is reference to two victims of 'another type of exploitation'.



The category 'Other types of exploitation' corresponds to cases for which the type of exploitation hadn't been clearly identified at the time of the first application.

N.B.: The Immigration Office decided not to divulge some information to prevent the identification of certain persons involved.

Among the 80 victims of THB for the purpose of labour exploitation in 2021:

- Men were largely in the majority (62);
- Ukrainian was the most common nationality (13 victims), followed by Moroccan (12) and Bulgarian (11);
- The relatively high number of Ukrainian victims contrasts sharply with the last decade. During the period 2012-2020, 3 Ukrainian victims of labour exploitation in total entered the procedure.

Among the 26 victims of TBH for the purpose of sexual exploitation in 2021:

- Women were largely in the majority (24);
- Nigerian was the most common nationality with 5 victims, followed by Venezuelan and Bulgarian (3 each);
- Nevertheless, the number of Nigerian victims who entered the procedure has been falling since 2017. At the time, 42 victims of Nigerian nationality were recorded.

7 child victims of THB entered the procedure in 2021, including:

- 5 victims of labour exploitation, 1 victim of sexual exploitation and 1 victim of another type of exploitation;
- 6 underage boys and 1 underage girl;
- All were under 14 years old;
- One of these victims was an unaccompanied minor (UAM). Note that a UAM who is a presumed victim must be reported to the Guardianship Service. Once the latter has identified them, the minor is allocated a guardian.

Victims of THB who entered the procedure, by age, gender and type of exploitation

		0-17	18-25	26-30	31 ans et +	Total	Hommes	Femmes
Sexual exploitation	2019	3	28	12	9	52	3	49
	2020	0	7	12	7	26	3	23
	2021	1	6	7	12	26	2	24
Labour exploitation	2019	7	13	11	57	88	65	23
	2020	2	8	6	32	48	37	11
	2021	5	9	14	52	80	62	18
Exploitation of begging	2019	1	1	0	1	3	1	2
	2020	0	1	0	0	1	0	1
	2021	0	1	0	0	1	0	1
Other types of exploitation	2019	0	0	1	0	1	0	1
	2020	2	0	0	0	2	0	2
	2021	1	0	0	1	2	2	0
Total	2019	11	42	24	67	144	69	75
	2020	4	16	18	39	77	40	37
	2021	7	16	21	65	109	66	43

Documents issued by the Immigration Office to victims of human trafficking and smuggling

	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
Order to leave the territory 45 days	36	28	32	17	10	3	0	0	0	0
Annex 15	0	0	0	0	0	20	44	43	16	42
Certificate of immatriculation (CI)	140	117	133	114	116	112	113	136	80	98
Certificate of immatriculation extension	12	15	11	22	26	31	19	16	7	6
Human trafficking/ Human smuggling										
Card A	104	98	84	90	84	97	91	108	78	62
Extension card A	437	458	443	425	413	383	348	370	384	398
Card B	35	44	33	36	49	50	61	42	29	25
Humanitarian										
Card A	4	2	2	6	2	0	3	3	5	0
Extension card A	44	31	30	29	20	29	20	26	34	40
Card B	11	24	21	36	22	23	18	26	13	22
Total	823	817	789	775	742	748	717	770	646	693

In 2021:

- These figures include both victims of human trafficking and victims of certain aggravated forms of human smuggling.
- The 693 decisions to issue or renew a residence permit concern both new victims as of 2021 as well as those from previous years who are in the process of being granted victim status and for whom one or more decisions were taken in the past.

Since 21 May 2017, Annex 15 has replaced the order to leave the territory (OLT) - 45 days. The legal basis and the conditions for obtaining it haven't changed, but the type of document has. If the victim files a complaint directly or makes statements against the perpetrators, this document isn't issued, but the victim immediately receives a certificate of immatriculation (CI).

Annex 15

When a victim goes to one of the specialised centres, this residence document is requested by the centre. Annex 15 is valid for 45 days and covers the so-called reflection period. During this period, the victim has time to decide whether to cooperate with the criminal investigation

Certificate of immatriculation

If the victim decides to cooperate with the criminal investigation (make statements and/or lodge a complaint), the centre requests a certificate of immatriculation. This is valid for a period of three months and can be extended once for another three months, provided that the case is still ongoing at the public prosecutor's office.

Card A

This residence permit is valid for six months and is issued under various conditions, namely that the magistrate accepts the status of victimisation. It can be extended for the same period of time as long as the legal proceedings are ongoing.

Card B

A residence permit for an indefinite period of time is granted if the victim's statements or complaint have led to a conviction or if the charges of trafficking or smuggling with aggravating circumstances have been accepted in the indictment of the public prosecutor's office or the labour prosecutor's office.

Humanitarian regularisation

The minister or their representative may decide to regularise the stay of a victim by virtue of their discretionary power.



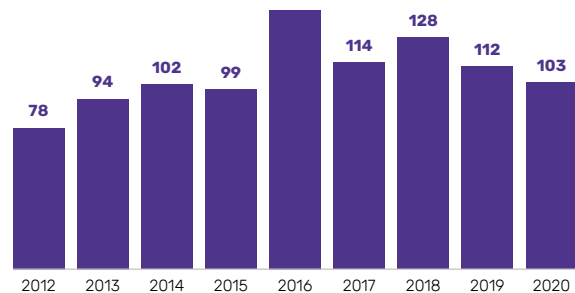
Final convictions for human trafficking

In 2020, 103 final convictions were pronounced for human trafficking, continuing the downward trend observed since 2018.

Given that a conviction can be accompanied by several sentences, the total number of sentences is higher than the number of convictions. Hence, 321 sentences were handed down in 2020.

On average, 90% of all convictions result in a prison sentence combined with a fine (suspended or not). In 77 cases, the convicted person was deprived of their civil rights and in 38 cases, there was confiscation. Other forms of punishment are only occasionally pronounced.

Number of final convictions for human trafficking 2012-2020



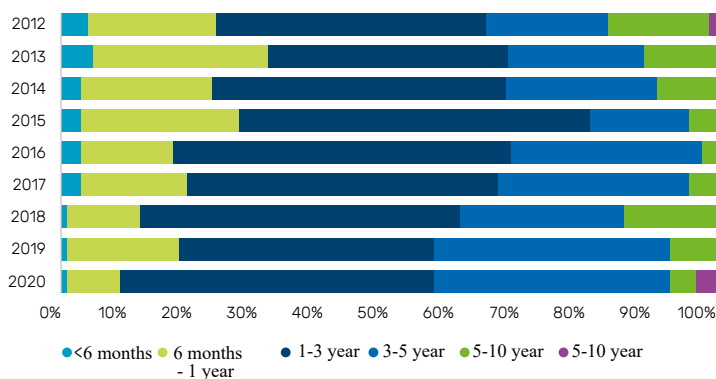
Main sentences	2012	2013	2014	2015	2016	2017	2018	2019	2020
Incarceration	72	82	93	94	128	93	120	100	97
Not suspended	36	45	37	41	40	44	63	43	42
Suspended (partly or fully)	36	37	56	53	88	49	57	57	55
Fine	71	85	99	82	132	109	126	103	97
Not suspended	43	54	62	49	73	58	83	51	54
Suspended (partly or fully)	28	31	37	33	59	51	43	52	43
Confiscation	31	40	58	53	64	39	67	58	38
Deprivation of rights (Art. 31 Crim. Code)	58	57	73	53	115	71	102	85	77
Community service	0	3	3	1	6	2	1	4	0
Others	5	11	3	3	4	7	19	14	12
Total	237	278	329	286	449	321	435	364	321



Methodological remarks

- These figures concern the number of final convictions, which can therefore no longer be the subject of an appeal.
- Since the type of exploitation isn't known for each conviction, this data is presented in an aggregated form.
- Several cases were entered into the database a few months late, which explains why the data for 2021 isn't yet available.
- This data corresponds to the status on 16 March 2022.

Duration of prison sentences pronounced 2012-2020 (suspended or not)



Of the 97 prison sentences handed down in 2020, 82 were from one to five years. Prison sentences of more than five years were handed down in only six cases.

Both in absolute and relative terms, shorter prison sentences (less than one year) have decreased significantly in recent years. For example, only nine such prison sentences were handed down in 2020, compared to 26 in 2013, indicating a toughening of verdicts on human trafficking.

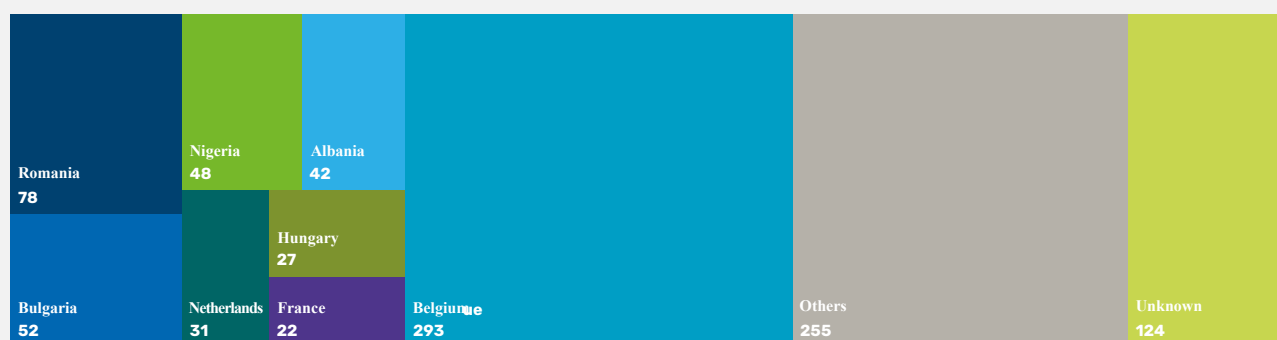
Main nationality of persons convicted of human trafficking in 2020

Belgium	35
Romania	15
Unknown	11
Bulgaria	8
Albania	7
Nigeria	6
Brazil	4
Netherlands	3
Poland	3
Others	11
Total	103

As in previous years, the majority of convicted persons in 2020 were of Belgian nationality, while Romanians, Bulgarians and Albanians were among the top five. In 11 cases, the nationality of the convicted person wasn't known.

Looking at a longer period, these nationalities recur in a similar order of magnitude. Thus, persons of Belgian nationality represented 30% of the total number of convicted human traffickers between 2012 and 2020, while convicts of Eastern European origin (Romania, Bulgaria and Hungary) accounted for 16%. In 13% of cases, the nationality of the convicted person was unknown.

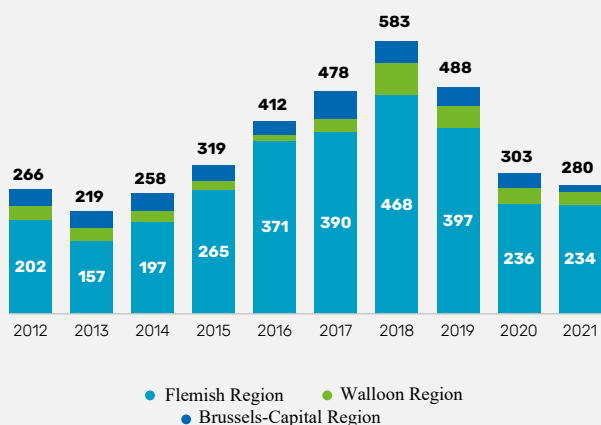
Main nationalities of persons convicted of human trafficking between 2012 and 2020 (n=973)



2. Human smuggling

Human smuggling offences (police data)

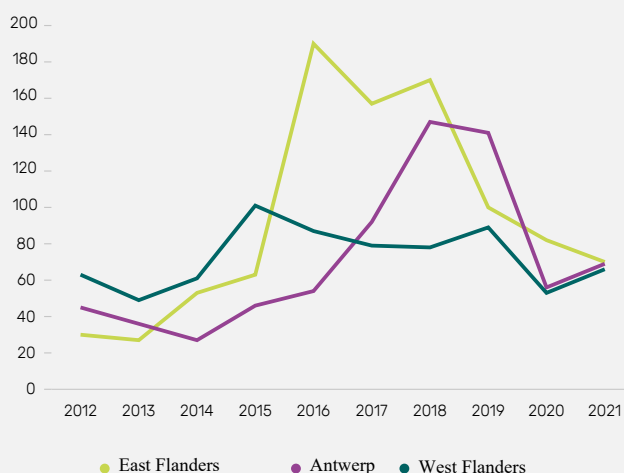
Evolution of human smuggling offences recorded in 2012-2021, per region



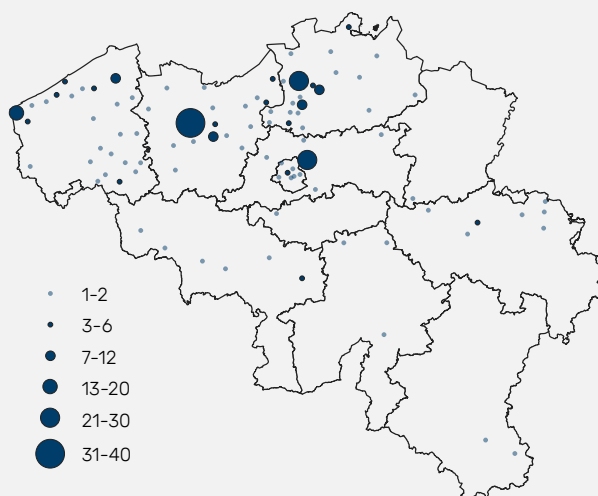
In 2021:

- 280 human smuggling offences were reported by the police.
- The downward trend observed after the peak in 2018 is therefore continuing.
- There were even fewer incidents recorded than in 2020, a year marked by the health crisis, the lockdown measures and the resulting travel restrictions.
- 85% (234) of these findings were made in the Flemish Region. In the Walloon Region and the Brussels-Capital Region, 27 and 14 acts were recorded respectively. Five acts couldn't be linked to a place.

Evolution of human smuggling offences recorded in 2012-2021, in the main provinces



Human smuggling offences recorded in 2021



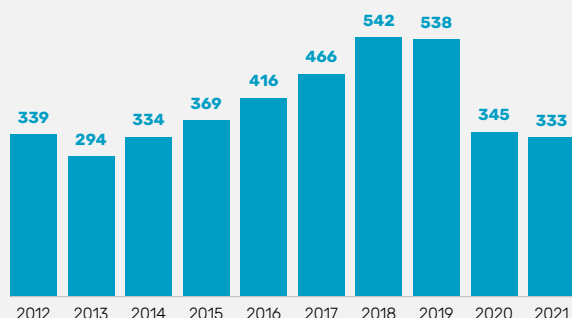
Together, the provinces of East Flanders, West Flanders and Antwerp account for two-thirds of the total number of human smuggling offences recorded over the last 10 years. During this period, the focal point of the findings shifted eastwards from West Flanders (2012-2015) to East Flanders (2016-2018), and then to Antwerp (2019), before the figures were impacted by the coronavirus crisis.

The offences were mainly recorded in the provinces of East Flanders (70 offences), Antwerp (69) and West Flanders (66). They occurred mainly in the provincial capitals of Ghent (33), Antwerp (23) and Bruges (12) and at the site of Zaventem airport (23). In 2021, 15 offences were recorded in the coastal municipality of De Panne.

» For more information on recent developments in human smuggling, see DJSOC's external contribution at the end of this chapter.

Human smuggling cases submitted to the public prosecutor's office

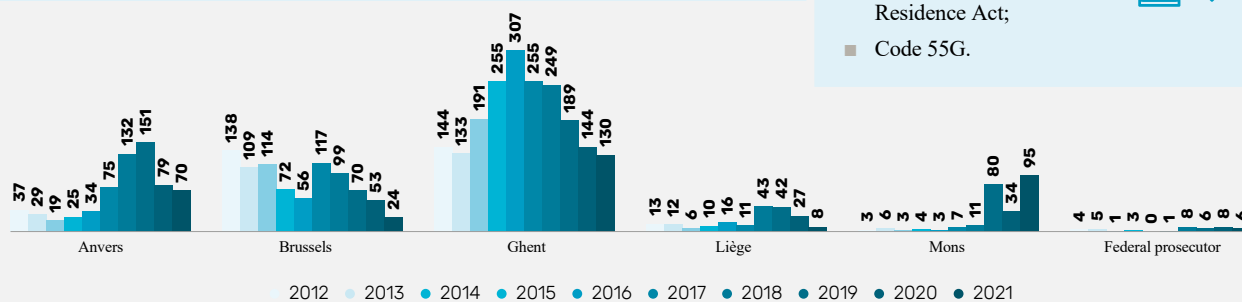
In 2021, 333 criminal cases of human smuggling were referred to the criminal prosecution service:



- After a peak between 2018 and 2019, the number of criminal cases received has remained stable in the past few years.
- Every jurisdiction had fewer new cases than in 2020, with the exception of the jurisdiction of Mons where the amount of criminal cases received almost tripled, rising from 34 to 95. This situation is again striking in view of the low number of offences recorded by the police. Only 37 offences were recorded between 2019 and 2021, whereas the Mons public prosecutor's offices opened 209 new criminal cases for human smuggling during the same period.
- As has been the case since 2012, the jurisdiction of Ghent had the largest number of new cases in 2021 (130 cases for 39% of the total), followed by the jurisdictions of Mons and Antwerp (29% and 21% respectively).

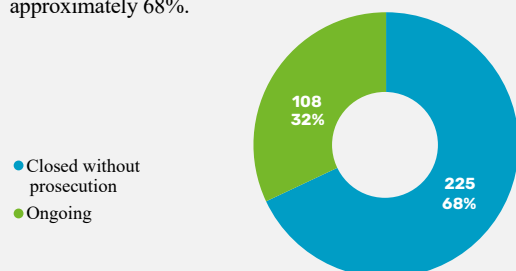
Jurisdiction: the extent of a court's territorial jurisdiction. Belgium consists of five major judiciary areas, each with a court of appeal. Each court of appeal has jurisdiction over several judicial districts.

- Antwerp → Antwerp and Limburg
- Brussels → Brussels (Brussels and Halle-Vilvoorde), Leuven and Walloon Brabant
- Ghent → West Flanders and East Flanders
- Liège → Liège, Eupen, Namur and Luxembourg
- Mons → Hainaut



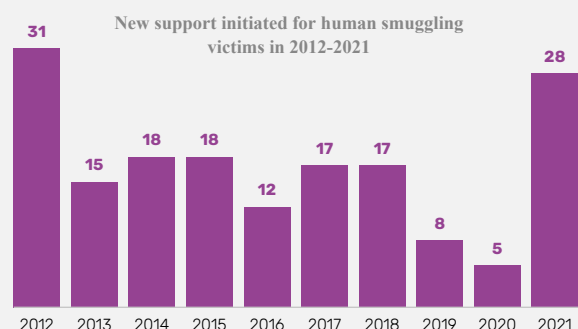
The impossibility of identifying perpetrators remains the main obstacle to successful prosecution

Of the 333 criminal cases concerning human smuggling received by the public prosecutors' offices in 2021, 225 had already been processed without criminal prosecution as at 7 May 2022, i.e. approximately 68%.



- In 80 of these cases, the reasons were expediency and in 145 cases technical reasons (of which 35 were due to insufficient burden of proof).
- Nearly half (105) of these decisions resulted from the impossibility of identifying the perpetrator(s). In other words, almost one in three criminal cases received in 2021 were processed without prosecution as at 7 May 2022 because the perpetrator(s) was unknown.
- In 30 cases, no criminal proceedings were initiated due to insufficient investigation capacity; in 2020, this was the case in only seven cases.

New support for human smuggling victims initiated by the specialised centres

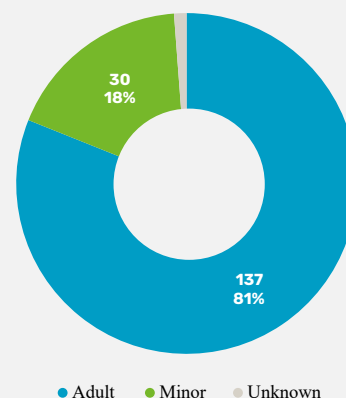
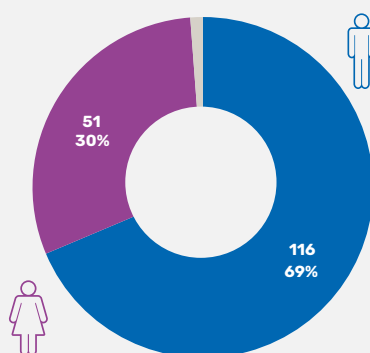
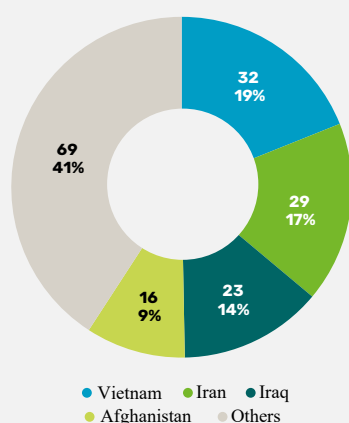


- With the exception of a female child victim, all the victims were **adult men**.
- The vast majority of victims were of **Vietnamese nationality** (23).

In 2021, 28 victims **28 victimes** of an aggravated form of human smuggling entered a support programme in one of the three specialised centres, more than five times more than in 2020 and the second highest figure in the last 10 years.

Nationality	Women		Men		Total
	<18	≥18	<18	≥18	
Iraq			1		1
Iran			3		3
Surinam			1		1
Vietnam	1		22		23
Total	1	0	0	27	28

Over the past 10 years, 169 victims of human smuggling with aggravating circumstances began receiving support



Almost one in five victims is a Vietnamese national. This high proportion is explained by the relatively recent entry of this nationality in the statistics, particularly in 2021. Between 2012 and 2018, only one Vietnamese victim was recorded.

Other major groups of nationalities originate from Western Asia, such as Iran, Iraq and Afghanistan, although they hardly figure among the new cases of support initiated since 2019.

Among those to benefit from support initiated during the last decade, male victims are in the majority, with 116 individuals representing approximately 70% of all victims, while female victims account for 30% of the total.

Adult victims are in the majority, but support was initiated for a child victim in 30 cases.

However, the proportion changes from one gender to another. For instance, there are 14 minors for every 37 adults among women, compared to 16 minors for every 100 adult men.

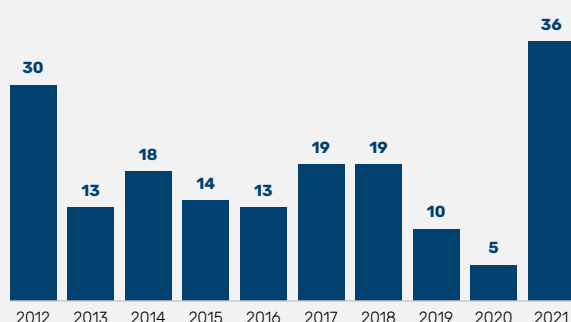
Victims of an aggravated form of human smuggling who entered the procedure (IO)

Like victims of human trafficking, victims of an aggravated form of human smuggling can also claim victim status. Aggravated forms of human smuggling are defined in Article 77quater 1° to 5° of the Residence Act of 15 December 1980 and apply if:



- the offence was committed against a minor ;
- there was abuse of the particularly vulnerable situation in which the person found themselves, leaving the victim with no real and acceptable choice but to be abused;
- violence, coercion, threats or deception were used;
- the victim's life was endangered, either deliberately or through gross negligence;
- the crime caused permanent physical or psychological harm.

Number of victims of human smuggling with aggravating circumstances entering the procedure



In 2021, the IO received a first application for residence for **36 of hvictims of human smuggling** with aggravating circumstances. This is the highest number in 10 years.

Among these victims, there were:

- men and 5 women;
- 24 Vietnamese nationals, 4 Iranians and 8 victims of another nationality.
- For the second consecutive year, no child victims were recorded as having entered the procedure.

Victims of human smuggling with aggravating circumstances entering the procedure, by age and by gender

	0-17	18-25	26-30	31+	Total	Hommes	Femmes
2012	8	7	5	10	30	20	10
2013	1	3	5	4	13	11	2
2014	5	3	3	7	18	9	9
2015	5	2	4	3	14	7	7
2016	2	6	1	4	13	8	5
2017	4	6	5	4	19	13	6
2018	8	5	4	2	19	12	7
2019	3	2	3	2	10	6	4
2020	0	3	1	1	5	2	3
2021	0	20	7	9	36	31	5

N.B.: this year, the Immigration Office has chosen not to divulge certain information to prevent identification of those involved

Final convictions for human smuggling

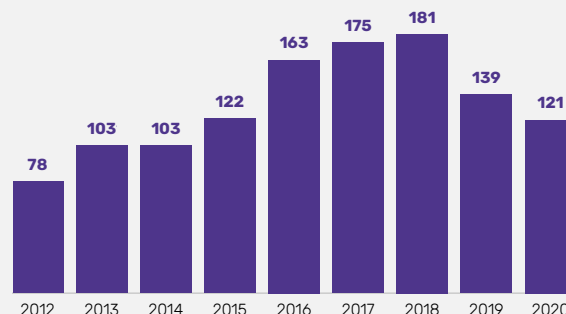
There were 121 final convictions for human smuggling in 2020, i.e. 33% less than the record number in 2018.

Given that a conviction can be accompanied by several sentences, the total number of sentences is higher than the number of convictions.

Hence, 416 sentences were handed down in 2020.

Almost all the convictions resulted in a prison sentence combined with a fine (suspended or not). In 97 cases the convicted person was deprived of their civil rights and in 77 cases there was confiscation. Other forms of punishment are only occasionally pronounced.

Number of final convictions for human smuggling 2012-2020



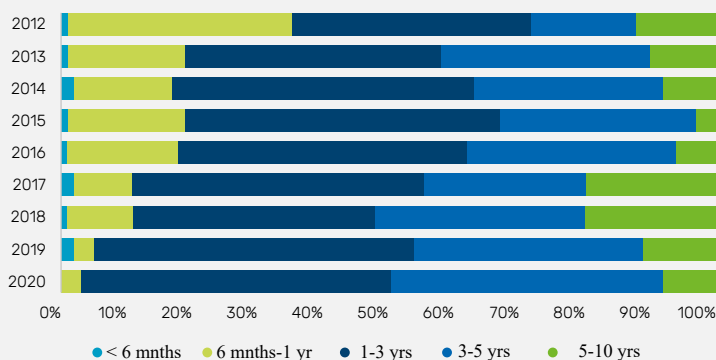
Main sentences	2012	2013	2014	2015	2016	2017	2018	2019	2020
Incarceration	74	96	100	120	154	174	176	128	118
Not suspended	43	45	59	60	56	123	113	85	71
Suspended (partly or fully)	31	51	41	60	98	51	63	43	47
Fine	76	94	100	117	158	172	177	132	120
Not suspended	40	64	69	57	71	102	110	87	56
Suspended (partly or fully)	36	30	31	60	87	70	67	45	64
Confiscation	48	64	55	76	76	101	110	88	77
Deprivation of rights (Art. 31 Crim. Code)	60	79	75	89	120	130	135	90	97
Community service	1	4	1	1	4	1	5	8	2
Others	3	0	0	0	1	0	4	8	2
Total	264	338	332	403	513	578	607	454	416



Methodological remarks

- These figures concern the number of final convictions, which can therefore no longer be the subject of an appeal.
- Several cases were entered into the database a few months late, which explains why the data for 2021 isn't yet available.
- This data corresponds to the data as at 14 March 2022.

Duration of prison sentences pronounced 2012-2020 (suspended or not)



Of the 118 prison sentences handed down in 2020, 104 were prison sentences of one to five years. Prison sentences of more than five years were handed down in 10 cases.

Both in absolute and relative terms, shorter prison sentences (less than one year) have decreased significantly in recent years. Hence, only four such prison sentences were handed down in 2020, compared to 26 in 2012, indicating a toughening of the verdicts concerning human smuggling.

Main nationalities of those convicted of human smuggling in 2020

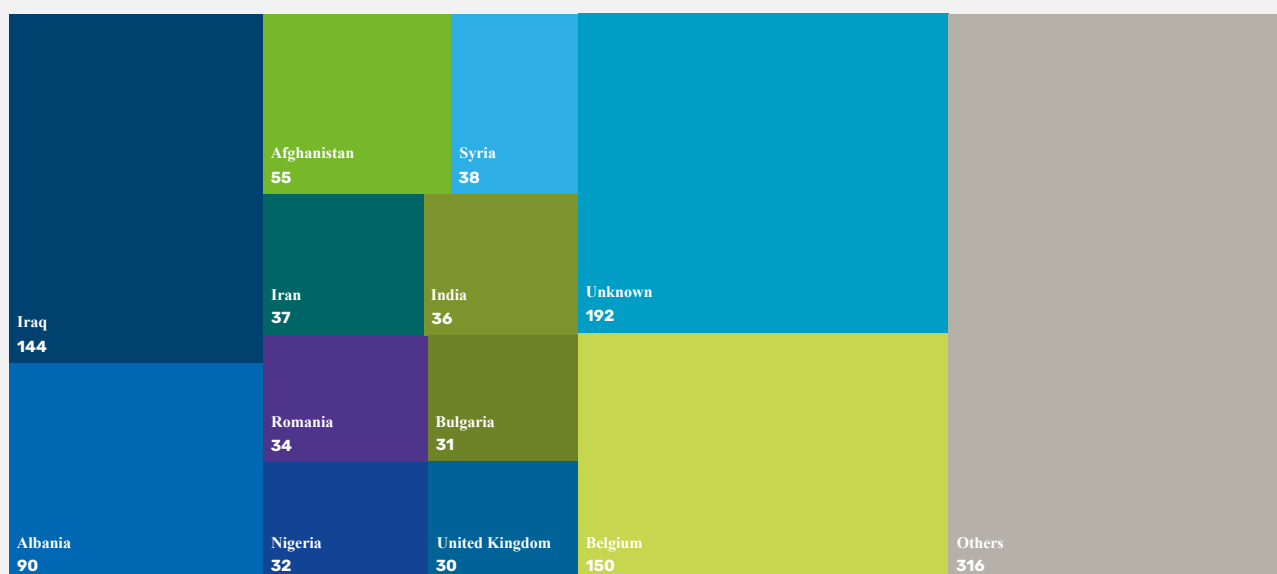
Unknown	25
Iraq	17
Sudan	9
Albania	8
Belgium	7
Italy	7
Algeria	6
Eritrea	5
Syria	4
Afghanistan	3
United Kingdom	3
Ethiopia	3
Others	24
Total	121

As in previous years, the nationality of many of those convicted in 2020 was unknown. Iraq, Sudan, Albania and Belgium were among the top five.

The appearance of some East African nationalities is a recent phenomenon: for instance, there were no convicted persons of Ethiopian or Eritrean nationality in the period 2012- 2019. There is also a surprising increase among Sudanese with nine convictions compared with only two between 2012 and 2019.

Over a longer period of time, those mainly convicted of human smuggling can be largely reduced to a few nationality groups, namely Belgians, Western Asians (Iraq, Afghanistan, Syria and Iran), Albanians and Eastern Europeans (Bulgaria and Romania).

Main nationalities of those convicted of human smuggling between 2012 and 2020 (n=1.185)



External contribution

Explanation of the statistical data relating to the investigations into human trafficking conducted by the NSSO Inspectorate's ECOSOC teams in 2021

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Introduction

This report concerns the NSSO inspection department (Thematic Directorate for Trafficking in Human Beings and ECOSOC teams).

Besides the purely statistical data, this contribution aims to provide qualitative information on the investigations conducted by the NSSO inspection department's ECOSOC teams in 2021.

The data included in this report stems from two sources :

1. The internal case management system, ARTEMIS³¹⁷, from which the data relating to the cases closed in 2021 was extracted. In 2021, 267 'human trafficking' investigations were finalised with a total of 147 presumed victims.
2. The analysis of the checklists drawn up by the social inspectors in 2021 in accordance with Chapter VIII of the Joint Circular of the Minister of Justice, the Minister for Employment, the Minister for Security and the Interior, Secretary of State for the fight against social fraud and the College of Prosecutors General on the policy of investigation and prosecution regarding trafficking in human beings (COL 01/2015). NSSO inspectors draw up a checklist as soon as possible following observations and as long as there are sufficiently precise indications of a potential situation of human trafficking. In 2021, 86 checklists were drawn up, which means that 86 presumed victims were discovered. The reason for the difference between the 147 potential victims stemming from the ARTEMIS investigation management program is because the checklists are drawn up

as soon as there are sufficient indicators of labour exploitation, regardless of the investigation's state of progress (when the investigation started, during the investigation or when it closed), whereas the figures from our investigation management system concern investigations that were closed in 2021 but began in 2021 or before. Hence, the data relating to the checklists is the most representative of 2021. A specific analysis report based on these checklists is submitted annually by our Thematic Directorate to the Department of Criminal Policy, FPS Justice.

Another source of qualitative information is the information sharing relating to investigations into the trafficking of human beings set up with the ECOSOC team leaders.

Statistics relating to the police reports and criminal reports³¹⁸

Since March 2020, the NSSO inspection department's ECOSOC investigations have been processed in a new investigation management tool: ARTEMIS. Statistics relating to **investigations closed in 2021** therefore stem exclusively from this investigation management program.

³¹⁷ This tool was previously known as Inspection 2020 or I2020.

³¹⁸ These statistics are based on closed investigations.

The new management tool doesn't have the same functionalities as the old one and underwent several adaptations during 2021, so the raw figures had to be 'reworked' manually and it wasn't easy to extract the statistics in the same way as before:

In the course of 2021, the NSSO compiled 54 initial police reports (PR) and/or criminal reports (CR); 65 supplementary criminal reports and 39 information reports concerning labour exploitation (Art. 433quinquies of the Criminal Code). These reports concern 147 presumed victims. In addition, following investigations carried out with other inspection services or the police, the pro justitia (PJ) or criminal report on THB were sometimes compiled by another service (generally by the police); 14 reports or PR were written by other services within the framework of a collaboration with the NSSO.

It should be noted that in 2020, 'supplementary criminal reports' were included under the heading 'criminal report'. This is because ARTEMIS didn't allow for a distinction to be made between initial criminal reports and supplementary criminal reports.

A supplementary criminal report is drawn up when the magistrate requests additional actions for a situation of exploitation that has already been reported through a pro justitia or an initial criminal report, as long as it concerns the same victim or victims. This distinction between an initial criminal report and a supplementary criminal report prevents the same situation of exploitation or the same presumed victim from being counted several times in the results.

As for the 'information report' result, it is used to support the reports intended for the judicial authorities either to expose limited evidence of labour exploitation (e.g. without a presumed victim) or to convey the results of research, information gathering, and data analysis when an investigation into THB hasn't yet been initiated.

- 147 presumed victims of THB were referred to the judicial authorities by the NSSO inspection department through criminal reports or pro justitia.
- The prevalent nationalities were: Romania (42), Morocco (12), Portugal (10), Turkey (10), Guinea Bissau (8), Ukraine (8). Also note that among these 147 presumed victims, 66 concerned E.U. nationals, three of whom were Belgian. In terms of distribution according to gender, 24 presumed victims were women and 123 men.
- The most represented sectors of activity were construction, agriculture/horticulture, hospitality and garages.
- The two provincial departments with the most presumed victims according to the figure from investigations closed in 2021 are East Flanders and Namur-Luxembourg.
- In East Flanders, of the 54 victims listed in the table, 25 were employed by a Portuguese company, on several construction sites in Flanders (the investigation had been initiated in 2020, following the detection of an outbreak of Covid-19) and 14 of different nationalities were employed in the hospitality sector.
- For Namur-Luxembourg, of the 40 people identified, 37 Romanians were employed in orchards in the province of Namur. The investigation had begun in 2019.

Provincial departments	PR/CR compiled by NSSO	Supplementary criminal reports	Info reports	PR/CR compiled by another service ³¹⁹	Presumed victims
West Flanders	3	1	1	6	5
East Flanders	12	0	0	2	54
Antwerp	6	0	6	3	7
Limburg	2	0	0	0	10
Hainaut	1	2	2	1	1
Namur-Luxembourg	4	4	8	0	40
Liège	10	17	8	1	14
Flemish Brabant	7	0	2	0	7
Brussels	8	41	12	1	8
Walloon Brabant	1	0	0	0	1
Total	54	65	39	14	147

³¹⁹ Within the framework of an investigation conducted in collaboration with the NSSO.

Analysis of the checklists

Introduction

In accordance with the stipulations of COL 01/15, a checklist was completed in **2021** as soon as there were **sufficiently precise indications** of a potential situation of human trafficking, whether the investigation was in progress or at the time it was closed.

In total, **86 checklists** were drawn up (one checklist per presumed victim; therefore, several checklists may concern the same employer/exploiter); the breakdown is as follows:

Provincial departments	
West Flanders	17
East Flanders	24
Antwerp	6
Limburg	7
Hainaut	3
Namur-Luxembourg	2
Liège	12
Flemish Brabant	6
Brussels	8
Walloon Brabant	1
Total	86

Geographic breakdown per sector of activity (2021)

	Namur-Luxembourg	Brussels	Liège	Hainaut	Limburg	Walloon Brabant	Flemish Brabant	Antwerp	East Flanders	West Flanders	Total
Bakery								1			1
Car wash & lorry wash	1		1					1		5	8
Retail trade	1	4	3					1	1		10
Construction		1	1		7				11	2	22
Garage							2				2
Hotel & catering		2				1	2	3	11		19
Agriculture/horticulture				3					1	10	14
Riding school			1								1
Cleaning							1				1
Domestic work		1	6				1				8
Total	2	8	12	3	7	1	6	6	24	17	86

Breakdown according to age, gender and nationality of the presumed victims 2021

Age	Men	Women
Minors (-18 years)	1	2
18 to 30 years	19	2
30 to 40 years	27	2
40 to 50 years	19	2
Over 50 years	10	2
Total	76	10

Nationality	Men	Women
Afghanistan	3	0
Albania	5	0
Algeria	1	0
Bangladesh	3	0
Belgium	4	2
Brazil	0	1
Bulgaria	17	4
Burkina Faso	2	0
Columbia	1	0
Egypt	2	0
Spain	1	0
India	4	0
Iraq	2	0
Iran	1	0
Italy	1	0
Morocco	6	2
Pakistan	1	0
Palestine	1	0
Philippines	1	0
Portugal	2	0
Romania	7	1
Tunisia	2	0
Turkey	6	0
Ukraine	3	0
Total	76	10

A quick analysis of the table above leads to the conclusion that 88% of presumed victims of labour exploitation (76/86). As regards age, 24% of presumed victims were between 18 and 30 years old, 34% were between 30 and 40 years old, and 24% were between 40 and 50 years old. Among the male presumed victims, the two oldest were 67 years old. The oldest female presumed victim was 74 years old at the time of the acts. It should be noted that the women were mainly active in the hospitality sector and domestic work. The three minors, two girls (Morocco and Romania) and a boy (Romania) were exploited in the service of private individuals.

As regards the nationality of the victims, 68 out of 86 were from non-EU countries. Among the 18 EU nationals, there were eight Romanians, **six Belgians**, two Portuguese, one Spaniard and one Italian.

Identified indicators of human trafficking and aggravating circumstances

Annex 5 of COL 01/2015 includes several human trafficking indicators under the point 'Circumstances'. The analysis of the checklists received in 2021 led to the following findings:

a. Identity documents

Half of the third country nationals in Belgium were staying illegally. Either they had no identity or travel documents or they had their national passport or a temporary residence permit for another EU country. Among the non-Belgian Europeans, only some of them had begun the procedure to stay in Belgium. The others were generally in possession of their national identity document.

Several presumed victims didn't have their own identity documents, and sometimes they had copies.

b. Financial aspect - social security - social documents

In terms of income: in almost all the situations encountered, wages were low, very low, or even non-existent. Among the 86 presumed victims, 23 out of 86 hadn't been paid. Some of them stated that no agreement concerning pay had been made with their 'employer'

Others explained that they were promised wages but were only paid in part or not at all. Sometimes, the presumed victim had to hand over part of their wages for the accommodation provided by the employer.

Some explained that they had to pay their social security contributions or travel costs themselves.

One presumed victim said they had to pay EUR 5,000 back to their employer to cover 'debts'. Two other victims explained that they had to pay the employer before starting work, without knowing what this money was for (EUR 400 for one, EUR 700 for the other).

A couple of victims benefited from low rent (EUR 450 per month including costs) and had to work numerous hours to compensate for the low rent paid, without receiving any pay.

Some victims also had their low wages reduced (e.g. EUR 850/month for a few months and then EUR 450/month; EUR 6.80/hour and then EUR 5/hour).

Here are several concrete examples from 2021, in cases where victims were actually paid: EUR 5.85/hour; EUR 20 to EUR 40 per day; EUR 40 to EUR 50 per 11-hour night; EUR 150/week; EUR 210 per 72-hour week; EUR 250 per 45- to 60-hour week; EUR 400/month; EUR 600 to EUR 700/3 months; EUR 700 to EUR 900/month (70 hours/week); EUR 1,000/month (49 hours/week); EUR 100 paid for five months of work.

In terms of social security and social documents: very few workers were informed about Dimona (approximately 14%); seven presumed victims were working in Belgium in the context of proven or presumed bogus postings. The others were illegally employed without any steps being taken with regard to social security or social documents. For foreign workers directly employed by a Belgian employer, among the third country nationals, only a few were authorised to work in Belgium (work permit/single permit).

c. Circumstances of the exploitation

The checklist includes the indicators listed below. Some are recurring, such as squalid housing conditions or excessive work hours. Details and examples are provided below for each one of these indicators.

- **The victim has no appropriate equipment/work clothes**
- **The victim works in dangerous/squalid conditions**
Indicators relating to work protection (health and safety of workers: hygiene measures, clothes

and workplaces, etc.) concern approximately 35% of the presumed victims encountered. One victim was detected following a serious work accident. It should be noted that several presumed victims had no protective equipment against COVID-19.

■ The victim is allowed no contact with the outside world

■ The victim's freedom of movement is restricted

Approximately 20% of the presumed victims encountered had little or no contact with the outside world and their freedom of movement was restricted.

■ The victim lives in squalid conditions

In many potential situations of human trafficking, the victims are housed in substandard or insanitary accommodation. This accommodation is often provided by the perpetrator/employer. This indicator was present for about 50 people, i.e. more than half of the presumed victims.

■ The victim is deprived of medical care

Several presumed victims were deprived of medical care when they needed it.

■ The victim works for long periods

Almost 75% of the presumed victims encountered were working for abnormally long periods. The duration of the work was excessive and easily exceeded the number of authorised weekly working hours in Belgium. There are many people who have to work six or seven days a week for nine to 14 hours a day.

d. Aggravating circumstances

Annex 5 of COL 01/2015 includes several aggravating circumstances of human trafficking. Several were identified in the cases encountered in 2021:

■ Relating to the victim's situation

Among the victims listed, three people were exploited while they were minors. There was a brother and sister of Romanian nationality who had to take part in the activities of their host family in conditions contrary to human dignity. The third presumed victim, who was a minor at the time of the acts, was Moroccan and had to do housework for private individuals.

■ Relating to the perpetrator

In the majority of cases, the perpetrator abuses the victim's vulnerable situation, has authority over them or abuses their position.

None of the checklists mention a perpetrator being a police officer exercising their duties.

■ Relating to the circumstances and consequences of trafficking

Among the 86 victims concerned by the checklists in 2021, 23 explained they had suffered threats, violence or coercion from the perpetrator.

The lives of several presumed victims were put at risk. One victim even suffered a gunshot wound and is permanently unable to work. Another victim suffered sexual violence.

In the vast majority of cases, the activity concerned is a habitual activity.

Referral of victims to a specialised reception centre in 2021

Among the 86 checklists recorded, 42 concerned presumed victims who were taken care of by a specialised reception centre (Sürya, Payoke or PaG-ASA).

Some of them were already there or had already had contact with these centres before the intervention of the NSSO's social inspectors. In such cases, the NSSO intervenes, in particular to hear the presumed victim and/or to conduct an investigation into labour exploitation in collaboration with the reception centre, the magistrate and, if necessary, the police or other services.

It should be noted that among these 42 presumed victims, one minor was accommodated by a centre for unaccompanied minors (UAM). The other two minors were detected when they were newly of age, the acts of exploitation having begun when they were minors.

It should also be noted that some of the presumed victims of THB didn't wish to contact a reception centre, which is often the case for workers employed in the context of a bogus posting.

The breakdown per provincial department is as follows:

Provincial departments	Number of presumed victims referred	Nationality & gender
Namur-Luxembourg	2	2 Tunisia (M)
Brussels	6	4 Morocco (3M & 1W) 1 Bangladesh (1M) 1 Algeria (M)
Liège	6	1 Morocco (M) 1 India (M) 2 Romania (1 M & 1W) 1 Ukraine (M) 1 Afghanistan (M)
Hainaut	3	3 Romania (M)
Walloon Brabant	1	1 Burkina-Faso (M)
Antwerp	3	1 Morocco (M) 1 India (M) 1 Iraq (M)
Flemish Brabant	3	1 Brazil (W) 1 Morocco (W) 1 Turkey (M)
East Flanders	3	1 Iran (M) 1 Bulgaria (M) 1 Egypt (M)
West Flanders	12	10 Bulgaria (M) 1 Spain (M) 1 Columbia (M)
Limburg	3	2 Bulgaria (M) 1 Italy (M)
Total	42	

Impact Action Days

On several occasions in 2021, the NSSO inspection services participated for the sixth consecutive year in the **Impact Action Days**, a European initiative supported by Europol and previously called Joint Action Days (JAD). This EU initiative is part of the European Multidisciplinary Platform Against Criminal Threats (EMPACT) project, in which the fight against human trafficking is one of the priority criminal phenomena. The EMPACT project is part of the EU Action Plan against Trafficking in Human Beings.

Running from **31 May to 6 June 2021**, the Impact Action Days – **Labour Exploitation** were organised with the support of Europol. In several EU Member States, police and social inspectorates carried out checks to detect labour exploitation.

In Belgium, the NSSO's inspection services organised these actions in collaboration with the police, the Social Legislation Inspectorate and other inspection services. The focus was on detecting the labour exploitation of posted third-country nationals working in the construction sector. The aim of the actions was to check whether the rules on working conditions were being respected. Particular attention was paid to risky or dangerous work situations and possible offences relating to COVID-19 measures. Another important part of the investigations was to check whether Belgian or foreign labour and social security law was being applied.

Foreign workers were heard in their own language, in an in-depth manner, with the help of sworn interpreters.

There was also effective cooperation with the inspection services of the sending countries, especially Portugal. Europol played an important role as facilitator. It expanded its traditional scope by also giving social inspection services a role in coordinating actions to combat labour exploitation.

In total, 35 construction sites, 126 employers, 419 employees and 29 self-employed people were checked. Indicators of labour exploitation were found among five employers and 24 companies, and further investigations were initiated regarding a presumed bogus posting.

Of the workers checked, 18 were illegally employed and 12 couldn't be employed in Belgium. For 78 posted workers, the specific obligations for working in Belgium weren't respected by the foreign employer or the Belgian user.

In two places, construction sites were sealed and two vehicles were seized. In addition, during the checks, six false identity documents and one false driving licence were discovered.

It should be noted that the usual international collaboration in the field still wasn't possible due to the pandemic. Therefore, Europol provided the participating police and inspection services with a digital alternative for the exchange of relevant international data during the checks. On two action days, the police provided additional technological support by deploying a drone over the construction sites.

In July 2021, the Brussels ECOSOC team took part in the European action Empact Action Days - **Child trafficking** still under the aegis of Europol.

In collaboration with the Immigration Office, the Brussels FJP, the THB section of the Central Directorate for the Fight against Serious and Organized Crime (DJSOC) of the federal police and the local police, three companies were inspected. Eleven workers were checked within this context. Among them, five potential victims of human smuggling were detected and offences under the Criminal Code were found (five workers were employed illegally, without a Dimona declaration, five foreign workers were illegally staying and weren't authorised to work in Belgium, a part-time offence was also found for one worker). It should be noted that during this action targeting child labour, no minors were found.

Lastly, in November 2021, the East Flanders ECOSOC team participated in the European action Empact Action Days - Sexual exploitation. The East Flanders ECOSOC team accompanied various police and inspection services. A total of 30 companies, 45 employees and 33 self-employed people were checked. Various offences were found: nine workers weren't declared in Dimona, six foreign workers weren't authorised to work in Belgium, seven 'posted' workers didn't have their posting document or a LIMOSA declaration. Finally, eight potential victims of labour exploitation and/or sexual exploitation were detected.

Highlights in 2021

First of all, it goes without saying that 2021 was still heavily impacted by the **COVID-19** pandemic that began in 2020.

Many sectors of activity were completely or partly closed for several months of the year. For example, the events sector was closed for 18 months, until 1 September 2021; the restaurant sector, which was subject to a mandatory closure as of 19 October 2020 (except for take-away food) and was only able to reopen as of 8 May outdoors only and 9 June indoors and outdoors, subject to compliance with certain measures (distance between tables, closing times, limitation of the number of people per table, etc.). Contact businesses were also heavily impacted; closed since 2 November 2020, hairdressers were only able to reopen on 13 February 2021, massage, beauty, manicure and pedicure salons, etc., only on 1 March and then closed again for a month, from 27 March to 25 April 2021. In addition, once reopened, these businesses had to deal with various rules concerning distancing, affluence, Covid Safe Ticket, etc., preventing them from 'running at full capacity'.

There is no doubt that the closure of many sectors of activity has had a direct impact on the detection of victims of labour exploitation. As this is a hidden phenomenon, the lockdown rules have contributed to making it even more invisible. In addition, the need for labour in sectors known to be at high risk for human trafficking has decreased or changed. These sectors include exotic restaurants, nail bars, shisha bars, massage parlours, and night shops, which has certainly contributed to the increased precariousness of workers in the shadows.

Finally, as many establishments were closed for long periods of time, the number of checks decreased, which reduced the potential for detection of presumed victims.

Within our inspection service, our new investigation management program in use since March 2020 underwent several adaptations in 2021. The specific instructions for the ECOSOC teams were completed, validated and issued at the end of May 2021. Their development took time and required various technical interventions.

In addition, this new investigation management tool, renamed ARTEMIS in 2022, has different functionalities from the old one, which is why improvements were necessary, in particular with regard to the results of investigations and certain information relating to victims encountered during checks, in particular to count minors and the care provided by specialised reception centres.

As several changes weren't made until 2021, 'manual' checks and counts were still required to produce the results for this contribution.

In 2021, ECOSOC teams closed 267 investigations listed as 'human trafficking'. However, some investigations didn't meet our definition of a THB investigation or were duplicates. Therefore, after verification, the thematic directorate retained the figure of 235 investigations (THB) closed in 2021.

An ECOSOC investigation is added to the 'THB' regulation as soon as serious indicators are identified in the investigation or as soon as an investigation relating to this issue is expressly requested by a third party (magistrate, plaintiff, etc.).

On 31 December 2021, 118 investigations were opened, i.e. in the course of being processed.

Approximately 25% of the investigations initiated by the specialised ECOSOC teams and closed in 2021, didn't lead to the conclusion that exploitation was taking place, in particular because the evidence in the investigation wasn't relevant or the evidence of labour exploitation was too weak, and was more akin to illegal labour than to labour exploitation.

It is also important to underline that several investigations are follow-up investigations to acts previously detected and reported to the judicial authorities.

Also, in terms of capacity, **our ECOSOC teams** have undergone a number of changes, with an overall drop in numbers of about 15% between the beginning and the end of 2021. Several inspectors were promoted and had to leave the thematic directorate to take up their new duties, while others decided to change thematic directorate or retire. New staff members were planned to replace some of the departures, however, taking into account the necessary training, they weren't operational before the second quarter of 2022.

As every year, the thematic directorate, assisted by the NSSO's data mining department and, if necessary, by other departments, chooses **a specific annual project (focus)**.

In 2021, the focus was on monitoring selected companies using a tool developed by the data mining department. This unit studied the data from the completed THB investigations to establish a model for identifying employers at risk of resorting to labour exploitation, based on some 50 parameters.

A total of 97 investigations were selected during the year by our inspectors from lists provided by the data mining unit and generated by the model developed. Every ECOSOC team, taking into account its capacity, its existing investigations and its knowledge of the field, selected investigations within the framework of this focus. By 31 December 2021, 45 of these investigations had been processed and closed. Of these, 23 resulted in the detection of offences under the remit of the NSSO (offences related to DIMONA for 13 workers, foreign labour for six foreign workers, part-time work for 27 workers, compliance with Covid measures for 16 workers, social security for 11 workers). Only one of these investigations led to the detection of a presumed victim of labour exploitation of Bangladeshi nationality.

It should be noted that the investigations opened in the context of this focus weren't automatically opened as THB investigations.

The label 'human trafficking' was only added if sufficient evidence of exploitation was detected during the investigation. Therefore, of the 45 investigations closed in the context of this focus, only one is included in the 235 THB investigations mentioned above.

Again in 2021 and as illustrated in the section on the Impact Action Days, the social inspectors of the ECOSOC teams used **specific investigation tools and techniques** such as:

- aerial reconnaissance;
- phone investigations;
- use of video surveillance images;
- use of mobile phones ;
- open-source intelligence searches (internet, social media, etc.).

These investigation techniques are carried out with the specialised services of the federal police, most often at the request of the labour prosecutor. Such techniques can lead to identifying and hearing presumed victims, identifying potential witnesses, corroborating victims' statements and also to ascertaining the employment of other workers/victims, identifying perpetrators and revealing links between persons or companies.

The use of social media and the internet is increasingly essential to conduct searches and thoroughly investigate human trafficking for labour exploitation. However, in order for our social inspectors to make optimal use of these sources, it is necessary to examine the technical and legal possibilities.

It should also be noted that in 2021, Belgium received a visit from **GRETA, the Group of Experts on Action against Trafficking in Human Beings**, which is responsible for monitoring the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings. GRETA met with several services involved in the fight against human trafficking, including the NSSO's thematic directorate on human trafficking and several members of the provincial ECOSOC teams. This was the third evaluation round and the third visit of GRETA to Belgium with the theme 'access to justice and effective remedies for victims of trafficking'.

Finally, as regards **emerging or growing phenomena**, 2021 was quite similar to previous years with, however, a significant number of presumed victims detected in agriculture and more specifically in poultry farming. We also noted

another phenomenon which, at present, hasn't led to the conclusion of labour exploitation. This is the use of medical and/or paramedical personnel from third countries recruited in their country of origin by specialised recruitment agencies. This personnel undergoes training in Belgium, if necessary, at least to obtain an equivalency certificate. Some dubious practices have been uncovered, especially in relation to the training provided in Belgium or the 'fee' charged by these recruitment agencies to their clients (often hospitals or nursing homes). Nevertheless, no presumed victims were detected in this context in 2021.

Cases of identity theft by illegal workers wishing to work were again encountered in 2021. It seems that this practice is increasing and spreading to other sectors than the ones we know (logistics, distribution, etc.); in particular to certain courier services. The impostors, often in a precarious administrative and social situation, use identity documents of compatriots to find official employment. For courier services, they simply use the account of their compatriot. In return, the identity holder demands a percentage of the wages earned through their identity. Sometimes they use threats and intimidation to obtain payment. Of the cases encountered by our social inspectors, few resulted in a finding of labour exploitation.

The points of attention raised in previous years are still relevant: nail bars, domestic staff, construction, hospitality, etc. are all easily accessible sectors of activity in which it is easy to resort to under-qualified labour in a precarious situation and with little room for manoeuvre.

Conclusion

Covid-19 was still prevalent in 2021. Several sectors again suffered lockdowns, restrictions and the vagaries of the pandemic with a considerable impact on our society, our economy and the labour markets.

In 2021, the social inspectors in our ECOSOC teams had to continue working with the health situation in mind. Many of them were contaminated, incapacitated or quarantined; they had to continue to work while ensuring their own safety; many establishments were closed down, which hampered checks or investigative actions. In addition, they had to pursue actions entrusted to them to ensure companies were adhering to the Covid-19 measures.

This report includes figures from two different channels:

- the file management program regarding the investigations closed in 2021 concerning 147 presumed victims;
- analysis of the checklists drawn up in 2021 as soon as the investigation in progress or closed showed sufficiently precise indications; this concerns 86 presumed victims. Subsequently, this data is the most representative of 2021.

If we compare the figures for 2021 with previous years, from the point of view of potential victims, we can see a significant decrease in the number of presumed victims identified on the basis of the checklists (86 in 2021 - 134 in 2020), which we consider to be the most relevant data, as explained above.

This decrease is on the one hand related to the pandemic that was still rife in 2021. As explained above, some establishments were closed, which reduced the number of checks aimed at detecting exploitative situations; additional tasks were entrusted to ECOSOC staff (verification of Covid measures). On the other hand, the capacity of the ECOSOC teams was reduced during 2021.

It should be noted that the number of THB investigations processed remained stable (236 in 2020 – 235 in 2021).

	2018	2019	2020	2021
No. of potential victims mentioned in the closed investigations	65	82	156	147
No. of potential victims according to the checklists	78	120	134	86
No. of victims for whom the reception centres intervened (based on checklist)	39	73	38	42

The analysis of the checklists shows that, as in other years, potential situations of labour exploitation occur in both urban and rural areas and mainly concern men.

In the vast majority of cases, one, two or even three people were involved. However, a number of investigations have detected several presumed victims exploited by the same person or network. This was especially the case for:

- 10 workers employed in agriculture by a Dutch company in West Flanders;
- 10 workers employed in the hospitality sector in East Flanders;
- 6 workers employed on construction sites in the province of Limbourg;
- 4 workers employed on a construction site in East Flanders within the framework of a proven or presumed bogus posting;
- 4 people employed to do domestic chores by private individuals in the province of Liège.

The sectors of activity most frequently encountered in the analysis of the 2021 checklists are construction, hospitality and agriculture.

The most common practices were: undeclared work (no DIMONA), irregular employment of illegally staying foreign workers and bogus posting (to a lesser extent).

Among human trafficking indicators, the most frequently encountered were:

- Little or no pay
- Abnormally long work hours
- Accommodation in squalid conditions
- Abuse of a vulnerable situation
- Use of threats/violence
- Restricted freedom of movement and contact with the outside world

It should be noted that some presumed victims found working in conditions contrary to human dignity didn't get in touch with a specialised reception centre, in particular because they refused any support. This is often the case for workers employed by foreign companies; when they are exploited, their priority is to be paid so that they can return to their country of origin.

It is also worth noting that in some cases, our service met with presumed victims after they had approached such a reception centre, either at the request of the centre itself or at the request of the labour prosecutor.

As mentioned above, the most revealing figures on labour exploitation are those relating to the checklists, since they are drawn up as soon as a presumed victim is encountered.

Other data such as *pro justitia*, criminal reports or the number of victims included in closed investigations referred to in this contribution may relate to investigations that started in previous years but were closed in 2021.

To conclude, as the stakeholders in the field continue to repeat, labour exploitation is a hidden phenomenon. It is difficult to identify and to estimate the extent of it. The proactive checks carried out, particularly in high-risk sectors, by social inspectors specialised in THB or who are aware of this issue, help bring to light situations of exploitation. The more human resources there are, the more the frontline inspection services are aware and trained, and the stronger and more effective the fight against this phenomenon will be.

External contribution

Role of DJSOC in the fight against human smuggling and trafficking and evolution of the phenomenon of human smuggling

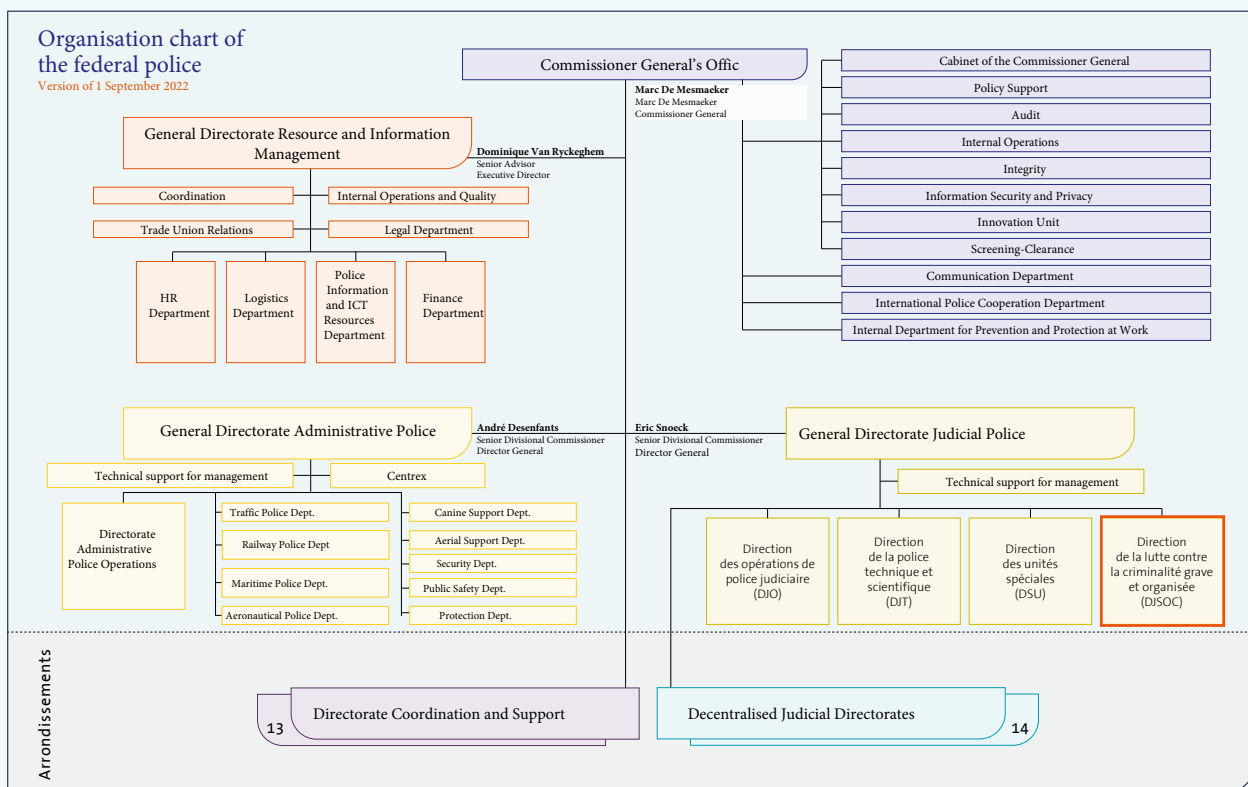
Hilde Sabbe – Strategic analyst at DJSOC
Brussels – July 2022

Introduction

Together with various partners, DJSOC - the Central Directorate for the Fight against Serious and Organised Crime within the federal judicial police - plays a role in the fight against human trafficking and smuggling. This contribution aims to explain where exactly DJSOC is situated within the federal police and what the main tasks of DJSOC players are in this field. It also examines the evolution of the phenomenon of human smuggling over the last decade, based on the findings and investigations of the police.

DJSOC — position within the federal police and role in the fight against human trafficking

There is an administrative section and a judicial section within the federal police. DJSOC reports to the judicial section and is part of the DGJ, the Directorate General of the Judicial Police. DJSOC assists the FJP, the decentralised judicial directorates in the districts, and the local police areas.



DJSOC is composed of several sections specialised in criminal phenomena such as narcotics, robbery, weapons, cybercrime, human smuggling and human trafficking (THB). The THB section currently has 12 staff members. It also has a strategic analysis section, which supports the sections in terms of visualisation.

The THB section within DJSOC carries out various tasks, which can be subdivided according to their strategic or operational nature.

■ Strategic tasks:

- Participation in meetings where policies are defined, both at national level (e.g. the office of the Interdepartmental Coordination Unit for the Fight against Human Trafficking and Smuggling) and at international level (e.g. the European Strategy Meetings - EMPACT³²⁰);
- Contribution, for the Belgian police, to the elaboration of the European strategy to fight organised crime in relation to trafficking and smuggling of human beings;
- Participation in work groups aimed at addressing certain facets of the problem (e.g. awareness-raising among airport staff);
- Provision of an annual nationwide overview of the phenomena as a whole and specific analyses of sub-phenomena (e.g. the risk of sexual exploitation of Latin American prostitutes in the private sector)³²¹;
- Participation in study days, conferences, congresses as an expert in the field, both nationally and internationally;
- Maintaining contact with relevant partners (e.g. IO, NSSO inspectorate);
- Responding to parliamentary questions.

■ Operational/tactical tasks:

- Research, exchange, and coordination of operational information at national and international levels. At national level, this is done in part through the FJP network of experts in the subject, which meets periodically to exchange information on investigations and new *modus operandi*;
- Facilitation of international police cooperation (bilateral contacts, operational coordination meetings at Europol or Eurojust, organisation and coordination of joint action days, etc.)

- Facilitation of the voluntary return of victims of human trafficking and human smuggling, in consultation with the specialised reception centres;
- Activities in the framework of the EMPACT action plans, especially for activities in which Belgium is a leader or co-leader (e.g. Chinese THB, Nigerian THB, human smuggling by small boat);
- Participation in the districts' THB platforms;
- Supporting local and federal police (contributing to training, sharing knowledge and expertise, providing operational support during actions);
- Centralisation, analysis and dissemination (reporting function) of information on trends and best practices in consultation with the DGJ;
- Launch of specific actions when new phenomena are detected (installation of barriers against criminal processes);
- Development and implementation of intelligence gathering tactics, based on ILP³²² principles in a proactive approach, to support operational activities

Evolution of the phenomenon of human trafficking in Belgium

Between 2013 and 2018, the number of police findings of human smuggling more than doubled. This is largely due to the European asylum and migration crisis which, especially from 2015 onwards, led to a large number of migrants and refugees also arriving in our country, whether as a stopover on their way to the UK or not. These were mainly migrants from the Middle East (especially from Syria, Iran and Iraq), and to a lesser extent migrants from African countries (Eritrea, Sudan, Ethiopia). A large proportion (of which we don't know the extent) used the services of smugglers to get to Europe and/or to cross Europe in order to reach the intended destination country.

After 2018, the number of police findings of human smuggling decreased. This can be partly explained by the pandemic, which has resulted in significantly limiting travel opportunities and reducing the ability of law enforcement to monitor human smuggling.

³²⁰ The European Multidisciplinary Platform Against Criminal Threats is a European initiative supported by Europol.

³²¹ This task is the responsibility of DJSOC's strategic analysis section. In the future, the annual overview will be replaced by a permanent overview.

³²² ILP (Intelligence-Led Policing) refers to the integrated police service's continuous concern to guide the organisation at strategic, tactical and operational levels on the basis of information about insecurity, quality of life, crime and how the police functions (experiences and qualities).

pandemic, which has resulted in significantly limiting travel opportunities and reducing the ability of law enforcement to monitor human smuggling.

It is necessary to distinguish between smuggling to our country, with Belgium as the final destination, and smuggling through our country, with Belgium as a transit country, most often with the United Kingdom as the final destination. The profiles of the migrants and smugglers involved differ, as do the *modus operandi*. Most of the investigations of the federal judicial police³²³ focus on transit smuggling. This is why the emphasis is on the following.

Up until 2015, the problem of transit and irregular migration mainly concerned parking areas along the E40 and the coastal region. Administrative measures (such as the temporary closure of some parking areas or the deployment of private security guards) have caused the problem to gradually spread to the whole country. Initially, parking areas along the E17 (East Flanders and Antwerp) were targeted. Then, smugglers also began to expand their activities to parking areas along the E411 in Wallonia, for instance. This is not so much a relocation of the activities - the smugglers also continued to operate in the parking areas along the E40 - as an expansion of the activities to other locations. The same gang was sometimes active in several parking areas simultaneously.

The most active networks in transit smuggling have been more or less the same for some years, although their *modus operandi* has changed over time. Human smuggling networks are flexible and adapt to changing circumstances or seek new opportunities.

Albanian networks have been involved in human smuggling for many years. They usually operate from larger cities (mainly Brussels and Ghent), where there are large diasporic communities that facilitate the activities. The organisers are mostly located in the United Kingdom. Our country is essentially home to the executive level. They use different techniques and modes of transportation to smuggle people:

- transporting transit migrants to a motorway parking area to help them into a lorry or trailer on a haphazard basis;
- transporting small groups of transit migrants to a pre-arranged location, where the transit migrant(s) is(are) handed over to the driver - commonly referred to as 'guaranteed transportation'. This often (but not exclusively) involves the use of Eastern European lorry drivers, who transport the migrant in the cab, thus reducing the risk of detection;

- smuggling in a private vehicle or van. This is less common.
- crossing the English Channel by boat. They prefer to use fishing boats or sailboats rather than dinghies, although this option seems to have been a common choice in 2022;
- Illegal air travel using forged or falsified identity documents.

Kurdish networks (mainly Iraq/Iran) have become particularly active since the asylum and migration crisis. They often operate from the north of France, where they have control over the camps and can easily recruit 'clients'. These are mainly (but not exclusively) migrants from Afghanistan, Syria, Iran and Iraq, including families with young children and pregnant women. Some networks operate from the United Kingdom or Germany (extent of the diaspora). Until recently, they were operating mainly in motorway parking areas. They would either drive large groups of migrants in rickety vans to parking areas and help them into trailers on a haphazard basis, or they would provide more expensive transport in specially constructed hiding places or in the cab of a lorry. Since 2020, some Kurdish smuggling networks have switched their activities to the clandestine crossing of the English Channel in dinghies. Boats (and accessories) of this type are supplied in large numbers from logistics hubs in Germany and the Netherlands, via our country, to make the crossing from France.

The East African networks (Ethiopian, Eritrean, and Sudanese smugglers) appeared on the scene shortly after the previous networks. They generally facilitate the transit of migrants of the same nationality/ethnicity, whom they recruit in Brussels. Transit migrants are instructed to use public transport and to walk to parking areas, where accomplices help them into lorries. Several investigations have revealed that they are very active (sometimes more than 100 attempts to cross in a few months) in several parking areas throughout the country. From time to time, violent confrontations take place between different groups (smugglers and/or transit migrants). In the past, transit migrants would return to Brussels after an unsuccessful attempt. This has been less the case recently. Transit migrants stay in the vicinity of the parking areas. It was observed on more than one occasion that support from citizens' organisations had contributed to this.

³²³ This is not the case for the FJP Halle-Vilvoorde, whose investigations are mainly carried out as a result of observations made at the airport.

In the case of Vietnamese networks, it is sometimes a combination of human smuggling and trafficking: upon arrival in our country (or in the United Kingdom, often the country of destination), they are exploited in restaurants, nail bars, cannabis plantations, etc. (so-called 'debt bondage'). The NSSO inspection department's ECOSOC units have already collaborated in various cases at this level. In several investigations, Brussels appears to be the place from which the smuggling is organised, where the victims are temporarily housed while waiting for other transport (especially by taxi to the coastal region), or where the victims are exploited. In addition, some organisations also operate from the United Kingdom. The Vietnamese generally travel in homogeneous groups. Kurds or Albanians are sometimes used but only for the last part of the journey, i.e. the crossing to the United Kingdom.

Addressing security issues related to irregular migration and human smuggling remains a focal point for police forces in the National Security Plan 2022-2025 entitled 'A resilient integrated police force at the service of society'. The detection and prosecution of criminal networks active in human smuggling will remain a major challenge for the federal judicial police in the years to come.

Part 4

Recommendations



RECOMMENDATION 1

Consider Vietnamese nationals illegally employed in high-risk sectors as presumed victims of human trafficking (debt bondage) and apply the national referral mechanism



When frontline services discover the illegal employment of Vietnamese workers during checks in nail bars, restaurants, etc., and if they think that it may be a debt bondage situation, they should identify these Vietnamese as presumed victims of human trafficking and refer them to the specialised centres for trafficking victims.

Many Vietnamese victims who have been smuggled often find themselves forced to pay off their transportation debts by working in an exploitative situation (debt bondage) in a human trafficking context. The detection of such Vietnamese victims in nail bars or restaurants should be seen as a warning sign and a possible indicator of human trafficking. It is necessary to refer these presumed victims to specialised centres for trafficking victims, as they are in the best position to explain the status of victim of human trafficking. Social workers at these specialised centres can easily gain the trust of these victims and encourage them to accept victim status.

Training of frontline services in human trafficking indicators is therefore essential and should be actively pursued.

RECOMMENDATION 2

Be attentive to possible debt bondage situations in cases of forced criminality such as cannabis plantations



Frontline services and reference magistrates need to pay more attention to Vietnamese workers in cannabis plantations or to sellers of counterfeit goods, including illegal cigarettes. This could be a situation of debt bondage, potentially amounting to human trafficking. It is therefore important to apply the referral mechanism.

The Essex case and the literature review show that in several neighbouring countries, Vietnamese smuggling victims are exploited in cannabis plantations to pay back their smuggling debts. In addition, Vietnamese victims have to sell counterfeit products such as illegal cigarettes. These are forms of forced criminality that require complex investigations for which there are insufficient resources in Belgium as well as no longer being a real priority. As a result, no Vietnamese victims of forced criminality are detected in Belgium. However, this could reveal a gap in detection by frontline services.

RECOMMENDATION 3

Make the link to possible debt bondage situations for Vietnamese victims of human smuggling



If Vietnamese smuggling victims are detected, it is important for frontline services to be able to check their smartphones at the magistrate's request for any messages referring to exploitative debt bondage situations, to question them about this, and apply the referral mechanism.

During their hearing, Vietnamese victims of human smuggling should be asked about possible exploitation along the way and in Belgium, in order to establish a link between human smuggling and human trafficking. They could also be asked for whom and how loans to finance the smuggling are arranged. This can reveal the difficult circumstances in which the victims found themselves and the great vulnerability of a group of victims without autonomy (freedom of action or self-determination). Furthermore, it can add significant value to the investigation.

If the acts of debt bondage took place in Belgium, further investigations can be conducted to dismantle the entire criminal network with all its ramifications or to trace it back to another related human trafficking network. In the Essex case, the hearings revealed that one smuggling victim, based in a safehouse, had been exploited through one of their smugglers in a restaurant and another in the domestic work sector. This data could, therefore, sometimes lead to the initiation of a new human trafficking investigation. Acts of debt bondage in other countries over which Belgium has no jurisdiction, can in turn provide relevant information in the context of international cooperation and information exchange.

This can raise awareness among frontline services, the prosecutors and political stakeholders of the links between human smuggling and trafficking and the vulnerability of smuggled victims, as well as revealing the complex network structures through which the smuggling system spreads, and could be linked to exploitative debt bondage structures and sometimes associated with the mafialike credit.

RECOMMENDATION 4

Pay particular attention to and be aware of the cultural specificities of Vietnamese victims of human trafficking or smuggling in order to establish a relationship of trust



When detecting, hearing and supporting presumed Vietnamese victims of human trafficking or smuggling, it is essential to create conditions that foster trust. This includes having good knowledge of Vietnamese culture or of North-South rivalries in Vietnam which can have an impact on the hearing of a presumed victim if the interpreter has a different origin.

It is also important to be aware that a Vietnamese national feels a strong sense of shame, distrust, and indebtedness to the family that incurred the debt to enable them to undertake the clandestine journey. The pressure of the family back home to continue to repay the debt, which is itself under pressure from the criminal network, is also an element to be taken into consideration.

Confidence building with a reliable and trustworthy interpreter and, for minors, security measures such as temporary deprivation of their mobile phone, are likely to contribute more easily to the disclosure of the facts. Such security measures can help protect child victims from the criminal network that continues to exert pressure on them.

The training of all stakeholders by NGOs with expertise in Vietnamese culture, as has already been organised, is an example of good practice to be continued.

As noted in the Essex case, objective references to the victim's non-verbal behaviour (e.g. trembling, crying, etc.) in the transcripts is also likely to help understand sometimes incoherent statements.

RECOMMENDATION 5

Apply specific protection measures for (Vietnamese) unaccompanied minors, including a safe and secure environment



It is important that frontline services pay sufficient attention to the detection of Vietnamese minors and apply the protection measures for unaccompanied minors (reporting to the Guardianship Service with the mention of the presumption of trafficking/smuggling).

When such minors are detected, it is essential that they be taken into the care of a specialised reception centre for unaccompanied minors such as Esperanto. Here, they will benefit from tailor-made support and the security measures put in place allow to limit the risk of disappearance.

(Police) hearings in such a secure setting and with a person of trust also make it easier to establish a relationship of trust.

The Essex case demonstrated that several Vietnamese minors were successfully referred to and taken care of by such a centre.

RECOMMENDATION 6

Pay attention to the protection of disempowered victims, who are the most vulnerable group of victims, such as Vietnamese victims in debt bondage



Vietnamese victims in debt bondage represent a group of victims in a very vulnerable situation and in a position of strong dependence on their exploiters. They often have no freedom of movement or self-determination and are socio-culturally isolated as their exploiters are themselves Vietnamese. In the Essex case, the victims were locked in safehouses. Moreover, there is every reason to believe that many victims were unable to determine their final destination themselves. Contrary to other groups of victims who have more autonomy, they are unlikely to take the initiative to present themselves as victims to a frontline service or reception centre.

Frontline services need to be made aware of the vulnerability of this disempowered group of victims. However, the entire apparatus involved in the fight against human trafficking must also pay attention.

RECOMMENDATION 7

Provide the necessary resources to ensure a strong detection mechanism for the most vulnerable and disempowered victims such as the Vietnamese



Frontline services are the only ones able to detect and free vulnerable victim groups, such as Vietnamese locked in safehouses or trapped in debt bondage, from these appalling situations. The authorities must also be very aware of the important role of frontline services. To this end, it is of course crucial that they have the necessary resources, which is precisely the problem today.

Human trafficking is a major priority of the government agreement and the national security plan, but this priority doesn't stand up to the test of reality. In practice, resources dedicated to human trafficking at the frontline and judicial level have indeed been reduced or cut owing to other priorities or constraints. Some federal judicial police units dedicated to human trafficking have even been abolished. In some judicial districts, there are no longer any real reference magistrates, or they have been incorporated into a larger organised crime unit. This involves dealing with a range of criminal phenomena and therefore decreasing specialisation in human trafficking.

For instance, owing to a lack of time and resources, some investigations into human trafficking are no longer conducted, or far too superficially.

It is therefore essential that these services be strengthened. Myria hopes that the special commission on human trafficking in Parliament will make real progress on this point.

RECOMMENDATION 8

Use social media as an investigation technique



The analysis of the Essex case has shown how much the examination of social media and mobile phones contributes to the collection of evidence, both in terms of tracing the (financial) activities of the smugglers, making links between smuggling and trafficking (in particular a possible link through debt) and in terms of understanding how the victims were recruited, or locating the places they passed through. The involvement of the Federal Computer Crime Unit (FCCU) is an added value in this respect. Likewise, police training must be strengthened, such as through certain existing projects.

Magistrates must have access to facilities to be able to search computer systems and perform network searches. The collaboration of internet companies (Google, Microsoft, Facebook [Meta] in particular) is essential in this context.

RECOMMENDATION 9

Make greater use of international collaboration in complex human smuggling investigations to dismantle criminal organisations



The Belgian part of the Essex case is the result of an international investigation conducted by a joint investigation team in Belgium, France, the United Kingdom and Ireland, among others, and of letters rogatory conducted in the Netherlands and Germany. This underlines the importance of international collaboration, especially in such complex cases.

International collaboration is essential to dismantle the complex smuggling structure of Vietnamese criminal organisations. Human smuggling from Vietnam to Europe is generally carried out by well organised Vietnamese smuggling networks. These are international networks in the countries of departure, transit and destination, subdivided into small operational cells. It is therefore often difficult for national authorities to determine the true structure of a specific network. The Essex case and several recent Europol operations demonstrate the value of close international collaboration in dismantling Vietnamese smuggling networks.

RECOMMENDATION 10

Place large-scale financial investigations within the framework of an international chain approach



Placing a large-scale investigation within an international framework, involving joint investigation teams, one of whose tasks is to carry out financial investigations, allows the entire network to be apprehended and suspicious financial flows to be traced in order to get to the heart of the criminal activity.

In the Essex case, for instance, the financial investigation revealed a criminal financial benefit totalling EUR 7 million for all of the network's illegal transportations. Just for the transportation where 39 deaths occurred, the financial benefit amounted to EUR 460,000.

Smuggling networks are, in fact, run by criminal entrepreneurs who organise and run their business like a multinational. Good international collaboration and thorough financial investigations are the most effective means of tackling smuggling networks and drying them up financially through the 'follow the money' principle. This approach, which consists of seizing criminal assets in different countries, is part of an international chain approach in which all links must play their part. If one link is missing or defective, the chain breaks.

ANNEX : Recommendations

2022/1	Consider Vietnamese nationals illegally employed in high-risk sectors as presumed victims of human trafficking (debt bondage) and implement the national referral mechanism	Recipients Police and inspection services Reference magistrates human trafficking and smuggling
2022/2	Be attentive to possible debt bondage situations in cases of forced criminality such as cannabis plantations	Recipients Police and inspection services Reference magistrates human trafficking and smuggling
2022/3	Make the link to possible debt bondage situations for victims of Vietnamese human trafficking	Recipients Police and inspection services Reference magistrates human trafficking and smuggling, centres specialised in the reception of victims of human trafficking and smuggling
2022/4	Pay particular attention to and be aware of the cultural specificities of Vietnamese victims of human trafficking or smuggling in order to establish a relationship of trust	Recipients Police and inspection services Reference magistrates human trafficking and smuggling, centres specialised in the reception of victims of human trafficking and smuggling
2022/5	Apply specific protection measures for unaccompanied (Vietnamese), minors including a safe and secure environment	Recipients Police and inspection services
2022/6	Pay attention to the protection of disempowered victims, who are the most vulnerable group of victims, such as Vietnamese victims in debt bondage	Recipients Interdepartmental Unit for the Fight Against Trafficking and Smuggling in Human Beings, Parliament
2022/7	Provide the necessary resources to ensure a strong detection mechanism for the most vulnerable and disempowered victims such as the Vietnamese	Recipients Minister of the Interior, Minister of Justice, Minister of Employment, Parliament
2022/8	Use social media as an investigation technique	Recipients Judiciary, Minister of Justice
2022/9	Make greater use of international collaboration in complex human smuggling investigations to dismantle criminal organisations	Recipients Reference magistrates human trafficking and smuggling
2022/10	Place large-scale financial investigations within the framework of an international chain approach	Recipients Reference magistrates human trafficking and smuggling

Colophon

Brussels, July 2023

Evaluation Report 2022, Independent National Rapporteur on Trafficking and Smuggling in Human Beings

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Myria, the Federal Migration Centre, is an independent public institution. It analyses migration, defends the rights of foreign nationals and combats human trafficking and smuggling. Myria advocates a policy based on factual knowledge and respect for human rights.

The purpose of the report on Trafficking and smuggling of human beings is to provide an independent evaluation and the results of the fight against the trafficking and smuggling of human beings.

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