

## CHAPTER 2: CASE STUDIES

*In this chapter, Myria analyses legal cases concerning human trafficking and smuggling where it has instituted civil proceedings and therefore has a complete view. This provides a precise image of the way in which an investigation is initiated and conducted in reality on the ground. Furthermore, this chapter gives an illustration of the phenomenon of human trafficking and smuggling for each form of exploitation.*

The basic analysis is based on the police reports of the cases and focuses above all on the criminal system and the victim's point of view. We shall first examine the report summaries - in which the investigators summarise the case - in detail and from a critical viewpoint. A great deal of attention is also paid to the initial police reports, which indicate on what basis the case was actually initiated and whether the victims were intercepted and detected at this moment. Furthermore, the case includes the police reports from the hearings of victims, suspects and witnesses, information reports, folders including transcriptions of phone taps, observation reports and, finally, reports of letters rogatory.

The study of concrete cases is a cornerstone of the policy assessment. It sheds light on the implementation of the investigation and prosecution policy on the ground, as well as the tricky issues associated with it. Once gathered together, these findings also provide an important source of information for the annual report's focus, and an essential base to formulate recommendations.

Myria primarily uses these case studies to determine best practices and experiences of the various stakeholders on the ground. They are listed in the *Best practices and experiences* chapter. Texts from the case studies that are relevant to this chapter are accompanied by a footnote.

### 1. Human trafficking

#### 1.1. Sexual exploitation

##### 1.1.1. Loverboy<sup>314</sup> in Antwerp involving minors from a youth centre

In this case in Antwerp, several underage victims who had escaped from a youth centre were forced by loverboys to prostitute themselves<sup>315</sup>. The court convicted the loverboys for human trafficking and rape<sup>316</sup>.

The defendants were two Kosovars and a Belgian of Kosovar origin. They operated as a gang. The main Kosovar defendant was the loverboy, the first one to seduce the young girls. He then passed the victims onto his brother-in-law and half-brother, the other defendants, as well as to loverboys from other cases. His victims did not know he had a wife and two children. The main defendant officially received benefits from the CPAS<sup>317</sup>, while earning money as a pimp.

#### a) Opening the investigation

This criminal case was initiated based on the statement of a 16-year-old Belgian girl who had escaped from a youth centre and had been imprisoned by other loverboys.

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<sup>314</sup> We prefer the term 'loverboy' to a pimp for teenagers because the victims recruited through seduction techniques are not only underage Belgian girls. Many adult victims are also recruited in Belgium and many child and adult victims recruited in their country of origin to be exploited in Belgium.

<sup>315</sup> Also see the following chapter on best practices and experiences, and the Annual Report 2015, *Trafficking and smuggling in human beings, Tightening the links*, part 1, Chapter 2 (Victims of loverboys).

<sup>316</sup> On this subject, see Chapter 4 in this part, devoted to case law.

<sup>317</sup> See benefits fraud in: Annual Report 2011, *Trafficking and smuggling in human beings, The money that matters*, part 1, Chapter 3, point 1.

The latter were prosecuted and convicted in another criminal case in which the same girl was also a victim<sup>318</sup>. During her hearing, she stated that loverboys had already forced her to prostitute herself in the past and she also gave the names of three other underage victims. These acts formed the basis of this criminal case regarding human trafficking.

The police examined the first victim's phone contacts and were able to identify one of the perpetrators. The competent reference judge for human trafficking appointed an investigating judge, who ordered the police to carry out phone taps.

### **b) Investigation**

The investigation was based on phone taps, searches, hearings involving the defendants and clients as witnesses, filmed hearings of the victims, evidence of flagrante delicto and on the use of social media. The sum of EUR 5,000, which the defendants had on them when they were arrested, was seized so that the court could confiscate it<sup>319</sup>.

The phone taps clearly revealed that the conversations related to sexual services and that it was openly a question of earning money through prostitution. One of conversations listened to between the pimp and a client led to a police intervention in a hotel where this client was caught in the act with the 14-year-old girl. The police confirmed that the photos published on sex websites had been taken in this hotel. "The young victims were still wearing the same underwear".

The investigation concerning the client also confirmed this. A client who wanted to make a statement confirmed that he was

given an appointment for sexual services with the underage girls through a website: "He thought they were adults. A man, to whom he gave EUR 700 in cash, opened the door to the hotel room. He pointed to photo X (suspect) showing the pimp. He was under the impression that he was staying in the room next door".

### *Internet and social media*<sup>320</sup>

One defendant stated that he had met one of the underage victims on Facebook. The defendants were identified by the first victim through Facebook, who was also able to provide their phone numbers. It was possible to identify the defendants by comparing the images with police photos.

### **c) Victims**<sup>321</sup>

The victims were Belgian girls aged between 14 and 16 years. They had all run away from the same youth centre and remained in contact through Facebook.

The victims were in an extremely vulnerable position. Every time, it was a case of young girls who were unhappy at the centre where they had been placed and who regularly ran away from it. A young girl had already run away 53 times, and another 37 times. This type of runaway behaviour often leads these young girls to be stigmatised by their entourage. These young girls were not at all independent, nor in a position to meet their living costs, and were coerced. One young girl was a victim of serious violence. Fraudulent tactics were also certainly used. The loverboys played on these young girls' romantic feelings and had complete control over them. However, they were only interested in making money out of them.

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<sup>318</sup> See this part, Chapter 4 (case law).

<sup>319</sup> Annual Report 2013, *Trafficking in human beings, Building bridges*, Chapter II, point 1.2 (Focus on the financial approach: the use of financial investigations in cases of human trafficking).

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<sup>320</sup> Annual Report 2013, *Trafficking in human beings, Building bridges*, Chapter II, point 1.3. (approach based on the evidence: the victim has a key role).

<sup>321</sup> Annual Report 2013, *Trafficking in human beings, Building bridges*, Chapter I, point 2 (Profiles of human trafficking victims).

The young girls became emotionally dependant on the loverboys. After the defendants were arrested, other young girls suddenly said that they were not victims at all and that they did not want to see their 'boyfriend' end up in prison.

The defendants drugged various girls to make them dependant and to get rid of their sexual inhibitions. Two young girls stated that they took drugs in order to be able to go through with the acts.

#### *Victim statements*

##### **14-YEAR-OLD GIRL THROWN INTO PROSTITUTION AT THE AGE OF 13**

The 14-year-old girlfriend of the main defendant stated that she had been in a youth centre since the age of 10 because her parents were alcoholics. She regularly ran away from the centre. She had already done so 53 times. She arrived in Antwerp a year ago through the Facebook friends of another girl at the centre. Every time she ran away from the centre, she looked for places to sleep, which she obtained in exchange for sex with men. The main defendant was first her boyfriend before pushing her into prostitution at the age of 13. He offered her services through sex websites and asked his half-brother to drop her off at hotels or at clients' homes. At the time, she gave part of the money earned through prostitution to the defendant. Later on, she found out that he was married and had children. She had also been to his house and his wife had given her clothes. This woman knew about everything and explained that he had already done this with a lot of girls. She also knew that her friends at the youth centre had worked for him.

Through the main defendant, she had met his brother-in-law - the third defendant - four months earlier. She described him as her current boyfriend. The main defendant's half-brother (the second defendant) told her that she also had to prostitute herself for her current boyfriend (the third

defendant) for money, otherwise he would do his utmost to make her lose him. So she did it and gave the money earned to the second and third defendant. On the evening before the police intervention at the hotel, she had taken part in a threesome. The client paid the defendant EUR 700. She took care of the client in room 320 while her current boyfriend, the third defendant, was staying in room 318, which was their own room.

The third defendant had no income. They lived off prostitution, but the victim explained that he was a good person, because he had never hit her and he respected her. She knew that he was a loverboy and that he was using her, but she loved him all the same.

##### **14-YEAR-OLD GIRL SUBJECTED TO VIOLENCE**

This victim had also run away from a youth centre. She met up with the loverboys after having met the second defendant over Skype; they would talk to each other every day and he seduced her so that she would fall in love with him. She was not able to resist. One evening, he came to visit her in Verviers, in a café, and he then took her to Antwerp.

She was frightened: she had been reported as a runaway minor and was afraid that she would be put in a youth detention centre. She had nowhere to go. She had spent the day in the defendant's mother's flat, and the police had come to fetch her. However, the defendant told the police to go away.

The defendant then became firmer, telling her that he would kill her if she left him or if he went to prison because of her. He also beat her. He had hit her in a jealous rage during an argument in Waasmunster, causing her nose to bleed, breaking her jaw and injuring her head. He then put her in the car and intimidated her, threatened her verbally, and humiliated her. Later in the evening, he struck her twice more, without any apparent reason.

Three weeks after they first met, they went together with another defendant and his girlfriend to a hotel used by prostitutes in Antwerp, where they spent several days. At one point, the defendant kindly asked her if she was prepared to work for him as a prostitute because he did not have any money and his brake pads needed replacing. Blinded by love, she accepted. Up until then, she had never had to prostitute herself. The defendants took photos and advertised the young girl. They received the clients in the hotel or the defendant drove her to the client.

She worked alone in the beginning, and was very nervous. She took drugs when she met with clients and to forget everything. In Turnhout, she had a dangerous incident with a client. She had had to take drugs and nearly died. Later, she systematically worked with another underage victim (see the previous victim's statement). Together, they earned between EUR 5,000 and 6,000 the previous month, but had always given everything to the defendants. She now knew he did not love her and was simply taking advantage of her. Now that she had reported him, she was afraid he would take revenge when he came out of prison.

#### *Victim status*

The underage girls were sent back to the youth centre from which they had run away<sup>322</sup>.

### **1.1.2. Loverboy case in Liège with adult Belgian victims**

In this case in Liège, the events of which date back to 2012 and 2013, various young Belgian women were pushed into prostitution by a loverboy. He was the main defendant in an Albanian/Italian gang.

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<sup>322</sup> Also see the following chapter on best practices and experiences.

The victims were not only obliged to hand over all their earnings from prostitution, but also their unemployment benefit and their bank card, after having been threatened. The court convicted this gang of 10 defendants, among others, for acts of human trafficking<sup>323</sup>. Two victims instituted civil proceedings during the trial. One of the Belgian women had already been a victim in another case of human trafficking for the purpose of sexual exploitation and offences committed under coercion<sup>324</sup>.

The loverboy (main defendant) was a recidivist. He had been provisionally released from prison in 2011 and had to wear an electronic bracelet around his ankle. According to a witness, he was already recruiting female victims during parole. He had also been convicted for attempting to organise various sham marriages. The price charged was EUR 13,000. Within the framework of one of these sham marriages, he attempted to marry another defendant to one of the victims so that this defendant could obtain a Belgian residence permit. He was an Albanian paracommando who had served in Afghanistan. According to the Belgian liaison officer in Albania, this paracommando unit from Tirana had a bad reputation.

This was not the first time for the second defendant either. In June 2009, he was part of an Italian/Albanian drug dealing gang in Italy, composed of 17 perpetrators who sold cocaine.

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<sup>323</sup> Liège Crim. Court, 12 February 2014, 8<sup>th</sup> ch. (final): see Annual Report 2013, *Trafficking in human beings, Building bridges* and Myria's website: <http://www.myria.be/fr/jurisprudence/tribunal-correctionnel-de-liege-12-fevrier-2014>

<sup>324</sup> Annual Report 2015, *Trafficking and smuggling of human beings, Tightening the links*, pp. 108-109.

### **a) Opening the investigation**

In January 2013, the local police in Liège was informed that a young girl was in danger. She was kept locked up and regularly moved around. The police found her at the home of the one of the defendants. The victim informed the police that another victim was also locked up. The police decided to set up an operation to free the victim. It transpired from her statements that she had worked as a prostitute for the defendant in Seraing and Brussels.

### **b) Investigation**

Searches were organised. The hearings of the victims, perpetrators, and witnesses revealed that violence played a key role. Any young women who did not earn enough money or who did not want to listen were beaten or threatened. The main defendant pointed a gun at the victim several times. Just like his friend, he liked to see the look of fear on the victims faces. The victims who had suffered considerable violence did not dare go to the hospital. One witness stated that they had seen the main defendant attempt to strangle a co-defendant with a scarf because she would not listen.

### **c) Social media**

A neighbour decided to warn the mother of the disabled victim, by sending her a message on Facebook, telling her that her daughter had been beaten by two men and a woman.

### **d) Victims**

The victims were Belgian women in their early 20s, who were in a vulnerable situation. According to a medical certificate, one victim suffered from a 66 % mental disability. Another victim had already spent her whole life with a foster family or in care. According to a witness who had refused the offer of sex, the main defendant had also approached two underage girls to work as prostitutes.

### *Recruitment: Loverboys*<sup>325</sup>

The modus operandi of the main defendant, which had also been adopted by other defendants over time, was as follows: the defendant looked for young Belgian girls to recruit, who were in need and often without an income or work. He then pretended to begin a romantic relationship with them (loverboy) to make the women dependant on him both emotionally and financially. They finally ended up in prostitution, where he monitored everything they did. The young girls were gradually estranged from their family and had to give him their bank cards and identity papers. Their mobile phone was taken from them and destroyed.

### *Victim statements*

#### **DISABLED VICTIM**

The victim was living with her father before she began her relationship with the main defendant. Her father was against this relationship but when she turned 19, she decided to break all ties with her father and go and live alone. The main defendant then did everything to ensure all the debts from his café were put in her name even though she was 66% disabled. She had to take over the café in her name. Her father received the invoices at his address because it was still his daughter's official address.

The main defendant threatened her mother several times when she decided to take her daughter in to protect her. He demanded that she allow her daughter to come out otherwise something would happen to her family, because he knew a lot of Albanians and Chechens.

The victim had already ended up in hospital several times after having been beaten up. She was given a certificate of proof of

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<sup>325</sup> On loverboys, see Annual Report 2015, *Trafficking and smuggling in human beings, Tightening the links*, Part 1, Chapter 2.

violence. The accident and emergency department at the hospital then refused any further treatment, telling her that they had had enough and that she had to go to her family doctor, who would be better able to help her.

#### VICTIM WITH A HISTORY IN NUMEROUS RECEPTION CENTRES

Owing to her mother's alcohol problems, this victim had been directly placed with a foster family after her birth, whom she stayed with until the age of 18. She then went from one reception centre to another.

She was illiterate and incapable of remembering information such as a date or a place. She was very easily influenced and had already been a victim in another case of human trafficking<sup>326</sup>.

She continued to send love letters to the main defendant while he was in prison in Lantin on remand for serious acts of human trafficking committed against the victim. During the trial, his lawyer used these love letters in his defence.

She initially withdrew her first victim statement but then confirmed it a few days later. She explained that she initially withdrew it due to pressure from the main defendant who was perfectly aware of the contents of her first statements. She testified that he was perfectly aware because an officer from the local police in Seraing informed him. The main defendant asked her to adapt her statements so that they did not concern him but another.

#### *Victim status*

Belgian victims were put in contact with specialised reception centres and acquired

victim status<sup>327</sup>. The centres also contributed to the investigation by providing the police, with the victims' agreement, with extra information obtained from them.

#### 1.1.3. Albanian pimp and sham marriages in Brussels

In a judgement of 17 October 2014, the Dutch-speaking Criminal Court of Brussels convicted an Albanian pimp primarily for human trafficking for the purpose of sexual exploitation and money laundering. The judge also ordered a confiscation amounting to EUR 60,000<sup>328</sup>. The defendant used fraudulent tactics to recruit victims and put them to work in Belgium as prostitutes. For instance, he organised a sham marriage between the victim and a Belgian national, which made the victim's stay completely dependent on the success of the sham marriage.

##### *a) Opening the investigation*

On 23 February 2009, the local police went to the victim's flat after a call concerning an assault. The police noted serious injuries, including burns. The victims stated that she worked in a bar in Ghent as a prostitute, that she was beaten up by her pimp, and that she had to give him all her money. She initially stated that her husband was her pimp but later admitted that it was the Albanian defendant and that she had not

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<sup>326</sup> Annual Report 2015, *Trafficking and smuggling of human beings, Tightening the links*, pp. 108-109.

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<sup>327</sup> See the following chapter relating to best practices and experiences; Annual Report 2013, *Trafficking in human beings, Building bridges*, Chapter II, point 2 (aid and support for victims, point 2.2).

<sup>328</sup> Brussels Dutch-speaking Crim. Court, 17 October 2014, ch. 46bis (final): see Annual Report 2015, *Trafficking and smuggling of human beings, Tightening the links*, p. 109 and Myria's website: <http://www.myria.be/fr/jurisprudence/correctionnel-e-rechtbank-brussel-nl-17-oktober-20144>; Annual Report 2013, *Trafficking in human beings, Building bridges*, Chapter I, point 2 (Profiles of human trafficking victims), p. 12.

said anything through fear. She refused to make other statements, for fear of reprisals against her child and her family.

The examination of the police checks confirmed that the victim had been active in prostitution since at least the beginning of June 2005, at the mercy of the defendant. The victim had primarily worked as a prostitute in Rue Aarschot in Brussels, then later in a bar in Ostend, followed by Ghent.

### ***b) Investigation***

The victim's phone contacts were the subject of an investigation between 1 December 2008 and 25 February 2009 inclusive. Two numbers that were regularly dialled at night were clearly linked to the defendant. The numerous calls clearly showed someone who wanted to know where she was and what she was doing at all times. The two numbers, linked to the defendant, showed that he exercised control over the victim's prostitution activities. These findings extracted from the phone taps were confirmed by the witness statements and the results of the searches.

The checks also revealed that other victims had been under the defendant's control since 1999, and they had also been the subject of a sham marriage. However, these victims were not accepted by the court due to insufficient objective evidence.

#### *Sham marriage*

The spouse, initially wrongly accused by the victim, stated in his hearing that his relationship with her was actually a sham marriage. The defendant had met the victim in Italy in 2007 and had been her steady boyfriend since then. He got to know the future husband in a café and suggested a sham marriage in order to bring the victim to Belgium from Albania. The spouse stated that the sham marriage with the victim was carried out in Albania in 2008 and that she officially went to Belgium within the framework of family reunification. They moved into a flat in Schaerbeek, organised

by the defendant who also paid the costs. The defendant came to live there in August 2008, and the spouse left the flat. He only had contact with the defendant to sort out the victim's residence papers. The victim had already got married in 2002 with another Albanian, which whom she had a child. It was a customary marriage, not an official marriage, in Albania.

The defendant also married an Albanian woman using fake Portuguese identity papers in 2002, within the framework of a sham marriage. In 2004, he also arranged a sham marriage between an Albanian prostitute using fake Greek identity papers, and an older Belgian man. The police intercepted the two of them in a bar on Rue Aarschot in Brussels, where she worked for the defendant.

#### *Financial investigation*

The police used the analysis of the money transfers to show that the defendant had been active as a pimp since 1999. On the basis of the checks, the police were able to determine that the defendant was the pimp of one of the victims of prostitution in Rue Aarschot. At the same time, the police noted that this victim had sent a total of EUR 18,468.06 to two people in Albania, between October 1999 and December 1999. The Belgian liaison officer informed the police that they were the defendant's parents.

The defendant had also transferred EUR 1,900 to his parents in Albania himself. With no legal income, he was not able to explain the source of the funds to the police. The money came from his last victim.

### ***c) Victims***

There were three Albanian victims who ended up in prostitution in Belgium, after a sham marriage. Only the last victim, the most recent one, was recognised as a victim of human trafficking by the court. It was only possible to gather sufficient objective evidence for her.

### *Victim statements*

The victims lodged various complaints against the defendant for assault and battery.

The defendant's first wife, who was not recognised as a victim by the court, was still active in prostitution in Saint-Trond in 2004. She had ended the marriage against the defendant's wishes and had lodged a complaint after being beaten by the defendant. The defendant then attacked her six-year-old daughter on several occasions. Within this framework, the police opened a case for assault and battery. This is what the case mentioned: "Based on our experience with prostitution circles, this is a known modus operandi among Albanian pimps to force prostitutes to return to work when they do not want to work anymore." Following these acts, the victim fled with her daughter. Since then, they have not been reported in Belgium again.

### *Victim status*

The last victim was taken to a centre specialising in the reception of human trafficking victims in February 2009, but refused to accept victim status. She was not interested in the support conditions imposed and refused to make other statements, through fear of reprisals against her child and her family. However, in 2011, she lodged a complaint against the defendant for threatening her.

Following a check in Milan on 24 March 2004, Europol data on the same victim revealed that she had already registered in Italy as a victim of exploitation of prostitution and slavery<sup>329</sup>.

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<sup>329</sup> Annual Report 2013, *Trafficking in human beings, Building bridges*, Chapter II, point 2 (aid and support for victims), point 2.2.

### **1.1.4. Thai massage parlour in Mechelen**

In this case in Mechelen, where the acts took place between 2007 and 2010, several women were sexually exploited in Thai massage parlours. Ten defendants, including a legal person, were convicted of human smuggling, human trafficking for the purpose of sexual exploitation, criminal organisation, and facilitation of illegal immigration<sup>330</sup>. Every defendant played a particular role (recruitment of women and putting papers in order, massage parlour manager, etc.). Two defendants were also convicted for money laundering. There were six civil parties: four victims, Myria and PAG-ASA. The court granted the civil parties damages varying from EUR 4,000 to 8,000. Confiscations (suspended) were also ordered for amounts of EUR 51,861 and 20,598.40. In the meantime, the defendants' lawyer was prosecuted for human smuggling because he negotiated tourist visas for Thai girls in exchange for sexual services (judgement of 11 October 2016, Mechelen Criminal Court).

During the trial, the public prosecutor criticised the fact that the two main defendants were still in Thailand, that the investigation was being held up over here and that subsequently, it had not been possible to question the two defendants. The public prosecutor added that "our letters rogatory were ready to leave, but we did not receive an authorisation from Thailand". "It is obvious that these two people benefit from political support in Bangkok".

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<sup>330</sup> Antwerp Court of Appeal, 19 February 2015, 18<sup>th</sup> ch. and Antwerp Crim. Court, Mechelen division, 9 April 2014, 9<sup>th</sup> ch. See Annual Report 2013, *Trafficking in human beings, Building bridges*, pp. 18-107 and Myria's website: <http://www.myria.be/nl/rechtspraak/correctionele-rechtbank-antwerpen-afdeling-mechelen-9-april-2014>

The two leaders of this Thai criminal organisation appeared in various cases involving some 10 Thai massage parlours in Mechelen, Antwerp and Termonde. They recruited the women in Thailand and promised them a better life in Europe by offering them a job as a masseur or in the hotel and catering industry. Some of the victims even received an offer of a cohabitation agreement. They had to pay between EUR 10,000 and 15,000 for this. For this amount, they obtained travel documents, visas and transport to Europe. Since many of them could not pay such a sum, they worked on credit. Their income in Belgium first went to their creditor, thus creating a link with them through debt<sup>331</sup>. Some victims who were intercepted by the police were then sent to Spain where the defendants also had massage parlours.

### *Corruption*

In the victim statements, reference was also made to contact people at the Thai embassy in Brussels. These two same contact people had already appeared in a case of human trafficking concerning a Thai massage parlour during the same period<sup>332</sup>. One of them had been convicted because they took care of the documents required for false cohabitation contracts.

The victim explained that it was this contract that had brought her to the massage parlour: "The next day, I contacted someone working for a group that helps Thai women and has links with the Thai embassy. This woman is called X. She helps Thai women who have problems. This person sent me to the Thai massage parlour where I now work".

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<sup>331</sup>Annual Report 2013, *Trafficking in human beings, Building bridges*, Chapter I, point 2 (Profiles of human trafficking victims).

<sup>332</sup>Annual Report 2011, *Trafficking and smuggling in human beings, The money that matters*, part 2, Chapter 2, point 1.2.5.

Another victim referred to two contact people who gave her help over the phone: "Y, whose number is xxxx, is a man who works for the Thai embassy who, along with X, put me in contact with a lawyer who drew up a document that proved my cohabitation".

The victims' statements also show indications of corruption within one of the local police departments. At one point, the victims received an order to leave because the owner was warned that the police were going to carry out a raid that day.

### **a) Opening the investigation**

The case opened on the basis of checks and searches in massage parlours by the inspection services and the police in 2009, within the framework of other cases of human trafficking involving Thai massage parlours. Each time, victims of human trafficking were discovered and heard. Different victims who had instituted civil proceedings in this case were discovered in the Thai massage parlour in Berchem. This was again the case in 2013, which led to a new case being opened<sup>333</sup>. In the massage parlour in Mechelen, complete accounts showing amounts and names were discovered. The police noted that different massage parlours were managed by the same company and that it was involved in human trafficking as a legal person.

### **b) Investigation**

Through the analysis of the phone contacts, it was possible to identify the main defendant and his travel agency. Advertisements in newspapers and various websites were also checked. On the basis of the information contained in these advertisements, some massage parlours were put under surveillance.

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<sup>333</sup> See the following case.

### *Internet and social media*

The federal police's central department for human trafficking in Brussels looked on websites for the opinions of clients of prostitution about their experiences in the above-mentioned massage parlours. Extracts of the comments mentioned on these websites clearly indicate that sexual services were also offered besides massages. New victims were discovered on the websites.

### *Financial investigation*<sup>334</sup>

The investigation into money laundering revealed three types of transaction: money sent to different recipients in Thailand, through the defendants; cash payments; and the purchase of a house in Thailand.

On 2 October 2009, the Financial Intelligence Processing Unit (CTIF-CFI) gave the senior crown prosecutor of Mechelen a report concerning an investigation relating to the defendant. The CTIF-CFI report referred to various suspicious transfers of funds made through an agency (Goffin), between 2005 and 2009, to different people in Thailand for a total amount of EUR 48,838.50. Funds totalling almost EUR 50,000 were also regularly sent through Western Union. Between 2008 and 2009, the defendant's wife paid a total amount of EUR 20,598.40 to beneficiaries in Thailand. The CTIF-CFI noted that the economic justifications for the transfer of funds were not known but there were suspicions that these funds came from human trafficking and/or the exploitation of prostitution. The CTIF-CFI also reported that the defendant, as well as his wife, their massage parlour and the company were also mentioned in unconfirmed information concerning

human trafficking for the purposes of sexual exploitation and advertising for sexual services.

A criminal investigation was opened on the basis of this information, whereby the defendant's and his family's financial situation was examined. The police also found various photos of a building site, supervised by the defendant and his wife, on the defendant's computer. When confronted with the photos, the defendant explained that his wife had had eight houses built in Thailand with a view to renting them out.

Here is the court's conclusion in its judgement: "If we compare the defendants' cash payments with their income, it is clear that, particularly in 2007, 2008 and (partly) 2009, large amounts were transferred to Thailand, and we can in no way assume that these funds were lawfully earned. It is also clear in the court's eyes that the aim of the cash transfers to people in Thailand, in particular the defendants' (step)children, was to hide their illegal source. The use of a travel agency system such as W., offers the 'advantage' of making the source and the ultimate use of the funds more difficult to trace. On the other hand, the transfer of funds to Thailand apparently allowed the defendants to benefit from their illegal earnings there, without raising suspicion in Belgium. The defendants also bought various properties in Thailand, in particular a house in (...), in the Province of Nakom Si Tamarat as well as eight houses to rent out".

### **c) Victims**

The victims were Thai women. They were lured to Belgium under false pretences and ended up in massage parlours where they had to perform sexual services for payment. They had to give half their earnings to the owner. The entire earnings were taken if they still had debts. A sum was also deducted for accommodation. Furthermore, they had to hand over their passport until the whole of their debt had been paid off.

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<sup>334</sup> Annual Report 2013, *Trafficking in human beings, Building bridges*, Chapter II, point 1.2 (Focus on the financial approach: the use of financial investigations in cases of human trafficking).

*Victim statements*

One victim explained how she had been recruited in Thailand and then exploited in Belgium. Two defendants had bought large plots of land in their village in Thailand, where they owned rubber plantations. They employed several people. In their village, there were rumours that the third and fourth defendants were going to open a restaurant in Belgium; they proposed to the victim to first come to Belgium with a tourist visa to visit the premises. She would be able to work there as a cook. When she arrived in Belgium, she asked the defendant to show her where she was going to cook, and he replied that she was going to have to work in a massage parlour to reimburse her 'travel debts' of EUR 10,000. Her earnings were kept by the defendant and deducted from her travel debts. Her passport was confiscated and would remain so until she had reimbursed her debts. She worked in three of the defendant's parlours, from Monday to Saturday, from 10:00 to 22:00, and received two to five clients every day. After these statements, Payoke, who received her within the framework of victim status, informed the police that her parents had been threatened in Thailand by the criminal organisation linked with the travel agency. The victim added further declarations: "I have not asked for your help yet because I'm afraid of problems between the families in Thailand. My parents have already told me that the defendant said that I had told the police everything and that was why there were problems. My family now thinks I'm the black sheep. However, I can not tell my family that I was obliged to work in a massage parlour. They do not believe me or accept it". She also added that the defendants were fully aware of her statements and suspected one of the other victims of spying for the defendants. Apparently, this victim was also threatened and told that "when she returns, she will not get further than the airport".

*Victim status*

Different victims acquired victim status. This status was withdrawn for one of the victims for not respecting the conditions. She had had phone contact with a defendant whose family knew hers. The police confronted her with the recordings of the conversations and heard her, concerning this matter, in the presence of two staff members from the centre specialising in the reception of human trafficking victims.

This is what the victim stated during her hearing: "The defendants know very well how the system works once the girls are intercepted. They told me that what I would say during the first hearing was very important. Either I could be sent back to my country or sent to the Payoke centre... The defendant told me that if I was intercepted, I had to say that I wanted to go home. The main defendant could then bring me back to Belgium if I paid another EUR 10,000. When victim X (threatened victim, see victim statements) was intercepted by your services, the defendant admitted that she was lucky she was not in Thailand, because over there, a human life is not worth more than that of an ant... After calling the defendant, I realised my mistake. I revealed everything, especially the way she was making money out of me. The defendant also offered to draw up a cohabitation contract, for EUR 10,000, so that I could continue to live here. I did not want to pay another EUR 10,000... During another phone conversation, A. (member of the defendant's family) told me that I had to ask the other girls what statements they'd made to the police and asked me to gather up the copies of the hearings to give them to her. She then called me from another number. That's when I realised she had used me. I changed my phone number so that she could not call me anymore".

Another victim was intercepted twice by the police in a massage parlour. The first time, she said she did not work in the massage parlour and was repatriated. This is what she said in later statements: "While I was in

the repatriation centre, a couple went to see my mother and when I returned to Bangkok, the same couple came to see me to tell me that my debt was now EUR 25,000 and that I had to pay it if I did not want to have any trouble". The main defendant then sent her back to Belgium. The second time the victim was intercepted in a massage parlour in Belgium, she did actually obtain victim status after having made detailed statements concerning the organisation linked to the main defendant and their travel agency. Other victims did not trust her and thought that she was a spy because her new boyfriend, a former client, had close relations with the co-defendant who ran the massage parlour.

#### 1.1.5. Thai massage parlour in Berchem (Antwerp)

In this case in Antwerp, the events of which date back to 2013, several women were sexually exploited in a Thai massage parlour in Berchem. The court convicted a Thai woman, who ran this massage parlour, for human trafficking<sup>335</sup>. The same Thai massage parlour had already appeared in the above-mentioned case in Mechelen, where the owner convicted.

##### a) Opening the investigation

Three Thai women were discovered in a massage parlour in Berchem during a social inspection check in February 2013; they were working there without valid papers. Two months later, the massage parlour had another inspection. The inspection services discovered three new Thai women there. Although they stated in the beginning that they had come to Belgium on their own

initiative and that they voluntarily worked in the massage parlour, one of the victims stated that they were indeed victims of human trafficking<sup>336</sup>.

##### b) Investigation

Besides the victims' statements, the investigators found that the defendant always managed to find Thai women without residence papers to work in her massage parlour equipped with three massage rooms. This happened twice over a period of barely two months, underlining the organised and professional nature of the activity. An extra element is the judgement from Mechelen filed by the lawyer from Myria, which reveals that this was not the first time for the defendant and that she had already been convicted for similar acts.

##### c) Victims

###### *Victim statements*

During a second hearing, one of the victims stated that she had arrived in Belgium through a smuggler for the sum of EUR 15,000. She worked in a massage parlour to pay off her debt. When she began working there, she was told her debts amounted to EUR 30,000. The massages went hand in hand with sexual relations. She had to give half of her earnings to the defendant. Once these debts had been paid off, the owner offered to put her residence status in order through a sham marriage, which would cost her an extra EUR 10,000.

###### *Victim status*

The victims acquired victim status and were received by a centre specialising in the reception of human trafficking victims.

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<sup>335</sup> Antwerp, Antwerp division, 31 March 2015, ch. AC4 (final): see Annual Report 2015, *Trafficking and smuggling of human beings, Tightening the links*, p. 106 and Myria's website: <http://www.myria.be/fr/jurisprudence/correctionele-rechtbank-antwerpen-31-maart-2015>.

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<sup>336</sup> Also see the following chapter on best practices and experiences.

### 1.1.6. Thai massage parlour in Ypres

In this case in Ypres, whose events date back to 2013, several women were sexually exploited in Thai massage parlours. Three defendants, including a legal person, were convicted for acts of human trafficking, human smuggling and for various infringements of the Social Criminal Code<sup>337</sup>. The defendants had already been tried in 2011 for similar acts. Consequently, the judge handed down a prison sentence. The company, which rented the buildings housing the massage parlours, and where the two other defendants acted as agents, was also given an EUR 18,000 fine. The court also ordered the special confiscation of EUR 3,750 and EUR 12,000 for the first and second defendant respectively.

#### a) Opening the investigation

The investigation began when the owner of the building in Ypres, which housed the massage parlour, filed a report and made a statement. Two weeks earlier, his family had noticed an advertisement in the paper for Thai massages at his property's address. He had not been told about this. When paying the rent, the tenant had told him she was a make-up artist.

The police checked the information and did indeed find an advertisement on the internet where the tenant offered Thai massages at the address in question. She was known to the police for inciting acts of indecency on several occasions, and running a brothel.

#### b) Investigation

A few months later, the police and inspection services were given a warrant by the investigating judge so that they could carry out a search in two Thai massage parlours belonging to the defendant in Ypres. Several victims and secret accounts were found there. The bad working and living conditions in the house were confirmed by photographic evidence. When questioned, the clients of the massage parlour confirmed the exploitation. The defendants also partly confessed during their hearing.

#### *Setting up bogus self-employed workers*<sup>338</sup>

During a search, frontline services discovered different identity data for asylum seekers and a series of false papers. A Belgian defendant was involved with various companies linked to massage parlours before also setting up a company in London. The Social Inspectorate first drew up a report for setting up bogus self-employed workers. In his hearing, the defendant stated that he recruited asylum seekers so that they could become partners. They were Romanians and Georgians whose asylum claim had been dismissed. They had to pay EUR 2,000 to become a partner, after which the defendant could submit a request for a self-employed permit to regularise their residence status. The defendant had already received an advance payment of EUR 9,550 from the interested parties.

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<sup>337</sup> West Flanders Crim. Court, Ypres division, 23 March 2015, 17<sup>th</sup> ch. (final): see Annual Report 2015, *Trafficking and smuggling of human beings, Tightening the links*, p. 106 and Myria's website: <http://www.myria.be/fr/jurisprudence/tribunal-correctionnel-de-flandre-occidentale-division-ypres-23-mars-2015>.

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<sup>338</sup> Annual Report 2011, *Trafficking and smuggling in human beings, The money that matters*, Part 1, Chapter 3, point 1, pp. 44.

### c) *Victims*

The victims were Thai and Nigerian women who had been recruited by a defendant through several Nigerian points of contact in Antwerp. These Nigerian pimps received a EUR 100 commission per girl if she worked for at least a month. The victims were also recruited through advertisements.

#### *Victim status*<sup>339</sup>

None of the victims were offered the status of victim of human trafficking. The victims with Italian residence permits received an order to leave the territory, while the Nigerian victim, who did not have a residence permit, was sent back to Nigeria.

The official 'Foreign National Check Report', which the frontline services added to the police report on the interception of the victims, confirmed that there were no indicators of human trafficking and that no centre specialising in the reception of victims of human trafficking had been contacted.<sup>340</sup> The report also mentioned the following regarding the circumstances: 'massage parlour - brothel check', concerning the facts: 'undeclared work, no work permit'; concerning the purpose of the stay: 'prostitution, economic reasons'.

The local police had initially established a report for illegal residence<sup>341</sup>. In the report concerning the repatriated victim, this is what the police wrote: "X was kept at the Immigration Office's disposition in Brussels so that she could be repatriated to Lagos because she was staying in the Schengen area without a valid visa. She does not

comply with the rules. It is therefore unlikely that she will follow up on the order to leave the territory that she will be given. Seeing that the interested party can be prosecuted for inciting indecent behaviour, there is a risk of new attempts to disrupt public order. Seeing that the interested party was working without a self-employed permit, there is a risk that she will continue her illegal practices".

## 1.2. Labour exploitation

### 1.2.1. Chinese restaurants Liège

The case was heard at the Liège Criminal Court on 28 April 2014.<sup>342</sup> The five defendants were found guilty of a number of offences, including human smuggling, human trafficking for the purposes of labour exploitation and for a number of violations of the social penal code and non-compliance with social security regulations. The perpetrators received custodial sentences ranging from six months to two years, and various fines, up to 45,000 EUROS. One victim acted as civil party during the trial and got a moral compensation of 5000 euro and a material compensation of 15.000 euro<sup>343</sup>.

The case concerned the exploitation of Chinese irregular migrants who were working in Chinese restaurants and businesses across Belgium between May 2003 and February 2010. The organisational structure involved was extremely elaborate, not only throughout Belgium, but extended across Europe, to Spain, Portugal, Poland, Czech Republic and Hungary. In Belgium, the main perpetrators were principally connected through family connections.

<sup>339</sup> Also see the following chapter on best practices and experiences.

<sup>340</sup> Annual Report 2013, *Trafficking in human beings, Building bridges*, Chapter I, point 3 (The gap between 'presumed' and 'identified' victim), point 3.2.

<sup>341</sup> Annual Report 2012, *Trafficking and Smuggling in Human Beings, Building trust*, Part 1 (Non-punishment of victims of trafficking in human beings).

<sup>342</sup> Annual report 2013; [www.myria.be/fr/jurisprudence/tribunal-correctionnel-de-liege-28-avril-2014](http://www.myria.be/fr/jurisprudence/tribunal-correctionnel-de-liege-28-avril-2014).

<sup>343</sup> Annual report 2013 *Building bridges*, part 2, point 1.2. focus on the financial approach p. 42.

The main perpetrator, who owned a restaurant, facilitated the entry and movement of irregular Chinese migrant workers into Europe, with the purpose of placing them in Chinese restaurants in Belgium. He had, before coming to Belgium, lived in the Czech Republic and made contacts there with Chinese smugglers. Together with his accomplice, a Chinese businessman who had previously managed a restaurant, but at the time of the investigation lived and worked in Guarda, Portugal. The defendants were held to conspire to commit the offences of human trafficking and smuggling, in conjunction with three other defendants who were aware of and knowingly involved in the smuggling and employment of irregular migrants.

#### **a) Smuggling**

During the course of the investigation, a number of key modus operandi were identified that facilitated the functioning of the network without detection from authorities. A lot of victims outlined in their statements that their entry into Europe was facilitated via a travel agency.

##### *Student visas*

The networks connections with China meant that three of the victims had entered Europe using Student visas for a high school in Charleroi. The exact same modus operandi appeared also in another Chinese smuggling case<sup>344</sup> in the same period. The visas had been obtained via an agency that charged 12,000 EUROS.

The victims then arrived either in Eastern Europe (Poland) and then travelled overland to Belgium or directly to Belgium, either accompanied or unaccompanied. Once the

visas had expired the perpetrators promised assistance in regularization including legal assistance and support.

##### *Look alike system*

The movement of the three victims from Belgium to Portugal was facilitated by the use of passports from the perpetrator's sister. The identity documents are also being used to facilitate the residence of irregular migrants in Luxembourg. For instance, following searches, it was discovered that the identity documents of two of the perpetrators and their daughter were being used by three irregular migrants who were working in their place in a Chinese restaurant in Mondercange, Luxembourg.

##### *Classical smuggling route via Russia*

It became clear that the use of a more "classical" smuggling route is also used by the perpetrators. Entry into Europe would be arranged by flying from China to Russia, then travelling overland in lorries through Ukraine, Hungary, Slovakia and Czech republic. Borders are crossed on foot over mountains or through forests. Upon arrival in Schengen state, they are left outside a refugee reception center, where they present themselves to authorities in order to seek asylum. At that moment they are registered in the EURODAC. This means that should they be stopped at any later stage in a different EU country, then they will be deported back to the Schengen state and not to China. The journey would continue overland to Belgium, once the migrants had received registration documents.

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<sup>344</sup> Annual report 2011 p.18-19 and p.121; Corr brussel, 3 november 2011, 47<sup>e</sup> ch.; <http://www.myria.be/fr/jurisprudence/tribunal-correctionnel-de-bruxelles-3-novembre-2011>.

For the investigation, the use of these *modus operandi*, either simultaneously or in succession explains the rapid adaptation of the networks to overcome the different regulation of local administrations. Original citation: « l'emploi succesif ou simultané de ces modes opératoires s'explique par l'adaptaton rapide des réseaux face aux modifications législatives locales (accueil massif d'étudiants, période de régularisation dans un pays). »

In addition to the use of these *modus operandi* to overcome the irregularity of the migrants in Europe, there was also an assurance from the perpetrators that efforts would be made to regularise their migrant status as soon as possible, using a number of different means. Including : requests for asylum, extraordinary legalisation and family reunification.

#### ***b) Opening the case THB-smuggling***

In January 2009, a victim who had been exploited by the main perpetrator in his Chinese restaurant identified himself to the Liège Judicial Federal Police, denouncing his employer and a number of others who have strategic roles in the network<sup>345</sup>. The victim provided the police with information including the names of individuals involved in the smuggling network spreading from China, Czech Republic, Luxembourg, Belgium, Spain and Portugal, the *modus operandi* for placing the irregular Chinese migrants in different restaurants, the restaurants he worked in during the previous 5 years (in Luxembourg and across Belgium), the corresponding police controls where he had been arrested, and details of his own exploitation - and in particular the recognition of the debt owed by the perpetrators for non-payment of wages.

Based upon this information, the police conducted a preliminary investigation, which corroborated with the statement of the victim.

#### ***c) Investigation***

The investigation, led by a Juge d'instruction, consisted of a number of vital elements that established the probable cause of the involvement of the perpetrators in a criminal organization. The main perpetrator's phone was tapped between May and June 2009. Subsequent analysis of this data showed that he had a large number of contacts within Belgium who were aware of his smuggling operations, and assisted him by, for example, carrying passports and copies of identity documents back to China or knowingly employing irregular Chinese migrants. Many of those individuals, residing in Belgium, who were connected to the case originate from the same region in China as the defendants and victims - the Zhejiang Province.

The main piece of evidence that came to light during the phone taps was the transportation of three of the victims (including a minor aged two years old at the time), by the main perpetrator from Belgium to Portugal. The accomplice of the main perpetrator had employed one of the victims in a shop in Belgium, and then offered to assist with regularization of their migration status if they would go and work in Portugal.

Based upon the evidence from the phone tap and additional evidence from examination of phone contacts, the Federal Judicial Police, in collaboration with ONSS inspectors, immigration office and other law enforcement divisions, conducted 7 searches on 14 February 2010 on commercial premises across Belgium. Simultaneous searches took place, led by the Police from d'Esch/Azetter in the Grand Duchy of Luxembourg. The Belgian searches resulted in a total of 17 arrests of irregular migrant workers who were found to be present at the business premises and could not provide the relevant identity

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<sup>345</sup> Also see the following chapter on best practices and experiences; Annual report 2013, *Building bridges*, Chapter II, point 1.3. Evidence-based approach: the victim plays the central role, p. 59.

documents, proof of work or residence: six were released, seven were given an order to leave the country, three were placed in a detention centre to await deportation and one was sent to Centre 127 in Zaventem for direct deportation. At the time of the searches, two more victims were identified. In addition, the financial assets of the perpetrators were seized, (5,605 EUR and 2,800 EUR) and deposited with OCSC (Organe Central pour la Saisie et la Confiscation).<sup>346</sup>

#### *International collaboration*

At the beginning of the investigation, the Belgian police requested assistance from Spanish police authorities to identify the residence status of two possible perpetrators as well as the Portuguese police authorities to identify persons who were registered with three Portuguese numbers.

The evidence from the searches further corroborated the information provided by the victim, during his first statement, and led to a Rogatory Commission in collaboration with the Portuguese police. In September 2010, a number of searches were carried out in business and residential premises in Guarda, Portugal, where the three victims who had been transported from Belgium to Portugal were identified. In addition, 21 migrant workers were identified - all without the relevant identity documents and administrative paperwork. The perpetrator was arrested with a European arrest mandate and immediately extradited to Belgium.

The police also contacted Interpol in Warsaw for a telephone number found in the diary of one of the restaurants searched. Interpol was also contacted in order to identify the persons registered with

telephone numbers from the Czech Republic. These elements confirmed the statements of the victims and proved the international links from the defendants.

#### *d) Victims*

The police identified 6 victims who were then included in the final case, and an additional 2 victims were given victim status following their statements to the police. All victims came from the same region in China, the Zhiejiang province, and spoke the same Qingtian dialect.

The victims appeared to rely upon the assistance of the perpetrators to assist with the regularization of their migrant status, including the provision of employment contracts and legal advice etc. The irregularity of the migrant workers very often did not present much of an obstacle, as even if they had been subject to previous controls, inspections, or arrests, then the perpetrators would re-connect with them upon release and move them to a different restaurant. After a certain moment in Belgium, it is possible for the irregular workers to be moved to other European countries, most notably, in the present case, to Portugal and Spain.

Most victims lived on site at the restaurant where they worked and were unable in many cases to inform the police of the names of their co-workers or their employers. The victims were provided with access to sanitary facilities, and food.

#### *Victim statement*

The promise of a job was based upon the notion that it would be possible to earn 1000 EUROS net per month, including food and accommodation. Many of the victims were informed that they would work 6 days a week from 11- 15 and 17-22. In reality, many found that they were to set to work non-stop, without any annual leave or rest days, working long hours, up to 12 hours a day.

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<sup>346</sup> Annual report 2011, *The money that matters*, part 1 chapter 2, Go for the money, p.37.

“ I was in contact with students who told me over the internet that I could earn 1000 euros from working in kitchens of Chinese restaurants, which meant I would be clean, housed, and fed... On the internet I saw that the owner of a FLERON restaurant was looking for someone to work for him. I contacted him directly by telephone..”

One of the victims received their salary in cash on a regular basis, which was then sent back to China via Western Union. However, other victims were not paid a salary or received only money for expenses such as phone cards (which would be repaid once they found work in the formal economy). One victim received 50 EUROS a month, with the remainder being retained by the perpetrators who promised that once he had earned enough money he could marry the perpetrator’s sister and return to china with his money. When asked for his money, the victim was informed he had received his money and was physically abused. The search of the commercial premises identified a document that was signed by the victim and the perpetrator’s wife and sister that acknowledge a debt to be owed of 15,500 EUROS for non-payment of wages.

Additional instances of debt-bondage emerged from the victim who had been transported to Portugal, once there he received legal support from a lawyer suggested by the perpetrator. It was understood by the victim that the legal fees for this support would be paid once the resident permit had been arranged.

#### *Victim status*

The victims who were given victim status were supported by Sürya. When the police intercepted a victim, the labour auditor ordered the police to contact Sürya.<sup>347</sup>

#### *Minor smuggling victim*

When examining the involvement of the perpetrators in the smuggling process, the court held that the presence of a minor (a two year old) should be considered as an aggravating factor. The child was not exploited, but nevertheless, was transported with her parents from Belgium to Portugal by the perpetrator.

#### **1.2.2. Businessman Brussels**

The court<sup>348</sup> held a Moroccan businessman guilty of trafficking human beings for the purpose of economic exploitation. The case involved the economic exploitation of seven Moroccan victims (two female and five male, all civil parties) who were made to undertake either domestic and construction work in the perpetrator’s home or to work on his business premises. The perpetrator owned a number of businesses in Brussels including: three driving schools, a café, a snack bar, a grocery, a restaurant, and a mobile phone shop.

The working and living conditions of the seven victims were found to be contrary to human dignity for a number of reasons: lack of fixed working hours, non-payment of wages and precarious living conditions with no access to sanitary facilities or heating. A number of aggravating circumstances were recognised by the court, including the perpetrator’s abuse of the vulnerability of the victims’ irregular migration status, as well as the abuse of a position of authority.

The case also involved two additional civil parties who were not victims of human trafficking. They had complaints that they had not been paid. PAG-ASA and MYRIA were both civil parties in the present case.

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<sup>347</sup> Also see the following chapter on best practices and experiences.

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<sup>348</sup> See further, Chapter 4: case law, point 2.3.4.: Brussels Crim. Court , 19 June 2015, corr. 59<sup>e</sup> ch.

The court held that the perpetrator was guilty of human trafficking for the purpose of economic exploitation; he was given a 20 month prison sentence and fined 2,000 euros. In addition, the perpetrator was ordered to pay a total of 215,189,99 euros in compensation to all civil parties.

The businessman had a successful status and contacts with a political party. He had links with candidates of a political party in local elections and arranged events to support their campaigns. A victim declared: “ I was told that X (the businessman) was someone rich and powerful and I blindly trusted him”.

When questioned by the police, the businessman provided character testimonies from a number of dignitaries, including the Moroccan Ambassador to the EU, police inspectors, civil servants, etc. One witness had seen a victim massaging the feet of the businessman in the presence of the local mayor and chief of police.

#### **a) Opening the case**

The investigation began in October 2006, when two workers reported the non-payment of their salaries to local police (thus, at this time there was no reference to possible offences of human trafficking).

Subsequently, the labour auditor ordered the Social Inspection to investigate the non-payment of wages and other possible violations of employment law, relating to the employment of illegal workers and non-registration of workers in the social security system. In October 2006, a number of inspections were carried out at the business premises of the suspect where it was established that there had been violations in relation to labour law. This concerned the non-THB-victims.

Subsequently, a total of seven declarations were made by potential THB-victims, between March 2007 and January 2011 regarding human trafficking for the purposes of economic exploitation. At that moment the investigation on THB started.

#### **b) Investigation**

The timeframe of the case is extremely lengthy, with the first complaints received by the local police in April 2006 regarding allegations of non-payment of wages. An investigation was conducted by social inspectors, who inspected the business premises of the perpetrator to gather evidence regarding allegations of several labour law violations.

In October 2010, the suspect was interviewed and was cognisant of the charges against him regarding non-payment of wages, but refused to pay for additional employment benefits.

In March 2007, the first declaration of a victim was made indicating possible offences of THB for the purpose of labour exploitation. Subsequent declarations were made: three between March - July 2007, one in June 2009 and two in January 2011.

As a result, from June 2007 onwards, the investigation, also focused upon identifying elements of economic exploitation. But the labour auditor didn't appoint an investigative judge, which consequently limited the tools at the disposal of the investigation team. The investigation, instructed by the labour auditor, comprised determination of the suspect's tax and personal estate situation. (August 2007), calculation of back-pay owed to victims (September 2007), a 5 day observation of the suspect's home to see if there was any evidence of domestic workers being used by the family (end of 2007), further inspection of the suspect's business premises (September 2007 - September 2008), witness statements (March 2009), investigation of business premises to determine the working and living conditions of victims (September 2009 & December 2009).

It must be noted that in December 2009, due to the prolonged absence of the suspect, who remained abroad due to ill-health, it was suggested that “It would be appropriate to leave the document pending new information.” At the same time he figured in an election folder of a political party. Upon his return to Belgium, the suspect was interviewed again in March and June 2010, where he acknowledged connections to some of the victims, but not to all. The initial case against the suspect was further corroborated with three additional victim declarations, in October 2010 and January 2011. After 2010 there was not much movement in the investigation. The investigation then interviewed further witnesses (October 2011, May 2012, August 2012) and gathered further evidence checks on the social security and employment status of the victims (October 2014).

The victims made their declaration with the support of PAG-ASA.<sup>349</sup> Taking into account the timeframe of the victim declarations (spanning a period of 4 approximately years), it is also important to note that the chronological employment of the victims shows that the economic exploitation was in fact on-going whilst the investigation into the non-payment of wages and social security contributions was underway (in particular, between December 2008 and December 2010 - four victims were exploited by the perpetrator).

Consequently, the court noted that the length of the investigation had in fact adversely impacted upon the final decision: 20-month prison sentence. Indeed, as the facts of the case spanned 2004 -2010, it was necessary for the judge to take this into account when passing the sentence. Additionally, despite the victims being awarded significant sums of compensation

in back-pay, it appears that the perpetrator had sufficient time to ensure that there were no assets remaining that could have obliged him to pay the compensation ordered by the court. And no seizures had been made.

### *c) Victims*

#### *Recruitment*

All victims were recruited by the perpetrator personally. The victims were informed by friends, family, and acquaintances that the perpetrator had employment opportunities within his different businesses, e.g. cleaners in driving schools or waiters in a bar or restaurant. All were aware of his status within the local Moroccan community as he was considered to be a successful businessman.

#### *Victim declarations*

#### **WORKING CONDITIONS**

The working conditions were held to be contrary to human dignity for a number of reasons. For those who were required to conduct domestic work, tasks included making breakfast, dressing the perpetrator, cleaning, shopping, and running errands for the perpetrators’ family. There were no fixed hours and the victims had to be at the disposal of the perpetrator and his family at all times, according to when they were needed. Victims who worked in the perpetrator’s bar were required to work long hours (9.00 - 3.00), with no rest days or annual leave. Some victims were required to provide cleaning services for the driving schools and to be at the perpetrator’s disposal for additional tasks. A number of victims worked as handymen for the perpetrator: doing construction work in his residential premises, providing assistance when he hosted parties and events, working in the restaurant, doing tasks for the perpetrator’s family, including shopping, cleaning and administrative tasks such as recharging mobile phones and sending faxes.

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<sup>349</sup> See next section on victims.

### NON-PAYMENT OF WAGES

None of the victims received the salary promised to them by the perpetrator upon recruitment. Furthermore, witness statements confirmed that it was well known that the perpetrator did not pay his employees as promised.

For one victim, who had been promised 500 euros a month for domestic work, her salary was paid for the first two months, and then only 250 euros per month.

The victims working in the bar had been promised 25 euros per day - regardless of number of hours worked. One victim received 100 euros for the first month and 50 euros for the second month. Another victim did not receive any wages, and received 400 euros when he confronted the perpetrator upon dismissal. Both victims attempted, on numerous occasions, to obtain their back pay but without success.

One victim (a cousin of the perpetrator) was told that he would receive 1,500 euros per month but that this was being kept for him in a bank account. He never received the money owed to him.

#### *Abuse of vulnerability: irregular migration status*

All victims had an irregular migration status and did not possess the necessary residence permit to work in Belgium. The successful status of the perpetrator in the Moroccan community meant that the victims believed he would be able to assist them in regularising their migration status. In fact, the vulnerability created by their irregular migration status was abused by the perpetrator, either by withholding the identity cards of the victims, or telling them to use false identity cards. One witness, during his interview, denounced that the businessman and his nephew were making false identity documents: "les documents falsifiés sont confectionnés par X (the businessman) ou par son neveu au moyen des trois ordinateurs contenant les

documents vierges ainsi que différents cachets d'administrations communales ou de services de police." (The forged documents are produced by X (the businessman) or by his nephew using three computers containing blank documents and stamps from various municipal governments and police services.) A victim declared: "Il m'a dit qu'une fois qu'il serait élu, il pourrait arranger ma situation et me trouver un faux mari pour que je puisse avoir des papiers. Il m'a dit qu'il connaissait beaucoup de monde (bourgmestre, police) et savait où s'adresser pour obtenir quelque chose." (He told me that once he was elected, he would be able to fix my situation and find me a fake spouse so that I could get my papers. He told me that he knew lots of people (mayors, police) and knew who to contact in order to get certain things.) A victim stated off the record in 2007 that the businessman arranged for the entry of young girls into Belgium using illegal immigration or arranged marriages, in order to make them work for 20 euros a day.

#### *Violence, threats, and abuse*

All victims were subjected to threats and abuse by the perpetrator, either verbally and/or physically. One victim was threatened that if she told anyone 'he would kill her and send her back to Morocco in a coffin'. Two victims suffered physical violence at the hands of the perpetrator, who would beat them - usually on the head - and threatened them with knives or guns. A victim's medical records show ecchymosis on the left eye, scratches on her nose, and abrasions on her neck, these injuries had been inflicted by the businessman: "When he arrived at the garage, X (the businessman) insulted me right away and then he threw himself on me. He wanted to take out my left eye and he tried to strangle me." Other victims stated that they had received significant verbal abuse from the perpetrator, which was also corroborated by a number of witnesses. The perpetrator's threats were often accompanied by reference to his possession of a gun. He humiliated the victims systematically: "He

frequently insulted us during work, for him I did not have a name, he always called me 'son of a bitch'".

#### *Sexual exploitation: inciting debauchery*

Both victims and witnesses alluded to the perpetrator's requirement that his staff, (predominantly those who worked as administrators in the driving school) should have sexual relations with his clients. Statements were heard that confirmed that the perpetrator's staff were expected to flirt, seduce, and accompany clients. One human trafficking victim stated that the perpetrator had, on four occasions, suggested that she should have sexual relations with him. On another occasion, the perpetrator's father sexually assaulted her and lifted her skirt up with his cane whilst she was cleaning. The court did not convict the businessman for this act because there were not enough objective elements of proof.

#### *Living conditions*

All victims were encouraged to live either at the perpetrator's house or on his business premises (in garages and cellars). The accommodation was not equipped with hot water, cooking facilities, sanitary facilities, or heating, nor were they furnished. As a result, victims were required to build their beds.

#### **Victim status**

The investigation into allegations of human trafficking was the result of information received by the labour auditor from PAG-ASA stating that the victims would like to make a statement regarding their economic exploitation. One victim was referred to PAG-ASA via a local CPAS (Public Centre for Social Action) office.<sup>350</sup> Once the victims had

been interviewed by the labour auditor, they were given a human trafficking victim status.

However, the on-going investigation into allegations of non-payment of wages potentially failed to identify possible victims of human trafficking. The inspections predominantly focused on the business premises of the suspect but four possible victims were not identified. This is in spite of an overlap between the period of exploitation and the date of inspections, as well as the victims' testimonies stating that they were accommodated at the business premises.<sup>351</sup> Another missed opportunity to identify a victim was when the local police controlled their place of work - grocery - on two separate occasions. Enquiries into possible indicators of economic exploitation could have been made, as an investigation following three victim statements had already begun. Subsequently, the individual concerned made a declaration in October 2010.

Overall, the support of PAG-ASA provided helpful support, which demonstrated that the reflection period is useful, as well as demonstrating the importance of providing socio-legal support.<sup>352</sup>

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<sup>350</sup> Also see the following chapter on best practices and experiences.

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<sup>351</sup> Annual Report 2013, Human Trafficking, *Building Bridges*, chapter 1, point 3 p. 28.

<sup>352</sup> *Ibidem*.

### 1.2.3. Road haulage sector in Bruges

In this case, several defendants and a road haulage company were convicted for acts of human trafficking by the criminal court<sup>353</sup>. However, when they appealed, they were acquitted of this charge<sup>354</sup>.

The main defendant had set up a fraudulent structure, whereby a Bulgarian road haulage company provided services for a Belgian firm using posted drivers and mechanics. In reality, this involved undeclared work and the illegal employment of Bulgarian and Romanian workers in Belgium with no work permit. His wife was also convicted for her bogus role as managing director of the road haulage company, as well as a third defendant, whom was found during searches and identified by the victims as being the ringleader.

The Belgian road haulage company was also prosecuted and convicted for having actively taken part in the exploitation, serving as a link in the fraudulent structure and having earned illegal income through labour exploitation. The court was very clear on this point: "The fourth defendant is considered, as a legal person, criminally responsible for the infractions intrinsically linked to achieving his goal or the defence of his interests, or those whose concrete facts show that they were committed on his behalf".

#### a) *Opening the case*

The case was opened in 2009 based on the victims' statements<sup>355</sup>. A Bulgarian driver

spontaneously went to the maritime police in Zeebrugge, situated close to the road haulage company's site, and filed a complaint for having been fired after refusing to drive Belgian heavy goods vehicles. He knew it was forbidden and did not want to be complicit. He had not received any severance pay or wages. During his hearing, he spoke of other Bulgarian drivers who were employed there. In the hours following his statement, the Social Inspectorate directly carried out a check at the road haulage company's site, and found Bulgarian drivers who had been posted there. They were heard by the Labour Inspectorate upon the request of the labour prosecutor's office and made relevant statements in turn, complaining about the payment of their salary and the work conditions.

#### b) *Investigation*

The police and the Social Inspectorate carried out new checks in 2009 and 2010 on the road haulage company and heard the people concerned. The Social Inspectorate then examined whether the Bulgarian drivers fulfilled the necessary conditions to be considered international road haulage drivers, working for a foreign company, all within the framework of the relevant European rules on posting.

In concrete terms, the inspectors checked whether it was question of an 'independent' Bulgarian company with its own economic activities in Bulgaria. They concluded that this was not the case and so the Bulgarian workers in question were subject to Belgian social security. The infrastructures, administrative and technical equipment, and the facilities a road haulage company requires were not in Bulgaria but in Zeebrugge, where the company's policy was also drawn up. The invoices were not sent to the Bulgarian 'head office' but to Zeebrugge, where the accounts were held.

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<sup>353</sup> Bruges Crim. Court, 26 March 2014, 17<sup>th</sup> ch.: see Annual Report 2013, *Human Trafficking, Building Bridges*, p. 119 and the Myria website: [www.myria.be/nl/rechtspraak/correctionele-rechtbank-brugge-26-maart-2014](http://www.myria.be/nl/rechtspraak/correctionele-rechtbank-brugge-26-maart-2014).

<sup>354</sup> Ghent, 7 January 2016, 3<sup>rd</sup> ch.: on this subject, see this part, Chapter 4 (Case Law), point 2.3.3.

<sup>355</sup> Also see the following chapter on best practices and experiences.

### *International cooperation*

The Bulgarian authorities confirmed that on 11 August 2010, this Bulgarian company did not have any economic activity in Bulgaria<sup>356</sup>. The drivers also stated that only the recruitment took place in Bulgaria and that none of the company's trucks were on the road.

### *False posted workers*<sup>357</sup>

There never was an independent Bulgarian road haulage company in Bulgaria, nor even the least activity of any kind. The drivers and mechanics received their orders from Zeebrugge. It was a P.O. box company that was set up by the main Belgian defendant with the sole purpose of employing cheap labour to offer his road haulage activities at very competitive prices.

According to the Social Inspectorate, so-called P.O. box companies are a real problem as regards posted workers. "This kind of company is set up in a sending country, with the goal of purposefully circumventing the social security legislation and labour law in a very specific host country in general. It is therefore obvious that this type of structure has absolutely no place in the ideology of the European legislator and completely erodes the principle of the free movement of services. This bogus form of posting implies that the posting is false; in reality, the workers only provide their services for a Belgian company. Therefore, this means that these workers must be covered by Belgian social security".

In its report, the Social Inspectorate explained that posting is forbidden when the Belgian principal exercises authority

over the posted worker of a foreign employer: "The work must be supplied under the authority of another person and this authority is another essential element of the employment contract. This authority is composed of a combination of a series of elements. None of these elements can preponderate over another one. The authority indicators are all principles taken from case law:

- obligations relating to the organisation of work (respecting working hours, guidelines regarding physical organisation of work);
- employer monitoring of the actual execution of the work and respect for the labour regulations;
- the employer is responsible for the financial and economic organisation".

### *Human trafficking: degrading work conditions*

In its report, the Social Inspectorate interpreted the notion of "work conditions contrary to human dignity", a determining factor according to our law to establish human trafficking for the purposes of labour exploitation.

"Deriding human dignity is equal to debasing everything that characterises human nature, i.e. a person's physical and mental abilities. By physical ability, we mean the ability to satisfy one's basic needs freely and fairly. So where does the limit of incompatibility with human dignity lie? The notion of exploitation in circumstances contrary to human dignity is not limited to material conditions (such as wages); it concerns every element of a worker's status that could be contrary to human dignity. Work conditions can also become contrary to human dignity when several workers are employed under a contract that does not respect the standards provided for in the Law of 4 August 1996, relating to the well-being of workers during the execution of their work. An unpaid or poorly paid employee is an indication of labour exploitation".

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<sup>356</sup> Also see the following chapter on best practices and experiences.

<sup>357</sup> On posting and associated fraud, see Annual Report 2010, *Trafficking in and smuggling of human beings, Combating social fraud to prevent trafficking*, Part 2.

The Social Inspectorate's investigation reveals that human trafficking indicators were clearly present: the drivers were promised a (low) salary, which they generally did not receive at all or only partly. Salary arrears were increasingly frequent. Wage deductions were made for any reason (vehicle repairs, excessive consumption of petrol, etc.). The drivers received restricted advance payments to make them dependant, and what they received was not enough to live properly (e.g. EUR 70 for three weeks' full-time work, EUR 90, 200 and 600 for a full month's work, etc.). Some victims had to work long hours on end: 110 hours of work in 11 days, 12 to 13 hours a day. Some victims came to Belgium and had to work a trial shift without pay.

But according to the Social Inspectorate, it was not only the salary that was inhuman, it was also the living conditions. The drivers had to sleep in their lorry. The workers therefore had to also stay at their place of work, in Zeebrugge's industrial zone, during their free time and days off. They did not even have a room and a bed; they had to sleep in their lorry in the car park. Even though the majority of lorries used for international road haulage are equipped with a decent sleeper cab, it is unacceptable that workers have to make do with that to rest and have some privacy.

The Social Inspectorate concluded its report as follows: "The practices used can be described as human trafficking for the purpose of labour exploitation within the context of the free movement of people and services within the European Union".

### **c) Victims**

There were 18 victims, who worked as drivers or mechanics for the road haulage company. They were mainly Bulgarian, with one Romanian.

#### *Recruitment*

The workers were lured to Belgium through advertisements in the newspaper or on the internet, claiming to offer work with a Bulgarian company. They signed a contract,

but the contact person in Bulgaria made them believe that they would earn up to 10 times more in Belgium. Once in Belgium, the drivers had to drive for longer than the authorised number of hours and were very badly paid, when they were actually paid.

#### *Victim statement*

The fired Bulgarian victim, whose complaint sparked the investigation, stated:

"I left Bulgaria by bus on 25 March 2009 and arrived here on 28 March. There was an advertisement in a Bulgarian newspaper offering a job as a driver. Applicants had to contact a Bulgarian woman in her sixties for an interview and bring a short CV. After a few days, they contacted me to say that I fulfilled all the conditions. Once here, I was given the keys to a vehicle with a Bulgarian registration plate. Then, four or five days later, I was forced to drive a vehicle with a Belgian registration plate otherwise I would be fired. Guessing that it was illegal, I once again asked for a lorry registered in Bulgaria. When I again refused to drive a Belgian lorry, I was fired on the spot. The Bulgarian contract I was given and signed supposedly came with BGN 300 (EUR 150) as assurance for the promised monthly salary of EUR 1,550. For the whole month I worked, I only received EUR 90. I could not even buy myself anything to eat the last four days. If the company was inspected, we had to continue our journey and stop elsewhere. We had to work a lot more hours and were told to destroy the discs. So we sometimes drove for 24 hours non-stop. We were promised more at the time. Some people were told they would receive EUR 1,500, which was to be paid in Bulgaria. These people subsequently received less than they were promised. The boss always found an excuse to pay less (either he had to do repairs on the vehicles, or fuel consumption was too high, etc.). ».

### *Victim status*

The victim referral system was not applied<sup>358</sup>. All the victims were repatriated, even those who had initiated the investigation. None of them were offered victim status. The day following the interception, all the victims were repatriated to their country of origin. Bruges' local police force even transferred the Romanian victim to a transit cell, before taking him to a detention centre in Bruges with the intention of repatriating him to Romania.

## **2. Human smuggling**

### **2.1. Kurdish-Palestinian human smuggling network in Bruges**

In the case in Bruges, where the acts took place between November 2014 and January 2015, a Kurdish-Palestinian network was mostly involved in smuggling Syrian and Kurdish victims to the United Kingdom. This case was tried by Bruges Criminal Court<sup>359</sup>. It is closely linked to the next human smuggling case mentioned in this chapter.

#### **a) Human smuggling network**

The two main defendants were an Iraqi Kurd and a Palestinian from a refugee camp in Lebanon. Their two co-defendants were Palestinians, one from Palestine and the other also from a refugee camp in Lebanon.

The police established that over a two-month period, they had crossed the border fraudulently at least 23 times. They operated from Brussels and in parking areas in Rotselaar and Heverlee, but some of the transportations went via Zeebrugge. They recruited their clients in the area around Midi railway station. The smugglers went to

cafés and shops mainly frequented by people who spoke Arabic.

They also had a lot of contact with other smugglers in Belgium and abroad. The main Kurdish defendant also had his own contact people in France, Belgium and Italy. These smuggling activities took place within the framework of an international network of human smugglers who occasionally helped each other out.

This is what also transpired from a phone conversation in January 2015 between smugglers: "A. told me that things have become difficult in Italy and that he was now passing via Germany or 'Namsa' (Turkey). A. wonders if D. (Kurdish smuggler) knows someone who can take care of them in 'Namsa' and take them to Finland, Sweden, England or Germany. D. is prepared to do it".

The services offered also included passports. During a phone conversation, a smuggler asked a contact person if they knew someone who was going to Lebanon so that they could bring back a passport with them. According to the police, the passport was for someone who had already received their residence papers but who still needed a passport. It then transpired from a phone conversation between the contact person and this person that a third person had, in the meantime, brought back the passport from Lebanon and was going to come by Brussels to hand over the passport and have their residence permit adapted.

The smugglers also provided asylum statements. This is what transpired from phone conversations: "At 15:10, D., the main defendant, calls smuggler S.<sup>360</sup> and tells him that a boy from 'Darban' (town in Kurdistan) had called him from Italy asking for help. It was agreed that EUR 2,500 would be transferred to the account within

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<sup>358</sup> Also see the following chapter on best practices and experiences.

<sup>359</sup> West Flanders Crim. Court, Bruges division, 21 October 2015 (final): see this part, Chapter 4 (Case Law), point 3.

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<sup>360</sup> The main defendant in the smuggling case is closely linked to this case.

24 hours for the file/statement. The file is the asylum statement given to the Immigration Office within the framework of an asylum application".

The travel costs varied depending on the services provided. Phone taps revealed that the smuggling victims had to pay an amount varying between EUR 1,000 and 3,500 to fraudulently cross the border. A special rate of GBP 6,000 was applied to bribe people in the United Kingdom and thus guarantee the success of the transportation.

### **b) *Opening the investigation***<sup>361</sup>

On 25 November 2014, the maritime police in Zeebrugge discovered three smuggling victims in a lorry. During their hearing, one of the victims stated that they had contacted a Kurdish smuggler two days earlier at Brussels Midi railway station, who had guaranteed transportation to the United Kingdom for EUR 1,000. The victim accepted and received a mobile phone number from the smuggler, which was given to the police.

### **c) *Investigation***

The public prosecutor's office was immediately informed and asked for the case to be investigated. A criminal investigation, led by an investigating judge, was thus conducted. Thanks to a phone investigation, it was possible to obtain the main Kurdish defendant's phone number. The investigating judge then established a phone tap and surveillance was carried out. Based on the analysis of this data, the police were quickly able to identify the human smuggling organisation.

The police also conducted a neighbourhood investigation, heard witnesses and carried out searches. They were thus able to obtain additional evidence.

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<sup>361</sup> Also see the following chapter on best practices and experiences.

### *Social media*<sup>362</sup>

The phone taps revealed that the smugglers relied heavily on social networks. Delicate subjects, such as financial matters, could not be discussed over the phone. Therefore, they would agree to talk using Skype or Viber: "Smuggler X says that smuggler Y still has money from three people sent on Thursday 04.12. Smuggler Y is in the Netherlands for the moment and does not want to talk about it on the phone, but over the internet instead".

The smugglers regularly changed mobile phone numbers to make phone tapping difficult, and shared their new numbers via Facebook. They used Facebook to extend their international network with potential clients. At the beginning of their investigation, the police established in a report that a Facebook group had been set up for this purpose:

"We have also found out that there are different user groups speaking Arabic on the social media site Facebook. Their aim is to put people who want to get to Europe without valid papers in contact with each other and with smugglers. In these user groups, questions can be asked regarding the situation in European towns and countries, with a view to collecting information in order to go to these areas. Users can also ask for the details of people who can help. These details are then sent in a private message to those who have requested them. Some members also sometimes inform other users whether transportation to the United Kingdom has been successful or not".

The investigators also used social media as a method of investigation within the framework of their research. Thanks, in

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<sup>362</sup> Also see the following chapter on best practices and experiences.

particular, to photos on Facebook, they were able to determine the true identity of the main defendant. During the phone taps, the police noticed that the main defendant was using an alias on social media. The police checked the national register but they were not able to find this person. However, searches through open sources on Facebook allowed the police to find the profile of the smuggler created using his alias and confirm that his Facebook profile photo resembled that of the Iraqi, M., the real identity of the main defendant, whose details were in the police database.

#### *Financial investigation*

The phone taps revealed that the criminals were making huge profits. The main Kurdish defendant mentioned during a conversation that he had earned USD 17,000 in one month alone. However, the income could fluctuate significantly: a week earlier, he had earned EUR 6,000 but nothing the following week. Two of the defendants received CPAS (public social welfare centre) benefits, besides their criminal earnings<sup>363</sup>.

Phone conversations revealed that money was also sent to the country of origin. The main Kurdish defendant explained that in the space of two months, he had sent almost USD 10,000 to Kurdistan and had bought a house for EUR 40,000. He transferred money to Iraq through Western Union, using the name of a friend with a Spanish identity card. He then sent a text message to Iraq mentioning the name<sup>364</sup>.

The main Palestinian defendant did not keep the money from smuggling on himself

but entrusted it to a friend and was able to use the latter's wife's bank card.

#### **d) Victims**

During the two months of phone tapping, the police counted more than 100 victims of smuggling. They were mainly Kurds from Syria, Iraq and Iran. There was also a large group of Palestinians and a few Albanians. Some of the victims were transported in refrigerated lorries, a more dangerous process.

In their phone conversations or messages, the smugglers referred to their victims as sparrows, creatures, animals, or sheep. They were therefore completely dehumanised, as indicated in the following conversation:

"On 7 January 2015, the main Palestinian defendant indicated that the boys were at his place again after having been checked at Dunkerque. The main Kurdish defendant does not want to see them and says they're animals, the sons of animals. He put them in a lorry but they would not stop making a noise".

#### *Victim statements*<sup>365</sup>

One of the three intercepted smuggling victims, whose statement initiated the investigation, explained to the police that after staying in Calais for a few days, they went to Brussels Midi railway station via Paris. They came into contact with the main Palestinian defendant in the immediate surroundings of the station, who guaranteed them transportation to the United Kingdom in exchange for a minimum of EUR 1,000. After paying in cash, the victim was taken by one of the main defendant's contacts to a bus going to Leuven town centre and instructed to then

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<sup>363</sup> See benefits fraud in: Annual Report 2011, *Trafficking and smuggling in human beings, The money that matters*, Part 1, Chapter 3, point 1, p. 44.

<sup>364</sup> Also see the following chapter on best practices and experiences.

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<sup>365</sup> Also see the following chapter on best practices and experiences.

take a taxi to the E40. At the Oud-Heverlee parking area, they had to cross the bridge over the E40 to reach the car park for heavy goods vehicles, on the petrol station side. Another member of the human smuggling organisation was waiting for them to put them in the loading space of a lorry heading for Zeebrugge. The victim had to stay in direct contact with the main defendant during the whole journey via the mobile phone provided by the smuggler. It was this mobile phone that the victim gave to the police<sup>366</sup>.

### *Smuggling families*

Financial gain is all that counts for the smugglers. In one phone conversation, the main Kurdish defendant explained "there was also a Syrian family, with an important (rich) doctor and a girl. Smuggler D. made them pay more".

In general, the main Kurdish defendant did not want families as clients owing to the problems they cause. They had a bad experience with an Iranian family:

In the night of 14 January 2015, seven smuggling victims were put in a lorry at the Heverlee parking area: two Albanians, two Arabs and an Iranian couple with a child. This lorry was stopped by the police in Calais. The following night, a new transportation was organised for this family, in the company of an Iranian man. This time, they were intercepted on the boat in Calais. On 20 January, a new attempt to transport them was organised, on board a refrigerated lorry this time. On 21 January, the main Kurdish defendant and smuggler S. had several phone conversations about this. They were informed that the lorry had dropped off its load in Zeebrugge: "The family wants to get out because it's too cold for the child, and D. (main Kurdish

defendant) asks smuggler S. to tell them not to do it. Smuggler S. asks D. to do it himself. In another conversation, S. and D. agreed that this was the last time they would transport the Iranian family".

### *Unaccompanied foreign minors*

The phone taps also revealed that various unaccompanied minors were the victims of smuggling:

"On 18 December 2014 at 00:58, X. reports that the 'little boy' was abandoned by the driver and doesn't know what to do. The little boy is in the jungle. D. explains that the man must call the boy himself".

## **2.2. Kurdish human smuggling network in Ghent**

The acts concerned in this case in Ghent took place between October 2014 and January 2015, and involved a Kurdish network mostly active in smuggling Kurdish victims to the United Kingdom. This case was tried in 2015 by the Criminal Court and Court of Appeal in Ghent<sup>367</sup>. It is closely linked to the previous human smuggling case mentioned in this chapter.

The main defendant had recently served more than seven years in prison in France, and had come to Belgium. He was also known to French police services for an act of rape against Iraqi minors in 2006.

### **a) Human smuggling network**

An Iraqi Kurd headed the criminal organisation. His two co-defendants were an Iraqi Kurd and an Afghan. He didn't really trust the latter, who played a subordinate role.

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<sup>366</sup> Ibidem.

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<sup>367</sup> Ghent Crim. Court, 1 June 2015 and Ghent Court of Appeal, 3 November 2015: see this part, Chapter 4 (Case Law), point 3.

The smugglers organised their transportations from the parking areas in Rotselaar, along the E314 highway to Leuven/Brussels. The smuggling victims were concealed in lorries or refrigerated lorries in order to cross the British border illegally. Furthermore, the human smuggling organisation used abandoned cottages in the area surrounding the parking area to hide them prior to transportation.

The Kurdish victims were gathered in cafés or restaurants in Brussels and brought there by international contacts active in human smuggling, or came from the camps in Calais and Dunkerque (Grand-Synthe). These cafés, camps, and accommodation rented by the main defendant sometimes served as temporary accommodation (safe house) for the victims. The victims were taken from Brussels to the parking area by public transport or by a driver for an extra EUR 100.

The parking areas had become the criminal territory of the Kurdish smugglers, who considered them their property. The statements of a defendant made during their hearing were very telling: "A. is Afghan and it's difficult for him to get people. The parking area is Kurdish and belongs to Kurdish smugglers. Because he's Afghan, he can't send Afghan clients from this place. B. is a Kurd and the parking area belongs to him. The Arabs can't work there. B.'s clients weren't Kurdish, they were Syrian and Egyptian. There are a lot of them at the car park. Weapons, like kalashnikovs, are stored there. B. can sell or rent a parking area as he sees fit. He knew there was a client that was willing to pay EUR 120,000 for it. There are some Albanians who'd really like to have the parking area, but they can't have it. B.'s car park is in operation at least three days a week. At least 30 people are transported illegally. Which is more than EUR 60,000 a week for 30 people. And that's a minimum".

The smugglers also used counter-espionage techniques against the police. They monitored the police closely at the parking

areas, and knew when the way wasn't clear. With the help of their Dutch contacts, they assessed the possibility of moving their human smuggling activities to Roosendaal (Netherlands). The smugglers were perfectly aware of the fact that their calls were being tapped by the police. They used targeted techniques to complicate the phone taps. For instance, they used the victims' mobile phones or SIM cards. The smugglers also regularly used other names so that anyone external would have difficulty identifying who was speaking.

#### *International network*

The organisation had numerous contacts with other smugglers including people in the Netherlands, the United Kingdom, France, Germany, Italy and Iraq, who took care of people who wanted to illegally cross the British border.

One important contact person was the Iranian woman H. who lived in Rotterdam (Netherlands). According to the police, she was high up in the hierarchy. She was responsible for the financial aspects and supplying victims from the Netherlands. She kept a tally of which transportations were successful and which ones had failed. The main defendant also regularly went to stay in Rotterdam within the framework of his human smuggling activities.

They also had contact with Albanian smugglers who took care of the supply of Albanian clients. The latter were treated with the utmost care. This was also revealed in the phone taps:

"Four Albanian human smuggling victims contacted their contact person to complain of their accommodation. The Kurdish smugglers contacted T., the Albanians' middleman, who had sent the four Albanian human smuggling victims. It was then agreed that the Albanian human trafficking victims would be moved to K.'s room. The Albanians were gathered up and grouped together".

The third defendant, sentenced in absentia, was a Kurdish smuggler who lived in the United Kingdom. While he was staying in Belgium, he worked for an organisation to help the homeless in Brussels. During his hearing, the main defendant described him as follows: "Z. is on the second photo you showed me. He looks after the money and Kurdish smuggler B.'s people. He was also illegally transported over the border by B. a long time ago. He lives in England. The Syrians and Egyptians also come from him. The money and the people come from him. No-one knows him apart from B. He's Syrian. He receives approximately GBP 3,000 to 4,000 from the human smuggling victims. GBP 2,000 are for B. He keeps the rest for himself. I consider him a bank rather than a smuggler. He doesn't go to the parking areas in person. B. is above Z. because Z. can't give the human smuggling victims to any other smugglers. If B. has people himself, they have priority over Z.'s."

#### *Guaranteed transportation*

The smugglers also offered special services, such as providing false papers. During the hearing of the main defendant, he answered the police's questions in detail on this subject:

"Question: we found several photos of people's passports on your iPhone. What are they and why take photos of them?"

Answer: Q. knows someone in Europe who can provide false passports so people can travel from Iraq to Europe. The man on the photo is my nephew, also a friend of Q.'s. The woman on photo 6 is the wife of the man on photo 5. These people were smuggled two to three days before I was intercepted. I heard Q. talking about smuggling them, but they were having problems agreeing on a price.

Question: What was the price?

Answer: Between EUR 7,000 and 8,000 per person. There was a fake visa on their passport. That's Q.'s job. He works with a black Pakistani friend. I think the passports are made in Portugal".

The smugglers also offered guaranteed transportation. The payment was only made after the smuggling had succeeded. The smugglers also worked with a Pakistani smuggler from an internet shop who, for EUR 4,000, and the help of a contact person at the airport, organised guaranteed transportation to the United Kingdom within three days. In turn, the Pakistani smuggler had a contact person in London who provided fake passports in two days.

The main defendant's hearing revealed that in the Dunkerque (Grande-Synthe) camp, smugglers offered guaranteed transportation to the United Kingdom with the help of lorry drivers: "As a smuggler in Dunkerque, he works with a few others. They work as smugglers offering guarantees, in collaboration with the young man who has Belgian papers. They ask for GBP 7,000 per person to travel to England. The driver knows about the smuggling. A group works for them in Dunkerque, and they sort everything out here, in Brussels, in a hotel".

#### **b) *Opening the investigation***<sup>368</sup>

On 3 October 2014, a lorry driver found three people in the cargo space of his articulated lorry in a car park in Gentbrugge on the E17, direction Antwerp. He contacted the traffic police and chased the people out of his vehicle. The Aalter/Oost-Vlaanderen traffic police found the three people at the parking area, sitting on the edge of the pavement. There was an Iraqi man, an Iranian woman, and her 14-year-old daughter. The traffic police questioned the interested parties, who could speak a bit of English. They explained that they had come from Brussels and had slipped into the lorry in the car park in order to be smuggled into the United Kingdom. The police noted that the Iraqi man had a smartphone with

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<sup>368</sup> Also see the following chapter on best practices and experiences.

10 missed calls from the same number in Belgium<sup>369</sup>.

The traffic police contacted the public prosecutor who ordered the examination of the mobile phones and a hearing of the Iraqi man. The man, the mother, and the daughter said they didn't know each other and were travelling together by chance, which didn't correspond to the findings. The police suspected the Iraqi man of being a smuggler who was accompanying the woman and her daughter.

The police analysed the phone contacts and noted that the smartphone's Belgian number also appeared in other human smuggling interceptions made by police patrolling the Ghent road and the maritime police in Zeebrugge. There was also a text message on the mother's mobile phone giving instructions stipulating that the money had to be paid to the account within 24 hours and that her brother had to act as guarantor. Another message contained clear instructions concerning a site in Brussels, not far from Maximilien Park, where foreign nationals in transit regularly stay. The analysis of the phone number revealed that the Kurdish co-defendant was a contact who was common to several people.

### **c) Investigation**

The investigating judge requested phone taps so that the whole human smuggling organisation could be identified through the intercepted conversations and messages. End January 2015, the federal police (PJF), the West Flanders (Bruges), Leuven and East Flanders (Ghent) police forces organised a national action involving various searches and arrests.

### *Social media*<sup>370</sup>

The phone taps revealed that the smugglers relied heavily on social networks. More sensitive subjects, such as financial arrangements, were dealt with over the phone but via Skype or Viber: "On Saturday 24 January 2015 at 11:47, the user of 796 (smuggler) calls the person looking after finances in the Netherlands and explains that he sent her a name the day before. The woman (779) explains that she hasn't received anything. The smuggler tells her that he will send the name by Viber. The person looking after the finances most likely has to pay the smuggler".

In their communications with clients or other smugglers, they shared their new phone numbers via Viber or Facebook: "At 14:17, the smuggler (796) calls the user of the Iraqi phone number (...). He asks after a boy (unknown) who, according to 788, was staying in Bulgaria. The user of 788 was going to send the smuggler's (796) number to the boy so that he could call him. The smuggler explains that he also has a few other numbers and that he will send them all by Viber".

The smugglers regularly changed phone number to complicate the phone taps: "The two smugglers agreed to change their phone number and send their new number by the social media site Facebook".

The investigators also used social media as a method of investigation within the framework of their investigations. The police investigated the Facebook profile of the main defendant through open sources. It turned out that he had published four photos of himself with a replica gun in his left hand. These photos were added to the report as evidence.

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<sup>369</sup> Ibidem.

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<sup>370</sup> Ibidem.

The federal police's computer crime units analysed all the data on the smartphones and computers that were seized or checked during a human smuggling interception, or a search of a smuggler's home. The messages found on the smartphone contained important information regarding the main defendant. During their hearing, the defendants also showed photos of other smugglers saved on their smartphone. During the analysis of the computer, 51 conversations were recuperated. They had taken place via Facebook and the police were able to trace the Facebook profiles of those involved in the conversations. The information was of little relevance to the investigation. However, this process showed how conversations on Facebook can sometimes be traced.

The police used Facebook and Google Maps as tools during the defendants' hearings. Thanks to Google Maps, it was possible to trace a number of important places regarding human smuggling activities, such as safe houses. During his hearing, one defendant willingly gave his Facebook password and cooperated fully. The police started up Facebook in his presence and asked him to show them the people mentioned in his statement. With the help of the photos on Facebook, he was able to provide more detailed information concerning other smugglers. The defendant showed the hotel where he had stayed with another smuggler, which was used for human smuggling activities: "A. told me I could stay with him at the X. hotel. I can look for it on Google Maps with you so you can take a screenshot of the entrance to the (...) hotel. Note from the police officer doing the report: a screenshot of the hotel mentioned is attached to the present hearing as annex 01".

#### *Financial investigation*

During his hearing, the main defendant confirmed that the profits from human smuggling were enormous: "I know that X (Kurdish smuggler) keeps the money from human smuggling at someone's house in

England. I know that he has GBP 110,000 in ready cash. He smuggles about 20 people a week. They're Kurds from Syria. The supplier is also Kurdish. X also transferred GBP 6,000 to Iraq. to F.'s family, and GBP 6,000 to his own family in Turkey".

The smugglers transferred a great deal of money to other countries through money transfer agencies, which have always cooperated fully with the Belgian courts, following a formal request supported by warrant<sup>371</sup>. Western Union replied that the smugglers in question received money from Iraq, the United Kingdom, Sweden, the Netherlands and France at the end of 2014 and the start of 2015. At the start of January 2015, they sent funds from Belgium to Afghanistan themselves.

Based on the investigations and phone taps, the police managed to link different financial transactions with the human smuggling organisation. Many of the financial transactions, which were made through money transfer agencies using other people's identity papers, were from or to the Netherlands. In the Netherlands, H., the Iranian woman responsible for financial matters, also played a key role.

#### **d) Victims**

The smuggling victims were mainly Kurds from Iraq, Iran and Syria, with a few Albanians.

#### *Smuggling families*

The same Iranian family as in the previous human smuggling case features in this one too. The smugglers in both cases worked closely together. The phone taps revealed that the family could no longer benefit from any extra services because it didn't have any more money: "The smuggler calls H. (the Iranian women in the Netherlands

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<sup>371</sup> Ibidem.

responsible for financial matters) and asks what's happening with the family. The smuggler replies that the family is with them and has already started asking for cigarettes. H. says that they mustn't be too kind to the passengers and that if they want extras, they have to pay extra. The passenger has already spent 12,000 and is currently in their hands, without much money".

#### *Unaccompanied foreign minors*

Transportations of unaccompanied foreign minors were organised. The main defendant explained in a phone conversation that a minor was put in the wrong lorry and was intercepted and sent to a youth reception centre.

### **2.3. Afghan human smuggling network in Ghent**

In this case in Ghent, whose acts date back to 2012, an Afghan network organised illegal entry to the United Kingdom. This case was tried by Ghent Criminal Court<sup>372</sup>. There were three defendants. The main defendant was also reported for rape in a case in Antwerp and awaiting a hearing, on the judge's orders.

#### **a) Human smuggling network**

The human smuggling network used the Drogen parking area along the E40, in the direction of the coast, as a base for its human smuggling activities. It offered two types of illegal border crossing: with and without guarantee.

For ordinary transportation without guarantee, victims waiting at the parking area were placed in a lorry or refrigerated lorry without the driver's knowledge. Hence, the success of the transportation

wasn't guaranteed. In general, there was only one smuggling attempt and victims had to pay the human smuggling organisation in cash in advance. The phone taps revealed that this type of transportation to the United Kingdom cost approximately EUR 1,200.

As for transportation with guarantee, success was guaranteed and the payment was only made upon arrival, at the destination. A visa could also be easily obtained for air travel. The smugglers collaborated with lorry drivers for illegal border crossings.

The main defendant had various foreign contacts, especially in Greece and Afghanistan. Phone taps brought to light conversations with a contact person in Greece. They spoke of a human smuggling option with a plane ticket and a student visa:

"N. (Greek phone number) explains that he has found a way to obtain a visa for Europe from Afghanistan, so that interested persons can leave from the airport. N. explains that this is a one-year visa which is valid for the whole of Europe. It is a student visa valid for a year. N. explains that he has already sent seven people and asks Z. (the main defendant) to find clients". There is another call a few days later saying that far more clients have already been found: "Z. explains that he has found three people with a diploma in Afghanistan and asks what they can do. N. explains that it is a long procedure and that a request has to be made for a student visa. Z. asks how long it will take. N. explains that it will take about a month for everything to be sorted out".

The phone taps revealed that the smugglers were working with a French lorry driver, with whom they organised a meeting in Antwerp. According to the conversations, the driver was then intercepted with his lorry by the British police. There were two human smuggling victims on board. The police therefore concluded, on the basis of other conversations, that several lorries were probably used and that there were several transportations.

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<sup>372</sup> Ghent Crim. Court, 19 June 2013 (final): see Annual Report 2015, *Trafficking and smuggling of human beings, Tightening the links*, p. 126 and Myria's website: <http://www.myria.be/fr/jurisprudence/3-tribunal-correctionnel-de-gand-19-juin-2013>.

The smugglers apparently also had contact with a Bulgarian ambassador, mentioned in phone conversations about money in relation to clients. According to the agreement, they would get their money back because the services weren't provided. A financial middleman and the main defendant also referred to the ambassador in their conversations: "114 (financial middleman in Pakistan) explains that everyone got their money back and that the smugglers returned the money to those who didn't go. 114 explains that the woman is lying when she says she hasn't got her money back. 114 speaks about different passengers and the fact that their money was still in the hands of 114 but that he has paid everything back and settled everything and the money was reimbursed through Kabul or Iran. 114 explains that he had the passengers' money but that he gave the money back to those concerned so as not to have any problems with them. 114 explains that the money of approximately 34 to 35 people (probably passengers who weren't transported) was reimbursed. 114 also explains that the Bulgarian ambassador came over and they had a conversation about the fact that the people concerned had to be paid back personally and not through someone else seeing as this procedure always caused problems... 114 explains that the money was given back to the people and that in Pakistan, he received 50 people a day in the shop (...) who had come to get their money back. 114 asks Z. (main defendant) not to give his number to anyone. Z. (main defendant) explains that he will join 114 on the boat".

### **b) *Opening the investigation***

The police intercepted two Afghans at the Drongen parking area along the E40 (direction Ostend) during the night. They seemed to be waiting for a vehicle. The police suspected that the two people were part of a smuggling network, which was later confirmed. The parking area and road running parallel where the two people were intercepted do indeed have a reputation for being a meeting place for smugglers.

One of the two, who would later become the second defendant, had two mobile phones that were seized. These phones were later examined and the phone contacts checked. Various relevant mobile phone numbers appeared. It transpired that two of the numbers were no longer active when the two above-mentioned Afghans were intercepted. On the investigating judge's orders, the mobile phone number that was still active was tapped and many of the conversations in coded language referred to the transportation of people abroad.

On 17 October 2012, six human smuggling victims were intercepted. They came from Iran, Afghanistan and Sri Lanka. There were several mobile phone numbers linked to the mobile phone numbers of the smugglers in this case, on the mobile phone of one of the victims<sup>373</sup>.

### **c) *Investigation***

The phone taps revealed the whole human smuggling network and enabled other relevant phone numbers to be tapped. Based on one of the conversations, it was possible to identify the main defendant after he agreed over the phone to visit an actual person in a detention centre in Bruges. After consulting the list of visitors on that day, the police were able to determine his identity.

During the search and arrest of the main defendant, it transpired that he had hidden his mobile phone at home, behind a shelf in the bathroom, and his SIM cards were in the toilet.

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<sup>373</sup> Also see the following chapter on best practices and experiences.

### *Financial investigation*<sup>374</sup>

There was a lot of mistrust between the smugglers, their contact people, and the clients concerning financial matters. For instance, they refused to give money in cash and preferred money transfer agencies such as Western Union to send money. They sent a text message giving the exact identity of the person who could collect the money.

One striking fact is that during a human smuggling interception, a Ukash receipt was found. This is a money transfer agency that works completely anonymously, where neither the issuer nor the beneficiary can be traced by the courts or by the police. This agency was used for payments of guaranteed illegal border crossings. It was taken over in 2014 by Paysafecard and works online, on a mobile phone or through shops. The process is simple:

- 1) a person (anonymously) gives cash to a Ukash subsidiary;
- 2) this person receives a receipt stating the amount paid;
- 3) the number on the receipt allows either the same person or a third party to collect the money.

There is no financial data, and no bank card or credit card is used in this system. Consequently, it is practically impossible to identify the issuer or the beneficiary. The issuer and the beneficiary can therefore be one and the same person. The receipt only mentions minimal information (not the amount).

The financial investigation revealed that the dependants spent far more than their 'official' income. The main defendant received CPAS welfare benefits and the second defendant unemployment benefit. As well as acquiring more criminal assets

through human smuggling, they were also involved in benefits fraud<sup>375</sup>.

### **d) Victims**

The smuggling victims were mainly Afghans who the smugglers sent to the Drogen parking area via Ghent. From here, the victims were taken to Great Britain. When they were hidden in lorries, they had to hide themselves in plastic, which some refused to do.

#### *Smuggling families*

Families were also part of the human smuggling victims. In the phone taps, an Iranian family composed of a father, a mother, and two sons was mentioned.

#### *Unaccompanied foreign minors*

The phone taps also revealed the process used to smuggle two minors from the Dunkerque camp. A contact person at Dunkerque phoned the main defendant and asked for information regarding the procedure and the cost of transport to the United Kingdom:

"Z. (main defendant) explains that the transport costs EUR 1,200 and that the caller doesn't need to know about the procedure. The caller asks if they will be transported by car, to which Z. answers no. He explains that heavy goods vehicles will be used. During the conversation, the caller is heard speaking to someone and telling them that the cost is EUR 1,200. The caller tells Z. that he probably has two 'passengers'. Z. says they can come, after which the caller explains that they are minors and tries to negotiate the price. In the end, Z. agrees to transport them for EUR 1,000 but can't go any lower than that. The

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<sup>374</sup> Ibidem.

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<sup>375</sup> See benefits fraud in: Annual Report 2011, *Trafficking and smuggling in human beings, The money that matters*, Part 1, Chapter 3, point 1, p. 44.

caller asks when Z. can transport them, to which he replies that he will send them the evening they arrive. The anonymous caller says he will keep him informed". A few hours later, they speak on the phone again: "Z. asks for their exact location and the anonymous caller says they are in Dunkerque. Z. says they have to come and the anonymous caller is asked to contact them and tell them what they have to do next". Then they talk about financial arrangements: "The boys' money is being kept in Kabul. According to Z., it is also possible to keep their money in Greece. The anonymous caller agrees and explains that the boys prefer to leave the money in Afghanistan. Z. explains that they can leave the money in Puli Khumri or Mazar".

#### **2.4. Kurdish human smuggling network in the Tétéghem camp**

In this case in Bruges, whose acts took place between 2010 and 2013, a Kurdish network organised illegal entry to the United Kingdom from the camp in Tétéghem, not far from Dunkerque, via parking areas located along the E40. This case was tried by the Criminal Court in Bruges and the Court of Appeal in Ghent<sup>376</sup>.

There were eight defendants in this case, three of whom were convicted in absentia after they were released from custody. The defendants were Kurds from Iraq and Iran. Only one defendant was Afghan and he played a minor role in the human smuggling network.

This wasn't the first time for the defendants. The main defendant had

already been convicted in France for similar acts, but under a different name. He was universally feared and settled his conflicts with firearms.

The investigating judge issued a European arrest warrant for the main defendant, which led to his arrest in Croatia on 11 June 2013. His extradition was then requested, but it took a long time.

This human smuggling case is closely linked to the Indian-Pakistani human smuggling case dealt with hereafter, where a competing human smuggling network was operating from the camps. The investigators were able to consult this case in Brussels, which involved threats with firearms and reprisals between different human smuggling gangs.

##### **a) Human smuggling network**

The first defendant was clearly the head of the criminal organisation that held the reins in the Tétéghem camp, located not far from Dunkerque in the north of France. Human smuggling had been his full-time occupation for years. He took decisions concerning transportation and the people who could go or not.

The Kurdish smugglers were very professional and well organised. The smugglers didn't always take their victims to the parking areas themselves; instead, they sometimes let them go on ahead in order not to be intercepted. The human smuggling victims often waited for a long time at the parking areas before the smugglers began looking for the right lorry, a search that could also sometimes last several hours.

The smugglers supplied all the necessary equipment at the parking areas: wooden pallets to cross ditches, ladders to climb into the lorries, safety gloves, glue and adhesive tape to open and close the lorries, sticks and rods to force the human smuggling victims into the lorries or threaten the lorry drivers or anyone in the parking area trying to oppose their actions.

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<sup>376</sup> West Flanders Crim. Court, Bruges division, 2 April 2014 and Ghent Court of Appeal, 21 October 2014: see Annual Report 2015, *Trafficking and smuggling of human beings, Tightening the links*, p. 127 and Myria's website: <http://www.myria.be/fr/jurisprudence/tribunal-correctionnel-de-bruges-2-avril-2014> and <http://www.myria.be/fr/jurisprudence/cour-dappel-de-gand-21-octobre-2014>.

They knew the parking areas and surrounding areas, access routes, emergency exits, public transport itineraries, etc., inside out.

The smugglers were also extremely violent and authoritarian. They would even bang on the police vehicles when they were stopped and intercepted. In the parking areas, they would threaten the lorry drivers with weapons. The members of the organisation also had to obey the leader's orders. During the investigation, a co-defendant was beaten, hit, and tasered. Even a passing police vehicle was not sufficient to stop his assailants.

The smugglers are power-hungry and are prepared to do anything to acquire territory and protect it. They consider the Belgian parking areas to be their property and don't allow any other organisation to be active there. Conflicts are settled with weapons, leading to serious incidents in the camps: on New Year's Eve 2012-2013, another shoot-out took place and several people were hit in the chest and in the hand.

After arresting the main defendant, the phone taps revealed that a battle for power was in full swing. There was tough competition between the different human smuggling organisations and the fact that the main defendant was out of the game meant that the organisation's market segment was under threat.

#### *Itineraries*

The smugglers organised numerous illegal border crossings without guarantee, for a price varying between EUR 1,000 and 2,000. Sometimes, they provided guaranteed transportation for an amount varying between EUR 6,000 and 7,000.

During transportation without guarantee, the human smuggling victims, including several families with children from the 'jungle', were taken to parking areas in Belgium and placed in a lorry heading for England. The main defendant explained the

procedure during his hearing. Ten to 15 human smuggling victims would leave the Tétéghem camp in vans. One or two smugglers would go on ahead to check out the parking areas in a special car. They would then phone to say that the people to be smuggled could come. These people had to get out of the van in the surroundings of the parking areas and hide in the fields or bushes. Then the smuggler who was at the parking area would ask them to come over and he would hide them in a lorry or refrigerated lorry.

The main defendant managed the Tétéghem camp where he was also staying. Phone conversations revealed that the smugglers made sure the human smuggling victims stayed in the refugee camp or the 'jungle' before being able to go to the United Kingdom. The smugglers themselves were present in the camp and took care of the food and shopping. Clients who didn't have enough money first had to work in the 'jungle' before having the chance to be transported to the United Kingdom. There were so many prospective clients that the smugglers couldn't take care of all the transportations by themselves and subsequently contacted other smugglers to subcontract them. When an actual attempt was made from the camp to illegally cross the border, the smugglers were also the contact people for those wishing to illegally cross the border, or when transportation failed and the victims had to come back to the 'jungle'. The smugglers gathered up the human smuggling victims before departure and chose the vehicles in which the victims would be placed.

During a conversation with an associate, the main defendant admitted that they would have to be on guard because someone from the camp was speaking to the police. He admitted that he was aware the police were on his heels because he had been working for far too long in the camp. That is why he was letting his nephew take care of the work: he was a new face, unknown to the police. During his hearing, the main suspect

admitted that he entrusted the daily management of the camp to his nephew and a few of his 'regular employees': "When he arrived in Tétéghem, I told the other smugglers that X. (my nephew) was going to take over from me. X. knew how I operated, I had explained to him. I think that X. had only been active for about three weeks when he was intercepted by your officers. It is true that I worked with X. I called him regularly and gave him instructions concerning people who would be sent or the money he was going to receive".

The main defendant also worked with smugglers from other camps. This is what he said about this in his hearing: "I have always been a smuggler in the Tétéghem camp, because I couldn't work from Grande-Synthe (Dunkerque camp). Other people and other nationalities dealt with human smuggling there. I remember a conversation concerning the problems encountered by the smuggler Y. at Grande-Synthe. As I already said, I knew Y. as a smuggler. He worked in the Grande-Synthe camp. He had had problems there with someone from Grande-Synthe and called me to ask if he could come and work at Tétéghem. Seeing as other smugglers also worked at Tétéghem, I had to ask them if they agreed to Y. coming to work at Tétéghem. In the end, I didn't speak to any of the other smugglers. I didn't have any objection to Y. being here. I presume that Y. spoke to the other smugglers himself and obtained their approval".

During guaranteed transportations, the human smuggling network worked with lorry drivers who asked for USD or EUR 4,000 or 4,500, leaving between EUR 2,000 and 3,000 for the smuggler. The clients were taken to a house in Brussels where they were transferred to another Kurdish smuggler.

### **b) *Opening the investigation***<sup>377</sup>

In February 2013, one human smuggling victim was intercepted at one of the parking areas along the E40, in the direction of the coast. There was a British phone number on their mobile phone that had already appeared many times in the past during human smuggling interceptions and on a smuggler who was already known and been convicted for these acts in 2012. The latter had contacted this number no less than 47 times. The phone investigation showed that the person whom this British number belonged to was often at the parking areas in West Flanders, along the E40, when the lorry drivers were resting. It was at this moment that the human smuggling victims were hidden in the lorries.

Two months later, the traffic police intercepted a human smuggling victim at this parking area. They gave their mobile phone to the police who found the same British number again.

### **c) *Investigation***

In the meantime, the public prosecutor's office had already handed the case to an investigating judge in March 2013. They ordered phone taps to be set up during which the human smuggling activities and the role of the main defendant were clearly established. During the conversations, the main defendant admitted he had been doing 'this job' for seven or eight years already. The phone taps also revealed that the smugglers went to check out the parking area first and carried out counter-observations, and that on New Year's Eve, a gun battle had broken out between rival human smuggling organisations. When one of the defendants was intercepted, he took apart his mobile phone and removed the

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<sup>377</sup> Also see the following chapter on best practices and experiences.

battery so that his phone couldn't be checked.

#### *Social media*<sup>378</sup>

The federal police's computer crime unit was able to analyse the iPhone of an intercepted smuggler. They were thus able to establish several exact sites where he had stayed. The smugglers clearly left from the French camps to go to the Belgian parking areas before going abroad (Netherlands, Barcelona, etc.). These elements discovered during the investigation were included as evidence in the court's judgement.

#### *Financial investigation*

The smugglers made a considerable profit from their criminal activities. One smuggler who also organised guaranteed transportations said he earned between EUR 2,000 and 5,000 per client. During his hearing, the main defendant confirmed that he had already sent USD 30,000 to his family in Kurdistan.

The tariffs for illegal border crossings led to various discussions that were recorded during the phone taps: "A. explains that he will send the woman and man for EUR 900 per person. U. explains he doesn't want to collaborate like this. U. says it is a question of money. U. explains that he doesn't want to work for this price as regards the others or B. A. answers that he will ask for EUR 2,000. U. explains that he has to ask for EUR 2,400 for these two people. In the end, U. explains that he will do it for EUR 2,000 because it has been a long time since A. sent anyone. U. doesn't want anyone to know, especially not B. Otherwise, U. is worried about having problems with A. U. explains that if other passengers arrive, the price will have to be discussed next time... U. says that he has a lot of people and

wants to know who is who. U. says that he doesn't want to work for EUR 1,000 or 900 for people who want to leave. U. won't let the price drop to EUR 800 or 700 for anyone. According to U., working like this implies a lack of respect and will ultimately pose a threat to their work".

Many payments are made through the 'hawala' system. According to this system, a guarantor in the country of origin stands as surety for a hawala banker in the destination country, who proceeds with the payment.<sup>379</sup>

Phone taps reveal that a major hawala banker was operating from a Kurdish restaurant in London. His references were known to the authorities but he hadn't been prosecuted<sup>380</sup>. When the main defendant was questioned on this subject, he gave more details: "It is a Kurdish restaurant in London. Someone I know personally works in this restaurant. He is a Kurd called S. He is about 26 or 27 years old. Various human smuggling victims who we don't know go the 'jungle' (the camp). They usually have family or friends in England. We ask these people to tell their family or their friends to contact the restaurant and S. The latter receives the money for the transportation and holds onto it. S. informs us of the people who have paid so that we know that we can smuggle them to England. You asked me whether the human smuggling victims' money is paid onto S.'s or the restaurant's account. This isn't the case. The payments are always made in cash. As soon as S. informs me that someone has paid, I ask him to pay the money to my mother, in Kurdistan, through the hawala system. You're asking if there are other places, other people like S. who receive money linked to

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<sup>378</sup> Ibidem.

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<sup>379</sup> Annual report 2011, *Trafficking in and smuggling of human beings, The money that matters*, p. 15.

<sup>380</sup> Also see the following chapter on best practices and experiences.

smuggling? There are several Kurdish restaurants in England that use the hawala system. If we find out that the human smuggling victims have family in a town in England, we check whether a Kurdish restaurant using the hawala system is active in the region. We then send the family to this Kurdish restaurant, as in the case of the (...) restaurant".

#### a) *Victims*

The victims were from Afghanistan, Syria, Turkey and Iran. There were also families with children and pregnant women. Hence, 10% of the victims were children.

They were perceived as nothing more than goods, so little attention was paid to their safety. For instance, transportation was organised in a tarpaulin-covered lorry, a container or in a refrigerated lorry. As long as the human smuggling victims arrived at their destination, it didn't matter what means were used to get them there. It was also of little importance that they were put in the middle of the load, between the axles or in pallet stacking normally used to hold transport pallets. They didn't check whether the load was properly fastened or whether there was a risk of it tipping over during the journey, seeing as the illegal passengers were hidden so quickly in the lorry that nothing was checked inside it. The victims were placed in spaces that were barely big enough for them.

The risks taken by the smugglers, who played with the victims' lives, were enormous. But the human smuggling organisation couldn't have cared less. This is also what transpired from the victims' statements and the phone taps, during which the victims phoned in a panic, fearing for their lives, while the smugglers attempted to reassure them. It was a problem for the main defendant when the victims attempted to get out of their delicate situation. During a conversation, he explained that he had found out that they had been intercepted in Dover. They were in a refrigerated lorry and someone knocked on the door, thus revealing their presence.

The smuggling victims also received the instruction to avoid the police at all costs. If fingerprints were taken, this could hamper any future requests for a residence permit in other countries. They were explicitly told to run away if the police were present at the parking areas and to cross the motorway, in the hope that the police wouldn't follow them in this highly dangerous move. At the parking area in Jabbeke, eight lanes in total have to be crossed, which the victims did blindly, according to the smugglers' instructions.

The smuggling victims were also well aware that their smugglers were armed with knives, guns and pepper spray, and that they had to do whatever they told them to do. Once their transportation had been organised, there was no question of refusing to get into the lorry chosen by the smugglers. The police found their guns during their interventions. They were loaded and ready to be used.

#### *Victim statements*

Some victims made relevant statements during their interception by the police. Several of them were able to obtain victim status but, in general, they weren't interested because they wanted to go to the United Kingdom as quickly as possible<sup>381</sup>.

A male Indian victim was injured while crossing the motorway, which the smugglers had ordered him to do if the police appeared. He ended up in the hospital. According to his statement, he had left India five months earlier. A friend in Delhi introduced him to a smuggler whom he had paid EUR 10,000 in cash. He had borrowed the money from his family. He ended up in a camp through the smugglers, where he stayed for two days. One night, he was taken with a group of fifteen human smuggling victims, to a parking area in

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<sup>381</sup> Also see the following chapter on best practices and experiences.

Jabbeke, in order to be hidden in a lorry. He explained: "The group was waiting for a lorry when the police arrived. The escort ordered us to cross the motorway".

A Pakistani victim described his journey. His uncle had put him in contact with smugglers. He had paid EUR 4,000 for the journey from Pakistan to Greece. They left Pakistan in the car for Iran, where they crossed the border into Turkey on foot before getting into another car. From Turkey, they went to Greece on a smugglers' boat. He paid EUR 3,000 to be smuggled to Sicily by boat. The journey between Pakistan and Sicily lasted between 40 and 45 days. He then looked for work in Sweden, in vain, and arrived at the camp in Tétéghem in order to illegally cross the British border. This is what he said when he was asked to explain why he chose the United Kingdom: "I wanted to go to England. The crossing was agreed on as well as being dropped off at a non-specified destination. Nothing had been arranged for my reception once there. Only the crossing had been arranged. I haven't got any family there, only people I know from my region. Most of the people I know live in Birmingham. I don't know anything about their living conditions".

He authorised the police to look at his two mobile phones in case they contained important information regarding the smugglers<sup>382</sup>.

### *Smuggling families*

Smuggling families from the Tétéghem camp was far more lucrative for the smugglers, which is why the smugglers were particularly interested in this target group of human smuggling victims. There were many families with children in the camp. A recorded phone tapped conversation

revealed that the smugglers asked for EUR 1,100 to transport a woman, compared with only EUR 900 for a man. A smuggler said the following during his hearing: "It costs more to transport a child or a woman. This is because the children and their parents are taken separately to the parking areas. This involves a supplement of USD 300 in general".

The various phone taps revealed that families with children of all ages were among the human smuggling victims, even pregnant women. In a conversation relating to smuggling, there was mention of no less than three complete families.

At another moment, it was a matter of transporting a girl, a boy and a family with two children, one of which was a year old. This wasn't a problem for the main defendant.

The young age of the children was also a subject in other conversations. In one of these conversations, they mentioned a family (father, mother, two children aged 12 and four years old) that was in Germany and was coming to the camp. They would then be transported to the United Kingdom and had to pay GBP 4,000.

The police confronted the main defendant with other phone conversations the smuggler admitted to: "X. called you. X. has a family (a man, woman and two children), and you are being asked to take care of them because there will be many other families after this one. Another family has arrived in the 'jungle' (the camp). The conversation continues and the subject of the price comes up. "There is a 10-year-old and a five-year-old child. You will ask for EUR 4,500 and EUR 1,500 will go to X." ».

### *Unaccompanied foreign minors*

The traffic police intercepted a group of four people, one of whom later became the defendant. The smuggler seemed perfectly at ease and continued to speak to the others even though he was forbidden to do so. Two others appeared to be unaccompanied minors of Afghan origin.

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<sup>382</sup> Ibidem.

They made relevant statements and were given the chance to acquire victim status<sup>383</sup>.

The girl had just turned 17 and was part of a couple with an adult Afghan man. They had paid EUR 60,000 for guaranteed transport from Afghanistan to the United Kingdom. Her boyfriend's family had paid for everything. She had fled Afghanistan because her life was in danger.

She stated that she stayed in the Tétéghem camp, where tents were pitched in a wood. She also stayed in a tent. Her journey to the camp had taken three months, with several stops. In Afghanistan, she had taken the plane to Dubai and then to Mali. In Mali, she was helped by Kurdish smugglers. From Mali, she flew to Portugal, before continuing her journey by train, passing through Spain.

This is what she said about being smuggled through Belgium: "We left the camp in two passenger cars. There were seven of us in the car. Two of the people were actually in the boot. The smugglers never gave out their number and constantly changed it. They called us but we could never call them, they never picked up. I am afraid of them and I am telling you everything I know, but I don't know their names, and I couldn't really describe them. When we arrived in the United Kingdom, we were supposed to go to the police and ask for asylum. I don't have any family there. My brother lives there, but since I ran away with my boyfriend, I can't go to his house".

She added that she nearly died the last time they attempted to smuggle her across. "I made a similar attempt a week ago; we were placed in a refrigerated lorry at the same parking area. The police didn't intervene. But we were able to alert the

driver who opened the door. If we hadn't, we would have been dead. I don't know the name of the person who put us in the lorry. He pressured us to get in. There are different smugglers all the time".

The other human smuggling victim - an Afghan minor - was, according to his statements, also 17 years old but didn't have any identity papers. He filed a complaint against the smugglers. This is his statement: "I left Afghanistan a year ago. I stayed in Athens, in Greece, first. I stayed there for two months. I took a boat from Greece to Italy, where I spent two to three months in Rome. Then I went to Paris and ended up in Calais. I came here by train. I travelled alone until I reached Rome. After that, I was accompanied by another Afghan. I didn't stay in Calais for long. Other people took me to a wood in the surrounding area. They promised that I would get to England. Last night, I slipped into the boot of a passenger car with another person. It was a car that was slightly bigger than normal. I don't know the make or the colour. There were already several people in the car when we arrived. I don't know how many exactly. I didn't know any of the other people in the car. I don't know at what time we left. It was dark. We drove for about an hour before being stopped by the police. I confirm that I want to file a complaint against the three masked smugglers for human smuggling and trafficking. However, I don't know these people or their names. It was the first time I had met them. And I don't know what language they were speaking or where they are from. I don't know what they were wearing. It was too dark. I can't remember anyone wearing a white t-shirt that night. Upon your request, I am authorising you to look through my mobile phone. It is a black Nokia. I don't know my mobile phone number. It is an Italian SIM card. Someone in Italy gave it to me. It is card you can top up".

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<sup>383</sup> Also see the following chapter on best practices and experiences.

## 2.5. An Indian-Pakistani splinter human smuggling network in Brussels

The acts in this Brussels' case date back to 2012 and 2013, and involve an Indian-Pakistani network that organised smuggling to the United Kingdom. This case was tried by the Criminal Court and Court of Appeal in Brussels<sup>384</sup>. As a result, a Joint Investigation Team (JIT) was set up, composed of Belgian, French and British investigators.

### a) Human smuggling network

Thirteen defendants were convicted in this case. The majority were Indian-Pakistani smugglers, although one Afghan and one Russian smuggler were also involved.

The main defendant was an Indian-Pakistani smuggler who didn't run the human smuggling network in a traditional way, with a pyramid structure, but rather as a flexible structure composed of cells acting more or less independently and in competition, and with whom he maintained contact. The human smuggling network had ramifications in the United Kingdom, the Netherlands, France, Italy and India.

The main defendant was described in certain phone conversations as an 'agent', a person acting on behalf of other smugglers or in their place, and was responsible for accomplishing the activities for a third party. He had as little physical contact as possible with the victims.

In order to establish his contacts, he used several phone numbers (unknown) and an email address, and went to phone shops. He arranged appointments in night shops in Brussels, which served as a meeting point where he could organise and manage his activities. These night shops were run by Indian-Pakistani Sikhs, who sent worshippers who had arrived illegally, to the Sikh temple in Vilvoorde.

Sikh temples are known worldwide and serve as a meeting place for many Indians and Pakistanis who practice Sikhism. They are also a stopping point for illegal Indians who use the temples all over Europe. The smugglers are therefore able to easily recruit potential clients in the temple or in the immediate vicinity. This situation forced the authorities to close the temple after 21:00. In 2012, this meant that the Sikh victims in transit spent the day in these temples to receive food and maintain social contacts, but had to leave them in the evening. That is why, at the time, the human smuggling victims spent the night in an empty warehouse close to the temple.

### Smuggling couriers<sup>385</sup>

The leader of the Indian-Pakistani smugglers used 'smuggling couriers' who carried out all sorts of tasks for the smugglers in order to earn enough money for their own transportation. One of the defendants had been a smuggling courier. He first wanted to go to Canada and had contacted a human smuggling organisation for this purpose but didn't have enough money. He had to help the smugglers in exchange for his own transportation. He did the shopping, collected clients at the station and moved them around. His role evolved during the investigation and he became the

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<sup>384</sup> Brussels Crim. Court, 6 November 2013 and Brussels Court of Appeal, 12 March 2014: see Annual Report 2015, *Tightening the links*, pp. 127-128 and Myria's website: <http://www.myria.be/fr/jurisprudence/tribunal-correctionnel-de-bruxelles-6-novembre-2013> et <http://www.myria.be/fr/jurisprudence/cour-dappel-de-bruxelles-12-mars-2014-1>.

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<sup>385</sup> Annual Report 2015, *Tightening the links*, Part 2, Chapter 2, point. 2-4. Afghan human smuggling network in Brussels, p. 82.

middleman between the smugglers and the clients. He had to convince the 'boys/clients' to go to the United Kingdom, distribute messages regarding imminent smuggling operations, collect travellers who had just arrived, and receive and take care of them. He also informed the smugglers of the identity of the people who had arrived or not.

He learnt the tricks of the trade, began to have his own contacts and to take more and more initiatives. He wanted to have his own clients and asked his family to find people in his home country who wanted to come to Europe. He knew smugglers who asked EUR 7,300 and envisaged asking EUR 8,300 in order to keep EUR 1,000 for himself.

#### *Itineraries*

Most of the illegal border crossings were guaranteed. In this case, the driver is aware and cooperates. The Indian organisation used different itineraries and worked with other human smuggling networks.

One of these itineraries went via the Netherlands in order to reach the United Kingdom. Indian-Pakistani smugglers established in the Netherlands looked after this one. These transportations used passenger cars, some of which were transformed or adapted to hide the victims. The cars were registered in the Netherlands and driven by Dutch nationals who went to fetch the victims in the Brussels region to then take the boat to Scotland from the Netherlands. Victims who weren't hidden in the car or the boot received fake identity papers. As soon as they arrived in Scotland, they were taken care of by a member of the organisation. The transportation cost varied between EUR 550 and 750 per person.

A second itinerary was managed by an Indian organisation, whose leader operated out of the United Kingdom. The passengers were collected in Vilvoorde. Many victims were staying in the vicinity of the Sikh temple. During the day, they could go to the temple and at night, they slept in a nearby

warehouse. They were transferred to lorries, whose drivers were aware of the smuggling, thus allowing them to make the crossing to the United Kingdom.

A third itinerary was managed from France by an Afghan-Kurdish organisation staying in both Belgium and France. These were transportations without guarantee. The victims took the train from Brussels to De Panne, where they took the bus for Dunkerque. From there, they walked to Tétéghem. They stayed in a camp there, known as the 'jungle', dealt with in detail in the other human smuggling cases, while awaiting transportation. One of the Indian-Pakistani smugglers went to this camp every three days, where he was frequently in contact with a Kurdish smuggler who provided travellers for transportation without guarantee. In this camp, the Sikhs, accompanied by victims of other nationalities, were put in vans registered in Great Britain and taken to parking areas along the E40 in West Flanders. From there, the Kurdish smugglers hid them in lorries in order to get into the United Kingdom. Unlike the Indian organisation, mainly established in the Brussels region, the Kurdish smugglers regularly moved between Belgium and France.

The fourth itinerary was organised by a Russian, in collaboration with a Lithuanian organisation whose drivers, who were fully informed, allowed the victims to climb into the lorry in order to smuggle them into the United Kingdom.

At the end of August 2012, the main defendant also organised smuggling from the Netherlands to Italy, owing to the legislation on regularization that was in force at the time. There were also transportations to Canada and Australia using fake or forged travel documents.

For this purpose, the smugglers had a contact at the embassy. In a phone conversation with the main defendant, a smuggler asked if he had heard from his Indian contact regarding a payment for abroad. The options for the smuggler were

"Australia, New Zealand, Canada, England, not Europe". The main defendant was going to sort everything out through his older brother for Canada or Australia, and added: "My brother has a friend who was an advisor at the embassy and he will take care of everything".

### **b) *Opening the investigation***

The investigation began after the interception of several Indians at the Grand-Bigard parking area, along the E40. The analysis of their mobile phone contacts led to an Indian human smuggling organisation active in an empty warehouse close to the Vilvoorde Sikh temple<sup>386</sup>. The investigation led to several players who were higher up in this market and established in Brussels. These people were responsible for contact with the smugglers in Great Britain. They paid for the transportations and worked out the most efficient smuggling itineraries. When an itinerary became inefficient or dried up, other sources were used in order not to have to interrupt the human smuggling activities.

### **c) *Investigation***

The phone taps were the source for the majority of evidence, offering an enormous amount of information including a few hundred one-way conversations. It was possible to identify the main defendant by analysing the phone calls. Nearly all his conversations relating to human smuggling, price negotiations, money for transportations that needed collecting and paying, profits and banking operations, and money transfers.

Smugglers on the smuggling itinerary leading to the camp were also put under surveillance. The observation reports

describe the smugglers' movements in detail: "Smuggler S. also appears in the Tétéghem camp, for transportations without guarantee using a third itinerary. We can hear him in the phone taps, but there are also observations that confirm his activities on this itinerary. He kept the clients in the warehouse close to the temple while they waited to be transported, and then took them to Tétéghem. He took the clients to Brussels-North railway station, bought tickets for the train to De Panne, where they had to take the bus to Dunkerque. From there, they walked to Tétéghem. S. then handed over his clients to A. (a Kurd) and his organisation. He wasn't responsible for the rest of the transportation".

#### *Financial investigation*

Based on the numerous phone conversations, the police were able to determine that the main defendant used his family in India to settle the finances associated with human smuggling, to receive deposits and payments. He then paid the profits to his family in India.

#### *International investigation*

The Belgian, French and British authorities signed memoranda of understanding in order to create a joint investigation team (JIT) within Eurojust, the European Union's judicial cooperation unit, to investigate this international-scale human smuggling network<sup>387</sup>.

The French police informed their Belgian colleagues within the framework of this joint investigation team that they were in the process of conducting a criminal investigation into an organisation composed mainly of Kurdish smugglers active in the

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<sup>386</sup> Also see the following chapter on best practices and experiences.

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<sup>387</sup> Also see the following chapter on best practices and experiences.

Téteghem camp, which was used intensively as a meeting place for people wanting to be smuggled into Great Britain. Here is their report: "Different camps were set up in the countryside by one or more smuggling organisations. Téteghem is a former parking area located along the E40 in the direction of Calais. The parking area was closed by the French authorities but the lake behind it and the lush surroundings made it an ideal place for these smugglers. The clients (wanting to go to the United Kingdom) had to gather there and stay several nights in makeshift tents, abandoned wooden huts and the like. In the evening, the smugglers gathered the people up in order of payment. They were hidden in vans which the smugglers used to cross the Belgian border, and dropped off at the various parking areas along the E40. The investigation shows that these vans did up to three return journeys a day. Once all the human smuggling victims were at the parking areas in question, the smugglers ensured that they got into the lorries of drivers who were spending the night there. The investigation shows that this organisation used the Mannekensvere, Oudenburg/Westkerke and Jabbeke parking areas above all. Several of these Kurdish suspects were staying in Belgium. British phone numbers and vehicles were often used".

The French police also provided reports established within the framework of smuggling interceptions: "Loon-Plage, France, around 12:00, 16 people of Iranian, Syrian, Iraqi and Vietnamese nationality were intercepted in an articulated lorry registered in Germany (...) and driven by (...). The intercepted people are (...). The articulated lorry is a refrigerated lorry. When the victims were intercepted, the temperature was 5 degrees. The driver had stopped off as usual at the Jabbeke parking area. According to the victims' statements, they were taken to the parking area in a van".

On the basis of fruitful legal cooperation with the Netherlands, the Belgian courts

collected information regarding smugglers who were active in the Netherlands. This led to their identification and arrest. In a phone conversation, a smuggler confirmed that he 'knew someone in the Netherlands who worked for the immigration office and bribed the security guards".

#### d) *Victims*

The victims were mainly male Indian Sikhs. There were also a few minors.

#### *Smuggling families*

In their phone conversations, the smugglers indicated that the families had to pay more: "703 asks 124 if he has room in Belgium for the families, to which 124 replies yes. 703 asks about the price, 124 says that families are more expensive because children are more difficult". Another conversation concerned the smuggling of four people, including a child of 10.

#### *Unaccompanied foreign minors*

A report mentions a fight between a smuggler and three minors. A 15-year-old minor was hit with a belt because he owed the smuggler money.

In a phone conversation, the main defendant gave more details about girls who had been abandoned on the way following a conflict with a smuggler:

"124 (main defendant) is furious because the others often called these girls and bothered them. 124 explains that he will go and fetch them again and if this fails, they will go home. 901 explains that they took the girls in the van to the 'jungle' so that they could be transported but the girls had threatened to call the police. He was furious and subsequently abandoned them somewhere along the motorway. 124 explains that X. threatened to cut their heads off, but 901 says this isn't true".