

**2008 ANNUAL REPORT ON TRAFFICKING IN AND SMUGGLING
OF HUMAN BEINGS**

Enlisting people and resources to combat the phenomenon

Centre for Equal Opportunities and Opposition to Racism

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INTRODUCTION

This 2008 report is the twelfth annual report on Human Trafficking and Smuggling of Human Beings from the Centre for Equal Opportunities and Opposition to Racism. The Centre publishes these reports with a view to appraise existing, and encourage additional, Belgian policy for combating trafficking in human beings thus fulfilling one of its statutory missions and concurrently appropriates the role of a 'National Rapporteur on trafficking in human beings' or equivalent mechanisms.

This 2008 annual report, which focuses on people and resources, starts off with a brief overview of the recent changes in the Belgian policy. It continues with an analysis of the phenomenon of trafficking in and smuggling of human beings and an analysis of several legal cases divided by the different forms of exploitation. This abridged English version of the report also gives an overview of case law from 2008 and early 2009, ending off with the damages awarded to victims and to the specialised victim centres in several cases.

For the relevant statistics and a more in-dept analysis of the phenomenon and the new instruments available to combat trafficking in and smuggling of human beings, see the complete original versions of this report (available in French and Flemish at www.diversite.be).

The merits of the Belgian model, whereby the victims are offered support and protection in exchange for cooperating with the judicial inquiry, are currently the subject of debate. Because basic human rights are at stake – particularly those of vulnerable groups – our country has a duty to get out there and highlight the importance of engaging and winning the struggle against human trafficking. We can never emphasise enough the importance of creating expertise and specialisation on this topic within the police force, the prosecution office as well as for the people working at the specialised reception centres for victims of trafficking in human beings. Our country has gained sufficient experience to enable it to bring this message to the international field and to increase the protection offered to victims at our national level.

We wish you a pleasant and stimulating reading.

Edouard Delruelle, Deputy Director
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Centre for Equal Opportunities and Opposition to Racism

**PART I: DEVELOPMENTS IN THE PHENOMENON AND
THE COMBAT AGAINST TRAFFICKING IN HUMAN
BEINGS**

Chapter 1: Recent changes in the legal and political framework

In this section the Centre sets out the latest developments in the legal and political framework of the fight against trafficking in human beings at a Belgian, European and international level.

At an international and European level it is important to note that Belgium has finally ratified the Council of Europe Convention on Action against Trafficking in Human Beings. The Convention was adopted in Warsaw on 16 May 2005 and came into force on 1st February 2008 but did not come into force in Belgium until 1st August 2009.

On a local level, Belgium saw two important new developments in 2008:

- 1) The Belgian Action Plan for Combating Trafficking in Human Beings adopted by the Federal Government on 11 July 2008;
- 2) The circular letter of 26 September 2008 on the implementation of a multidisciplinary collaboration approach to the victims of trafficking in human beings and/or some aggravated forms of smuggling of human beings¹.

1) Action Plan

The Action Plan highlights the importance of an integrated approach to combating trafficking in human beings, focusing on 5 points: changes in the laws and regulations, prevention (specifically awareness campaigns), protecting the victims, the investigations and prosecutions and the coordination and gathering of information. On each of these points, it takes stock of the policy put in place since the creation of the Interdepartmental Unit for Coordinated Action against Trafficking in Human Beings and the priority actions for the years to come.

In terms of *victim protection*, the Action Plan lays particular emphasis on minors (planning a change in the law which would allow them to obtain a residence permit independent of their collaboration with the courts), victims and the assistance given to them.

There are various measures in the pipeline aimed at improving the *investigation and prosecution* aspects, such as promoting training and the exchange of good practices, and putting particular focus on financial investigations.

In terms of the *coordination and gathering of information*, the Action Plan sets out several measures aimed at finally ensuring the efficiency and effectiveness of the CIATTEH (Centre for information and analysis of trafficking in and smuggling of human beings).

¹ M.B.[Moniteur Belge – the Belgian Official Journal], 31 October 2008.

2) Circular letter on the implementation of multi-disciplinary collaboration

This circular letter aims to clarify the practical implementation of the new legal requirements regarding residency status², placing emphasis on the cooperation between the various actors involved (the police and inspection services, public prosecution offices and labour auditors, specialised victim centres and the immigration services). It supersedes the two previous regulatory instruments on the matter.

The primary aim of the circular letter is to ensure consultation and communication between all parties involved.

It also stresses certain elements, for instance the conduct to adopt when a front line service (police, inspectorate or other department) gets in contact with a potential victim, the various stages of the procedure to be followed and the role of each party involved.

Finally the circular focuses on two particular categories of victims: domestic staff working in embassies and unaccompanied foreign minors.

² Cf. articles 61/2 to 61/5 of the Act of 15 December 1980 on the entry into the country, residence, establishment and deportation of aliens (hereafter the “Aliens Act”) and Article 110bis of the Royal Decree of 8 October 1981 on the entry into the country, residence, establishment and deportation of aliens, amended by the Royal Decree of 27 April 2007 (*M.B.*, 21 May 2007).

Chapter 2: Phenomenon analysis

A. SITUATION OVERVIEW

For this section, we have relied on interviews with various police corps and inspection services, magistrates and prosecutors. These interviews took place anonymously. Additionally, we used the case files wherein the Centre has brought civil action. We also referred to the reports from the police and the anti-money laundering task force.

1. Sexual exploitation

Here, a shift can be perceived from visible to more concealed forms of sexual exploitation, for example, in massage parlours, saunas, private clubs, houses, private residences, etc., but also to escort services and even to the Internet.³ A new phenomenon that the police of the city of Brussels informed us about involves prostitutes who are also being used to transport drugs during their international business travels. The girls receive additional money for this.

1.1. Prostitution phenomena

The most extensive prostitution networks in Belgium are currently the Bulgarian ones. The Nigerian networks are also still very active and the Rumanian networks are strongly on the rise. The Albanian networks keep in the background. In a more concealed manner, there are also Asian prostitution networks (Chinese, Thai) active in massage parlours that aim more at clients from the same cultural background. This is comparable to the Chinese hairstylists in Paris who only work for Chinese clients and offer the opportunity for prostitution in a side room. Concealed prostitution can also be found in ethnic-oriented non-profit organisations, usually Turkish networks that aim at Turkish or Ottoman Bulgarian clients in their own cafés. In the city of Liège, Bulgarian night shops have been identified where Bulgarian clients are also offered the opportunity of prostitution in a side room. Such forms of concealed prostitution are difficult to control because of the specific cultural orientation and the difficulty in gaining access.

The prostitution phenomenon has become very mobile internationally. The girls and their pimps move across borders (Germany - Belgium - the Netherlands) from one city to another, where they stay temporarily. This also makes it more difficult for the police to set up a telephone tap or surveillance. In Brussels, Bulgarian girls are often transported in a van to the same location. The newcomers start out as street prostitutes on the Albert II Avenue and later progress to window prostitution in the Aarschotstraat.

³ The 2007 activity report of the Federal Police, available on their website http://www.polfed-fedpol.be/pub/jaarverslag/pub_jaarverslag2007_nl.php.

1.2. Professionalisation of the criminal networks

The criminal networks are organisations that learn⁴ to quickly adapt and professionalise themselves. Our interviews with the police show that various criminal networks have adapted themselves to the new Trafficking in Human Beings Act of 2005 in which trafficking in human beings regarding sexual exploitation is limited to specific crimes concerning prostitution and child pornography. The prostitution networks capitalise on this by devising schemes that obscure the aspect of ‘exploitation in prostitution’. This makes it much more difficult for the detective and the judiciary to substantiate the proof of trafficking.

In practice, this means, for example, that schemes are devised where victims of prostitution work as bogus self-employed operators in a prostitution bar and receive one share of the company, without realising what they have signed. The system of escorts as an intermediary in the scheme is also increasingly used. We will go into more detail on this later. Other schemes are the so-called ‘champagne bars’, hotel rentals or bars where the prostitution is offered to the client in an indirect manner and no direct link can be made between the proprietor of the business and the prostitute. Because of this, in the city of Hasselt the ‘champagne bars’ are only prosecuted for trafficking in human beings for the purpose of labour exploitation and no longer for the purpose of exploitation of prostitution.

Furthermore, the police have established that in operating the bars in the Aarschotstraat area in the city of Brussels (area of the north railway station), pimps are using front men in their company to officially operate their bars. These can be Belgians from a marginalized social environment, who are receiving support from Social Services and who are suddenly paid to be appointed as a business manager. They can also be people they trust from their own ethnic community. An example of this can be found in a case files that was analysed for this report⁵ where a closed bar belonging to an Albanian pimp was opened again by an Albanian front man. According to our contacts, it would offer little relief to close all bars in this street. This could lead to more concealed forms of prostitution in the surrounding ethnic-oriented cafés where the victims would have to work under far worse conditions.

1.3. Victim profile

The victim profile has evolved significantly, certainly in the professionalised networks. The situation of forced prostitution still exists, but has decreased compared to the past. The victims of forced prostitution can mainly be found in Romanian ‘Roma’ networks.

Other victims are now often found in a type of win/win situation of conscious voluntary prostitution. This is the group of economic prostitutes. The prostitution networks have

⁴ For more details, see the Centre’s 2003 Annual Report on Trafficking in human beings “Plea for an integrated approach, an analysis of legislation and jurisdiction”, Part 1, Chapter 2.1.

⁵ Also see point B, case analysis 1.2. Professional business network with a win-win profile.

professionalised themselves and understand that they can make a lot more profit with motivated, willing victims who are less inclined to make damaging statements to the police and judiciary. The victims receive approximately half of the proceeds of the prostitution, but they do have to pay all of their own expenses. Because of this, they actually receive less than promised. Furthermore, they often have to work as street prostitutes when the arrangement was that they would work in a bar.

The pimps seldom have to use violence, because there are sufficient candidates for prostitution. Many victims are EU subjects, coming mainly from Bulgaria, followed by Romania. In addition, we also see West-African and Albanian girls with valid Belgian residence permits. Their pimps allow them to keep these residence permits, because they help them from appearing suspicious to the police. The Bulgarian girls are ‘merry-go-round’ prostitutes who return to Bulgaria every three months in order to comply with their short-stay residency status⁶. They knowingly enter into prostitution and regard this as a temporary life project in order to be able to live at a sufficient level of wealth afterwards. In the Bulgarian city of Sliven, it is regarded as completely normal that girls work as prostitutes and young men become pimps. Because of this win/win situation and their legal residency status, this group of Bulgarian prostitutes has little interest in the trafficking in human beings victim status.

During our interviews, reference was made to an example of a Russian girl who temporarily worked for a Russian escort business. For two months, a room in a luxury hotel was rented for the girl. Clients had to pay €2000 per night. The girl received half of the amount. There was no question of any force or violence. This is one example of the professional criminal business networks, which gives rise to the question whether these girls are really victims of trafficking in human beings. These business networks are often affiliated with other aspects of serious crime and operate as professional forms of organised crime that have infiltrated Belgian society. In major conflicts with victims, they only use violence if it is necessary to restore authority and this is mainly limited. However, if necessary, they will resort to committing acts of extreme violence to set clear boundaries and to show that they make the rules.

Belgian girls are also among the prostitution victims, some of whom are receiving counselling at one of the specialised reception centres for victims of trafficking in human beings. This often involves drug addicts who have problems with their family and do not know where to turn. Because of this, they find themselves in such vulnerable situations. They are approached in certain cafés where they receive a proposal of so-called assistance and accommodation. After being accommodated for several weeks, it is made clear to them that they must work for their living. This is how they are forced into prostitution. The pimps engage in a conscious strategy of forcing these girls into a position of dependency. They encourage the girls to sever their relationships with family,

⁶ Since 1 January, 2007, after Bulgaria became a member of the EU, they have the right, as Europeans, to a short, three-month residency in Belgium. Since that time, they have to make ‘a statement of being present in the territory’ within 10 business days of their arrival, at the municipality where they reside. During this period, they may not perform any work without being in possession of Work Permit B. For a more detailed explanation, please consult the Centre’s 2007 Annual Migration Report, Chapter 5.2.

acquaintances and friends so that they become completely socially isolated and thus dependent upon them.

1.4. Various criminal networks

The **Bulgarian networks** have become very active, particularly since the abolition of the visa requirement at the end of 2001. Earlier, some of them operated under another nationality.

There are various types of networks. One type is the Bulgarian ‘lover boys’ with one or more girls. They may operate individually or in groups. The level of organisation of this type of ‘individual lover boy’ is negligible. The other type is the organised criminal networks that operate professionally. These are well-organised and have good contact with or are managed by the Mafia in Bulgaria, which has infiltrated all strata of the Bulgarian social system. Geographically, they are primarily located in the entirely corrupt city of Sliven to the coastal region of Varna, where land is bought and hotels built with prostitution money from the West.⁷ These professional networks are difficult to combat. The bosses stay in Bulgaria. Only their lieutenants come to Belgium. They operate with Bulgarian girls in a win/win situation. There is a high mobility of the pimps and their girls between the various cities in Belgium, the Netherlands and Germany. Previously, money transfers took place via Western Union, but couriers are now more prevalent.

The Bulgarian networks have introduced a new intermediary prostitution figure: the escorts. Usually they work in window prostitution, but in Brussels they have also been seen in street prostitution. They are the ones controlling the local prostitution areas in the western cities so that the Bulgarian bosses no longer have to leave their country. They play a crucial role in the prostitution system. The escorts are Bulgarian prostitutes or ex-prostitutes who have to control their colleagues, monitor the bars and arrange the contacts with clients. The pimps adapt to the police techniques and no longer go and collect money directly from the prostitutes. This is now done through the escorts.

The operations by the escorts fall within a grey zone. On the one hand, they receive a portion of the window money collected (for example, €450 of which they keep €50 for themselves). In the case that a girl drops out, they contact a pimp on their own initiative for a replacement to prevent a loss of income. They know all the pimps because of their cooperation. On the other hand, they form a type of protection for the prostitutes. They are attentive, care for their safety and arrange their administrative affairs. According to the police, the prostitutes regard escorts as their second mother.

The **Albanian networks** have been active in Belgium since 1995. At that time, they controlled the prostitution market. They were renowned for their violence. These are small networks, allied with a family clan or region of origin. Discharged ex-security

⁷ Also see case analysis 1.1. Bulgarian prostitution network from Varna and the Centre’s 2007 Annual Report on Trafficking in Human Beings ‘A policy analysis from the perspective of a National Rapporteur’, typology chapter, Bulgarian network case.

agents from the Albanian security agency, Segurimi, were also part of these networks. In several instances, the Albanian-Kosovar networks also had ties with the former armed KLA army militia.⁸ Currently, the majority of these networks have withdrawn after various successful legal actions, and have directed themselves towards drug trafficking.

There are still Albanian networks active in prostitution in the cities of Antwerp, Brussels and the outskirts of Liège. But they remain more in the background. They do not invest their money in Western countries, but transfer it to Albania via Western Union or couriers. In the meanwhile, they also use the system of escorts as go-betweens⁹. Their girls are of Albanian and Eastern European descent. According to the police, the Albanian girls have often acquired Belgian residency permits through marriage a few years earlier.

In Brussels, a number of Albanian pimps have again emerged in the area after having been chased away for a few years by legal actions. After their release, some of them have restarted as a pimp, while others work via a front man. The Albanian networks have particularly specialised in marriages of convenience, for both perpetrators (men) and victims (women). After they become regularized through a marriage, they bring over their family on the basis of family reunification.

Furthermore, in Brussels there are also **networks of Roma-gypsies** who come from various countries (Romania, Moldavia, etc.) and who are active in the areas of prostitution and begging. The victims are of the same Roma descent. They constitute a completely separate story. They have their own social lifestyle with their own standards and values, rules and a parallel legal system. In both the victims and perpetrators view, it is normal for minors to be engaged in prostitution and begging activities. These networks are clan and region related. They use physical violence to punish 'disobedient' girls. In addition, girls can also be forced prostitution.

According to the police, the **Romanian networks** are well-organised. They consist primarily of groups of 'lover boys' and organised gangs which are in contact with their clan in Romania. Corruption is prevalent in Romania, but to a lesser extent than in Bulgaria. The Romanian networks work very professionally. They filled the vacuum that came about after the demise of the Albanian networks. The victims are primarily Romanian girls.

The **Nigerian networks** are well organised and mobile. They have been active in Belgium since 1990. The money transfers take place via Western Union and money couriers. The victims are African girls who rotate quickly between the cities of Antwerp and Liège. Several victims find themselves in a debt bondage situation and must pay off their travelling costs by working in prostitution. They are in an enforced prostitution situation. The others are Nigerian girls who have been here for some time and have obtained Belgian residence permits. The pimps are both men and women. In some

⁸ International Workshop: "The Development of Ethnic Albanian Organised Crime in Europe: A Real or Perceived Threat?" 2-3 October 2008, Brussels, Belgium, organised by the Federal Police and the Catholic University of Leuven.

⁹ Also see case analysis 1.2. Professional business network with a win-win profile.

instances, the Nigerian “madam” is an ex-victim who climbed the hierarchical ladder in the criminal network. She knows the prostitution system and has bought her freedom. In her turn, she brought new victims into prostitution. They abuse the rituals of voodoo religion to get power over the girls¹⁰. Where necessary, mercenaries are deployed in the West African country of origin to threaten the family of the victim. The victims of these networks are mostly not willing to cooperate with the judiciary.

In addition to the African cases, they are also **Asian debt bondage cases**, mainly of Vietnamese nationality. Here too, the smuggled person has to pay off their smuggling debt through prostitution and/or domestic help. These victims are likewise in a situation of forced prostitution. Victims who are put to work in a Thai massage parlour with a tourist visa – often issued by the Swedish Embassy – must work for free for the first two months to pay off their smuggling debt. They may keep the income from the third month for themselves.

Sometimes the operator organises a marriage of convenience for these victims who reside here illegally. In this way, they obtain Belgian papers and are much more difficult to apprehend during an investigation by the police. Because the victims have residence permits, the police cannot free them immediately from their perilous situation. The police are only able to do this at a later stage based on the evidence from their investigation. The charge of trafficking also becomes substantially more difficult to prove in this case.

2. Labour exploitation

Trafficking in human beings regarding labour exploitation can be traced back to the most varied economic sectors. In addition to the typical sectors, such as Asian restaurants, horticulture, textiles, domestic help, Bulgarian and Turkish bakers and butchers, Ecuadorian street trade, Indo-Pakistani night and telephone shops, there are new and atypical industries in which illegal employees are not immediately seen as victims of trafficking in human beings. This includes industries such as construction, renovation, transportation, cleaning, car wash, chicken farming and washroom cleaners. Counterfeit goods in textiles are also constantly manufactured in circumstances of trafficking in human beings practices.¹¹

In addition to small cases, it appears that organised forms of labour exploitation are often behind many cases.

Trafficking in human beings for the purpose of labour exploitation manifests itself also through a system of debt bondage with the victim being forced to pay off the debts of his smuggling trip by working for free. This often occurs in Chinese restaurants where the victim is indebted to the Chinese smuggling Triads. Currently, this may also be the case

¹⁰ Centre’s 2006 Annual Report on Trafficking in human beings ‘Victims in the spotlight’, typology chapter 2.1.3. Nigerian networks.

¹¹ Annual Report of the Federal Police Economic and Financial Crime Unit (ecofin), available on the website http://www.polfed-fedpol.be/pub/verslag_activites/rapports_act_nl.php.

in situations of domestic help with primarily Vietnamese victims. In some cases, we find links between labour exploitation, smuggling of human beings and prostitution.¹²

Other forms of trafficking in human beings for the purpose of labour exploitation involve situations in which victims, via constructions of bogus self-employment, secondment or an inferior employment contracts, are exploited by putting them to work in inhumane conditions.

2.1. Construction and renovation

Various Brazilian networks are active in the construction industry. This phenomenon is particularly prevalent in Brussels. The Federal Police are working in close cooperation with social services in this regard.

The latter provided us with the following picture. Initially, this only involved illicit employment. This freed up money with which the Brazilian networks could establish themselves here. Next, this evolved into a criminal milieu, with an involvement in fraud by buying vehicles, dealing in fake passports and dealing in drugs. Initially, the social inspectorate thought that they were dealing with small organisations and gangs. In the meantime, it has become apparent that they are being confronted with the same phenomena as in Marne la Vallée in France where forgery shops for fake documents were discovered. According to the social inspectorate, this clearly involves criminal organisations and well-organised networks.

Most Brazilians working here come from the same regions, namely Goyas or Minas Gerais. This latter region is known as a migration region. Both regions live off the money from the diaspora. The transport is organised by travel agencies. The Brazilians arrive in Belgium at the same place in Brussels. They can stay here legally for three months. According to the Federal Police, they create fake Portuguese residency permits based on their genuine Brazilian identity, in consultation with their bosses. They subsequently live in Portugal for a very short time in order to obtain a tax card there. Then they return to Belgium to work here, or somewhere else in Europe, as subcontractors to Portuguese firms on construction sites. By using these forged documents with genuine identities, linked to a legitimate Portuguese tax card and secondment documents, the police and inspection services are put on the wrong track during checks. Afterwards the perpetrators vanish and the police are left powerless.

In the last report of the Agency for Financial Information Processing (CFI), better known as the anti-money-laundering task force, reference is made to the use of the system of subcontractors by these Brazilian networks. *“As with all organised systems of fraud and money-laundering, the usual covers are used here as well, namely fictitious companies with various statutory amendments such as a succession of appointments of new directors/business managers, changing of the company name, the extension of the company’s objectives or moving the company’s registered office. These companies are eventually stripped and go bankrupt. Furthermore, front men and forged documents are*

¹² Also see case analysis 2.4.1. Wok restaurant.

*often used, as well as the manipulation of insolvency.”*¹³

In the city of Charleroi, trafficking in human beings cases were also opened with Bulgarian and Moroccan construction workers as victims.¹⁴ From this 2006 case in which the Centre has brought civil action, it appears that organised forms of labour exploitation also exist in the construction and renovation industry. This involves Turkish construction operators having slum dwellings they had acquired renovated into apartments by Ottoman Bulgarians, a significant Turkish minority group that is established in the southern area of Bulgaria and who are specially brought over for this.¹⁵ Depending on the city, daily and weekly transport by minibus is organised from the Bulgarian cities of Car Kaloyan and Plovdiv to the Belgian cities of Charleroi and Brussels. The drivers of these minibuses are also managers of their own travel businesses. In the aforesaid cities, they recruit workers by spreading the rumour that you can become rich in Belgium. According to the police, the Bulgarian men who are transported from Plovdiv are accompanied by their wives who intend to come and work here as prostitutes. The minibuses travel to a certain place in the cities of Charleroi or Schaarbeek (Brussels) where Turkish cafés are situated. Upon arrival, the drivers make contact with their Turkish connection. He arranges accommodation in a slum dwelling. In Schaarbeek, these Turkish cafés are also known to the police because of undercover prostitution.

One of the Bulgarian workmen stated that they were dropped off in one of the Turkish cafés upon arrival in Brussels. All workers gathered there at 5 pm to receive possible orders for the following day from a labour subcontractor of the Turkish principal. At that time, the witness was living with 15 people in one room in the *Brabantstraat*. This street is also known to the police for its counterfeit goods. They found the entire building full of male Bulgarians from the cities of Car Kaloyan, Russe, Biala, Dve Mogili, etc. They all had to pay rent of €80 per person per month to the Turkish slum landlord. The Bulgarian worker explained the system in his statement, dating from 2006¹⁶. They work here for three months on a large construction site until the expiry date of the stamp in their

¹³ CFI report 2008, available on the website http://www.ctif-cfi.be/menu.php?lang=nl&page=typ_ctif_cfi.

¹⁴ One of these cases is discussed in case analysis 2.1.1. Case S.

¹⁵ Bulgaria has been a member of the European Union since 1 January 2007. There is a provisional bottleneck occupation regulation for Bulgarian and Romanian employees as a transitional arrangement. In the absence of new decisions, the transitional period will currently remain in effect through 31 December 2011. The bottleneck occupation regulation is filled in regionally, as is known. Unrestricted movement of people has existed since 1 May, 2009 for citizens of the other member states. For a more detailed explanation, you can consult the Centre's 2007 Annual Migration Report, Chapter 5.2.

With regard to the monitoring of employment, an international migration information system (LIMOSA) for purposes of migration research has been in use by social administration since 1 April 2007. This involves monitoring foreign employees in Belgium in the context of free traffic in services and goods to combat fraud and misuse in the areas of employment conditions and social security provisions. In practice, every foreign employer who employs foreign employees as well as every foreign self-employed person and trainee must report such work electronically (identification information, duration of work, principal, type of service, etc.) You can obtain more information on www.limosa.be

¹⁶ We already noted that since 1 January, 2007 after Bulgaria was admitted as an EU member, the Bulgarians in Belgium have had a right to a short stay of three months as Europeans. Since that time on, they have to make 'a statement of being present in the territory' within 10 business days of their arrival, at the municipality where they reside. During this period, they may not perform any work without being in possession of Work Permit B.

passports. After that, they return to Bulgaria. There, they have their passports renewed and subsequently return to Belgium. In the interim, other Bulgarian workmen have taken their place on this construction site. Upon their return to Belgium, they first do small jobs for other Turkish owners while waiting for a large construction project.

The problem of illegal Polish workers in the construction industry is not being handled as a criminal matter within the framework of trafficking in human beings. The bogus self-employment scheme requires too many criminal investigation resources, it is difficult to prove and often leads to losing cases in the courts. Case law shows that these cases are not being labelled as trafficking in human beings. As a result a system of fines is primarily used. Nevertheless, there is a Criminal Court case on trafficking in human beings practices in the city of Dendermonde¹⁷ by Polish construction workers against a large company. These victims were discovered and reported by the local police who found the abuse of slum landlords.

In the meantime, we have been informed by a prosecutor that since the abolition of the requirement of work permits for Polish workers, no more cases have been opened for Polish victims. He is afraid that when this obligation is abolished for Bulgarian workers in the near future, no further cases will be opened for Bulgarian victims. Nevertheless, the Bulgarians find themselves in an extremely exploitative situation in which they are treated like animals by their Turkish bosses.

2.2. Car wash

A new phenomenon is trafficking in human beings for the purpose of labour exploitation in the car wash industry. The perpetrators are Pakistanis. We are not talking about small-scale exploitation here. It clearly involves organized networks. During a coordinated action by the central service on trafficking in human beings of the Federal Police, the various Federal Police forces in the cities of Turnhout, Mechelen and Hasselt and the social inspection services, a number of car washes were found to be engaging in labour exploitation, with links all over Belgium. As an extension of this action, a financial investigation was started into the money streams and money laundering practices used.¹⁸ Currently, this case is being split among the various judicial districts and has not been made into a federal case by the Federal Prosecutor's office.

2.3. Cleaning Industry

In the cleaning industry, schemes used by criminal organisations have also been found relating to trafficking in human beings. The activity report by the Federal Police also mentions this.¹⁹ The money-laundering report by the Financial Information Processing

¹⁷ This is a case in which the Centre has brought civil action.

¹⁸ 2007 Activity Report by the Federal Police, available on their website http://www.polfed-fedpol.be/pub/jaarverslag/pub_jaarverslag2007_nl.php.

¹⁹ 2007 Activity Report by the Federal Police, available on their website http://www.polfed-fedpol.be/pub/jaarverslag/pub_jaarverslag2007_nl.php.

Task Force (CFI) established that in many cases front companies with fictitious registered office addresses are used. They act as intermediaries between the cleaning companies under contract and the suspect subcontractors.²⁰ Additionally, the CFI found a succession of companies, as well as the use of front men, personal accounts, and transactions that do not correspond with the company's objective or do not correspond with the company's financial situation.²¹ According to the CFI money-laundering report, all these findings indicate the existence of an organisation that is dependent on a criminal structure.²²

2.4. Transport sector

Trafficking in human beings practices have also been found in the transport industry involving bogus self-employment and secondment schemes. This was already illustrated by a case example²³ in the Centre's 2006 annual report on trafficking in human beings. Police controls in the city of Hasselt especially, exposed the abuse of Moldavian truckers. Various new trafficking in human beings for labour exploitation cases in the city of Charleroi indicate that organised crime is attempting to infiltrate the transport sector.²⁴ In one case²⁵, where drivers were not paid and were threatened, it was shown that the trucks were being used for the organised international transport of drugs. In another case²⁶ there are strong indications that the transport firm involved is a cover for the Italian Mafia in Naples.

2.5. Toilet services

There are also Russian traffickers in human beings active across Belgium in the toilet industry. They use fraudulent schemes to employ foreigners in a chain store and petrol stations. In total, this involves twenty-two branches. Approximately five to six foreigners are employed in a type of shift system for each branch with the corresponding petrol station. In each case, one perpetrator employed at least 50 illegal workers per day. The male and female toilet assistants involved were obliged to hand over nearly their entire income. They had to work seven days a week. They paid a fixed sum per day (varying from €10 to €30) to be allowed to clean. In exchange for this, they were allowed to keep the income from visits to the toilet (normally €0.30 per use). At the end of the week, some of them had only €50 left.

These victims are primarily exploited because of their Russian-German origins. In Russia they are stigmatised as "dirty Germans". In Germany, they are regarded as inferior

²⁰ CFI 2008 typology report, available on the website http://www.ctif-cfi.be/menu.php?lang=nl&page=typ_ctif_cfi.

²¹ *Ibid*

²² *Ibid*.

²³ Centre's 2006 Annual Report on Trafficking in Human Beings 'Victims in the Spotlight', typology chapter 2.3.2. European transport companies.

²⁴ Also see case analysis 2.3. Transport.

²⁵ Also see case analysis 2.3.2. Case Y.

²⁶ Also see case analysis 2.3.1. Case B.

Russians and illegitimate Germans. The victims in this case live and sleep in appalling conditions. The abuses were first discovered by the traffic police in the city of Namen and subsequently transferred to the Federal Police in Turnhout. Further investigation showed that the organisation is active across Belgium on motorway parking lots. In the meantime, the system of exploitation is continuing unabated.

2.6. Poultry industry

In the judicial district of Hasselt, practices of trafficking in human beings were also found among the employees of chicken farming facilities, who were illegally employed. They were being exploited by Turkish owners. They deployed Ottoman-Bulgarian men to take care of the chickens. This came to light after people in the neighbourhood reported the slum landlord practices²⁷ of which the Bulgarians themselves were victims. After questioning, it appeared that they were being exploited by the Turkish owners of these chicken farming facilities.

2.7. Night shops and telephone shops

Night and telephone shops are run mainly by Indo-Pakistanis, but sometimes also by Turks. The Indo-Pakistani managers often do not have valid Belgian residence permits. According to the social inspection services, checks in Brussels show that at least half of the Indo-Pakistani night shops violate social legislation. Furthermore, situations of trafficking in human beings have also come to light where victims have to pay off their smuggling debts by working in the shop for free.

In another large-scale case²⁸ regarding the organisation of marriages of convenience, similar facts were found. Victims who had paid for a marriage of convenience had to pay off their debts by working in the shops, virtually for free. A variety of these non-regulatory night and telephone shops are affiliated with Indo-Pakistani smuggling networks. They use these shops as transit locations and safe houses for smuggled people and as a meeting place and money-laundering machine for their criminal gains from trafficking. Various police forces also report the fact that these shops are being used for the financing of terrorist groups.

2.8. Domestic help²⁹

Practices of trafficking in human beings in the domestic help industry are sometimes difficult to expose, certainly when diplomats or business acquaintances of embassies are involved. Cases of domestic helpers working in embassies have been opened by the

²⁷ See Part 2, Chapter 1: good and bad practices: victim detection.

²⁸ This is a case in which the Centre brought civil action.

²⁹ The National Action Plan on Trafficking in Human Beings has dedicated a chapter to this. Available on our website at trafficking in human beings/documentation: National Action Plan, pg.19 <http://www.diversiteit.be>

labour prosecutor, but have not led to criminal prosecution due to diplomatic immunity. A solution for these victims is usually sought via a humanitarian arrangement.³⁰ In a case that was also mentioned in the media³¹, a member of the Belgian Embassy testified about the inhumane circumstances in which an Indian au pair girl had to work and live in the home of a Belgian diplomat. Additionally, there are still small-scale cases pending. These deal mostly with some households from the Maghreb environment.

The police of Brussels have also established debt bondage practices in various Vietnamese domestic help cases where victims have to pay off their debts by working in prostitution. In our previous report on trafficking in human beings we already mentioned two cases in which young girls were exploited as domestic help, where they were primarily abused to satisfy the sexual lust of the exploiters.³² The exploiters could not be prosecuted or convicted of sexual exploitation because this did not involve prostitution.

In our 2006 annual report³³, we demonstrated how Russian employment agencies with an official licence recruit girls by means of advertisements for work as domestic helpers in countries like Belgium, Italy, Spain, Israel and Japan. The girls were forced to work in prostitution through the debt bondage system in order to pay off their so-called debts for transportation, papers and employment application.

In another case³⁴ we noticed how employment agencies recruit young women to go and work as domestic staff for wealthy families and how those young women and/or their families were subsequently pressured by accomplices to withdraw their statements. Here, we see that there is solid evidence of organised networks.

2.9. Grey economy

The CFI anti-money laundering task force has already often warned us for the dangers of the grey and black economies where trade union rights and honest competition with correct entrepreneurs do not exist. In its last report they write: “Trafficking in human beings and the trafficking of clandestine workers is increasingly significant in the reported money-laundering cases. Together with cases in connection with the exploitation of prostitution, these cases represented 15.6% of the money-laundering reports in 2008”.³⁵

According to the CFI, the use of criminal commercial activities offers a double benefit to

³⁰ See Chapter 1: Recent regulatory and legislative changes concerning trafficking in human beings

³¹ Belgian newspaper *De Morgen*: ‘Visa in exchange for a bottle of cognac’, 05/02/08 and *De Morgen*: ‘Bus loads full of people with illegally obtained visas were constantly leaving’, 13/02/08.

³² The Centre’s 2007 Annual Report on Trafficking in human beings ‘A policy analysis from the perspective of a National Rapporteur’, typology chapter, case V. and the case of an under-aged girl.

³³ The Centre’s 2006 Annual Report on Trafficking in human beings ‘Victims in the spotlight’, typology chapter 2.1.1. Russian employment agency with a licence as a major prostitution network

³⁴ This is an ongoing civil case in which the Centre has brought civil action.

³⁵ CFI 2008 typology report, available on the website: http://www.ctif-cfi.be/menu.php?lang=nl&page=typ_ctif_cfi.

criminal organisations. The illegal activities are easier to carry out and the money that results from this can be laundered. This is an upward trend that is found at an international level, particularly in the Asian restaurants that are involved in trafficking in human beings and where a link exists with Chinese Triads. “In doing this, multiple legal procedures are being abused, such as short-term visas for Schengen countries, business visas, the student charter and marriages of conveniences for family reunion purposes. Fake documents are also being used”³⁶ states the CFI report.

The CFI report also refers to other sensitive sectors such as the cleaning industry and construction sector where through letter box companies, bogus self-employment, secondment and labour subcontracting, all sorts of criminal schemes are being set up. We also see this in other sectors, such as the transport industry, night shops, the textile industry, etc. It is obvious that such criminal infiltration into the economy poses a threat to the Belgian social and economic system and in time could even disrupt the entire social order.

The National Action Plan on Trafficking in Human Beings of the government also devotes a chapter to this.³⁷

3. Smuggling of human beings

Currently there are active smuggling networks mainly from Indians (Sikhs), Kurdish Turks, Kurdish Iraqis and Afghans. The Albanian smuggling networks have been pushed aside.

In the Turkish-Kurdish smuggling networks, we find payments for the protection of the honour of the female victim. In the 2006 annual report on trafficking in human beings, we also illustrated this on the basis of a practical case.³⁸

In addition, there are Chinese networks and other traffickers that use airline travel, for which they provide the necessary documentation to their clients who are being smuggled. The problem of the smuggling loopholes in intra-Schengen travel also arises here. We also raised this on the basis of a case cited in our 2006 annual report.³⁹

Smuggling networks are always looking for the vulnerable links in the official system to organise abuses. For this purpose, they create fake documents and use corruption and deception.

An alarming trend was found by the Federal Police in connection with the use of

³⁶ CFI 2008 typology report, available on the website http://www.ctif-cfi.be/menu.php?lang=nl&page=typ_ctif_cfi.

³⁷ Available on our website on trafficking in human beings/documentation: National Action Plan, pg. 28 <http://www.diversiteit.be>

³⁸ The Centre's 2006 Annual Report on Trafficking in Human Beings 'Victims in the spotlight', typology chapter 2.2.3. Turkish business smuggling network.

³⁹ *Ibid.* 2.3.1. Debt obligation in the catering industry.

fraudulent documents that are obtained on the basis of deception. “This not only involves cases of identity changes using look-alikes, but also authentic documents that public bodies issue in good faith to a person with a ‘borrowed’ identity.”⁴⁰

In the previous annual report on trafficking in human beings⁴¹ we referred to the problems surrounding such fraud on embassies because of the Sofia case⁴². This case also formed the basis of the report on visa fraud by the Senate Subcommittee on trafficking in human beings⁴³. Meanwhile the media reported on several cases⁴⁴ of visa fraud in Belgian embassies, including the embassy in Bucharest⁴⁵. Although various diplomats were questioned regarding reports of visa fraud during the hearings of the subcommittee in 2000-2002, the subcommittee was never informed of the abuses in the Belgian embassy in Bucharest. However, the Ministry of Foreign affairs was fully aware of this. In another case⁴⁶ smuggling networks offered their smuggled clients an asylum package in the destination country through their travel agencies and lawyers.

⁴⁰ The 2007 Activity Report by the Federal Police, available on their website http://www.polfed-fedpol.be/pub/jaarverslag/pub_jaarverslag2007_nl.php.

⁴¹ The Centre’s 2007 Annual Report on Trafficking in Human Beings “A policy analysis from the perspective of a National Rapporteur”, Part 1 question 51 and the Centre’s 2005 Annual Report on Trafficking in Human Beings “The Belgian policy on trafficking in human beings: analysis and assessment” Chapter 5.6. and the Centre’s 2004 Annual Report on Trafficking in Human Beings “Analysis from the victim’s perspective” Part 1 Chapter 3.4. and the Centre’s 2003 Annual Report on Trafficking in Human Beings “Plea for an integrated approach” Part 1 Chapter 1 and the Centre’s 2001 Annual Report on Trafficking in Human Beings “Conceptualisation of trafficking in human beings and analysis of the jurisdiction”.

⁴² Also see Chapter 4, Case Law.

⁴³ Recommendations of the Senate regarding visa fraud and trafficking in human beings, the Committee for Interior and Administrative Affairs, session 2002-2003, doc. 2-1018, available on our website under trafficking/documentation <http://www.diversiteit.be>

⁴⁴ Recently, new cases of fraud were exposed by the media. In one case, a local employee of the Belgian Embassy in Iran sold thirty Schengen visas. For more information, see the De Standaard and De Morgen newspapers of 11/06/09.

⁴⁵ De Morgen, visa in exchange for a bottle of cognac, 05/02/08 writes: A diplomat who arrived at the embassy in late 2001 found “a total chaos” there. “Every day, several dozen fraudulent visa applications arrived”, he stated to the public prosecutor. “I personally found that a considerable sum of money was offered to staff on two occasions.” According to statements by other witnesses, the managers of X, especially Ambassador Y and chancellor Z, were perfectly aware of the fraudulences scheme and let him continue undisturbed. “I repeatedly reported the abuse to the ambassador”. “He always referred me to the chancellor. He once told me that I should not always say what I thought and that I had better keep some things to myself, because otherwise things would turn out to my detriment”. “The chancellor was more subtle than X.”, a witness told the court. “For example, one day I brought him four files from some travel agency and I showed him that these were clearly forgeries. Of course I could not issue the visas, that was self evident. What happens? He wanted to keep those files in his office to ‘review them’. When I wanted to talk to him about this again in the afternoon, he was not there. I asked where he went, of course, he was at that travel agency, and he had been invited to lunch. The following day, it turned out that the visas had been issued and signed by X.” Also see De Morgen, “Bus loads full of people with illegally obtained visas are constantly leaving”, 13/02/08.

⁴⁶ This is an ongoing civil case in which the Centre has brought civil action.

3.1. African look-alike

Several smuggling routes were traced in the airport in the city of Liège (Bierset). From Liège, Congolese traffickers organised smuggling transport for air travellers from the Ivory Coast and Ethiopia to Ireland or Canada through a system of look-alike documents. The route ran through Turkey, Germany and Belgium. Because the 'customers' had to bear some resemblance to the photographs in the documents, these transportations had to be individually ordered.

3.2. Smuggling routes for prostitution

Last year there were several direct flights between the city of Liège and Bulgaria. On arrival in Liège, several girls were collected by a car with German licence plates. The girls were destined for prostitution in Germany. These flights only operated for a short time.

In the recent past, other flights carrying suspected prostitutes were scheduled from Pristina and Tirana. Meanwhile, this route was cut off by the police.

The police also intercepted on charter flights two girls from the Canary Islands who were working as prostitutes. They made use of the gaps in intra-Schengen travel agreements.

3.3. Chinese smuggling networks

Previously, Chinese people were illegally smuggled by the Chinese Triads and they had to pay off their smuggling debt by working in restaurants. This still happens, but according to the police it has evolved. In recent years, the phenomenon of organised abuse of student visas has also surfaced. This was stopped in 2009.

In the city of Charleroi, a partnership was concluded between the UT (University of Employment) and the University of Fujian in China. On this basis, 550 Chinese students arrived, 200 of them in 2008. Many of them knew no French and did not have the required entrance diplomas. The police and magistrate confirmed that this clearly involved organized crime syndicates. The Chinese organizer of this scheme was an important businessman in China, associated with the Chinese Triad. The man was part of the Chinese delegation at the reception of Western trade commissions. Through consultations with the Chinese authorities in Beijing in 2009, these abuses could be stopped.

3.4. Kurdish smuggling networks

Car parks along the motorways to the coast of Belgium still play an important role in the Kurdish smuggling networks. Currently, these networks control these parking lots. They outsource the use of them to other smuggling networks. This involves vast sums of money. According to the police in one case a smuggling group had to pay €23,000 to the Kurds as rent for the use of their territory for a limited period. The Kurdish traffickers are very violent. As a result serious fighting occurs frequently in the parking lots.

The smuggling networks are specialising themselves. They are organized in clusters that work together flexibly. To monitor and manage safe houses, for example, there are safe house keepers who have no other job but this.

3.5. Indo-Pakistani smuggling networks

The Indian smuggling networks transport mainly Indian Sikhs. One half of the area occupied by the Sikhs lies in India, and the other half in Pakistan. They are active in trafficking in human beings and labour exploitation through debt bondage in night shops.

They are active in organizing marriages of convenience. Their shops serve as contact points for this purpose. Marriages of convenience are organised between Indian or Pakistani men and Portuguese women. The marriages were performed in Denmark, Sweden and Portugal. After the marriage, the men settled in Belgium. In some cases, these men had to subsequently pay off their debts by working for free in the shops. Rogatory committees were sent to these countries. Various Federal Police services worked together to dismantle the entire network of seven Indian organizers of marriages of convenience in Belgium and the other coordinators in Sweden and Portugal. The Belgian shops and organizers were located in the cities of Hasselt, Ieper, Namen, Antwerp, Brussels, Charleroi and Liège. The Federal Public Prosecutor refused to federalise the cases, so the files were divided by each judicial district. As a result, the overall picture was lost.

The smuggling routes all initially led to England. For this the Indian traffickers passed their smuggled clients on to Albanian traffickers. Later, a smuggling route ran through a town in Denmark where marriages were organized between Indians and poor Portuguese women. This came to an end after several months, when Belgium reported this to the Danish authorities, who in turn took the necessary action. As a result, the smuggling route moved to Sweden, where marriages were also easily organized. After consultation with Sweden, appropriate measures were also taken against this. Since the summer of 2008, the police have discovered a new shift in the smuggling route, this time to Portugal. Here, victims can get temporary work as tomato pickers and obtain a permit. They subsequently come to Belgium. Cooperation between the Portuguese and Belgian judicial authorities is difficult, because solving this problem is not a priority for Portugal.

A few months ago 160 smuggled Indians were discovered through an intervention in a large Indian smuggling network. Of these, only one victim was repatriated and only four

victims were granted trafficking in human beings victim status. The other victims were ordered to leave the territory. Because they do not know where to go and the police cannot help them with this, in reality they can only go back to the smugglers.

Payment for smuggling is made using the so called 'hawala system'⁴⁷, which leaves no trace of transactions. Payment often takes place mutually between the various families, several of whom are residing in Italy. They also have a lot of money in Italy, but it is hard to seize this because Italy still has many problems in the context of its own regional cooperation. Larger judicial districts do not work together closely there and the mutual exchange of information is also problematic.

4. Other forms of exploitation

There are also other, less known, forms of exploitation in the context of trafficking in human beings, such as begging, organ transplantation and being coercion to commit offences.

4.1. Begging

The problem of organized begging in the context of trafficking in human beings⁴⁸ can mainly be traced back to Roma gypsies. Not all of them come from Romania. They live in clans and have their own closed cultural system of living. According to the police, investigation is difficult because this community is inaccessible and difficult to approach. In a practical case, the police conducted surveillance based on a victim's story, but had to stop because they got noticed in the street. No further evidence was found that could be used to continue the case.

4.2. Coercion to commit offences

For three years, the city of Charleroi has been confronted with the phenomenon of Moroccans who are staying here illegally and are forced to sell drugs. In these cases, sometimes only a drug case file is opened. In practice, the victim is confronted with several problems in order to obtain trafficking in human beings status.

From our interviews with the police, it appears that these are not isolated cases, but clearly involve a new strategy by criminal organizations. According to the police, this is an international phenomenon to which little or no attention is paid. The coordinators are living in Morocco and send people from over there to Belgium.

⁴⁷ For a more detailed explanation of this payment system, see case analysis 3.2.

⁴⁸ As a reminder: the exploitation of begging is one of the conclusive exploitations, provided for in Article 433 quinquies of the Penal Code, which defines the crime of trafficking in human beings. See the Centre's 2005 Annual Report on Trafficking in Human Beings: "The Belgian policy on trafficking in human beings: analysed and assessed" Chapter 1, point 2.2.

The drug dealers in Charleroi are located in the prostitution area close to the night life area. Some dealers walk around armed with knives and firearms. The police can no longer monitor this phenomenon because they are immediately noticed by the criminals. The Moroccan dealers usually have no legal residence permit and originate all from the same region of the Rif in Morocco. Most of them know that they are recruited as drug dealers and can earn a lot of money doing this. Others, however, are lured here with the promise that they can work in construction. On their arrival, they are forced to work as drug dealers, also because of their debt bondage. Between mid-2006 and mid-2008, 425 illegal residents working as drug dealers were found in Charleroi.

In the city of Antwerp, the police are confronted with Chinese people who have accumulated large gambling debts in the local betting shops of the Chinese Triads. To pay off their gambling debts, the victims are compelled to smuggle ecstasy and/or to work as a smuggler of human beings for the Chinese Triads, through a system of debt bondage.

In the Netherlands, the National Rapporteur for Trafficking in Human Beings also pointed to this phenomenon in the context of trafficking in human beings.⁴⁹ It already collected several cases regarding forced criminality, such as pick-pocketing and forgery.

⁴⁹ See 5 the Bureau of the National Rapporteur Report on Trafficking in Human Beings, p. 217 website <http://www.bnrm.nl/>

B. CASE ANALYSIS BY FORM OF EXPLOITATION

Preliminary remark: the cases that are discussed in this section, concern cases that sometimes involve serious violence. We describe and assign the facts as we find them, without mitigating the facts or adapting the language used. The editorial style here is different than what the reader would ordinarily expect to find in an annual report. However, we believe that by employing such direct and descriptive language greater accuracy can be achieved in testifying about the victims of exploitation, the harsh reality that lies behind it and the importance of continuing to combat trafficking by all means possible.

1. Sexual exploitation

1.1. Bulgarian prostitution network from Varna

This prostitution case from the city of Bergen dates back to 2001. The case is linked to the Bulgarian case from Brussels⁵⁰ that we discussed in our previous annual report⁵¹. The main defendant was recently sentenced to four years imprisonment, with three years of suspension.⁵² The trial took so long to start because the Bulgarian authorities were not really willing to cooperate⁵³ and place the suspect under ‘house arrest’ in Bulgaria based on the facts for which he also stood trial in Brussels.

Officially, D. was involved in the motor vehicle import and export business in Bulgaria. He owned several prostitution bars in the Bulgarian coastal city of Varna. Interpol noted that in Bulgaria he was known for various acts of burglary and theft, but not for prostitution. Nevertheless, D. had set up a prostitution chain in the coastal city of Varna, together with a Russian partner. In this case we see how accidental circumstances gave him the idea of setting up a prostitution business in Belgium and the Netherlands from Bulgaria. In the following paragraphs we outline the course of events.

In January 2001, a poor under-aged Bulgarian girl meets Bulgarian pimp D. in a discotheque in the tourist coastal city of Varna. She falls in love with him. He asks her to go and live with him in an apartment in Varna. The girl runs away from home and moves in with him. After they have been living together for a week, he takes her to a luxury tourist bar where they meet two other girls. D. knows that his flatmate has little money and suggests to her to earn some extra money through prostitution. He promises her half of her profit from prostitution. Reluctantly, she agrees to this, after she witnesses just before this how a girl was beaten up. The three girls are then taken to a villa where they

⁵⁰ See Chapter 4, Case Law.

⁵¹ The Centre’s 2007 Annual Report on Trafficking in Human Beings ‘A policy analysis from the perspective of a National Rapporteur’, typology chapter, Bulgarian networks case.

⁵² Bergen Criminal Court, 1 September 2008, Third Chamber, the ruling is final.

⁵³ See Part 2, chapter 1: Good and bad practices: international cooperation.

are threatened and accompanied by an accomplice who forces them to stay. She knows that D. bought two other girls from another pimp. She sees how her two partners in misfortune are beaten up. D. also tells her that he had set fire to the houses of the girls who had refused to cooperate. From this villa they were regularly taken to the luxury bar to prostitute themselves. They had to give their prostitution money to one of the accomplices. They received virtually nothing themselves. Under a false pretext, she then manages to flee home to her parents in August 2001. Her parents did not file a charge against D. in Bulgaria, because they knew that he was receiving protection from the police.⁵⁴

Her parents initially hid her with her grandparents. They subsequently sent her to her cousin who has lived in Belgium since 1995 in the city of Mons. Officially, her cousin ran a massage parlour in Mons. However, in reality it turns out that she is also a female pimp who voluntarily employs various girls. The clients pay between €75 and €125. The victims are supplied by Bulgarian pimps. They are in a win/win situation and receive half of the profits. The under-aged victim lets herself be persuaded by her cousin to also voluntarily engage in prostitution. The cousin calls D. and taunts him with the fact that his girl is now working for her. Initially, he becomes angry. He demands €5,000 in debt. Thereafter, he also sees the profitable side of this. Apparently it is quite easy to start and manage a prostitution business in Belgium. Moreover, this is extremely profitable. D. and the cousin then decide to work together in Belgium and agree on how to share the profits.

The cousin later on comes up with a plan to murder D. in a staged car-jacking on the motorway. When she executes her plan D. survives the attack. The cousin starts looking for a way out and asks the under-aged girl to file an anonymous complaint with the police against D. because of trafficking in human beings. The under-aged girl agrees to this and the cousin also files an anonymous complaint.

The investigation into trafficking in human beings against D. was initiated because of this anonymous complaint. This investigation showed that he had already employed a few girls. He recruited them as dancers, but upon their arrival in the bars, they were forced into prostitution. Despite all promises, the victims received no money. They were also threatened with violence. In the meantime, D. also started a prostitution bar in Rotterdam (the Netherlands), together with his Russian partner S. and a Dutchman. Here too, under-aged girls were put to work. A few days later the police also conducted a search of the 'massage parlour' of the cousin in Mons. In addition to the Bulgarian girl, they also find another under-aged Bulgarian girl who was hiding in the wardrobe.

During this investigation, rogatory committees were sent to Bulgaria and the Netherlands to identify the prostitution bars and operators concerned. In this case there are no indications of a financial investigation. The analysis report by the police, which was also used as the basis for all questions in the investigation, should be seen as a positive element.⁵⁵

⁵⁴ See Part 2, chapter 1: Good and bad practices: corruption.

⁵⁵ See Part 2, chapter 1: Good and bad practices: International cooperation and investigative methods.

1.2. Professional business networks with a win/win profile

This case is situated in the city of Brussels and dates back to 2004. This is an example of a professional prostitution network in which fictitious structures are set up⁵⁶ and the victims are in a win/win situation.⁵⁷ The case was being handled by an examining magistrate in the city of Liège and the investigation was conducted by the Federal Police of Brussels. The police forces used telephone taps, surveillance and asset investigation. And they financially analyzed all bank accounts. During the investigation, corruption practices were also discovered with regard to obtaining a licence for the bar. The telephone tap showed that there was also dubious contact with an embassy.⁵⁸

The investigation started in Liège when the police in the city of Flemalle received information about a Sicilian who controlled two prostitution bars in Brussels. He was already known to the police for drug charges. He maintained an exuberant lifestyle by gambling and buying expensive jewellery. Every Thursday, the Sicilian came to Brussels in the context of his illegal activities. One day, the police noticed that the man was acting as a pimp by sitting in his car and using his mobile phone to call his prostitute to check up on her. The police also saw the girl using her mobile phone behind her window. The acts took place in the Aarschotstraat, a well-known prostitution district near Brussels' North Station.

The police investigation showed that a Belgian of Albanian descent was responsible for transporting the girls and then provided them to the Sicilian pimp. This Belgian of Albanian descent turned out to be related to a ringleader of an Albanian smuggling network. The ringleader, also an ex-security agent in Albania, had twice been sentenced in large smuggling cases in Belgium in the last five years.⁵⁹ The profits from prostitution were enormous. One girl in the Brussels bar was bringing in €7000 gross per day. The girls worked 30 days a month. In total, there were 10 girls. Accordingly, this brought in €2.1 million in total.⁶⁰

The Sicilian pimp had set up a false judicial construction⁶¹. He put his two bars in the name of his female partner, an ex-prostitute. The telephone taps showed that he was pulling the strings in the management of the bars. Officially, these bars were licensed premises where party rooms could be rented. The people renting them had to declare that they were personally responsible for their use. In reality, these activities were a screen for

⁵⁶ See phenomenon analysis A, point 1.2. Professionalisation of the networks

⁵⁷ See phenomenon analysis A, point 1.3. Victim profile

⁵⁸ See Part 2, chapter 1: Good and bad practices: network analysis and financial investigation.

⁵⁹ The Centre's 2005 Annual Report on Trafficking in Human Beings "The Belgian policy on trafficking in human beings: analysed and assessed" Chapter 5.6. states: "One of the Albanian defendants had also been a security agent for Berisha and previously possessed a diplomatic passport when he was living in Brussels. He had already been sentenced in the Albanian case in Dendermonde and continued his criminal activities from prison. In the Albanian gang the names of the same defendant and an accomplice were also found on a money transfer to Albania for the 'Partitia Demokratike' of Berisha."

⁶⁰ See Part 2, chapter 1: Good and bad practices: the importance of financial investigation and see Phenomenon Analysis A, point 2.9: Grey economy

⁶¹ See phenomenon analysis A, point 1.2. Professionalisation of the networks

prostitution. The female employees were recruited under the false qualification of waitresses.

The prostitutes were obliged to pay additional rent via a system of window rights. For this the 24 hour period was divided into four shifts of six hours. The price per shift was €100, but could also vary, depending on the girl. If a girl worked two shifts in one day, the rate was reduced to €175. This system of false constructions was set up to prevent the police from drawing up official reports against the operators/exploiters of the brothel, because officially they were only responsible for renting them out.⁶²

Escorts were used as intermediaries. The escorts justified their presence in the bars on the basis of having to protect the prostitutes. This was partially true, but their most significant role was to monitor the productivity of the prostitutes and the collection of money destined for the exploiters. By using this form of false constructions, the pimps arranged that they no longer had to personally collect the money from the girls.⁶³

In addition to the window rights, the prostitutes had to hand over 50% of their total proceeds to their pimp. The waitresses in the bars were virtually exclusively Bulgarian girls without a work permit but with a residency permit that was valid for three months⁶⁴. However, there were also Belgian and Ukrainian girls. The Bulgarian prostitutes have the reputation of being very willing and dedicated to their work. These waitresses travelled back and forth between Belgium and Bulgaria every three months.

1.3. Flexible pimps and Belgian victims

This case occurred during the period between 2003 and 2007. It was handled by an examining magistrate in the city of Liège and the Federal Prosecutor's office. This does not involve a genuinely professional network with all types of false constructions, but rather individual pimps who flexibly take advantage of existing legal or tolerated prostitution opportunities, such as an Eros centre.

The accused in this case are a Belgian, three Albanians and two Moroccans. The Belgian and Albanian pimps work in close cooperation. The Moroccan pimps are competitors.

The concerning Albanian pimps are extremely violent. The Belgian knows them because of his job as a truck driver and a trucker's café where they met each other. The Albanians and Moroccans know each other from the drug business. With regard to prostitution, the Moroccans primarily focus on Liège street prostitution, while the Albanians use the prostitution bars and windows. The Albanian pimps work together with window prostitutes in the cities of Antwerp and Sint-Truiden and take advantage of the legal prostitution circuit in Rotterdam in the Netherlands. It was clear that the monitoring of

⁶² *Ibid.*

⁶³ See phenomenon analysis A, point 1.2. Professionalisation of the networks.

⁶⁴ In 2004, Bulgaria still had the status of an expansion country of the EU and the visa requirements for Bulgarian nationals had been abolished.

criminal infiltration and abuse was insufficient in this case. They also used the prostitutes as drug couriers between Belgium and Rotterdam.

In this case, mention is also made of a café in Liège that was visited exclusively by Albanians. In this café, a victim overheard a conversation about the organisation of marriages of convenience for which the Albanian marriage partner had to pay €5,000 of which the marrying Belgian received €2,000. In some cases, the female Albanian marriage partner was also placed in window prostitution after this. The statements by victims also showed that €5,000 was promised to various Belgian prostitutes for entering into a marriage of convenience with Albanians who were already staying illegally in Belgium, or who still had to come over from Albania.

The Belgian recruiters focused primarily on marginalised victims with problems. In several cases, the victim was a Belgian⁶⁵ or a French girl addicted to drugs with problems at home. The Belgian met them in a café and suggested that they come and stay with him for a week. The girls agreed to his proposal. After three days, the Belgian introduced them to two Albanian brothers. He told them that he had found a new girl to go and work in Rotterdam. He led the girl to believe that the work entailed keeping businessmen company and that no prostitution was involved. She accepted and, after a casting in a Brussels hotel, was taken to a legitimate Eros centre in Rotterdam together with other girls. There were some 60 girls working there. They were split up according to the language that they spoke. They had to induce the clients to buy drinks.

After working there for an hour, the girl was selected by a well-known client of the club. They drank something and she was forced to perform sexual acts. Upon her return to the Belgian, she said she wanted to stop. He then appealed to the two Albanians. The three men beat and raped her. They pushed a pistol into her vagina. The victim confided in another prostitute who lived with the Belgian. The latter tells her that she experienced the same thing a year ago and that since then she prostituted herself without resisting. After a week in Rotterdam, the Belgian took the victim to the city of Antwerp where she ended up in a window because she brought in too little money. The Albanians also administered drugs to her on a daily basis, to make her dependent. This succeeded, because she eventually asked her clients for more money to buy drugs herself.

Thereafter, she came into contact with a Moroccan drug dealer through the Albanian brothers. She fell in love with him. After she learned from the Belgian that the Albanian brothers had arranged a marriage of convenience for her with an Albanian cousin (also a pimp) and that the Belgian would receive €5,000 for this, she fled to her Moroccan drug dealer. He took care of her together with his brother for three months. She became pregnant by him. In her own words, he beat her 'less severely than the two Albanians' and also wanted her to prostitute herself. When the Moroccan brothers heard that the Albanians had placed a contract of €750 on her head and were also threatening them in this regard, they returned the victim to the Belgian. The Moroccan brothers received the reward of €750 for this.

⁶⁵ See Part 2, chapter 1 of the Dutch or French version of this annual report.

Immediately after the handover, the Belgian took a weapon out of his truck. He pressed the weapon against her temple and told her that there is nothing she can do. At that moment, an acquaintance of the Belgian came by, causing him to get out of the truck. She saw a mobile phone and succeeded in using it to call her sister. She told her sister that she was going to die and asked her to inform the police if she did not hear from her the next day. At that moment, the Belgian got back into the truck. He caught her with the mobile phone and called the Albanians to come over. She was then beaten severely and raped. She screamed that she was pregnant. They told her that she had not paid off her debt of €10,000 yet. She was beaten so badly that her skull was deformed and her eye socket damaged. She pleaded with the perpetrators to kill her so that she would be freed from the pain.

Afterwards, they let her return to her mother and she was admitted to a women's shelter. However, she left the women's shelter and went to live with the Moroccan drug dealer again. Because he needed money, he sent the victim back to the street for prostitution. At a certain time, the girl then caught a bus to the city of Liège. When she disembarked, she was picked up by the Albanian brothers who were accompanied by two other Albanians. The four men took her with them in their car. She was taken to a house where she was again sexually tortured for many hours by the four Albanians. She was repeatedly raped by two of them simultaneously. They told her that she hadn't paid anything and that this could not continue. They also threatened her by saying that the significant Albanian community in Belgium would always be able to find her. They then took her back in the car with them and dropped her off somewhere in a rural area. She was hospitalised for gynaecological reasons. After her operation, she returned to the women's shelter.

One of the four Albanian rapists was the so-called B. He was formally identified by the victim and only four months before he had already been sentenced to 4 years imprisonment in Belgium, two years of which were suspended, for trafficking in human beings. He was repatriated to Albania to finish his prison sentence there, but was back in Belgium within two days. During his questioning, he swore on his children's heads that he had nothing to do with prostitution.

The facts were discovered after the supervisor of the women's shelter contacted the police. The Belgian victim was too afraid to make any statements. After much urging, the victim was finally willing to make statements to the police in the presence of the supervisor, but only on the basis of an information official report. Fearing for her life the victim refuses to file a complaint. She also did not want to confront the Albanian brothers. The attorney of the Albanian accomplice named B. requested a confrontation between the victim and his client. When the victim was again asked to attend a hearing about the role of B. in her rape, it turns out she disappeared and is no longer registered in the population register. From her safe house, she informed the police – via her mother – that she wants to be left in peace and that she wants to forget the past.⁶⁶

⁶⁶ See Part 2, chapter 1 of the Dutch or French version of this annual report.

1.4. Belgian defendants and Romanian victims⁶⁷

This case of sexual exploitation exposed the problem of the investigative capacity⁶⁸ of the police. These serious criminal charges date from 2005 and 2006. Romanian victims were recruited in a Belgian café with false promises of work as babysitters or waitresses in the hotel and catering industry or to marry a Belgian man and come and live in Belgium. In Belgium, the victims were sexually denigrated, subjected to drug sessions and forced into prostitution. The majority of the Belgian defendants had already been married multiple times, each time to a new Romanian girl. They had set up a type of marriage agency in Romania.

The case was opened at the end of October 2005. The victims were only questioned in June 2006 due to a lack of police investigative capacity. Only after the summer, the investigation really started by another Federal Police service. In the following paragraphs, we outline the process of this case.

At the end of October 2005, a Romanian victim reports to the Belgian local police. She is extremely upset. Her story shows that she was abused by a Belgian. Because she hardly speaks Dutch, the police call in an interpreter who can calm the victim down and reassure her.⁶⁹ The police also contacted the municipal population services. This telephone conversation shows that the Romanian woman can legally remain in Belgium until the end of December. The police also telephoned the Aliens Office. This department notes that no further action must be taken. After the interview had been under way for an hour, the police contacted the reference magistrate at 11 pm. He subsequently issued an order that the girl provisionally be placed in a specialised reception centre for victims of trafficking in human beings.

On 23 January 2006, a member of Standing Police Monitoring Committee (Comité P) reports that another victim had approached him. He drew up a statement regarding this and subsequently sent this to the Federal Police concerned.

Four years earlier, the Romanian victim concerned had worked in a restaurant in Romania. Here, she came into contact with a Romanian and a Belgian defendant. They introduced themselves as the owners of a maintenance firm and offered her work as a cleaning lady in Belgium. She accepted their offer. When she arrived in Belgium, she was told that there was no longer any work for her. She was sent into the catering industry. In reality, this turned out to be a brothel in Brussels. She was sent to several brothels that were being run by owners of Turkish origin. There, they attempted to hire her out or sell her.

Her papers were taken away from her and she was not allowed to contact anyone. She did not want to prostitute herself, but under the threat of violence she was abused by the Belgian defendant, his son and their friends. She stated that he, together with his friends,

⁶⁷ See Chapter 4, Case Law.

⁶⁸ See Part 2, chapter 1 of the Dutch or French version of this annual report..

⁶⁹ *Ibid.*

was engaging in drug use and dealing and also urged her to use drugs. The victim wanted to get away from the Belgian, which is why she fled to a women's shelter. He came to take her away from there, issuing threats. He told her that if she ever reported this to the police, she would be deported and that she would have to leave her children behind because they belonged to him. More than once, the Belgian also threatened to murder her. In her statement, the victim told the police that on the basis of what she had already seen and personally experienced with him, she was convinced that he would carry out his threats. She did not want to provide further details of these experiences.

The Belgian continued to put her under increasing pressure by claiming that he could ensure that her aunt and brother, who were also in the country illegally, could immediately be deported by the police. Her brother was blackmailed and had to pay the Belgian €500 per month to obtain papers in Belgium or to remain here.⁷⁰ The abuses were getting worse and the situation became intolerable. The victim looked for a way out and a few days later she is admitted to a specialised victim centre.

On 3 February 2006, the Federal Police contacts the reference magistrate. They apprise her of the situation concerning the victim and her children. The magistrate makes the following decision. A new preliminary official report must be drawn up against the suspect including the statement by the victim. This must be done as soon as capacity is available within the trafficking in human beings task force.

On 27 April 2006, the Federal Police reports that its trafficking in human beings task force is busy with an important trafficking in human beings case and that there is currently no capacity available in the trafficking in human beings department. They subsequently hand the case over to the coordination and management of the Federal Police so that another department can be charged with this investigation. On 10 May 2006, the homicide division of the Federal Police interviews one victim and the other one on 26 June 2006.

At the end of August 2006, the Federal Police in the city of Ghent starts an investigation into announcements appearing on the TMF television broadcast. These are announcements made by an escort service, operating in Ghent and especially active on television. These announcements talk about Brazilian, Greek and Italian girls. They always refer to the same mobile telephone number. Next, a telephone tap is requested. This shows that the number is used by a woman who is constantly looking for other girls willing to work for her. The telephone tap shows that she is involved in smuggling of people from Romania and the inducement of prostitution in the context of trafficking in human beings. This case turns out to be linked to the case mentioned earlier, for this reason it was decided to combine both investigations.

On 14 November 2006, the brother of one of the Romanian victims is questioned. Thereafter, he came to Belgium together with his mother. Upon their arrival, they moved into the house of the Belgian defendant. The brother was 17 years old and had to work in construction and farming. He had to hand over virtually all of his money to pay off their

⁷⁰ The defendant was also convicted of trafficking in human beings with regards to labour exploitation.

trip and maintenance.⁷¹ The mother was terminally ill. They were looking for a man to marry her. She was introduced to three different men by another Belgian. The first man was the neighbour and he had to pay €1,500 to marry her. After the mother had lived with this man for a while, he no longer wanted to pay. Afterwards, she was taken back. In the meantime, the defendant had visited a solicitor and the victims had to pay another €1,200. The victim refused and was subsequently thrown out of the house in the middle of winter. After begging, he was allowed back inside. A new husband was sought for his mother, who turned out to have a serious drinking problem. She went to live with him, but when it became apparent that he could not pay the €1,500 she had to return. His mother was sold to another man for the third time. She remained with him until she died of her disease.

His cousin also came over. She was promised that she could marry a man here. Upon arrival in Belgium, she was induced to prostitute herself. Among other things, she had to work in a private house where she received customers. Thereafter, an older man was found (an alcoholic) who was willing to pay €1000 or €1500 to the Belgian defendant to marry the cousin.

1.5. Romanian case⁷²

In this case of sexual exploitation several under-aged Romanian girls⁷³ were very violently forced into prostitution by a Roma-clan. More than thirty girls were put to work in some ten bars in the Aarschotstraat, the Brussels red-light district. Prior to this, several girls had already been forced into prostitution in Spain or France.

The acts in this case were committed between 2004 in 2007. Important investigative results came about thanks to surveillance and telephone taps. There are links to investigations in France and Spain.⁷⁴ One of the accomplices was also involved in drug dealing. In 2006, he was arrested in Italy while transporting 800 g of cocaine.

The concerning clan, with its own traditions and rules, is based on two families, one of which plays a dominant role in Belgium. The clan leader is imprisoned in Spain for fraud with credit cards, but continues coordinating the clan's Belgian prostitution activities from his cell. His right-hand is in charge of matters in the field and is the local boss. Other than that, the hierarchy in the family is determined by age. Every member of the family was allocated a prostitute. The proceeds from prostitution are for the entire clan.

The male clan members are married to a wife according to their own cultural code. In addition, they have their own prostitute who is also their mistress. A hierarchical relationship also exists among the girls before they enter into prostitution. The wives and mistresses have their own privileged status compared to other prostitutes. They exercise control over them with respect to their dedication, profitability and loyalty to the clan. At

⁷¹ The defendant was also convicted of trafficking in human beings with regards to labour exploitation.

⁷² See Chapter 4, Case Law.

⁷³ See Part 2 Chapter 1 of the Dutch or French version of this annual report..

⁷⁴ See Part 2 Chapter 1 of the Dutch or French version of this annual report.

the same time, they collect the prostitution money from these girls. They have hierarchical power over them. They take care of newly recruited girls and place them. Some wives and mistresses have earned the right to no longer have to prostitute themselves. The latter are not regarded as victims by the police.

A large-scale operation by the Spanish and Romanian police shows through telephone taps that the clan in Belgium works closely with another clan in Spain that is active in prostitution, kidnapping, blackmail, forgery, counterfeiting, theft and internet fraud. Several girls were brought here from Spain for prostitution. They were often minors or orphans who were forced into prostitution, because their disappearance did not worry anyone. The girls had to stay in apartments that were rented by the organisation or were controlled by the mistresses of clan members. To keep the girls under absolute control, certain girls were only allowed to accept clan members as clients. The girls had to hand over a minimum amount every night. If they could not pay this, it was recorded as a loan and they then had to earn this in addition the next night. When the girls became pregnant, they were immediately taken to Spain for an abortion. Thereafter, they were immediately taken back to Belgium.

The victims were severely physically abused. No victim dared to reveal her place of residence to the police.⁷⁵ They were forced to pay off their costs of transport etc. by means of prostitution. Some of the girls were sold. There is a case in which one of the clan members threatened to send a jar with the head of one of the victim's children who had remained in Romania if she continued refusing to prostitute herself. One of the young victims had run away and was afraid that her 80-year-old grandmother in Romania would be abused. She herself had already been abused with a sword, the scars of which were medically verified on her foot.⁷⁶ The victim had fled and gone into hiding among the homeless in the Brussels Central Station. Here she was approached and helped by an ordinary Belgian citizen. In the meantime some of the girls prostituted themselves in England.

The average daily income of the girls varied between €700 and €1,200. They worked seven days out of seven. A sexual service lasted 10 minutes and cost the client €50. Between June 2005 and May 2007, one of the girls had to work for 12 hours every day, which meant that she brought in €525,000. Another girl received €200 from her pimp at the end of the month, on the basis of her earnings. The proceeds from the prostitution network were transferred to the clan's base in Romania via Western Union or via couriers. The Brussels Criminal Court that issued a decision in this case estimated that with a minimum margin of €700 per day and on the basis of twenty girls, the four most prominent defendants collectively earned approximately €11 million. From its financial investigation at Western Union, the police was able to trace €851,000. Only €3,890 in cash was found and seized.⁷⁷

⁷⁵ *Ibid.*

⁷⁶ See Part 2 Chapter 1 of the Dutch or French version of this annual report.

⁷⁷ *Ibid.*

1.6. Prostitution via the inter-municipality

This case from the city of Turnhout dates back to 2003. While the accused were found not guilty in the first instance because of procedural errors, they were convicted by the Court of Appeal for trafficking in human beings.⁷⁸ An employee at that time and an ex-employee of the Flemish inter-municipality used their employer's infrastructure and their working hours to build up a prostitution network. The case only came to light after a whistle-blower printed out incriminating e-mails and began circulating them.⁷⁹

The Belgian, C. admitted in 2003 that he had attempted to import Moldavian women into our country for the purpose of having them work as prostitutes. He had many business contacts in Moldavia. He came to know a businessman, the so-called S., through receptions held at the Moldavian embassy in Brussels. S. turned out to be a pimp. At that time C. was the former manager of the purchasing department, but after his confessions he was immediately fired. For his 'supplementary income' he worked with D.G., at the time the e-government manager of the Flemish Community and V., a café owner with criminal connections. As a senior official, D.G. was also fired by the assigned minister. The case got rolling after anonymous letters from a colleague/whistle-blower. Only three weeks after the start of the investigation, a search was made of the inter-municipality.

In those crucial three weeks certain members of the board, who were also provincial board members, were advised of this by anonymous letter. They called the Director-general with the report that C. could be involved in a case of trafficking in women. The following morning, C. was summoned by the Director-general. There, he stated that he had nothing to do with illegal practices. In a written statement C. said: "I am surprised that a large organisation has a number of employees who are so small-minded that they intercept personal e-mails and interpret these in such a way that they place their colleagues in a bad light. I also give you my word of honour that I have never brought anyone into Belgium illegally. I hope that you judge me on my work and performance and not on the basis of unfounded rumours." The director-general and the board of directors took his word for it. That very day C., whose probationary period had expired, received an employment contract of indefinite duration. The internal mail server was shut down on the same day.

In the meantime, the principal private secretary of the then prime minister was also informed and he contacted the chief executive of the Flemish Administration. That person was told that one of his senior executives, D.G. might have been involved in trafficking of

⁷⁸ See Chapter 4, Case Law.

⁷⁹ In its decision the court also refers to the statements of the fired employee of the inter-municipality and of the whistle-blower, who joined the suit as a civil party, and, who "suddenly noted that on 14 March 2003, without any planning or announcement, which was most unusual, maintenance had to be performed on C.'s mail server (editor's note: the inter-municipality), and from the nature of the operations (defragmentation) it was clear to him that C. wanted to have all old emails permanently deleted" and "that given the seriousness of the situation he decided to inform the authorities of this and submitted a file to the public prosecutor in order to try to prevent trafficking in human beings or at least to expose it." In addition, the whistle-blower also alerted other institutions. This latter action, according to the judgement, was the basis for the start of the investigation.

women. “Initially, the principal private secretary wanted to instruct me to interrogate D.G.”, the chief executive of the Flemish Administration told the court. “I could not agree to this and I told him that it was ultimately not my job, but rather the job of the judicial services. That is why I personally, acting in my professional capacity, contacted the Public Prosecutor in Antwerp.” That is when the investigation and the house searches started.

The evidence against C. was so overwhelming that he could only plead guilty. During one of his many trips to Moldavia, so he told the court, he was approached by the Moldavian businessman/pimp S. The latter offered to deliver prostitutes to Belgium at €2,000-€2,300 per woman. “Because I had financial problems at that time, I was interested in the proposal”, C. admitted. “I had no idea at that time how I would actually accomplish this in Belgium. I spoke to D.G. about the proposal. We would have the women work for us. I heard D.G. speak about one of his acquaintances who could put women to work in prostitution. He would open a bar and an escort service with his associate in the Aalst or Ninove region. I would earn €500 per month per woman. D.G. didn't want any money. His benefit was that he would get to use the women.” C. received 22 photos of women by e-mail from his Moldavian contact. He chose three of them and paid a deposit.

2. Labour exploitation

2.1. Construction

2.1.1. Case S.

The case occurred in 2004-2005 and was handled by the prosecutor in the city of Charleroi. Turkish exploiters were systematically employing Bulgarian workmen in renovation and construction. These workmen were imported from the Bulgarian city of Plovdiv by a Bulgarian who owned a bus company.⁸⁰

In August 2004 the local police in Charleroi were informed about a Turkish exploiter who was said to use illegal Bulgarian labourers to perform illegal work for private individuals.⁸¹ The Turkish exploiter lodged more than 10 Bulgarians in old houses where they had to sleep on mattresses.⁸² He picked them up himself in the morning and dropped them off again late at night. In exchange for food and lodging and a minimum wage, the Bulgarians renovated the homes of many Turkish individuals. By using this method, the Turkish exploiter was able to purchase several homes. One of the other Turkish individuals had a bakery, a café and a construction firm.⁸³

⁸⁰ See Phenomenon Analysis A, point 2.1. Construction and renovation.

⁸¹ See Part 2 Chapter 1 of the Dutch or French version of this annual report.

⁸² *Ibid.*

⁸³ See Phenomenon Analysis A, point 2.9. Grey economy.

In March 2005, the police are informed of the arrival of a Bulgarian driver in Belgium. In addition to smuggling counterfeit money, he is also engaged in organising the transport of illegal Bulgarians to Belgium. For this purpose, he hires a Bulgarian bus company who arranges transportation with minibuses. The minibuses depart daily from Plovdiv to a fixed location in Charleroi in the vicinity of the mosque. On occasion, there is also a stopover in Dortmund (Germany) or the trip continues into the Netherlands to drop off the remaining Bulgarians. Upon arrival in Charleroi, the driver contacts the Turkish exploiter. The latter pays a monthly rent of €100 for the safe house of a Sicilian or Turkish slum landlord who is also a building contractor. In addition, he gives the illegal labourers a €300 advance.

The drivers spread the rumour that you can become rich in Belgium. This driver said that he knew a Turk in Charleroi who was looking for Bulgarians to employ. The drivers are in the habit of looking for labourers who are willing to work outside Bulgaria. The price of the bus trip is €250, of which €100 must be paid in advance, and €150 later on.

The Bulgarian workmen were promised €30 per day. For this, they had to work 12 hours a day. In reality, they had to sleep with 10 to 15 other people in one bedroom. Sometimes they only received that €30 after working for a week. In addition, the cost of food, rent and bus fare was deducted from this. One victim stated that he had earned €1,300 in 10 months.

Several victims are offered victim status, but they do not see themselves as victims.⁸⁴ One victim does not want to file a complaint as long as he has not yet received the money owed to him. Another victim is too afraid to file a complaint.⁸⁵

2.2. Textile industry

This textile case⁸⁶ occurred in 2007 and was handled by the prosecutor in the city of Charleroi. This involves a textile studio with an import and export business. The business manager was a Syrian who was also the main defendant in another case in the city of Bergen. The accused had €11,835 in cash in his pocket when the police executed its raid. One of the co-defendants was an Egyptian who was an international dealer in second-hand clothing and was active in importing and exporting in various countries, including Belgium, Germany, the Netherlands, Turkey and Egypt. He was acquitted.

The case starts when various sources inform the police of certain activities (the packaging of various products) and the precarious situation in the old buildings of a painting business.⁸⁷ This involved illegal Eastern-European employees. They lived together on site in appalling circumstances in a storage area of the factory. There was no heating and no accommodation whatsoever.

⁸⁴ See Part 2 Chapter 1 of the Dutch or French version of this annual report.

⁸⁵ *Ibid.*

⁸⁶ See Chapter 4: Case Law.

⁸⁷ See Part 2 Chapter 1 of the Dutch or French version of this annual report.

In a joint action between the local police and social inspection services, Polish, Palestinian and Syrian victims were also found.

The victims were offered victim status by the local police.⁸⁸ The Pole was not interested and was repatriated. The Palestinian and the Syrians did regard themselves as victims and the police immediately put them in touch with a specialised reception centre for victims of trafficking in human beings⁸⁹. An employee of this centre spoke with the victims. After this conversation, they stated that they are willing to accept trafficking in human beings victim status. They were immediately given counselling by the specialised victim centre.

2.3. Transport

2.3.1. Case B.⁹⁰: Italian transport case linked to the Mafia

This transport case occurred between 2005 and 2006 and was handled by the labour prosecutor in the city of Charleroi. Rogatory committees gathered information in the USA, Germany and Italy.⁹¹ The Federal Prosecutor's office was asked to federalise this case, but declined to do so.⁹²

The case involves a tangled web of business constructions⁹³ concerning a moving company. As soon as one business became targeted by the legal authorities, it was shut down and started again with the same name but under another company type. An anonymous witness stated in this case that these businesses have links with the Italian Mafia. The parent company was located in Naples. In 2005, a branch was set up in Belgium, in the city of Gosselies. The person appointed to run this was of Neapolitan descent and was known in Belgium because of theft and possession of weapons. Both charges date back to 1997. There were also two branches in Germany and five branches in Italy, including in Naples and Sicily. In addition, there were commercial agencies in the Azores, Greece, the United Kingdom, Turkey (Istanbul), Spain, Russia, Croatia, Bosnia, Crete, Hungary, Israel and the USA. In Belgium, the principal clients of this moving business were Shape and US NATO military personnel. Another important client in the USA was Fort Bragg, where the US Special Forces, the American elite military units, train.

The case started in 2005 when a person who wanted to remain anonymous gives a tip to the Federal Police about an Italian moving company. This company had moved to Gosselies a few weeks earlier and employed illegal workers, mainly Italians from Naples and Maghrebs.⁹⁴ The workers received €70 per day to work 12 hours a day with the promise of a contract in accordance with Italian law. The police went to investigate. The

⁸⁸ *Ibid.*

⁸⁹ *Ibid.*

⁹⁰ See Chapter 4, Case Law.

⁹¹ See Part 2 Chapter 1 of the Dutch or French version of this annual report.

⁹² *Ibid.*: Federal Prosecutor's office and recommendations.

⁹³ See Phenomenon Analysis A, point 2.9. Grey economy.

⁹⁴ See Part 2 Chapter 1 of the Dutch or French version of this annual report.

social inspectorate had also already noticed that this business had not registered its workers in Dimona⁹⁵ (immediate declaration of employment) and that the company had not filed its annual financial accounts. During its inspection, the social inspectorate noted that certain things were not in order. For example, employees hid when they arrived at the site. A decision was taken at this stage to conduct surveillance.

In 2006, the police and the social inspectorate conducted a large-scale investigation on the instructions of the labour prosecutor and on the basis of their cooperation protocol. Two trucks were stopped. There was an Italian driver in one of the trucks; in the other truck they found a Moroccan driver, who was living in Naples, in the company of a Nigerian. The Nigerian employee was living here illegally. After much explanation, he stated he was a victim of trafficking in human beings. The prosecutor regularised the status and contacted a specialised reception centre for the victims of trafficking in human beings⁹⁶. Later, the man was questioned again.

An inspection of the tachograph discs showed that approximately eighty employees had been employed without being registered under Dimona.⁹⁷ Of the eighty illegal employees, only a dozen or so could be found and questioned. This showed that there was no violence, but that there was abuse. The workers were underpaid. The majority of them received a daily wage of €70 as a labourer/mover or €80 as a driver. For this, they had to work 10 hours per day. They did not always have work and were always paid in cash. Several employees have yet to receive their earned money.⁹⁸ The promises of an employment contract were not fulfilled. The victims were required to work when they were ill. There was no accident or health insurance. There is even a case of a driver who had an accident in Belgium and whose boss wanted to deduct the repair costs of the truck from his wages. When an employee with an illegal resident status dared to complain, he was scared off with threats that he would be reported to the police.

An extensive financial investigation was performed.⁹⁹ Another company that is virtually bankrupt filed a complaint of unfair competition. The labour prosecutor released the file to the tax authorities. However, they could not establish tax violations in Belgium, because all these fell under Italian law. The VAT fraud is part of the jurisdiction of the Italian financial services.

The investigation in Italy exposed a fraud involving over €4 million. This Italian investigation was started because of irregularities found in the German branch. In Campania (Italy) various affiliated letter box companies were discovered.

⁹⁵ For people engaged as employees (irrespective of their nationality) there is a registration system within the DIMONA project. DIMONA (the immediate declaration of employment) is an electronic report used by the employer to inform the Ministry of Social Security that an employee has been recruited or that an employee is leaving the company (for further information see https://www.socialsecurity.be/site_nl/Applics/dimona/index.htm).

⁹⁶ See Part 2 Chapter 1 of the Dutch or French version of this annual report.

⁹⁷ *Ibid*: investigative methods and access to information.

⁹⁸ *Ibid*: settlement for victims.

⁹⁹ *Ibid*: financial investigation.

2.3.2. Case Y.¹⁰⁰

This transport case dates back to July 2005 and was handled by the labour prosecutor in the city of Charleroi. This case is also linked to an investigation of an international drug network. Turkish businessmen who are part of a Turkish criminal organisation bought various transport companies.¹⁰¹ They operated by recruiting and sub-contracting other transport companies. They primarily used Polish and also several Turkish drivers as undeclared workers at a low wage, without any form of insurance. They worked as truck drivers transporting goods between France and Belgium. A shooting incident caused that the Turkish operators could be arrested for this.

The Turkish operators were not first-time offenders. In the past, they had been active in various judicial cases of VAT fraud involving diesel fraud, fencing stolen vehicles, an attempted murder, and the sale of drugs. They had also been involved in two cases involving trafficking in human beings concerning labour exploitation, violating social legislation, thefts of trucks, fraudulent bankruptcies, threats, bribing Romanian and Ukrainian customs officers, forgery, cigarette smuggling, drug dealing and money-laundering practices. Co-defendants who spoke about this were threatened in jail. There was even a reward of €300,000 offered for killing them.

The investigation in Charleroi starts on the basis of the victim statements¹⁰² by Polish drivers who had been threatened with a weapon. These Polish victims had first made telephone contact with the Polish embassies in France and Belgium, but both stated they were incompetent. The police services in France and Poland also refused to take action. In the city of Namur, the victims phoned the Belgian police. The local police in Namur immediately went to the site. Four victims told their story. The police asked them to accompany them to the police station. One of the victims showed them a text message with a threat that he had received from his boss after he had requested money that was promised to him.

The police in Namur contacted the prosecutor's office in Charleroi, who referred them to the labour prosecutor. The labour prosecutor ordered an interpreter to be appointed and to contact the Alien Office to verify their residency status. This showed that none of the Poles possessed work permits. The four victims were placed under counselling at a specialised reception centre for victims of trafficking in human beings.¹⁰³ At the request of the labour prosecutor, the file was sent to the police of Charleroi.

The victims had been recruited via internet or by an acquaintance who had already worked in Belgium. They made their way to Belgium on their own. Upon their arrival, they contacted both companies. They were promised an employment contract with a monthly wage of €1200. They received neither the money, nor a contract. The only

¹⁰⁰ See Chapter 4, Case Law.

¹⁰¹ See Phenomenon Analysis A, point 2.9. Grey economy.

¹⁰² See Part 2 Chapter 1 of the Dutch or French version of this annual report.

¹⁰³ *Ibid.*

money they received was intended to pay the toll on the motorway. Some drivers drove seven days out of seven. The defendants seized the tachographs. The victims slept in the trucks and washed up on the road. They declared themselves to be victims of trafficking in human beings. In June 2005, the four Polish victims were placed under counselling by a specialised reception centre, but they left there a week later without notification.

The Federal Police established from their information files that a case was running against the same people and transport companies in the city of Liège. At the request of the labour prosecutor and the investigative judge in Charleroi the policemen analysed the case in Liège¹⁰⁴. They established that they were dealing with a criminal organisation involved in international drug trafficking. This organisation consisted of several members who were active in various countries. They used various international transport companies. There were links with companies in Poland, Spain, Belgium and Germany. They also worked with Sicilian transport companies. Accordingly, this involved a very well-organised criminal organisation that had the intention of remaining operational for a long period of time. They took over companies, changed them at will, let them go bankrupt over time and then set up new ones. These companies were often headed by front men acting as fictitious business managers.¹⁰⁵

The members of this criminal organisation are very good at camouflaging illegal cargo. Initially, their drivers were clean. Once the police and customs officials knew a driver, they became less vigilant towards them.¹⁰⁶ After they gained the confidence of customs and their attention weakened, they quickly transported illegal cigarettes, drugs and money. They received the advice to remove the disk from the tachograph when they reached the loading or unloading destination with the illegal goods. The drivers were given a mobile phone by the criminal organisation so that they could be guided by messages, thus keeping the organisers out of harm's way.

2.4. Catering

2.4.1. Wok restaurant

This case of labour exploitation¹⁰⁷ in a Chinese restaurant dates back to 2006. In reality, the criminal facts occur at the level of labour exploitation, smuggling of human beings and prostitution.

In May 2006, the victim departed from Shenyang by means of an international company that offered trips to Chinese people who wished to work abroad. The company recruited people through advertisements in local newspapers. The company was under the control of the 'Snakeheads' or, in other words, the Chinese Triad or Mafia.¹⁰⁸ The company made the necessary arrangements for an employer to be waiting and to employ the victim upon

¹⁰⁴ *Ibid.*

¹⁰⁵ See Phenomenon Analysis A, point 2.9. Grey economy.

¹⁰⁶ This is an example of a contra-strategy used by a criminal organisation.

¹⁰⁷ See Part 2 Chapter 1 of the Dutch or French version of this annual report.

¹⁰⁸ See Phenomenon Analysis A, point 2.9. Grey economy.

arrival. The victim had to pay €12,000. Her mother sold her house and land to raise this money. She received €4,000 through that. She borrowed the remaining €8,000 from a special company, to which she paid usury interest of 20%. This company was probably also allied with the Mafia.

When the victim arrived in the city of Brussels, she was taken to a safe house in the immediate vicinity of the red-light district near the North Station (Aarschotstraat). She was placed in a room where already seven other Chinese victims were living under appalling conditions. They were prohibited from leaving the room.

Three days later they came to fetch her and bought her a train ticket that she had to pay back later. She travelled by train for 30 minutes and was then taken to a massage parlour. She realised that this was in fact a brothel. She refused to prostitute herself.

Fortunately, she was not subjected to violence and she was taken back to Brussels. She remained there for a short time. Next, she was taken to the city of Aalst, where she had to work in a wok (stir fry) restaurant. The operator of this wok restaurant had paid €1,000 to the Snakeheads for her. The arrangement was that she would receive €500 per month. For this, she had to work 12 to 13 hours per day six days a week.

They subsequently introduced her to a lawyer who was to arrange her regularisation. The lawyer charged €1,750 for this, which she had to pay off from her salary, but only gave her fake papers.

The victim was paid only €100 for the first month. In total, she received approximately €500 for six months of work. Whenever she was exhausted, she was told that she should take an ecstasy tablet. This would be good for her. The wok restaurant was also involved in drug dealing.

When checked by social services, several illegal employees were found. One of them was busy carrying out renovations. He had also previously done this in Chinese restaurants in the cities of Kortrijk, Andenne and Liège at the request of the operator of the wok restaurant in Aalst. During previous checks, other social inspectors had not noticed any irregularities.¹⁰⁹ When queried, they could not find their reports. In the past, the operators of the wok restaurant owned a renovation company for which they admitted also using illegal employees.

The victims made detailed statements to the local police in the city of Aalst. They called the Alien Office. There, they said that the victims had to be transferred to the detention centre in the city of Vottem. The victims spent the night in the police holding cell and were taken to Vottem the following day. Two of the victims were eventually brought into contact with a specialised reception centre for the victims of trafficking in human beings, on the initiative of the staff in Vottem.¹¹⁰

The investigation focused solely on the wok restaurant. The safe house, the smuggling Triad and the attempt at sexual exploitation were not targeted.¹¹¹

¹⁰⁹ See Part 2 Chapter 1 of the Dutch or French version of this annual report.

¹¹⁰ *Ibid.*

¹¹¹ *Ibid.*

3. Smuggling of human beings

3.1. Indian smuggling network

This smuggling case in the city of Dendermonde¹¹² dates back to 2005 and 2006. After a first series of legal actions in 2005, the Indian network that smuggled primarily Sikhs, but also Pakistanis and Afghans, was able to recover. At the request of the Italian authorities, this gave rise to a second series of legal actions in 2006. These charges were joined together into one case. Investigations are also being conducted in Italy, Austria and Slovakia.

The smuggling system was made up of several flexible, small networks. Transport was arranged, with and without a guarantee. In cases of transport with guarantee, it was found that truck drivers and/or the use of fake documents and Schengen visas were involved. The Indians were the organisers and partially outsourced transportation without a guarantee to an Albanian network in Brussels for transportation to England.

The Albanian traffickers received €1,000 per smuggled person that reached England. To achieve this, they worked with Bulgarian and Romanian drivers who transported the smuggled people to the parking lots along the motorways or the dock areas. Upon arrival in England, the smuggled Sikhs paid the Indian smuggling network through Indian contacts. Accordingly, they did not pay the Albanian traffickers who transported them to England. Those were subsequently paid in Belgium by the Indians.

During surveillance of the release after an interception, the police each time found that the smuggled people returned to the safe house by first passing through a telephone shop. The safe houses where the smuggled people slept were linked to night shops on the ground floors. One of the people involved was the owner of both the safe house and the night shop. One of the suspected traffickers stated during questioning that his boss had invested the money from smuggling in his shop. The safe houses were sub-contracted to several traffickers.

The trafficking route ran via Moscow, Italy and Belgium. From India, they travelled to Moscow by plane. Here they continued their smuggling trip by train, car and truck. The last part of the journey from Brussels to England took place by truck, with 10 to 15 smuggled people on board. In Brussels, a shift in the concealment of smuggled people can be observed from motorway parking lots to dock areas.

The smuggled people were recruited in their country of origin by acquaintances of their parents. So how was payment arranged? Part of the deposit was paid by the parents in India, who sometimes had to sell their house for this. The rest of the money was paid via Western Union for each leg of the journey. The price of the journey between Brussels and England for transportation without guarantee was €2,000 and €6,000 for transportation with a guarantee.

¹¹² See Chapter 4, Case Law.

In this case, possible traces of manipulation exist in respect to the victim status by the traffickers. One defendant stated: “If you give me the chance, I can have all traffickers in human beings rounded up. I know everybody. I talked to x and he told me that I had to have certain people arrested and then I would also receive papers. That is the reason why I gave information to the police about the parking lot in the city of Wetteren.” One of the defendants testified against his co-defendants as a civil party because in his opinion he had been forced to participate in the smuggling system.

3.2. Iraqi-Kurdish smuggling case

This smuggling case in the city of Leuven¹¹³ with facts dating back to 2007 involves an Iraqi-Kurdish smuggling network that primarily used the Scandinavian route where marriages of convenience could also be arranged. This case is linked to other smuggling cases in the cities of Brussels, Antwerp and Germany. Rogatory committees were sent to Germany, Sweden and Norway.¹¹⁴

The traffickers were also selling fake residence permits. A fake Iraqi document was found at the main defendant's, which he had ordered to support his false declaration that he had made at the office of the Commissioner-General for Refugees and Stateless People.

The smuggling transports were arranged by mobile phone and through internet, which was used as a strategy against telephone taps. They used telephone shops and internet cafés to communicate and to offer housing to the illegally smuggled people.

The cost of transportation from Belgium to Sweden was €1,300 to €1,400 per person. The transport was paid through intermediaries in Iraq. An amount of €19,000 was found in the safe of one of the defendants. The payments are difficult to trace because the Iraqi-Kurdish smuggling network used the so called ‘hawala system’.¹¹⁵ The ‘hawala system’ is an illegal banking system that can be used to transfer money from any country to any other country without any trace. The system is entirely anonymous. It works as follows. One gives the money destined for a recipient in another country to a ‘hawala’ banker in Belgium. In turn, the latter contacts a colleague near the recipient in the country of destination. The sender provides the recipient with the reference for the transaction and the latter can then simply go and collect the money from the ‘hawala’ banker in the country of destination. In reality, the money never leaves Belgium, but the system works with a type of credit. The sender's banker holds the money and the overseas banker gives the recipient his money. However, the latter banker records that he is still owed the money by the banker in Belgium. The next time that somebody wants to transfer money from that country to Belgium; this is deducted from the debt.

The Leuven Criminal Court wrote in its verdict: “The smuggling of people has also

¹¹³ See Chapter 4, Case Law.

¹¹⁴ See Part 2 Chapter 1 of the Dutch or French version of this annual report.

¹¹⁵ *Ibid.*

become the preferred trade of a growing number of criminal networks, which by constantly refining their operations are able to transport greater numbers of people for an ever-increasing profit.. In the context of smuggling in human beings, there are new tendencies, of which this case is an example. Where in the past illegal immigrants travelled primarily in larger groups hidden as stowaways in trucks, this now occurs more frequently in smaller groups where the trip takes place in stages and existing transport opportunities are used (e.g. Eurolines bus service). Because the trip takes place in stages, the organisation has to depend on people who can provide the illegal immigrants with temporary housing. They are often taken to so-called safe houses where illegal immigrants of the same nationality live. The destinations have changed, too. Where earlier the illegal immigrants used the harbours of Belgium and France to reach the UK, Scandinavian countries have become a destination because of increased checks.”

(...)

Chapter 4: Overview of 2008- early 2009 Case Law

For 2008 and early 2009 the Centre has identified around 70 court decisions handed down on trafficking in and smuggling of human beings.

The majority of these decisions relate to trafficking for the purposes of labour exploitation.

In this section of the report the Centre will give an overview of this case law but only some of the decisions will be published on its website.

First we will review several decisions in sexual exploitation cases. Then we will discuss the decisions handed down in cases of labour exploitation and coercion to commit offences, before concluding with some decisions on smuggling in human beings.

1. Sexual exploitation

1.1. Brussels

In Belgium two symbolic court cases on trafficking in human beings have been brought to a conclusion. These cases do however demonstrate yet again the importance of being accustomed to the subject if you want to avoid somewhat surprising verdicts.

In its previous annual report the Centre looked at an important case of a Bulgarian prostitution network in the city of Brussels¹¹⁶. Six defendants were finally charged with recruiting and exploiting prostitutes (Article 380 of the Criminal Code) and with trafficking in human beings for sexual exploitation (and aggravating circumstances). They were prosecuted under the old Article 77bis of the Law of 15 December 1980 for the period prior to 12 September 2005 (date of entry into force of the Law of 10 August 2005¹¹⁷) and under Article 433 quinquies of the Criminal Code for the subsequent period. A separate action was brought against the main defendant¹¹⁸ who was leading the network from Varna in Bulgaria.

The defendants used several methods to hire the young women who were generally from underprivileged backgrounds: seduction, the promise of normal work or a well-paid job in prostitution. The defendants made arrangements for them to be transferred to Belgium and their care here. The victims worked constantly with no days off. They were watched

¹¹⁶ 2007 Annual report on Trafficking in Human Beings, “A Public Policy through the eyes of a National Rapporteur”, Part 2, point 2. The main defendant was also the subject of a case in Mons (see said report, part 1, Chapter 2, B Analysis of the case files 1.1).

¹¹⁷ The Law of 10 August 2005 amended several provisions with a view to strengthen the fight against trafficking in and smuggling of human beings and slum landlord practices, *M.B.*[Moniteur Belge], 12 September 2005. This Law fundamentally reorganised and modified the provisions governing the trafficking in and smuggling of human beings.

¹¹⁸ It appears he will be prosecuted for the same offences in Bulgaria.

and had to hand over most of the money they earned. There was violence involved, even though this was often implicit. The victims' families in Bulgaria also received death threats. The court also indicated that there appeared to have been corruption within the local police and court authorities in Bulgaria, so the defendants enjoyed full impunity.

The **Brussels Criminal Court** convicted the offenders to imprisonment sentences up to 8 years¹¹⁹. This judgment was confirmed in its essential parts by the Court of Appeal¹²⁰.

Another high-profile case was that of a Romanian network of trafficking in human beings mentioned earlier in this report¹²¹. This was a criminal organisation comprising two gangs, each exploiting a different group of young women, in which each member shared various responsibilities (surveillance of the prostitutes, hit man, etc.). Both gangs operated in the same way. The young women and the majority of the defendants, came mainly from the same region of Romania. They were recruited in a café, with the promise of finding work abroad. The organisation arranged all the administrative formalities, transport and reception in Belgium. They were driven to an apartment, put under surveillance and forced to prostitute themselves for 12 hours continuously every day of the week. All their earnings had to be handed over to their exploiters, their identity papers were taken from them and returned only when they went to work and they were subjected to threats and violence (illegal confinement, physical violence if they tried to escape or did not bring in enough money).

The **Brussels Criminal Court**¹²² convicted the defendants for trafficking in human beings (Article 433 quinquies of the Criminal Code) and the exploitation of prostitutes, on the basis of a significant amount of evidence in the case file (shadowing of the defendants, telephone tapping, surveillance of border traffic, false documents, etc) and statements made by the victims. However, the court decided it did not have sufficient evidence from the victims that had not been heard so it limited the charge to those who had been.

The prison sentences handed down ranged from 2 to 7 years.

The civil parties, who were demanding significant damages, were awarded only provisional amounts. Further, the Centre and the Brussels-based non-profit *Pag-asa* organisation had their petition declared admissible but unfounded.

¹¹⁹ Brussels Criminal Court, 9 April 2008, 54th Chamber.

¹²⁰ Brussels, 12 August 2008, 11th Chamber. The Court of Appeal did not however appear to be familiar with the relevant provisions. As it applied incorrectly the principles of application of the law over time and confused trafficking with smuggling, focussing on smuggling in this case which led to the defendants being acquitted on this charge as Bulgaria had joined the European Union since the crimes had been committed. Indeed, as further witness to its confusion, it stated that "trafficking in human beings is in itself no longer punishable when the victims are Bulgarian nationals".

¹²¹ See above Chapter 2, B: Case analysis by form of exploitation, point 1.5.

¹²² Brussels Criminal Court, 18 June 2008, 48th chamber.

The **Brussels Court of Appeal**¹²³ reversed the decision in part, specifically on the points which proved a lack of subject knowledge on the part of the court of first instance. The Court thus found the defendants guilty of trafficking in human beings, even in respect to some victims who had not been heard, and went on to revise the amount of the confiscations of equivalent value awarded by the court of first instance, ordering that the sums be paid as a matter of priority to the civil parties in proportion to the respective damages suffered (on the basis of Article 43bis of the criminal code); it awarded the civil parties the amounts claimed (considerable material damage, non-material damage of Euro 5,000). Finally, the Centre and Pag-asa's applications to join the proceedings were declared admissible and (partially) founded.

1.2. Antwerp

The **Antwerp Court of Appeal** was compelled – with just cause – to completely revise two decisions handed down at first instance by the Turnhout Criminal Court.

The first case, which we discussed in our previous report¹²⁴, relates to a bar in which young Romanian women had to prostitute themselves. We discussed that the Criminal Court had surprisingly acquitted the defendants of all charges¹²⁵, however, going against this decision, the Court of Appeal¹²⁶ upheld all charges against the defendants. It found that they were indeed guilty of trafficking in human beings¹²⁷, even though the Public Prosecutor had asked at the hearing to acquit the defendants on that specific charge. The Court of Appeal based its decision on a full review of the case file and in particular the statements of the victims themselves. It did not find the defendants' claims that they did not know the victims had been brought to Belgium to be put to work as prostitutes credible and found that all defendants had intended to exploit these women and knowingly contributed to their exploitation.

The second case related to attempted trafficking in human beings within an inter-municipality service, touched on earlier in this report¹²⁸. While the Turnhout Criminal Court had found the charges to be inadmissible¹²⁹, the Antwerp Court of Appeal took quite the opposite view¹³⁰. It went on to declare the charges admissible and found the defendants guilty of virtually all the charges brought against them, including attempted trafficking in human beings.

¹²³ Brussels, 30 January 2009, 12th chamber.

¹²⁴ 2007 Annual report on Trafficking in Human Beings, "A Public Policy through the eyes of a National Rapporteur", Part 2, point 3.2 (Prostitution bar in a Turnhout case).

¹²⁵ *Ibid.*, Part 3 overview of 2006-2007 case law, point 2. Turnhout Criminal Court, 31 January 2008, 13th chamber.

¹²⁶ Antwerp, 19 March 2009, 14th chamber.

¹²⁷ Note that at the hearing before the Court of Appeal, the Public Prosecutor stated it would not have brought an appeal if the Centre had not done so.

¹²⁸ See above Chapter 2, B: Case analysis by form of exploitation, point 1.6.

¹²⁹ Turnhout Criminal Court, 27 September 2007.

¹³⁰ Antwerp, 9 October 2008, 14th chamber.

The defendants argued that the charges were inadmissible on the grounds that the case had been based on evidence that was gathered illegally. The Court did not follow their reasoning.

In reality the case began with anonymous letters exposing false accounting and the misappropriation of funds within the inter-municipality and the possible trafficking in human beings organised by people working both within and outside said structure. The matter related to young Moldavian women who were brought to Belgium via Romania and Germany and then employed for sexual services.

Following the initial accusations, an investigation was started and searches were carried out at the inter-municipality, where material was seized, and at the homes of the defendants. An examination of the (business) email boxes of the defendants revealed that the case involved young foreign women coming into the country. The Court of Appeal considered that, even if the anonymous informer had come to know the facts as a result of an irregularity, this did not detract from the evidence which was then obtained in a completely legal manner, e.g. emails seized during investigations carried out in a regular manner, numerous statements in the case file and the analysis of telephone calls.

Hence, the Court of Appeal considered there was sufficient information in the case file itself to allow it to examine the regularity of the evidence and to decide whether or not the defendants were guilty of the charges brought against them.

Following an in-depth analysis of the case file (and in particular the confessions made by one of the defendants to the investigative judge), the Court of Appeal concluded that the defendants had indeed started the execution of a plan to bring young women into Belgium to place them into prostitution. They were not able to put their plan into action following the investigations made within the inter-municipality structure.

1.3. Ghent

The last sexual exploitation case we want to discuss here, it was also already described earlier in the report¹³¹, was brought before the **Ghent Criminal Court**¹³². Several Belgian defendants were recruiting young women in Romania and then placed them in prostitution. The court found all defendants (except one) guilty of trafficking in human beings but handed down lenient punishments (prison sentences between 6 months and one year, most of them suspended). The court highlighted the fact that, whether or not the young women prostituted themselves willingly or not was, based on Article 433 quinquies, §1, irrelevant. It was established that the young women had been exploited for the financial gain of the defendants.

¹³¹ See above Chapter 2, B: Case analysis by form of exploitation, point 1.4.

¹³² Ghent Criminal Court, 17 December 2008, 19th chamber. The Payoke annual report - www.payoke.be also touches on this case in which a defendant was also charged with the labour exploitation of the brother of one of the young prostitute. The court upheld the charge that the young man was forced to work long hours in construction and hand over virtually all of his money to the defendant.

1.4. Liège

We would also like to mention a decision handed down by the **Liege Criminal Court**¹³³ which found a Belgian defendant guilty of recruiting and exploiting prostitutes but not of trafficking in human beings. The court considered that Article 433 quinquies of the Criminal Code was not in itself aimed at a person who recruits another person with a view to exploit this person, a practice which is punishable under Article 380 of the Criminal Code, but rather the exploiter who sits at the end of the line as part of an organisation of people aiming to exploit other persons for the purposes summed up in the Law. So, finding that the defendant, and the defendant alone, was responsible for exploiting the young Belgian woman, it acquitted him of this charge¹³⁴.

2. Labour exploitation

Several labour exploitation decisions have been handed down in the “vulnerable” sectors: hotel, restaurant and catering sector, construction, housekeeping, harvesting, etc.

As a general rule it can be concluded that the court looks at factors such as the salary, working conditions and environment, the accommodation provided and the dependence on the employer in order to ascertain whether or not there is trafficking in human beings.

2.1. The hotel and restaurant trade

Several decisions have been handed down in cases involving Asian restaurants.

As regards the major debt bondage case we looked at in our 2006¹³⁵ report, we mentioned in our previous report that the Bruges Criminal Court had found the defendants guilty of trafficking in human beings¹³⁶. This decision was upheld on all points by the **Ghent Court of Appeal**¹³⁷. The appeal court began by examining the matter of application of the law over time, leading it to question whether the acts were punishable both under the old law (old Article 77bis of the Law of 15 December 1980) and the new (Article 433 quinquies of the Criminal Code), which was indeed the case in this instance.

¹³³ Liège Criminal Court, 11 February 2009, 8th chamber. This decision is final.

¹³⁴ The case concerned a lover who went on to prostitute his young girlfriend with her earning virtually nothing from this activity. The court also highlighted that she had been forced to work impossibly long hours, lived in constant fear and was hit and put under duress by the defendant, who took all of her earnings. The defendant’s aim was to prostitute the victim as much as possible in order to repay gambling debts he had with associates, mainly people of Albanian origin.

¹³⁵ 2006 annual report on the trafficking in human beings, “*Victims in the Spotlight*”, chapter 2, point 2.3.1: “Labour exploitation: forced labour: debt bondage in the hotel and restaurant trade”.

¹³⁶ Bruges Criminal Court, 19 June 2007, 14th chamber, see our 2007 annual report on the trafficking in human beings, “*A Public Policy through the eyes of a National Rapporteur*”, Part 3 (overview of 2006-2007 case law), point 3.

¹³⁷ Ghent, 18 December 2008, 3rd chamber.

It found that the defendants had indeed taken advantage of the vulnerable situation of the workers: they were working illegally and were totally dependent on the defendants who held their documents, knowing full well that this would mean that the workers could not travel.

The appeal court also found that the following facts of the case constituted working conditions contrary to human dignity: working a minimum of 60 hours a week for less than the minimum wage, the fact that the cameras infringed on the worker's private life, the worker's freedom was restricted, they were not permitted any contact with other people and their bank and identity papers had been confiscated.

It also decided that the sums of money seized and confiscated should be used primarily to pay the damages it had awarded to the civil parties.

Also, **the Liege Court of Appeal**¹³⁸ –with just cause – revised a decision of the Huy Criminal Court we mentioned in our previous report¹³⁹. In this case, which dealt with the smuggling and labour exploitation of two young Chinese women, the Court of Appeal found, contrary to the court of first instance, all charges of trafficking in human beings and the rape of these two young women to be substantiated. The Court considered the defendant had made an active contribution to the smuggling of these women by deriving financial gain and exploiting them in his business, with the women finding themselves in the position of illegal workers. The defendant employed them illegally and in inhumane conditions. They barely received any payment but a derisory sum for the services rendered. The appeal court found irrelevant the fact the defendant had provided the two young women with food and accommodation.

The Court then rectified several points of the reasoning of the court of first instance (specifically the fact that the victims had allegedly obtained a residence permit on the back of an accusation of rape).

The Louvain Criminal Court¹⁴⁰ accepted the charge under old Article 77bis of the Law of 15 December 1980 in a case in which the main defendant and his wife ran several Chinese restaurants in various locations in Belgium. In their restaurants they employed a large number of Chinese who had come to Belgium on student visas or via marriages of convenience. Interestingly, the Court stated that the fact that the living conditions of some of the workers were better than in China did not detract from the fact that the defendants had abused the vulnerable situation of these workers.

The Court found the charge of trafficking in human beings to be substantiated on the basis of the following factors: there was no employment contract, the workers were paid less than the minimum wage and had no social protection and some of them, to “finance”

¹³⁸ Liège, 18 March 2008, 8th chamber.

¹³⁹ Huy Criminal Court, 27 April 2007, 7th chamber, see our 2007 annual report on the trafficking in human beings, “A Public Policy through the eyes of a National Rapporteur”, Part 3 (overview of 2006-2007 case law), point 3.

¹⁴⁰ Louvain Criminal Court, 15 January 2008, 17th chamber. This judgement is final.

their stay in Belgium, had to work for the main defendants for a certain number of years (“debt bondage”).

We would also like to highlight an interesting decision of the **Tournai Criminal Court**¹⁴¹, which found defendants, who had exploited several of their compatriots, were indeed guilty of trafficking in human beings. This decision was based on the detailed, similar statements of the workers. It also established that the workers were in a vulnerable situation (no identity documents, illegal immigrants with no financial means, brought into the country via illegal immigration networks, etc.). Their working and living conditions were evidence of employment under conditions incompatible with human dignity (low wages, no social protection, excessively long working hours and basic accommodation with no facilities).

The **Namur Criminal Court**¹⁴² accepted the charge under the old (and new) article 77bis of the Law of 15 December 1980 brought against a couple of Chinese restaurateurs who were illegally employing compatriots in their restaurant. The court considered that the wages earned by the workers (Euro 600/month for 1 year and Euro 700/month for the other) were blatantly unreasonable for the hours worked (sometimes 10 hours a day for six days a week), even though accommodation, food and clothing were provided.

Another decision, this time handed down by the **Louvain Criminal Court**¹⁴³, found several defendants guilty of trafficking in human beings in a case where young women from countries such as Poland and Turkey were being put to work in bars, where some worked as prostitutes. One defendant was responsible for the transportation of a young Polish woman upon her arrivals from and departures to Poland. He secured her employment in the bars and found her accommodation. The court found that there was evidence of abuse of the young woman’s vulnerable position given that she was employed illegally and had to work six days a week for 7, 9 or 10, sometimes even 12 hours a day for a daily rate of Euro 20 to Euro 25. There was no possibility of her obtaining legal employment and she did not always receive payment for the work she carried out.

Interestingly, the court stated that the fact that the young woman returned to Belgium on several occasions was not relevant and, based on the working conditions listed above, she had indeed been forced to work under conditions incompatible with human dignity.

The court also found to be (partially) established the offence of another defendant who had illegally employed several young women of foreign origin in his café and profited from the prostitution of some of them. He was found to be taking advantage of their vulnerable situation on the basis that the women could not work legally and had to submit to certain conditions of work and pay imposed upon them, they were not (properly) paid for the services rendered and were housed in precarious conditions (without heating nor

¹⁴¹ Tournai Criminal Court, 11 December 2008, 7th chamber. An appeal against this decision has been brought before the Mons Court of Appeal.

¹⁴² Namur Criminal Court, 8 December 2008. This judgement is final.

¹⁴³ Louvain Criminal Court, 18 March 2008, 17th chamber. Except for one charge, this judgement is final.

hot water). Some of them had also been sexually exploited: as they earned next to nothing in the café the defendant had taken them into a bar, telling them they were going to earn a lot of money as prostitutes.

The **Charleroi Criminal Court**¹⁴⁴, on the other hand, acquitted a defendant on the charge of trafficking in human beings because he had paid the settlement suggested by the labour auditor [Crown council attached to the labour tribunals in Belgium] for failure to declare employees and, furthermore, the court did not find the charge to be sufficiently established. In fact, it considered that the worker had lodged the complaint with a view to regularise his position with the authorities and recover his wages and not to expose a case of trafficking in human beings; he lived with the family and had access to the same hygiene facilities; he was neither held against his will nor beaten and his wages were paid to his father in China and not to an organisation of smugglers.

2.2. Construction/renovation

Several decisions have also been handed down in this sector.

In the significant case of the renovation of a luxury liner by Lithuanian workers we analysed in our 2006 report¹⁴⁵, the Bruges Criminal Court¹⁴⁶ had (partially) upheld the charge of trafficking in human beings, together with the charges brought on the basis of social criminal law.

The **Ghent Court of Appeal**¹⁴⁷ took another stance, recalling the facts of the case. The workers were staying illegally in Belgium. Several of them said they had to pay USD 500 to travel to Belgium. They worked from 8am to 7pm with a one and a half hour break. They earned around BEF 38,000 (Euro 950) net and had free accommodation at the construction site or at a hotel. Their food was also provided free of charge. The Court of Appeal reported that all the workers had been heard and none had complained about their accommodation or working conditions. Some felt they had been the victims of abuse because they thought they were coming to work legally in Belgium.

Contrary to the findings of the court of first instance, the Court of Appeal did not find evidence of working conditions incompatible with human dignity and considered that the health and safety failings, both at work and at the accommodation site, were insufficient to be described as inhumane. We believe the court's assertion that of the Lithuanian workers interviewed, only one complained about the working and living conditions and that, if the conditions really had been inhumane, they would not have failed to mention this¹⁴⁸, is open to criticism.

¹⁴⁴ Charleroi Criminal Court, 11 June 2008.

¹⁴⁵ 2006 annual report on the trafficking in human beings, "*Victims in the Spotlight*", chapter 2, point 2.3.3.

¹⁴⁶ Bruges Criminal Court, 25 April 2006, 14th chamber (see our 2006 report, *Victims in the Spotlight* chapter 3, point 3.2).

¹⁴⁷ Ghent, 18 February 2009, 3rd chamber.

¹⁴⁸ We feel this argument is open to criticism given that, if we are to follow the reasoning of the Court of Appeal, a complaint from the workers involved is the first criteria of finding working conditions

On the subject of payment, the Court of Appeal found that, although the wages were below the legal minimum, they did not infringe human dignity because the workers had free food and accommodation. On the other hand, it upheld the sentences handed down at first instance for the various social criminal law charges. As a result, the Centre's civil action was found to be admissible but unfounded

The **Brussels Criminal Court**, in two similar decisions involving illegal Brazilian workers¹⁴⁹, found the defendants guilty of trafficking in human beings (Article 433 quinquies of the Criminal Code) based on the following: abnormal shift patterns, wages below the normal level which were paid irregularly or not at all; no social rights and the collection of people from a café in a packed vehicle.

In another case, a defendant who had employed Ukrainian workers illegally was found guilty of "trafficking in human beings" by the same **Criminal Court**¹⁵⁰ and the verdict was upheld by the **Brussels Court of Appeal**¹⁵¹. The victims were working 8 to 10 hours a day on the construction site, six days a week, and were paid or were going to be paid Euro 5 per hour. Further, their accommodation was in precarious conditions and situated on the site itself. The court also found that the workers' lack of papers and income restricted their freedom of employment and movement.

The **Liège Criminal Court**¹⁵², on the other hand, acquitted a defendant of the charges set out in Article 433 quinquies of the Criminal Code. He had been accused of having recruited and transported two Bulgarian workers to work on the renovation of the café he owned for wages (Euro 6 and Euro 4 per hour respectively) which were considerably less than those set out in collective employment agreements and the minimum monthly salary guaranteed by the collective agreement applicable. Although the court considered that the material factor of the offence had been established (the hiring of the two workers), it did not find that the moral factor (the special intent of putting them to work under conditions incompatible with human dignity) had. It did not consider it possible to bring a charge of trafficking in human beings based solely on the fact that the wages paid were significantly lower than those provided for in the collective agreements applicable and the case did not contain any other indication of inhumane conditions (no information about the shift pattern, the working environment and conditions, uncertainty about the number of hours worked each day, no information about the housing conditions)¹⁵³.

incompatible with human dignity. Yet we know how difficult it can be, in certain cases, for the victims to acknowledge this is the case and this is why various rules insist on the importance of identifying factors of exploitation independent of any complaint from the victim (cf. in particular the circular mentioned in the first part of this report or COL 01/07).

¹⁴⁹ Brussels Criminal Court, 4 November and 18 November 2008, 58th chamber.

¹⁵⁰ Brussels Criminal Court, 25 April 2008, 58th chamber.

¹⁵¹ Brussels, 18 February 2009, 11th chamber.

¹⁵² Liège Criminal Court, 9 February 2009, 14th chamber. This decision is final.

¹⁵³ The court considered that working six days a week to carry out renovation work is not in itself contrary to human dignity. The worker returned regularly to Bulgaria, was in possession of his identity card and the daily working hours ranged between 8 and 10 for a wage of Euro 6 per hour for one worker and Euro 4 per hour for another worker.

2.3. Agriculture/horticulture

The **Tongres Criminal Court** upheld the charge of trafficking in human beings at a fruit harvesting business and a poultry breeder. In the first case¹⁵⁴, it convicted a defendant who had sent Indian nationals to work with various fruit farmers. He was paid directly for their labour and only passed on part (Euro 4 to 6) of the wages to them. He organised their transport and accommodation which made them dependent on him, thus facilitating their exploitation. The second case¹⁵⁵ involved Polish workers who were hired as bogus self-employed workers and sent to work at legal poultry farms using an illegal practice of job placement in return for payment. These workers were not aware of their status. The money from this illegal employment was then laundered via transfers to different bank accounts.

The **Antwerp Criminal Court**¹⁵⁶, on the other hand, did not uphold the charge under Article 433 quinquies of the Criminal Code in a case of illegal employment of Indian nationals with false documents in the harvesting sector. The court reclassified the acts as smuggling of human beings (new Article 77bis of the Law of 15 December 1980).

The main defendant lent his identity to the workers in return for a portion of their wages. However, the court was to find that working illegally with false residence documents did not in itself constitute working conditions incompatible with human dignity on the premise that other factors, such as salary and working conditions and environment, also had to be taken into account. The court reported that the workers in the harvesting sector earned approximately Euro 5 to Euro 7.5 per hour, whilst another earned Euro 60 a day for working in a car wash.

The court established that, other than these brief statements, there had been no investigation into the working conditions of these people employed in the agriculture sector with false identity documents. It was hence not qualified to judge these conditions and so the facts reported could not be classed as trafficking in human beings. It reclassified them as smuggling of human beings and found this charge to be established: the defendants helped to find work and accommodation for illegal foreign workers with a view to achieving financial gain.

Defendants who sold false documents to workers of Indian or Pakistani origin to enable them to find work in the horticulture sector were also convicted of smuggling of human beings by the **same court**¹⁵⁷. The workers also had to pass on a portion of their wages. The defendants were found guilty of smuggling of human beings: by supplying the false documents they facilitated and lengthened their stay in the country.

¹⁵⁴ Tongres Criminal Court, 31 January 2008, 9th chamber.

¹⁵⁵ Tongres Criminal Court, 9 May 2008, 9th chamber.

¹⁵⁶ Antwerp Criminal Court, 28 January 2008, chamber 4C. This verdict is final.

¹⁵⁷ Antwerp Criminal Court, 25 June 2008, chamber 4C. See also the section relating to the damages below. The case has been referred to the Antwerp Court of Appeal for reconsideration.

2.4. Textile/clothes sorting shops

In last year's report we mentioned a decision of the Brussels Criminal Court¹⁵⁸ whereby a defendant who had illegally employed several foreign nationals in his textile manufacturing workshop had been acquitted of the charge of "trafficking in human beings". An appeal was filed by the civil parties only. Upholding the verdict of the court of first instance, the **Brussels Court of Appeal**¹⁵⁹ found that the civil parties had not provided evidence of the working conditions subject of their complaint which, if established, could be classed as trafficking in human beings. As a result, it upheld the verdict of the court of first instance.

Again the **Brussels Criminal Court**¹⁶⁰ acquitted defendants of Syrian origin, who were illegally employing workers of various nationalities in their clothes sorting workshop, of the charge of trafficking in human beings. The court considered that the case documents, and particularly the interviews of the various workers, did not adequately establish this charge. Although it is obvious that these people, who were residing here illegally, were also illegally employed, this employment alone did not warrant the charge of trafficking in human beings. The court found that the specific requirements of such an offence, for instance sole dependency on the employer, abnormal shift patterns and wages, were not sufficiently established given that the workers gave opposite statements and they all reported having worked at the location for only 1 to 3 days.

On the other hand, in the case we mentioned earlier in this report, the **Charleroi Criminal Court**¹⁶¹ found a defendant of Syrian origin, who was exploiting fellow countrymen and other workers in his second hand clothes sorting shop, guilty under Article 433 quinquies of the Criminal Code. Shortly after his conviction, the same defendant set up for business again in the Mons district and there is currently a case pending against him there¹⁶².

2.5. Transport

In the Mafia-related transport case, mentioned earlier in this report¹⁶³, the **Charleroi Criminal Court**¹⁶⁴ sentenced the defendants in their absence for trafficking in human beings and numerous social penal law offences. The court noted that the aim of the two main defendants, partners and founders of the transport company involved, was to expand

¹⁵⁸ Brussels Criminal Court, 4 January 2007, 58th chamber, see our 2007 annual report on trafficking in human beings, "A Public Policy through the eyes of a National Rapporteur", Part 3 (overview of 2006-2007 case law), point 3.

¹⁵⁹ Brussels, 20 May 2008, 11th chamber.

¹⁶⁰ Brussels Criminal Court, 4 November 2008, 58th chamber.

¹⁶¹ Charleroi Criminal Court, 21 March 2008, 7th chamber. This verdict is final. See chapter 2 B. Analysis by form of exploitation, point 2.2., above.

¹⁶² The Centre has also brought civil action in this case.

¹⁶³ See above, chapter 2B: Analysis by form of exploitation, point 2.3.1.

¹⁶⁴ Charleroi Criminal Court, 12 June 2009, 7th chamber (*in absentia*). As the defendants have opposed the decision, the case will lead to a retrial before the Criminal Court.

the transport business they had established in Italy into Belgium. The third defendant managed the subsidiary under their supervision. The court also reported that they exploited undeclared and underpaid workers, paid no attention to the working conditions and did not adhere to the employment legislation. The court awarded the Centre Euro 2,600 compensation for damages and ordered the immediate arrest of the three defendants.

In the major case involving the labour exploitation of Polish drivers, also mentioned earlier in this report¹⁶⁵, the **Charleroi Criminal Court** handed down two verdicts¹⁶⁶ which found the defendants guilty of trafficking in human beings. The court recalled that at the time the facts of the case were committed, supposing they are established, they were punishable under Article 77bis of the Law of 15 December 1980 and that they continue to be punishable under Articles 433 quinquies *et seq.* of the Criminal Code. The court found that the statements of the Polish workers were accurate and concurrent, were backed up by various witness statements and facts and did establish unfit working conditions (no contract, no accommodation, working excessively long hours 7 days a week, inadequate or no pay). Corrupt practices and threats were also established.

2.6. Domestic work

This case of the labour (and sexual) exploitation of a young Moroccan girl aged 14 by an Antwerp lawyer was referred to the **Antwerp Criminal Court**. This case was already mentioned in our previous report¹⁶⁷.

Several defendants were finally charged with trafficking in human beings and the lawyer was also charged with rape. The court upheld these charges¹⁶⁸.

On the charge of trafficking in human beings (old Article 77bis of the Law of 15 December 1980 and new Article 433 quinquies, §1, 3° of the Criminal Code (labour exploitation)), the court considered it proven that one of the co-defendants went to Morocco at the request of the lawyer, the main defendant, to seek out a young, innocent girl to work in his household. Her mother allowed her to leave on the pretext that she would be able to continue her studies and that she would be taken care of. Once in the country the young girl had to clean for free, receiving only board and lodging. There was never any question of her being able to continue her education and when she commented on this she was threatened. She had also handed over all her papers to the main defendant.

¹⁶⁵ See above, Chapter 2B, Analysis by form of exploitation, point 2.3.2.

¹⁶⁶ Charleroi Criminal Court, 23 January 2009, 7th chamber and 27 March 2009, 7th chamber (on the opposition to the verdict delivered *in absentia* of one of the two defendants). These verdicts are final.

¹⁶⁷ 2007 Annual report on Trafficking in Human Beings, “*A Public Policy through the eyes of a National Rapporteur*”, part 2, point 4 (case of a female minor).

¹⁶⁸ Antwerp Criminal Court, 26 January 2009, chamber 4C. The defendants filed an appeal so the case will be referred to the Antwerp Court of Appeal for review.

We also mentioned this case in our previous report, highlighting the fact that the new definition of trafficking in human beings for the purpose of sexual exploitation did not cover all cases of sexual exploitation and no doubt consideration would have to be given to amending the law on this point. In this case, not only was the girl used as a general maid, but she was also forced to have sexual relations with the defendant.

The charge under old article 77bis of the Law of 15 December 1980 was upheld by the **Malines Criminal Court**¹⁶⁹ against a Ghanaian couple who had illegally brought their niece into the country. Her uncle brought her over to Belgium with a false passport, having promised her she could go to school and join a choir. This did not happen and the young girl had to look after her aunt and uncle's house and children. Note that this conviction was based on the charge of smuggling of human beings and not trafficking for the purpose of labour exploitation as the young girl's working conditions were not investigated in any detail.

In another domestic help affair, however, the **Nivelles Criminal Court**¹⁷⁰ did not uphold the charge of trafficking in human beings, but did confirm the social criminal law offences. The court did not consider that the abuse of a vulnerable situation could be established. The female worker, of Ghanaian or Ivorian nationality, had come to Belgium from Togo with the household of the defendant and his companion, a diplomat assigned to an Embassy in Brussels. At the time she held a diplomatic passport.

The woman lived in the house and took care of the housework and children. She received her board and lodging and a wage of Euro 75 per month. The defendant's living conditions then deteriorated, which also had an impact on the woman.

Nevertheless, the court highlighted the following facts: although the worker stated she had to work 16 hours a day, there was nothing to indicate that she worked constantly during this time because her main task was to look after the children who were at school during the day; it was not established that the defendant helped her illegally enter Belgium because she arrived on a diplomatic passport and she appeared to have chosen to remain in Belgium rather than return to Africa with the defendant's companion.

Even though the defendant held onto the worker's passport, the latter was in possession of her own identity card, which the court considered to be an indication of her freedom, plus she had been enrolled in a literacy course.

In conclusion, the court found that although the worker was providing services in return for a very low wage, she did not appear to have been treated in an inhumane manner or reduced to slavery.

¹⁶⁹ Malines Criminal Court, 19 March 2008, 11th chamber. This verdict is final.

¹⁷⁰ Nivelles Criminal Court, 28 May 2008, 6th chamber. This verdict is final.

3. Coercion to commit offences

Earlier in our report ¹⁷¹ we mentioned the phenomenon of victims being forced to sell drugs in the city of Charleroi. We highlighted the issue of the defendants being charged only with drug trafficking and the victim forced to deal drugs in the network not (always) being treated as a victim of trafficking in human beings in an equal or parallel case. This creates a problem of recognition of the status of the victim and the associated rights.

Thus, in an initial case brought before the **Charleroi Criminal Court** ¹⁷², the defendants were charged and found guilty of drug trafficking but were not charged with trafficking in human beings (coercion to commit offences). One victim of this network was taken in by a specialised victim centre. But, for her to have victim status, the public prosecutor had to send a letter, confirming that the woman taken in by the reception centre had been a victim of this drug network, had been subjected to pressure and blatant threats by the organisation and had shown courage by exposing the network. This network recruited Moroccans and Algerians either in their country of origin or in Spain. The organisation then took the recruits to Belgium, sometimes via a “training course” in France or the Netherlands (repayment of their emigration debt). At last they were taken to the city of Charleroi and deployed on the streets or in “market houses” to sell drugs.

The second verdict relates to a similar case ¹⁷³. This was a major case involving the trafficking and sale of drugs organised by Moroccan nationals. The organisation used mainly “labourers” to sell drugs; they brought these labourers into Belgium illegally via a network of Moroccan immigrants living in Spain. The drugs were then sold in various parts of Charleroi by undeclared resellers both on the street and via a “market deal”.

The case saw fifteen defendants, mainly Moroccans, being charged with numerous drug offences (principally the purchase, possession, sale and delivery of heroin and cocaine). Three defendants were also charged with trafficking in human beings (coercion to commit offences) and the smuggling of two victims. There were also aggravating circumstances, principally the abuse of a person in a vulnerable situation and threats.

The **Court** upheld the numerous drug offences and also the charges of trafficking in and smuggling of human beings brought against two of the defendants, based principally on the accurate, detailed, concurrent statements of the victims and of co-defendants.

In connection with the smuggling of human beings charge, the court stated that the defendants had helped fellow countrymen enter Belgium from Spain, on the basis of an empty promise of legal work in the iron and steel or construction industry or as a gardener. They paid for the trip by coach with the sole intention of “picking them up” on their arrival in Belgium and using them in the drug trade. However, the court did not uphold the aggravating circumstances.

¹⁷¹ See the analysis of this phenomenon in chapter 2 A, point 4.2.

¹⁷² Charleroi Criminal Court, 2 October 2008, 21st chamber. This verdict is final.

¹⁷³ Charleroi Criminal Court, 3 June 2008, 21st chamber. This verdict is final.

As for the trafficking in human beings charge, the court pointed out that once these people had arrived in Belgium, they were taken from Brussels to Charleroi where they were housed. At this point the defendants explained to them why they had been brought to Belgium: to sell drugs (heroin and cocaine). The victims were given “training”, their identity documents were confiscated as soon as they arrived in Belgium and they were threatened at gunpoint. The court also upheld the aggravating circumstances of abuse of a person in a vulnerable situation, use of threats and corrupt practices but not those of regular activity or association.

4. Smuggling of human beings

On the subject of the smuggling of human beings, the **Brussels Criminal Court** has handed down guilty verdicts on the basis of Article 77bis (new) of the Law of 15 December 1980 in marriage of convenience cases, such as a case¹⁷⁴ in which the defendants of various nationalities (British, Belgian, Chinese) had for several years been organising marriages of convenience in Belgium. They went on to offer this service in the Scandinavian countries (Sweden principally) between European nationals and asylum seekers or students mainly of Chinese origin. The marriages offered the latter a valid residence permit for Belgium and, as a result, mobility within Europe. Each member of the organisation had a specific role (organiser, recruiter of prospective European marriage candidates, interpreter/translator, support worker assisting prospective marriage candidates with the formalities, etc.). These marriages could be arranged for an amount of Euro 13,600 to Euro 18,300, if not more.

Another case¹⁷⁵ dealt with a *multi-criminal* organisation, of which the defendants were mainly Moroccan, specialising in the handling and forgery of stolen documents and smuggling of human beings (organisation of marriages of convenience). The court found the defendants guilty of the offence under Article 77bis of the Law of 15 December 1980, basing its decision principally on telephone tapping, interviews with the victims and the results of house searches and financial analyses.

Similar verdicts were handed down in cases of aiding and abetting illegal immigration in Belgium.

First there was the infamous visa fraud affair at the Belgian embassy in Sofia, which was finally settled through the courts. This case has been debated in great detail by the “trafficking in human beings” sub-committee of the Senate¹⁷⁶ and the Permanent Committee for the Control of Information and Security Services¹⁷⁷. We mentioned this

¹⁷⁴ Brussels Criminal Court, 15 April 2008, 56th chamber. An appeal against this decision has been referred to the Brussels Court of Appeal.

¹⁷⁵ Brussels Criminal Court, 19 March 2008, 53rd chamber.

¹⁷⁶ See the Senate’s recommendations on the trafficking in human beings and visa fraud: report of the Senate’s trafficking in human beings sub-committee: “Trafficking in human beings and visa fraud”, Senate *Parl. Doc. S.o.* 2002-2003, 2-1018/1. This report is available on our website.

¹⁷⁷ See the Centre’s 2004 report on the trafficking in human beings, “Analysis from the victims’ viewpoint”, part 1, chapter 3.4.

case in one of our previous reports¹⁷⁸ and also earlier in this report¹⁷⁹. In the end only two defendants were brought to justice by the Federal Prosecutor's office on the basis of the old Article 77bis of the Law of 15 December 1980. However, the Centre brought civil action against only one of the two individuals. On a criminal level, the **Brussels Criminal Court**¹⁸⁰ ruled that the charge was time-barred but added that this did not mean that the civil proceedings were also time-barred. The court awarded the Centre 1 Euro for non-material losses but on the basis of Article 77 of the Law of 15 December 1980.

In its own words, the court had indicated the need to "investigate the extent to which the facts forming the basis of the civil action have been correctly portrayed and have been established". In its detailed analysis it recalled that the case involved the Belgian Embassy in Sofia fraudulently issuing visas for illegal immigration purposes. The court reported that "this often involved a system whereby companies applied to the embassy for a visa for Bulgarians who were to, or wished to, come to Belgium. Companies also applied for visas for their employees and there were also applications from travel agents which were making arrangements for tourists to travel to Belgium." The court found that the main defendant, via his travel agency "was very active in applying for visas for so-called tourists who then did not turn up at the intended destinations. It is also established that he was not afraid to use fake documents and reference addresses to further help his business."

The court stated that "the unusual circumstances in the applications of N. (the travel agency) did not result in the embassy closing its doors on V.D. (the defendant)". The court did not however find evidence of abuse of the vulnerable situation of the foreigners and explicitly added that "It has not been possible to interview any of the people holding these visas". There is on the other hand no doubt that the defendant against whom the Centre brought civil action was seeking profit from these activities. The court implicitly acknowledged that other persons should no doubt have been summoned alongside those who were brought before the court¹⁸¹. It referred in this instance to the claims of the civil parties which "far from being trivial, did in fact constitute scandalous, disgraceful abuse which could be classified as offences, often even crimes, but which were not brought before this court".

The **Brussels Criminal Court**¹⁸² has handed down another guilty verdict for smuggling of human beings. In this case the defendants belonged to a network which aimed to aid and abet the illegal immigration of Russian nationals through organisations working under the cover of seemingly respectable agencies and companies, all working with the same contact person in Belgium. The court ruled that they made a financial gain from this

¹⁷⁸ See our 2003 report, "Plea for an integrated approach, analysis of the legislation and case law", December 2003, part 1, point 1

¹⁷⁹ See above, chapter 2 for an analysis of the phenomenon, point A.3.

¹⁸⁰ Brussels Criminal Court, 18 February 2009, 51st chamber. This verdict is final.

¹⁸¹ See also our 2003 report, "Plea for an integrated approach, analysis of the legislation and case law", December 2003, part 1, point 1.2.1.

¹⁸² Brussels Criminal Court, 22 October 2008, 51st chamber. This decision is final. See also the section on damages below.

profitable activity. Most victims were recruited via a website and given made up stories and documents to obtaining asylum in Belgium.

Likewise the **Louvain Criminal Court** ¹⁸³ convicted several defendants of Chinese nationality under Articles 77bis and 77quater (new) of the Law of 15 December 1980. In return for significant sums of money they were offering false guarantees to Chinese students in a vulnerable situation to help them extend their C.I.R.E (certificate of registration in the register of foreigners).

Finally, there was the decision of the **Ghent Criminal Court** ¹⁸⁴ in relation to an organisation of defendants of Northern African origin who made arrangements for compatriots to enter Belgium in return for large sums of money. They were promised a legal residence permit for Belgium. The court found that, in providing the foreigners with fake identity documents, fake employment certificates and fictitious home addresses in return for large sums of money, the defendants were abusing the foreigners' precarious administrative situation.

In an important Iraqi-Kurd case, mentioned earlier in this report ¹⁸⁵, the defendants were charged with both smuggling of human beings (with aggravating circumstances) and the attempted smuggling of human beings. They belonged to a larger Iraqi-Kurd smuggling of human beings network which arranged transport for illegal immigrants to the United Kingdom and Scandinavia, passing through Belgium. This case gives an example of new trends in the smuggling of human beings: small groups of illegal immigrants are transported in stages using existing transport options (e.g. Eurolines).

The **Louvain Criminal Court** ¹⁸⁶ found that this case clearly demonstrated that this was one of such networks: there was intensive negotiation on the transport cost and possible benefits and payment was an important condition of the journey taking place (with or without guarantee). It was not possible to determine exactly how much money each defendant had received because the money was paid in cash and the payments were anonymous, but this does not mean that the defendants did not obtain financial gain and were not seeking profit from the activity, a fact which was confirmed by various telephone tapping operations.

The court also upheld the charge of attempted smuggling of human beings (attempt to set up a smuggling route for a dozen or so people from Italy to Germany and Sweden, passing through Belgium). The operation had already been initiated: contacts had been sought and agreements had been made on the sums to be paid and the profit margins to be generated, etc. This route was never actually used because the Italian contact was

¹⁸³ Louvain Criminal Court, 12 February 2008, 17th chamber. This decision is final.

¹⁸⁴ Ghent Criminal Court, 1 December 2008, 19th chamber. This decision is final. The court also upheld the charge of trafficking in human beings for labour exploitation: a young woman was brought to Belgium to be employed in the restaurant of one of the defendants under conditions which were incompatible with human dignity. She had no access to her documents, no freedom of movement and had to work long hours for a monthly wage of Euro 50.

¹⁸⁵ See above part 1, chapter 2, analysis of the phenomenon, B.3.2.

¹⁸⁶ Louvain Criminal Court, 20 January 2009, 17th chamber.

arrested.

Cases related to this have also lead to convictions by the courts. A Kurd¹⁸⁷ and Indian¹⁸⁸ case were brought before the **Brussels Criminal Court and the latter's decision was upheld by the Brussels Court of Appeal**. Guilty verdicts were handed down in both cases.

We would also like to mention an interesting decision of the **Brussels Criminal Court**¹⁸⁹, the principle of which was upheld by the **Court of Appeal**. The defendant was charged under Article 77bis (old) of the Law of 15 December 1980. He was accused of having acted as a smuggler for a Nigerian in 2004. He was intercepted at Zaventem airport (Belgium) about to board a flight to Great Britain and argued that the deed was no longer punishable since the new Article 77bis of the Law of 15 December 1980 came into force. Indeed he claimed that as the wording of the Law had changed¹⁹⁰ aiding and abetting the entry into or transit through a member state of the EU from another member state was no longer a punishable offence.

The court rejected his argument on the basis that neither the letter nor the spirit of the law permitted this interpretation. On the one side there is nothing in the law which states that the law only applies to aiding and abetting the entry into or transit through a member state from another non-member state. And on the other side, according to the spirit of the law, it is not conceivable that the legislature intended that member states should authorise the transit of illegal immigrants within the EU.

(...)

5. Damages awarded to victims and specialised victim centres

We would like to highlight some interesting decision relating to damages.

On two occasions the **Courtrai Criminal Court** has awarded Payoke (one of the three Belgian specialised reception centres for victims of trafficking in human beings) combined material and non-material damages.

¹⁸⁷ See Brussels Criminal Court, 14 May 2008, 51st chamber, upheld by Brussels, 3 November 2008, 13th chamber. The appeal court also upheld the aggravating circumstance of minority which had not been upheld by the court of first instance.

¹⁸⁸ See Brussels Criminal Court, 18 June 2008, 51st chamber, confirmed by Brussels, 3 December 2008, 13th chamber.

¹⁸⁹ Brussels Criminal Court, 20 June 2007, 51st chamber, confirmed by Brussels, 6 January 2009, 13th chamber.

¹⁹⁰ The article now reads as follows: "*Shall be construed as smuggling of human beings the fact of aiding and abetting, in any way, directly or through an intermediary, the entry, transit or residence of a non-native of a Member State of the European Union into or through the territory of a Member State or a State which is party to an international convention with Belgium on the crossing of external borders, in breach of the regulations of said State, with a view to obtaining a direct or indirect financial gain*".

The first verdict, delivered *in absentia*¹⁹¹, involving young Romanian women who were exploited in bars, Payoke had brought a civil claim for Euro 2,500 combined material and non-material damages. The court accepted the claim, explicitly acknowledging that material damages could be awarded alongside non-material damages. The court accepted that the fact of having to provide staff following default of a third party gives entitlement to damages, even if assisting and supporting the victim falls within the mandate of the civil party.

In another case¹⁹² involving an international smuggling of human beings network operating between Iran and Great Britain, the court accepted the same reasoning awarding Payoke combined material and non-material damages of Euro 3,000. This decision was upheld by the **Ghent appeal court**¹⁹³. In an interesting reasoning, this court decided that an organisation such as Payoke, which is subsidised by the state, is still entitled to material damages.

Payoke was also awarded Euro 2,000 by the **Brussels Criminal Court**¹⁹⁴ in a sexual exploitation case involving young Nigerian women.

There have also been some interesting decisions relating to damages for the victims themselves.

In the aforementioned case involving workers of Indian or Pakistani origin buying fake documents from the defendants in order to be able to work in the horticulture sector and having to pass on a portion of their wages to them, the **Antwerp Criminal Court**¹⁹⁵ awarded the civil parties material damages equal to the sums they had paid to obtain the fake documents but refused to award non-material damages on the basis that they benefited from the use of these fake documents.

In a smuggling of human beings case, also mentioned above, the **Brussels Criminal Court**¹⁹⁶ awarded the civil parties by way of material damages the (sometimes considerable) amounts they had paid to the organisation. It did however refuse to pay non-material damages on the grounds that the victims wanted to emigrate, managed to do so and knew very well they were using the services of a criminal network.

Considerable damages have also been awarded in cases of trafficking in human beings, for instance in big cases of sexual exploitation of young Romanian women¹⁹⁷ and of young Bulgarian women¹⁹⁸, both mentioned earlier in this overview of case law.

¹⁹¹ Courtrai Criminal Court, 15 April 2008, 8th chamber. The same verdict (10 March 2009) was reached on the opposition filed by one of the defendants who failed to attend the hearing.

¹⁹² Courtrai Criminal Court, 29 January 2008, 8th chamber.

¹⁹³ Ghent, 3 November 2008.

¹⁹⁴ Brussels Criminal Court, 2 October 2008, 46th chamber

¹⁹⁵ Antwerp Criminal Court, 25 June 2008, chamber 4 C.

¹⁹⁶ Brussels Criminal Court, 22 October 2008, 51st chamber.

¹⁹⁷ Brussels, 30 January 2009, 12th chamber.

¹⁹⁸ Brussels Criminal Court, 9 April 2008, 54th chamber. The court awarded the civil parties damages ranging between Euro 5,000 and Euro 25,000.