

Protecting Asian Trafficking Victims in Europe

In Focus: The Czech Republic, Poland, and Romania

1. Introduction

This research project focussed on Asian trafficking victims in Europe, especially in The Czech Republic, Poland, and Romania.¹ Asian third country nationals (TCNs) are increasingly recruited to work in Europe, including from countries like the Philippines and Vietnam. According to a 2021 report by Verité, a US based independent non-profit organisation, “Over 10 million Filipinos are estimated to live and work internationally, with 368,000 Filipino citizens in Europe alone, making the Philippines a key source of labour in Europe”.² There is a huge demand for workers in several labour sectors in Europe. This is partly due to migration flows within the EU, the departure of many highly skilled workers from lower income EU countries (including our focus countries: the Czech Republic, Poland, and Romania), as well as an aging population and the mismatch between supply and demand. Poland and Romania, and to a lower extent the Czech Republic, have increased the number of work visas issued for groups of TCN workers, including Asian migrant workers.

A recent trend in Europe has seen recruitment agencies being set up to attract and recruit workers from Asia. Similarly, recruitment agencies in Asia make a lucrative business of recruiting workers for ‘employment’ in Europe. But for many individuals, seeking employment in this manner can be fraught with risks: they may inadvertently find themselves working under exploitative conditions, or compelled to work under the weight of debt from the fees they paid to recruiters during the recruitment and migration process.³

Many Asian TCN migrant workers end up in low-paid jobs in Europe. They have limited access to legal and decent work⁴ and are not properly protected against serious forms of exploitation. Human trafficking for the purpose of labour exploitation can take place through debt-based coercion or the abuse of individuals’ vulnerabilities. This is witnessed in formal and informal labour sectors, including construction, agriculture, garments, forestry, manufacturing, food processing, hospitality, and service sectors (including domestic work). Workers in these sectors often have no access to a decent level of income nor a ‘minimum’ or ‘living’ wage and lack adequate living conditions and proper unemployment protections including social benefits.⁵ The COVID-19 pandemic and related restrictions, as well as the weakened economic situation globally, have only further increased the vulnerability of TCN migrant workers in Europe. At present, too little attention is paid to the growing group of Asian migrants in Europe who are at risk to fall prey to human traffickers.

¹ For further information, see the full report: La Strada International, ‘Protecting Asian Trafficking Victims in Europe. In Focus: The Czech Republic, Poland and Romania’, October 2022, available at: <https://documentation.lastradainternational.org/doc-center/3468/research-report-protecting-asian-trafficking-victims-in-europe-in-focus-czech-republic-poland-and-romania>

² Verité, ‘Assessing Labor Risk for Workers Migrating from the Philippines to Europe’, March 2021.

³ Ibid.

⁴ Based on the ILO definition, decent work means safe working conditions, a fair income and conditions of equality and human dignity.

⁵ La Strada International, ‘Rights at Work report’, 2019.

2. Legal framework to protect workers from exploitation and abuse

On paper, TCN migrant workers are protected against severe forms of labour exploitation and abuse in Europe. The Czech, Polish, and Romanian legal frameworks comply with international and EU legislation relating to the prevention of human trafficking and forced labour. These three countries signed and ratified the UN Trafficking Protocol (2000) and the CoE Trafficking Convention (2005), and transposed both the EU Trafficking Directive (2011) and the Victim Rights Directive (2012). Furthermore, these three focus countries are parties to international and regional instruments on mutual legal assistance and judicial cooperation in criminal matters, including regarding human trafficking. The Czech Republic, Poland and Romania have also ratified the main relevant ILO Conventions related to forced labour. However, there are still several important ILO conventions relating to the protection of (migrant) workers which have not been ratified by these three countries.⁶ Like most European countries, the Czech Republic, Poland, and Romania are not parties to the ILO Migrant Workers Convention.⁷ Also, the three focus countries have not ratified the ILO Conventions C189 on Domestic Work and C190 on Violence and Harassment in the field of work.⁸ In addition, Romania did not ratify the additional protocol on Forced Labour of 2014, and all three focus countries have decided not to join the Global Compact for Migration.⁹

3. National legislation criminalising human trafficking and forced labour

The offence of human trafficking is criminalised under the national criminal codes of the three focus countries in accordance with international and European instruments. As forms of exploitation, the criminal codes of the Czech Republic, Poland, and Romania explicitly mention forced labour as well as slavery or servitude, alongside exploitation of prostitution and other forms of sexual exploitation. The Czech and Romanian criminal codes explicitly include exploitation through the removal of organs, while the Polish and Romanian criminal codes include forced begging. It should be born in mind that these listed forms of human trafficking practices are not an exhaustive list.

Poland has started a process to define forced labour,¹⁰ and NGOs have called for forced labour to be codified as a separate criminal offence. In Poland, the 'knowing use of services of trafficking victims' is not explicitly criminalised but employing an irregularly residing foreigner is criminalised. In Romania, Article 216 of the criminal code criminalises anyone who knowingly uses the services of a trafficking victim. In the Czech Republic, the knowing use of services of trafficking victims is not criminalised.

⁶ An overview of the (absence of) ratifications of the key legal instruments by the three focus countries can be found in the full report: La Strada International, 'Protecting Asian Trafficking Victims in Europe. In Focus: The Czech Republic, Poland and Romania', October 2022, available at: <https://documentation.lastradainternational.org/doc-center/3468/research-report-protecting-asian-trafficking-victims-in-europe-in-focus-czech-republic-poland-and-romania>

⁷ International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, Adopted by the ILO General Assembly resolution 45/158 of 18 December 1990.

⁸ https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C189; https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C190.

⁹ The Global Compact for Safe, Orderly and Regular Migration was formally adopted by 164 Member States of the United Nations in December 2018.

¹⁰ At the time of writing this report there is no further information yet about the possible adoption of this definition. For further information see the full report (available at: <https://documentation.lastradainternational.org/doc-center/3468/research-report-protecting-asian-trafficking-victims-in-europe-in-focus-czech-republic-poland-and-romania>) and the following (Polish) source: <https://www.gov.pl/attachment/e6e702e5-d4db-4697-a06e-73c52d63399b>.

In Poland and Romania, child labour is prohibited under both the labour code and the constitution. In the Czech Republic it is regulated under the civil code, which prohibits the labour of minors under the age of 15 years or who have not completed compulsory education. All three countries also criminalise human smuggling in their criminal codes. Although closely related to human trafficking, human smuggling is a different crime, it entails the organisation and facilitation of the unauthorised crossing of state borders.

4. Labour protections

In the Czech Republic, Poland, and Romania, labour protections are stipulated under each country's respective labour codes as well as within additional employment acts and laws.¹¹ This provides a legal guarantee of labour rights protections, including the principle of equal treatment of employees and non-discrimination. The Czech Republic's Act on Employment (Act No. 435/2004 Coll.) and Romania's labour code stipulate the requirements for allowing foreign nationals to access the labour market, the obligations of employers, and the prohibition of irregular work. In Poland, foreign nationals' access to the labour market is regulated by the Law on Employment Promotion and Labour Market Institutions.

While labour rights protections in the Czech Republic only apply to persons in regular employment, Romania's labour code also applies to migrant workers and stateless citizens employed under individual labour contracts. In Poland, the labour code's protections apply only to persons employed under labour contracts, meaning they do not apply to the many persons employed under civil law contracts. The labour code's protections should be applied to migrant workers employed under labour contracts, even if they have no valid work permit. Each country's National Labour Inspectorate monitors employers' compliance with labour laws and the legality of employment and other gainful work by foreign workers. Neither of these three countries has binding legislation on (human rights) due diligence for the private sector.

5. Bilateral agreements regarding employment of TCNs

The Czech Republic, Poland, and Romania have signed various bilateral agreements with Asian countries on employment, social security, re-admission of citizens, and/or cooperation in combating organised crime.¹² These also include specific employment programmes with Asian countries. For example, all three focus countries signed agreements with Vietnam, while the Czech Republic has also entered into agreements with the Philippines, Thailand, and Indonesia. However, many of these bilateral instruments appear barely used nowadays.

¹¹ In the Czech Republic, labour protection is also laid down in the Charter of Fundamental Rights and Basic Freedoms – not to be confused with the EU Charter of Fundamental Rights.

¹² For further information on these bilateral agreements, please see the full report: La Strada International, 'Protecting Asian Trafficking Victims in Europe. In Focus: The Czech Republic, Poland and Romania', October 2022, available at: <https://documentation.lastradainternational.org/doc-center/3468/research-report-protecting-asian-trafficking-victims-in-europe-in-focus-czech-republic-poland-and-romania>.

6. Visa schemes and work permit quota

To attract and employ foreign workers, Poland and Romania, and to a lower extent the Czech Republic, have increased the number of work visas issued for groups of TCN workers, including Asian workers.¹³ While the Czech Republic has specific visa schemes for Asian migrants, there is no evidence of a similar situation in Poland and Romania. However, the latter two countries have increased their quotas for certain groups of migrant workers, including Asian migrants.¹⁴ In all three countries, Asian migrants do not have free access to the labour market, they must obtain a work permit to gain legal employment. In most cases these permits are tied to the specific employer, which makes it very difficult for migrants to leave an exploitative employer. For example, to work in the Czech Republic, TCNs need a short- or long-term visa, a long-term residence permit (Employee Card or Blue Card), or a permanent residence permit. These visas or work permits are usually tied to the employer. There are some limited exceptions to this for workers with Employee Cards, but unfortunately many workers are unaware of these exceptions, a lack of knowledge which is often abused by employers. This means that in practice, TCNs working in the Czech Republic are not able to change their employer during the initial six months of employment. Similarly, work permits in Poland and Romania are also tied to a specific employer.

Despite various visa arrangements, the systems of labour migration are generally unfavourable towards TCN migrant workers, and the bargaining power in employment relationships typically lies with the employer. Foreign employees are made dependent on their employers through the conditions of work and residence visas. For instance, Romanian employers can easily terminate their employment relationships with TCN workers, who must find new employment within six months to avoid deportation. While there are some exceptions, this often makes it almost impossible for TCN workers to leave exploitative working situations, as they cannot freely choose to leave an employer for fear of thereby losing their work permit.

Moreover, migrants are often forced into situations of irregular work, for example due to expired visas or due to losing their working permit after fleeing an exploitative working situation. When in situations of irregular work, they are even more vulnerable, as they are likely to be reluctant to report exploitative situations for fear of job loss, detention, or deportation due to their irregular status. This is observed in all three focus countries.

The fact that human trafficking and forced labour victims often lack information or knowledge about their rights remains a persistent challenge. There is also a lack of safe reporting and complaint mechanisms for undocumented TCN workers. TCN migrant workers might leave their exploitative employers without having the possibility to inquire about implications in their employment contract. When the employer terminates the contract, the migrant worker loses legal residency (this is tied to the work permit) and might have no option – or might not have been made aware of any option – to legally appeal or find another job to extend their legal residency. There should be a greater focus on ensuring that all workers, including TCN migrant workers, can safely report and that effective complaint mechanisms are put in place.

¹³ For more information, see: La Strada International, 'Tackling labour exploitation in Poland, Bulgaria and Romania', March 2019, <https://www.lastradainternational.org/wp-content/uploads/2020/10/3301-RaW-Tackling-labour-exploitation-final.pdf>.

¹⁴ For instance, in 2017, Poland issued over 13,000 work permits for Nepalis, Indians and Bangladeshis combined, which is more than four times more than in 2016. Ibid, pg. 32.

7. National support for victims of human trafficking and forced labour

Victims of forced labour or human trafficking are granted rights and protection under the respective domestic laws in the Czech Republic, Poland, and Romania. In all three countries, identified victims of human trafficking are entitled to assistance and protection as described in international legislation. This includes access to a recovery and reflection period, free legal assistance, appropriate and secure accommodation, psychological assistance, access to emergency medical treatment, and assistance and protection during criminal proceedings. Victims also have a legal right to have access to information and compensation.

However, in practice many Asian migrants in severe exploitative conditions are not identified as (potential) human trafficking victims and are therefore never referred, meaning they do not receive the assistance and support they need and to which they are entitled. While law enforcement authorities might argue that there is no difference between the rights of victims on paper and in practice, NGOs, legal practitioners, and academics in these three focus countries raise concern that those rights and protections are accessible only to those few officially recognised victims of forced labour and human trafficking.

There are many gaps related to the effective implementation of legislation, leading to a situation in which trafficked and exploited persons often have no access to sufficient information about their rights. This leads to situations where they are not aware of the reflection period they are entitled to, as well as limited social support, no effective legal assistance, and no access to remedies like compensation and back wages. In Romania, due to the shortage of psychological counsellors, many victims have no access to specialised trauma care.

Furthermore, there is little tendency to provide victims with mediation and conciliation procedures supported by the state. NGOs report that legal assistance to victims is limited due to a lack of state-run legal support. A Romanian NGO explained that the Romanian national free legal aid system is dysfunctional and lacks quality. As migrant workers cannot afford to hire legal representation themselves and remain without proper legal representation, many human trafficking cases effectively have zero chance of succeeding in court. Secondary victimisation during legal proceedings is another issue of concern, as is the lack of proper compensation for victims of forced labour and human trafficking.

In all three countries, the provision of compensation is a problematic area of criminal justice; the process takes a long time, and the award of compensation depends on the ability of the court to seize the assets of the trafficker. Labour exploitation cases with insufficient evidence are dropped, meaning the victim(s) cannot use the criminal procedure to support a compensation claim. In rare situations where criminal cases do succeed, criminal courts only grant small amounts of compensation. To get more compensation, victims need to resort to the civil courts where the rules of conduct are much more formalised, there are high legal fees, and the victims are not automatically granted free legal aid. Another issue of concern is the non-application of the non-punishment principle: victims may be prosecuted for crimes committed as part of their trafficking situation.

8. Investigation, prosecution, and case law

The overall victim identification rate remains low, and it is very difficult to formally identify Asian TCN workers as victims of trafficking or forced labour. Despite various abuses detected by labour inspectors and law enforcement, such as fraudulent agency employment or irregular posting of workers by employers headquartered in other EU countries, very few Asian victims have been formally identified as victims of human trafficking or forced labour due to inadequate investigations and criminal proceedings.

A small-scale case law review revealed a lack of labour exploitation cases in general, and regarding Asian victims in particular.¹⁵ The jurisprudence related to the exploitation of Asian migrant workers in the three countries, and in Europe generally, is scarce, which reduces the possibilities for judges and other legal professionals to base their reasoning or judgements on existing jurisprudence. There are multiple reasons for the lack of adequate investigations and successful prosecution of human trafficking and forced labour cases.

Investigations and prosecutions of human trafficking and forced labour cases require a great deal of investment, resources, and capacity. The lack of adequate interpretation and application of existing legislation, partly due to stakeholders' limited knowledge and/or capacity, is a severe bottleneck. Other challenges include the difficulty of obtaining evidence, the fact that victims often do not self-identify, and the fact that they are often unable or unwilling to cooperate with law enforcement. This also leads to a lack of witnesses. It also seems practically impossible to hold exploitative businesses and employers accountable through criminal liability of legal persons.

9. Interpretation of legislation

The definition of the offence of human trafficking is complex. The multi-dimensional nature of the crime requires that all three elements – namely the act, means, and purpose – must be proven. In the three focus countries, the main challenges to the investigation and prosecution of trafficking offences relate to the difficulty in the interpretation and application of anti-trafficking legislation.

The interpretation of definitions and legislation is very much dependent on stakeholders and their national contexts. This also impacts how different forms of exploitation are understood and applied in different countries. Severe forms of labour exploitation might be – wrongly – regarded as violations of labour law instead of serious violations of criminal law. This often happens due to the exploitation itself not being immediately visible to the untrained eye, or a lack of knowledge that less severe forms of labour exploitation are still criminal law violations and not just civil or labour law violations.

In the Czech Republic, the main procedural challenges to pursuing investigations for forced labour or human trafficking cases derive from the fact that many indicators of exploitation only constitute violations under the labour code. In Poland, the legal formulation of relevant crimes is problematic too, as provisions on forced labour overlap with those concerning violations of labour rights.

¹⁵ 14 cases in the Czech Republic, Poland and Romania have been reviewed within the framework of the 'Cross-Continent Collaborations to Protect Asian Trafficking Victims in Europe' project. For further information, see the full report: La Strada International, 'Protecting Asian Trafficking Victims in Europe. In Focus: The Czech Republic, Poland and Romania', October 2022, available at: <https://documentation.lastradainternational.org/doc-center/3468/research-report-protecting-asian-trafficking-victims-in-europe-in-focus-czech-republic-poland-and-romania>.

This seriously hampers the prosecution of offences as human trafficking, which are instead seen as mere violations of labour rights. In Romania, the amended criminal code has given rise to additional procedural challenges, largely because the law on human trafficking is ambiguous and the distinction between related offences, such as fraud, labour exploitation and solicitation, is unclear. The level of penalties is also too low, and jurisprudence is yet to be established.

10. Lacking evidence and witnesses

Many cases never reach the courts, because they are dropped due to a lack of evidence or the fact that victims are unable to cooperate. Workers often do not have work contracts or other work documents, such as timesheets, to demonstrate excessive working hours or overtime work. Most migrant workers do not know that they need to keep copies of important work documents as proof, and exploitative employers are careful not to reveal any evidence of exploitation.

Another important bottleneck is the fact that victims do not self-identify or are unable or unwilling to cooperate with law enforcement authorities due to fear of reprisals, such as loss of work or pay, risk of detention, and risk of deportation. They are also often unwilling or unable to engage in the lengthy proceedings, which can take several years. Furthermore, there is a lack of witnesses to support criminal proceedings, especially if the witness is also an employee of the victim's employer or from the same country or community of origin. There is a very real risk of witness intimidation or threats by the exploiter.

11. Lacking awareness and commitment among relevant stakeholders

There is a lack of political will, commitment, and awareness of the need to protect TCN migrants from exploitative situations of work. Policies tend to focus on the legality of the work itself, rather than the adequacy of working conditions and the possibility of human rights violations taking place. Consequently, officials conducting inspections also focus on the legality of work rather than possible exploitative practices. This also points to a wider issue: stakeholders pay little attention to vulnerable migrant workers, including the police, labour inspection, border guards, prosecutors, and others responsible for the identification of trafficking victims and the investigation and prosecution of these cases. Especially in Romania and the Czech Republic, the attention is mostly focussed on nationals who are trafficked to and exploited in foreign countries. Therefore, prevention work in these countries still predominantly targets nationals who might want to travel abroad. Much less attention is being paid to addressing and preventing labour exploitation of TCN migrant workers within the countries' own borders. Furthermore, there are the issues of mistrust in law enforcement authorities, and a lack of cooperation and adequate referral. More awareness and understanding is needed from all these stakeholders. Likewise, greater awareness must also be raised among migrants themselves about their (labour) rights and the risks of exploitation.

12. Lack of expertise and resources

The lack of expertise and resources among relevant stakeholders¹⁶ presents another challenge to the access to support services for victims. Labour Inspectorates are crucial in enforcing labour standards and enacting investigations and prosecutions. But there is a clear lack of capacity here and controls remain rare, including in vulnerable sectors such as agriculture and construction. Hence the number of labour exploitation cases reported by Labour Inspectorates is low in the Czech Republic, Poland, and Romania. The few inspections that do take place are mainly conducted in workplaces regulated by registered work contracts, which is seldom the case in exploitative situations. Inspections are virtually non-existent in domestic work.

In Poland, the main problem is that the Labour Inspectorate's mandate is limited to work based on the labour code, while in reality it is common practice to hire employees based on civil law. The victims whose work was based on civil law agreements fall outside the Labour Inspectorate's competences and can only refer to civil courts, where procedures are complicated and formalised. However, the Labour Inspectorate does have a competence to verify the legality of employment, including when workers are employed under civil law. The Labour Inspectorate can also claim that the employment based on civil law fulfils the criteria of employment based on the Labour Code and bring the case to court to establish that the contract should, in fact, be re-classified as a labour law contract.

There is no clear firewall between the control of decent working standards and immigration control. This forms a serious bottleneck, as it impedes safe reporting for TCN workers. In all three countries, the Labour Inspectorates are responsible for monitoring both working conditions and irregular employment. When labour inspection authorities prioritise checking workers' immigration status, this diverts attention from the working conditions and increases the likelihood that exploitative practices continue.

Furthermore, there is a lack of legal professionals specialised in human trafficking – including appropriately skilled (defence) lawyers, prosecutors, and judges – to support and appropriately adjudicate trafficking cases. Consequently, provisions concerning the abuse of labour rights (labour law) are often applied in cases of forced labour offences, rather than the appropriate criminal law provision on human trafficking. Moreover, lawyers often trivialise the offence of trafficking for sexual exploitation if the victim is a consented sex worker. Due to the lack of knowledge among judges, court decisions in human trafficking cases can be inconsistent and unpredictable. Judges do not have the resources necessary to devote sufficient time to every case and attend specialised trainings on human trafficking.

13. Difficulties in holding businesses accountable

It seems practically impossible to hold businesses accountable for severe exploitative practices through criminal liability of the legal person. A particular concern here is the lack of transparency of employers' corporate structures and an absence of sanctions on recruitment agencies in relation

¹⁶ Including law enforcement officials (police, border police), lawyers, prosecutors, judges, labour inspectors, tax inspectors, social workers, child welfare staff, health-care staff, immigration officials, asylum case workers, staff of immigration detention centres, and consular officials.

to human trafficking offences. Another challenge that hampers the prosecution of corporate actors derives from the existing legal loopholes which they use to continue their business and avoid criminal liability. For example, Romanian legislation allows a company administrator to easily dissolve one company and set up another, and the same person can be the administrator for several companies simultaneously as long as this natural person has not been convicted. These types of manoeuvres can be used by perpetrators to continue their illegal business.

14. Conclusion

One of the key conclusions from the research and interviews conducted is the fact that there is too little attention and awareness for the growing group of vulnerable Asian TCN migrant workers recruited for low-paid jobs in Europe. The challenges encountered in this research project do not all exclusively apply to Asian migrants. Many of these challenges are relevant for all TCN migrants facing exploitative situations, including victims of trafficking and forced labour. However, Asian migrant workers are found to be a particularly vulnerable group in the Czech Republic, Poland, and Romania. Reasons for this particular vulnerability include language and cultural barriers, as well as the invisibility of these specifically isolated groups that are often part of 'closed' communities. The fact that their recruitment is often connected with debt bondage, adds to this particular vulnerability. Through this research project, the following main challenges and gaps were found:

- **A lack of political will and commitment as well as the necessary awareness, knowledge and resources** to protect vulnerable Asian migrants from exploitation is broadly observed among relevant stakeholders.
- The fact that **work permits are often tied to the specific employer**, impedes Asian TCN workers to leave exploitative work situations, for fear of losing their work permit and thereby their legal residency, thus risking deportation.
- In practice, **rights and protections are accessible only to those very few officially recognised victims of human trafficking**. As Asian migrants in exploitative situations are often particularly invisible and isolated, and not well-informed about their rights, many are never identified nor referred for assistance as (potential) victims of human trafficking or other severe forms of labour exploitation and consequently do not receive any of the crucially needed support.
- Often **victims do not self-identify or are unable or unwilling to cooperate with law enforcement** authorities for fear of retaliations, loss of their job, income and housing, and the risk of deportation. A major reason for the low number of employment violations reported by Asian TCN migrant workers derives from this same fear. Sadly, too often a well-founded fear, as problematically there are no adequate safe reporting and complaint mechanisms in place in the three focus countries, nor is there a clear firewall between the labour inspection and immigration control.
- **Difficulties in the interpretation and application of existing anti-trafficking legislation** in the three focus countries risks leading to misapplication and even non-application of anti-trafficking legislation in cases of severe exploitation – all at least partly due to stakeholders' limited awareness, knowledge and capacity to identify the exploitative practices as human trafficking. As a result, there are hardly any successful investigations and prosecutions related to the trafficking of Asian migrants.

- As access to justice is closely tied to successful criminal procedures, there is **a lack of proper remedies including compensation** for TCN victims of forced labour and human trafficking.
- **It proves very difficult to hold private companies** – employing Asian migrants and directly or indirectly responsible for their exploitation – **accountable** for these exploitative practices.

15. Recommendations

To improve the situation of Asian migrant workers and Asian victims of human trafficking and forced labour in the Czech Republic, Poland, and Romania, the following actions should be taken:

1. Ratify the ILO Migrant Workers Convention and the ILO Conventions C189 on Domestic Workers Rights and C190 on Violence and Harassment in the field of work.
2. Consider enhancing legal migration opportunities for TCN migrant workers and ensure that work visas and work permits are not tied to the specific employer.
3. Work closely with trade unions, civil society and the private sector to ensure effective outreach to raise awareness of the risks of labour exploitation, especially among Asian communities, both in the countries of origin and countries of destination. Potential victims of trafficking are to be systematically informed, in a language that they understand, of the risks of human trafficking, their rights, available complaint mechanisms as well as of the available procedures and legal assistance, counselling, and other services.
4. Monitor recruitment and employment agencies and address exploitative recruitment and employment practices.
5. Enhance the capacity of Labour Inspectorates and ensure a clear firewall between the labour inspection and immigration control to ensure safe reporting for (undocumented) migrant workers. Additionally, well-functioning complaint mechanisms are to be established for these groups.
6. Strengthen the awareness and capacity of law enforcement bodies, legal professionals and other important stakeholders¹⁷ to identify victims of human trafficking and forced labour among TCN Asian migrants by enhancing specialisation and capacity building, including periodic trainings. Especially law enforcement and legal professionals must be sensitized as to victims' rights, including the right to compensation.
7. Address gaps that hinder the effective implementation and correct application of anti-trafficking legislation, including the non-punishment principle. And ensure that labour rights protection and victims' rights are accessible to all workers, including (irregular) Asian migrant workers.
8. Establish binding legislation on (human rights) due diligence for the private sector to protect workers, including those who are exploited in supply chains.

¹⁷ Including law enforcement officials (police, border police), lawyers, prosecutors, judges, labour inspectors, tax inspectors, social workers, immigration officials, asylum case workers, staff of immigration detention centres, and consular officials.

9. Ensure access to justice for victims of human trafficking, including by facilitating the provision of information, free legal aid and qualified interpreters. This must include enabling victims to exercise their right to compensation through criminal and/or civil proceedings.
10. Consider establishing an advance payment scheme by the state for compensation awarded to trafficking victims by the courts. This lifts the victim's (almost impossible) burden to claim the payment from the perpetrator, as the state will advance the compensation payment and endeavour recovering the amount from the perpetrator through confiscating their assets.

The findings and recommendations laid out in this policy paper are based on joint research conducted by La Strada International members; La Strada Czech Republic, La Strada Poland, and the Romanian organisation ADPARE in the respective countries within the framework of the La Strada International project titled "Cross Continent Collaboration to Protect Asian Trafficking Victims in Europe", funded by Porticus. For further information, see the full report: 'Protecting Asian Trafficking Victims in Europe. In Focus: The Czech Republic, Poland and Romania', La Strada International (2022).¹⁸

La Strada International, October 2022.

¹⁸ La Strada International, 'Protecting Asian Trafficking Victims in Europe. In Focus: The Czech Republic, Poland and Romania', October 2022, available at: <https://documentation.lastradainternational.org/doc-center/3468/research-report-protecting-asian-trafficking-victims-in-europe-in-focus-czech-republic-poland-and-romania>.