

The Role Of Security Sector Actors In Addressing The Demand-Side Of Human Trafficking

Stela Haxhi (principal author) with

Giji Gya

Daria Hagemann

Juha-Pekka Jäpölä

Sara Stocker

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About the project

Trafficking in human beings covers various forms of coercion and exploitation of women, men and children. Responses to trafficking have traditionally focused on combating the criminal networks involved in trafficking as well as protecting the human rights of victims. However, European countries are increasingly exploring ways to influence the demand for services or products involving the use of trafficked persons or for the trafficked persons themselves. **DemandAT** aims to understand the role of demand in the trafficking of human beings and to assess the impact and potential of demand-side measures to reduce trafficking, drawing on insights from related areas on regulating demand.

DemandAT takes a comprehensive approach to investigating demand and demand-side policies in the context of trafficking. The research includes a strong theoretical and conceptual component through an examination of the concept of demand in trafficking from a historical and economic perspective. Regulatory approaches are studied in policy areas that address demand in illicit markets, to develop a better understanding of the impact that the different regulatory approaches can have on demand. Demand-side arguments in different fields of trafficking as well as demand-side policies of selected countries are examined, to provide a better understanding of the available policy options and impacts. Finally, the research also involves in-depth case studies both of the particular fields in which trafficking occurs (domestic work, prostitution, the globalised production of goods) and of particular policy approaches (law enforcement and campaigns). The overall goal is to develop a better understanding of demand and demand-factors in the context of designing measures and policies addressing all forms of trafficking in human beings.

The research is structured in three phases:

- Phase 1: Analysis of the theoretical and empirical literature on demand in the context of trafficking and on regulating demand in different disciplines, fields and countries. From January 2014–June 2015.
- Phase 2: Three in-depth empirical case studies of different fields of trafficking – domestic work, prostitution, and imported goods – and two studies on different policy approaches: law enforcement actors and campaigns. From September 2014–December 2016.
- Phase 3: Integrating project insights into a coherent framework with a focus on dissemination. From January 2017–June 2017.

Project Facts

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The views expressed in this publication are the sole responsibility of the authors and do not necessarily reflect the views of the European Commission.

Abbreviations

| | |
|--------|--|
| ANITP | Romanian National Agency against Trafficking in Persons |
| BNRM | Bureau of the Dutch National Rapporteur on Trafficking in Human Beings |
| CH | Switzerland |
| CJA | UK Coroners and Justice Act 2009 |
| CoE | Council of Europe |
| CZ | The Czech Republic |
| CTHB | Counter Trafficking in Human Beings |
| DAMP | Czech Department on Asylum and Migration Policy |
| DCAF | Geneva Centre for the Democratic Control of Armed Forces |
| ECPAT | End Child Prostitution, Child Pornography and Trafficking |
| EMM | Dutch Expertise Centre on Human Trafficking and People Smuggling |
| EU | European Union |
| fedpol | Swiss Federal Office of Police |
| GAATW | Global Alliance Against Traffic in Women |
| GLA | UK Gangmasters Licensing Authority (till 30 September 2016) |
| GLAA | UK Gangmasters and Labour Abuse Authority (since 1 October 2016) |
| GRETA | Group of Experts on Action against Trafficking in Human Beings |
| ICAT | UN Inter-Agency Coordination Group against Trafficking in Persons |
| IMCG | Czech Inter-Ministerial Coordination Group |
| ICMPD | International Centre for Migration Policy Development |
| ILO | International Labour Organization |
| IOM | International Organization for Migration |
| JIT | Joint Investigation Team |
| KSMM | Swiss Coordination Unit against the Trafficking in Persons and Smuggling of Migrants |
| LEA | Law Enforcement Agency |
| LI | Labour Inspector/ate |
| MSA | UK Modern Slavery Act 2015 |
| MSHTU | UK Modern Slavery Human Trafficking Unit |
| NCA | UK National Crime Agency |
| NL | The Netherlands |
| NRM | National Referral Mechanism |
| OCG | Organised Crime Group |
| OCN | Organised Criminal Network |
| OCT | Organ, Cell and Tissue |
| OSCE | Organization for Security and Co-operation in Europe |
| PCA | UK Policing and Crime Act 2009 |
| POCA | UK Proceeds of Crime Act 2002 |
| SCA | UK Serious Crime Act 2007 |
| SOCTA | Serious and Organised Crime Threat Assessment |

| | |
|-------|---|
| SPD | Czech Security Policy and Crime Prevention Department |
| STPO | Slavery and Trafficking Prevention Order |
| STRO | Slavery and Trafficking Risk Order |
| THB | Trafficking in Human Beings |
| THBLE | Trafficking In Human Beings and Labour Exploitation |
| TIP | Trafficking in Persons |
| UK | The United Kingdom |
| UKHTC | UK Human Trafficking Centre |
| UN | United Nations |
| UNODC | United Nations Office on Drugs and Crime |
| UNTOC | UN Convention against Transnational Organized Crime |
| VoT | Victim of Trafficking/Trafficked Person |

Abstract

The crime of human trafficking at its very essence is founded on exploitation, which includes the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services such as forced begging, slavery or practices similar to slavery, servitude or the removal of organs. The security sector aims to curb human trafficking through prevention, disruption, deterrence, prosecution and conviction of perpetrators. The objective of this research was to analyse the security sector role and governance in addressing the demand-side of trafficking through the experiences of four European countries: the Czech Republic, the Netherlands, Switzerland and the United Kingdom.

The absence of a definition and the actual use of the term ‘demand’ in security sector mandates and strategies – and its subsequent effects on their roles and action in demand-side measures – were the main findings of this analysis. As the security sector is driven by role in proactively addressing the demand is tied to its legal framework i.e. mandates and jurisdictions and restricted to criminalised activities, measures have been rarely proactive or demand-side led, such as addressing in particular those services or goods that are expected to foster exploitation and abuse. Thus, the sector seems unable to act proactively in ‘addressing demand’, without a clear definition of the term ‘demand’ and integration of the demand-side measures into their tools and work.

The study qualitatively analysed data collected primarily through expert interviews, in addition to secondary desk research and questionnaires. Between May 2015 and February 2016, over 30 interviews with governmental anti-trafficking services, such as police, prosecution, judiciary, immigration services, border control, intelligence, and gendarmerie, as well as specialised other anti -THB bodies and NGOs were conducted in the case countries.

1 Introduction

Every year, thousands of persons are being trafficked within, from and to Europe. The International Labour Organisation (ILO) estimates that in Europe alone, 800.000 persons are in a situation of forced labour. Women, men and children are forced to work or provide service under exploitative conditions, covering various forms of coercion and exploitation, including long working hours, debt bonding and confiscation of pay, restriction of movement, violence and abuse. Trafficking in human beings (THB) is a global phenomenon. In principle people can be exploited in any sector, whether in a regulated labour sector or in informal work. Vulnerable sectors include the sex and entertainment industries and domestic work, but also more regulated labour sectors, like the textile and garment sectors, agriculture and construction.

Trafficking in human beings (THB), like all other serious and highly-profitable forms of organised crime, constitutes a challenge for the internal security of the European Union (EU) as well as for its member and non-member countries. Responses to trafficking have traditionally focused on combating the criminal networks involved in trafficking as well as protecting the human rights of victims. However, European countries are increasingly exploring ways to influence the demand for goods or services that might foster human trafficking, when their production or provisions involves exploitative labour and the use of trafficked persons.

Because human trafficking is a multi-dimensional problem, its eradication requires a broad set of responses and strategies to effectively prevent and counter it, among others by law enforcement actors. Addressing the 'demand side of human trafficking' is, however, a challenging subject for the security sector, in particular as there is no common understanding of what 'addressing the demand side of human trafficking by law enforcement' entails in practise. Clearly, the term 'demand' is not routinely used by security sector actors.

With regard to the domestic legal framework, criminal proceedings such as arrest, investigation and prosecution are not normatively framed in terms of demand or end user, but rather with reference to the criminal intent of perpetrators. Even when the understanding of demand-side measures improves among law enforcement officers, they are usually limited to the implementation of policy and legislation of their government. Most European countries are guided in their security sector policy response by national criminal legislation based on international legislation and regulations.¹ At the national level, human trafficking is considered as a crime, but the definition of 'demand' is absent in this legislation. As such, the flexibility to address demand for all forms of human trafficking can be restricted.

Criminalisation, i.e. prohibiting certain actions and forms of behaviour under criminal law, has been one of the main policy responses to trafficking in human beings. Interviews with representatives of security sector showed that they consider the prevention, deterrence,

¹ Including the UN Convention against Transnational Organized Crime of 2000 (also known as UNTOC or the Palermo Convention), its associated Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, the Council of Europe (CoE) Convention on Action against Trafficking in Human Beings (No. 197) of 2005, and the OSCE Action Plan to Combat Trafficking in Human Beings (MC.DEC/2/03) of 2003. In the EU, member states are obliged by Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims.

disruption and conviction of human trafficking, if structured on the basis of criminal laws, as 'addressing demand'. For the security sector, preventive measures to address human trafficking by disrupting criminal actions and, removing traffickers from 'the business'. By deterring potential perpetrators through strengthening the rule of law and inspections, criminalisation can also be argued to have an important preventive effect.

The UN Inter-Agency Coordination Group against Trafficking in Persons (ICAT) points out that criminal justice actors have a key role in reducing demand for exploitation through making human trafficking a less profitable economic undertaking and by lowering impunity (2014). However, whether and if all preventive measures taken by the law enforcement actors to address demand can 'qualify and grouped' under measures addressing demand that foster all forms of human trafficking, is still an issue of debate, and how demand is currently understood by the security sector, will be further outlined in this working paper. As demand is not present in much of the discourse on human trafficking from a security sector perspective, the researchers have tried to analyse, based on desk research and interviews, which law enforcement actions address the demand side of human trafficking.

This working paper looks at what role the security sector plays in addressing demand and demand-side measures of human trafficking. The following questions explore the topic:

1. How does the security sector perceive 'demand-side' of human trafficking?
2. What are the limitations and challenges of the security sector in its capacity to address the demand-side of human trafficking?
3. How can demand-side measures be integrated into anti-trafficking legislation to assist relevant security sector actors?

The working paper focuses on public authorities' enforcing criminal and relevant public laws (such as counter-trafficking and labour codes) within the security sector and aims to develop a better understanding of their role and limitations in addressing the demand-side measures to reduce trafficking in human beings.

In general, the security sector refers to stakeholders concerned with maintaining general public security, law and order. It can include both public and private entities, such as security companies. In the scope of this research the relevant – and analysed – actors are the security sector's law enforcement agencies (LEAs), such as police, gendarmerie,² intelligence services, border guards and immigration services, prosecutors and judges³ as well as entities that would interact with the former: specialised counter trafficking in human beings (CTHB) agencies, National Rapporteurs and equivalent monitoring mechanisms and NGOs.

The private sector is mentioned, but is not analysed in depth. The military, peacekeepers and oversight bodies (parliament and ombudsman-institutions) are not covered in this paper. Labour inspectorates and comparable agencies, enforcing labour codes and related legislation, are not considered part of the security sector, but as actors of the labour sector (i.e. the field of labour relations) although there are overlaps and interlinkages with the security sector.

² Gendarmerie is typically a military unit with jurisdiction in civil law enforcement.

³ As far as they deal with criminal or public administrative law.

To properly scrutinise the results of the research, the security sector and its role in countering human trafficking must be briefly introduced. This entails, for example, the processes and limits of security sector structures, their jurisdiction and their resources. For each of the four country studies, the working paper describes shortly the national legislation on human trafficking legislation (3.1), general institutional policies, structures and priorities (3.2) and the limitations and challenges in addressing demand (3.3).

2 Research methodology

2.1 Analytical framework

As mentioned in the introduction, a precise definition of what the demand-side of human trafficking is, or what demand-side measures entail, is seemingly non-existent within the security sector, which is actually also the case for the anti-trafficking field in general.

Europol, for example, has referred to the notion of ‘demand’ related with human trafficking in the following contexts:

- The economic crisis has increased demand on the illegal labour market, which is exploited by organised crime groups (OCGs) [--]
- The constant demand for services associated with sexual and labour exploitation and persistent socio-economic inequalities between the developed and developing world drive human trafficking. [--]
- OCGs involved in trafficking will seek to exploit the strong demand and ready supply of migrants to recruit victims and service labour exploitation markets in prosperous MS. (Europol 2013: 23)

In all of these three contexts, Europol seems to refer to the demand for cheap labour by undocumented (migrant) workers and demand for services and labour that is produced or provided by migrant workers in exploitative labour situations.

Within the DemandAT framework, Cyrus and Vogel have suggested that demand is defined in an economic sense as *‘the willingness and ability of potential buyers to purchase a commodity’* and that the demand-side refers to the buyers’ side of the market (contra the manufacturer’s side – the supply-side). Demand is thus tied to the good or service to be transacted and thus demand requires an answer to the following question: *‘Who wants to buy what?’* This definition excludes concepts, such as demand for trafficking, as trafficking cannot be bought and sold.

Extrapolating from this, they suggest that *‘demand-side measures or policies be understood as activities that seek to influence the demand for final commodities (consumer goods and services)’*. In this sense, demand-side measures account, among others, to criminalisation seeking to impact on demand by changing the legal status of the demand for specific services or enforcement directed at consumers of illegalized activities. (Cyrus & Vogel 2015.)

Regardless of the lack of a common definition or interpretation, the research team has tried to reconstruct a perception of how the security sector approaches the demand-side measures to reduce trafficking (see figure 2.1).

Figure 2.1: Actors' chain of human trafficking, through a security sector lens



Source: DCAF DemandAT research team

This actor's chain is a simplified model, but indicates how end users' /exploiters' demand can foster human trafficking. Victims of human trafficking, for example vulnerable migrant workers and other at-risk groups, are recruited and transferred by recruiters and other facilitators. These recruiters and facilitators act on behalf of the exploiter or the recruitment is conducted by those who exploit them directly.

Please note that in this overview a difference is made between the trafficker and recruiter or facilitator. However, in the case of the recruitment or transfer, the (threat of the) use of force or coercion or deception can be proven, as well as the abuse of power or of a position of vulnerability, and the purpose of exploitation, recruiters and facilitators can be criminalised for human trafficking (as traffickers) too.

Victims are then formally or informally employed and exploited, forced to provide services or labour, under exploitative and slave-like conditions. This can be done by direct employers or other facilitators or by traffickers making use of employers or other facilitators. End users (consumers or others, see below) use/obtain services, labour or products with or without the knowledge that these were provided via exploitative labour/by a victim of human trafficking.⁴

The Merriam-Webster Dictionary defines an end user as 'the ultimate consumer of a finished product'. However, an end user can be a consumer, a business or employer, or exploiter making use of the services of victims of human trafficking. This way, the end users' need for certain goods and services at a low cost can create a demand for exploitation and so foster trafficking in persons. As stated, facilitators and recruiters who provide the 'product' to the end user can share the responsibility for the exploitation of the person with the traffickers, or become traffickers.

Human trafficking situations differ, and it is not always easy to clarify the various roles all actors played. Moreover, in the case of forced begging, it is difficult to define the end user. Persons donating money to a person who begs do not really make use of services or a product and therefore it is difficult to look at this form of human trafficking from a 'demand perspective'. However, the exploiter makes use of and profits from the beggar's services. This is partly also how law enforcement actors look at demand, the end user being the exploiter, the criminal exploiting others with the clear intention of committing their crime, from which they profit.

⁴ Article 3, paragraph (a) of the Protocol to Prevent, Suppress and Punish Trafficking in Persons defines Trafficking in Persons as the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs. See also article 18 of Directive 2011/36/EU

However, as noted, demand is often used in a vague and inconsistent way by different stakeholders, and perceptions differ. As mentioned, the term ‘demand’ is not routinely used by security sector actors. The most likely explanation for this is the absence of the definition of ‘demand’ in the legislation used by security sector actors, such as criminal or penal codes, public order acts, criminal investigation laws, etc. Thus, if ‘demand’ is not mandated to the security sector, they will by default not try to address it.

One of the main purposes of this paper is to determine what security actors consider as demand and demand-side measures.

In contrast to the more economics-based definition of demand by Cyrus and Vogel, law enforcement actors seem to see demand more practically and flexibly as a ‘*source of criminal activities*’ or part of a causality chain that exerts a demand for the next link.

Therefore, as a rule, the assessment whether measures addressing demand in the context of human trafficking were determined either by stakeholders or by reports or academic studies and not by the researchers. In this way, the researchers’ own assessments of whether a policy is a demand-side policy were kept to a minimum. Arguments by stakeholders on whether a measure addresses demand in the context of trafficking were also collected.

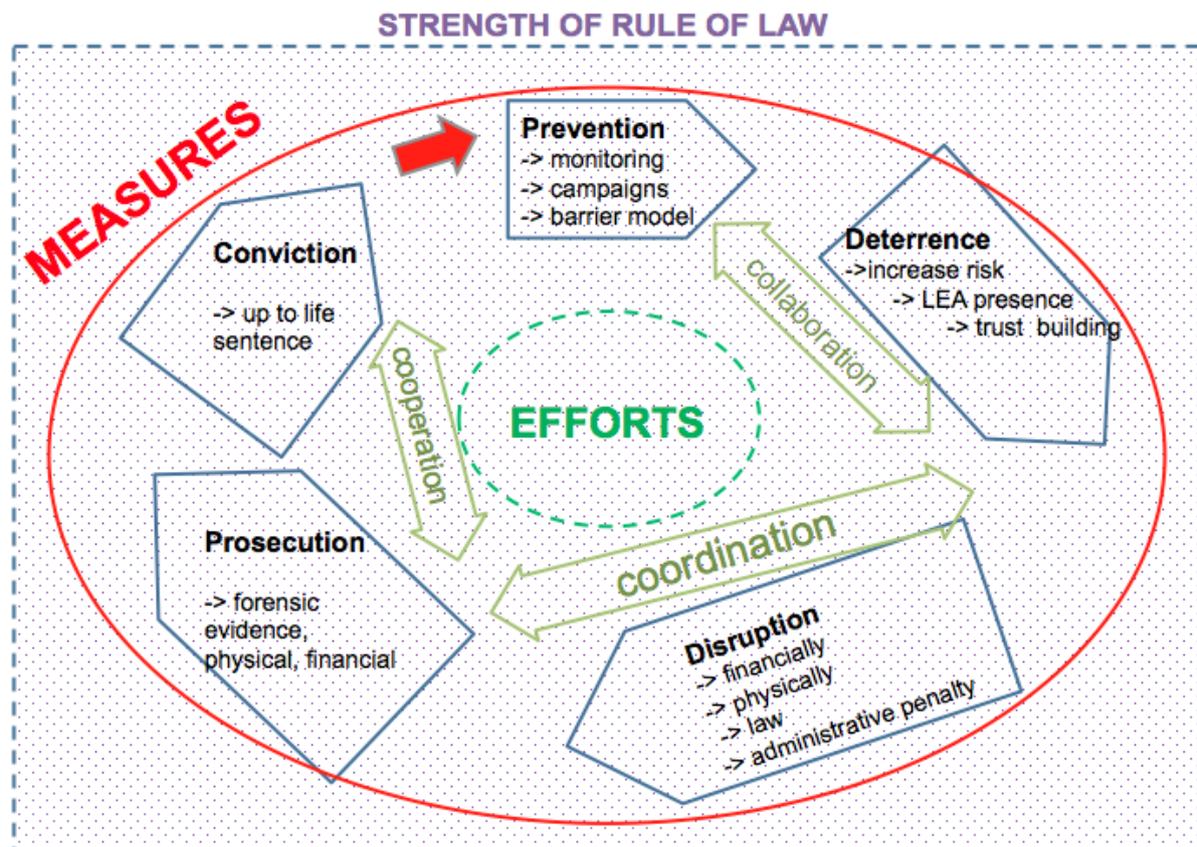
With regard to the domestic legal framework, criminal proceedings are not normatively framed in terms of demand, but rather with reference to the criminal intent of perpetrators. Security sector actors therefore clearly interpret demand practically and flexibly, perceiving the trafficker or those engaged in or benefiting from related criminal activities as demanders instead of seeing demand as relating to possible end users or consumers of services and products provided through exploitation. The major mechanisms through which law enforcement actors aspire to impact the above-perceived ‘demand’ of trafficking will now be described.

Primarily **disrupting** situations of human trafficking and forcing traffickers out of business, (such as through investigations, raids and confiscations) are argued to be a typical demand-side measure. In addition, **detering** potential perpetrators through enforcing the rule of law, patrolling and performing inspections on suspected criminal activities, are also regarded as having an important **preventive** effect vis-à-vis trafficking and affecting its ‘demand side’. According to this law enforcement approach, stronger enforcement of the law increases the risk factor for perpetrators, and hence in theory lowers the ‘demand for human trafficking or exploitation of persons’.

Furthermore, enforcement of human trafficking legislations and policies is a shared responsibility of multiple agencies. This responsibility includes not only enforcement of specific penal provisions on THB through **prosecutions and convictions**, but also related provisions that may be found in labour codes, immigration law or other closely related legal domains. Both the multiplicity of stakeholders and different legal instruments raise challenges not only in inter-agency cooperation and coordination, but also in terms of the choice of instruments and areas of responsibility.

With the acknowledgment that the process of demand-side measures is cyclical rather than linear, a simple continuum of perceived demand side law enforcement measures is the basis of this paper (Figure 2.2).

Figure 2.2: Cycle of security sector demand-side measures against human trafficking



Source: DCAF DemandAT research team

The analytical framework is structured broadly on the criminal law basis, i.e. the security sector's role is to prevent, deter, disrupt, prosecute and convict criminal or law-violating activities. Thus, if a demand-side action or activity falls out of their jurisdiction, i.e. it is technically not criminal or is difficult or impossible to prove that it violates the law, it is difficult for the security sector to play a role. The slight exception to this is that in countries with a common-law structure – such as the UK – the judiciary can create precedents where the said action can be reconfigured as a violation.

2.2 Research design & approach

Research on the security sector with regards to human trafficking has often suffered from a narrow focus on THB through the legal definition of the term, i.e. a narrow focus on situations where the key elements of THB (the act, means and purpose, including transfer and harbouring, coercion, the use of force or deception and exploitation) coincide. However, from an empirical perspective, it is more useful to think of a continuum between exploitative situations clearly constituting trafficking in the legal sense of the term and situations where key elements of the legal definition (such as the use of force or deception) might be absent or weak.

A narrow focus on addressing the demand-side through specific Anti-THB legislation may also be misleading from a perspective of law in practice, as security sector actors may not

necessarily rely on specific provisions on countering THB, but rather prosecute cases on other, related grounds/articles, as these may more easily lead to convictions.

Adding to the complexity is the fact that certain offenses relevant in this context (such as bans on child begging) may be dealt with by administrative penal law, rather than by criminal law.

For this research, analysing security sector actions that address the demand-side measures to reduce THB had its challenges. This was due to an infrequency of use of the term in the security sector and the above-mentioned concentration on criminality and/or conviction. Hence, analysing the demand-side was heavily contextual, depending on the current legislation that the security-sector followed in each country/region, as well as on the associated levels of funding and political will.

For example, whether begging is criminalised or not or whether the purchase of sexual services is legalised or not, can, combined with a country's political priorities, drastically affect any measures taken by law enforcement actors and its subsequent impact on reducing demand.

For the research design, three main aspects were considered as necessary for analysis. First, an understanding of how security sector actors perceived the "demand-side". Second, limits of the security sector capacity in addressing the demand-side (versus the supply-side). Third, how could demand-side measures be integrated into the anti-trafficking legal framework in order to assist relevant security sector actors? In addition, due to the sensitivity of the security sector and the topic, strict confidentiality had to be considered (which in turn limited the research).

2.3 Data collection and analysis

To have an overview of security sector demand-side measures to reduce THB, a literature/media review of publically-available material (since the adoption of UNTOC in 2000) of all 28 EU member states plus Switzerland and Norway, as well as of general international literature on trafficking, was conducted. The literature review included academic journals, research reports and publications of NGO and national and international governments including UN, EU, Council of Europe and OSCE bodies. Based on the results of the literature/media review, questionnaires were developed to fill in the gaps revealed by the desk review. These questionnaires were tailored for targeted security sector representatives of 26 European countries⁵.

To ascertain individual security sector responses and practices, in-depth case studies informed through semi-structured expert interviews, were conducted in the selected countries. Their aim was to reveal detailed potential and positive practices for policy-makers.

The literature/media review was followed with two strands of collection. First, a questionnaire was sent out on the use of demand or similar concepts when discussing trafficking for human beings. Second, the results were related to the role of the security sector.

⁵ The 28 EU member states, minus the three chosen for case studies (the Czech Republic, the Netherlands and the United Kingdom) as well as Norway.

For each country, police, judicial and counter-trafficking in human beings (CTHB) bodies and LEAs were identified and the specific contacts working on CTHB were targeted. In some cases, this was regional as well as national.

The questionnaires, even though tailored for specific countries, followed a structured template: 1) roles and responsibilities, 2) investigation, prosecution and convictions on the demand-side of Anti-THB, 3) capacity building as well as cooperation with other organisations and 4) recommendations and future work.

The questionnaires were presented in English, French, or German, by email, accompanied by an explanation of the project and the work’s objective. These were followed up with a phone call if further explanation was required. The respondents were given the option to remain anonymous.

The results of the survey confirmed a need for in-depth interviews of the case studies, namely to ascertain security sector understanding of demand-side measures and to identify practical demand-side measures by the security sector in reducing THB. Also, there was a need to research how policies, regulations and funds targeted or supported, or did not target or support, the demand-side measures do exist.

Twelve completed questionnaires (from Belgium, Bulgaria, Croatia, Cyprus, Denmark, Greece, Hungary, Ireland, Norway, Romania, Slovakia and Sweden) were received in response to the 26 questionnaires sent. This response rate was due to either workload factors or changes in staff (thus the appropriate person was not reached).

The criteria for selecting the four case study countries was based on five dimensions: 1) migration policy (Schengen or non-Schengen), 2) membership in the EU (EU or non-EU), 3) the expected sophistication of demand-side approaches after reviewing literature sources (advanced or rudimentary), 4) the expected degree of cooperation between security sector actors and labour law enforcement actors (low or high cooperation), 5) and the geographical location (Eastern/Western Europe).

The choice of criteria was guided by the idea to explore the impact of multiple conditions that may influence the country’s demand-side approach. The selected states are:

Figure 2.3: List of four case study countries

| | |
|---|--|
| EU Schengen - West The Netherlands | EU Schengen – East The Czech Republic |
| Non-EU Schengen Switzerland | EU Non-Schengen The United Kingdom |

Source: DCAF DemandAT research team

For the four in-depth case studies, selected following the above-mentioned criteria, the desk review provided a mapping of each country’s security sector actors and thus provided guidance on whom to interview. As there are no universal or common European standards on structuring the security sector to address THB, the researchers used their own

understanding of security sector actors to choose the most appropriate representatives to interview.

As this study deals primarily with European Union Member States and is intended to inform the EU, the main section of this paper will look at legislative systems and counter-trafficking actions of the security sector as found in Europe. It will especially concentrate on the four case study countries: the Czech Republic, the Netherlands, Switzerland and the United Kingdom (England only).

In regard to Switzerland as a non EU-Schengen country and given its federal system, the research had to be limited to particular cantons. For the purpose of this case study, the cantons of Zurich and Geneva were chosen for the following reasons: Zurich generates the most convictions of THB compared to other cantons; the Zurich City Police has a specialised unit focusing on THB and it was the first canton to organise collaborative roundtables where the police, NGOs and other relevant actors could meet; Geneva is particular in that it has an important border with neighbouring France, the highest rate of foreign residents (including a large community of diplomatic staff) and wealthy tourists, as well as a presence of alien communities that may all have an effect on the demand side of THB.

The United Kingdom consists of England, Wales, Scotland and Northern Ireland, which all have differing legislative and policy structures. Thus, to develop a thorough analysis of one legislative system, this case study concentrates on England, looking at five of the nine regions of England: Greater London, Southeast (Sussex), Northwest (Manchester), West Midlands (Birmingham) and Yorkshire.

These four countries provide a sound basis to analyse the capacity of demand-side measures by the security sector in Europe to counter and reduce THB. As noted above, when conducting the case-studies, 'demand-side measures' were little understood and definitions of what it entails are almost non-existent. Thus, for this section, the authors have extrapolated aspects that would fit into a definition of 'demand-side measures' following the descriptions in the previous sections.

Each relevant department of the security sector working on counter-THB was contacted, including border and migration authorities. A minimum of six people were interviewed per country. Retired security sector personnel were contacted for a historical overview and to allow a personal, experience-based perspective. Stakeholders from NGOs and victim assistance groups were also interviewed.

For the case study of the Netherlands, a total of seven interviews were conducted from 9-12 June 2015. Interviews were conducted with security sector actors, including officials from the Netherlands Police Agency, the Investigation Directorate of the Labour Inspectorate, the National Public Prosecution, the Royal Marshals⁶ (*Koninklijke Marechaussee*) as well as with other actors working in CTHB, such as the NGOs Comensha/La Strada Netherlands and Fairwork, and the Dutch National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children.

⁶ A type of gendarmerie.

For the case study of Switzerland, a total of eleven semi-structured interviews were conducted from May 2015 to July 2015, with different anti-trafficking actors from Zurich and Geneva..

In the United Kingdom (again, England only), interviews were conducted from 1-3 April 2015. The case study team conducted interviews with anti-trafficking actors from England (Greater London, Sussex, Manchester, Birmingham and Yorkshire) of the police, border officials (Gatwick and Manchester), intelligence, anti-trafficking government structures, and NGOs.

In the Czech Republic, a total of eight interviews were conducted from 3-5 February 2016, with security sector actors working in field of Anti-THB, including officials from the High Public Prosecutor, Ministry of Interior (including the Security Policy Department, Organised Crime Unit, Police HQ, Asylum and Migration Department) and the Ministry of Foreign Affairs.

Interviews were conducted in-person and in-country by the team of researchers – by native speakers in the UK and Switzerland, in English in the Netherlands, and with a translator in the Czech Republic. As mentioned, the interviewees could remain anonymous – and most of them chose this option. Interview protocols have been developed, clearly stating the goals to achieve in the interview and determining the time limit for each interview. The interview questions have been also developed and were based on the survey structure, but tailored to the interviewees' role (police, judiciary, border authority, migration etc.) in relation to demand-side measures to reduce trafficking undertaken locally, regionally, nationally, or with partners.

Interviews were informal and lasted 1-2 hours. Handwritten notes were taken, but no recordings. Reports on the results of interviews have been prepared and formed the basis for the analyses. Post-interview comments helped clarify any remaining questions. The results from the review, questionnaires and case studies were then integrated and presented at a stakeholders' meeting with representatives of the four case study countries on 10 May 2016, in Geneva, Switzerland.

Some challenges were encountered during data gathering, such as the lack of staff resources within the targeted LEAs, also due to other competing requests.⁷ Consequently, this affected the outcome of the questionnaires' responses.

The analysis followed three steps:

- 1) A qualitative summary of the literature and media review to present the status quo and perception by security policy-makers, security sector actors and the public of security sector demand-side measures to counter human trafficking.
- 2) A qualitative summary of the questionnaire responses and the resulting conclusion of the gaps in policy and implementation that weaken the demand-side measures and response to THB within the remit of the security sector.
- 3) A qualitative comparison of the four case study countries' structures and policies to provide an in-depth understanding of potential positive and negative policies and

⁷ For example, by GRETA, UN and EU.

practices by the security sector in creating and implementing demand-side measures to reduce THB.

Much of this analysis presents the subjective perspective of the questionnaire respondents and the persons interviewed. The research team also had to take into consideration the relative novelty integrating and thinking through the demand-side in the security sector.

3 Results of the study

3.1 Anti-trafficking legislation

3.1.1 Introduction

This section describes whether the legal system (both the legislation and structure) of the case study countries is regarded as useful and allows for measures to address the demand-side of human trafficking.

Currently, there is no harmonised overarching law on the crime of human trafficking in Europe. This is not surprising as criminal law remains mostly the remit of EU member states. The EU Directive 2011/36/EU (on preventing and combating trafficking in human beings and protecting its victims) attempts to bring a standardisation on counter-THB legislation through its transposition into national laws of member states. However, challenges remain in interpretation of not just the law, but of the phenomenon 'trafficking in human beings', as well as conflicts in definition within the diverse legislations of European states.

Additionally, traditional security sector measures in CTHB have been reactive, either from victim or victim-associated instigation; or from intelligence generated through detective work that leads to the uncovering of trafficking. The measures have rarely been proactive or demand-side led, such as addressing in particular those services or goods that are expected to foster trafficking in human beings, with perhaps an exception for the commercial sex work sector. There is the potential for law enforcement to become more proactive in addressing demand by focusing on particular sectors where the risk of trafficking occurrences is greater. The sex work sector for example, is an area where law enforcement could be proactive in monitoring policy and law, as persons working in the sector are regarded as vulnerable to exploitation and abuse. However, as the security sector operates in a legal framework, demand-side measures to counter THB are constrained by national laws and regulations.

A particular challenge in the legal structure of criminal law is that once legal definitions are enforced and policies reflective of these, legislative adjustments can be tedious and lengthy and, in an area as organic and fast-moving as THB, law enforcement actors need to be able to quickly respond to new trends in modus operandi.

For example, in its 2016 working paper, the European Commission (EC) acknowledges the changing forms of human trafficking by pointing out that 'member states which do not cover explicitly sham marriages in their national legislation on trafficking in human beings could apply other relevant definitions of exploitations that may be relevant in the situation of sham marriages, such as sexual exploitation or domestic servitude, to properly address those cases.' (European Commission 2016b)

As stated, the security sector's and LEAs' role to address demand are very much tied to their legislation, i.e. mandates and jurisdictions. Generally, their main focus is on prevention or combating *criminal* activities. If something is not defined as criminality in their respective laws (i.e. public order act, criminal code, criminal investigation law), then it usually falls out of the scope and interest of the security sector.

The literature and research point out that addressing demand within trafficking for begging has challenges related to whether begging is legal or illegal in the country and whether law enforcement sees it as their task to control, as well as challenges related to current debates on whether or not begging constitutes a demand, and on discrimination against ethnic groups that engage in begging. As with petty crimes, the challenge lies with looking at the exploitation and detecting elements of forced labour or services, but also ensuring that the victims are not caught up in prosecution. Whether or not begging is regulated or tolerated, investigations should focus on whether the beggar was forced to beg and/or exploited.

Trafficking for begging is now more reported than before (see e.g. ANITP 2013). Due to the existence of different legal frameworks and definitions related to begging, it is difficult to compare the situation in different countries on how begging is addressed. There is a lack of consensus of what begging is and what type of begging should be allowed. In addition to more 'traditional and common form of begging by children', legal definitions of begging also can include street art, street music, and selling small items on the street (see e.g. Europol 2014, Rogos & Healy 2012). Recent reporting notes that trafficking of persons with physical, mental and developmental disabilities for forced begging and forced criminality is on the rise (European Commission 2016a & 2016b). From the onset, it is clear that this form of trafficking is complex in various ways.

Begging is a particularly sensitive subject in Europe and its links with some smaller ethnic groups in Eastern Europe brings in human rights, discrimination and cultural arguments on how to address the phenomenon of begging and the related forced criminality. LEAs need to be aware and mindful of the cultural and political sensitivities when combating trafficking in human beings for forced begging.

3.1.2 Switzerland

Switzerland has taken important steps to develop the legal and policy framework to address trafficking in human beings. Under Swiss law, THB has been criminalised since 2006 in the Federal Criminal Code (Art. 182) that applies throughout the country and is in line with the requirements of the EU Directive (therefore harmonising its systems with that of its European neighbours), which is also based on the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, the Council of Europe (CoE) Convention on Action against Trafficking in Human Beings (No. 197), and the OSCE Action Plan to Combat Trafficking in Human Beings (MC.DEC/2/03). Internal legislation relevant to THB that applies across Switzerland also includes other pieces of legislation.

Regarding the forms of exploitation, since 2006, Switzerland has a federal law against THB that also includes labour exploitation and organ removal. Until then, the former provision of the Criminal Code was limited to the criminalisation of trafficking for sexual exploitation.

The notions of ‘forced labour’ or ‘services, slavery, practices similar to slavery and servitude’ are not expressly mentioned in the Art.182, paragraph 1 of the Criminal Code, but the Federal Gazette stipulates that the notion of ‘labour exploitation’ foreseen in the Criminal Code covers the above mentioned notions.⁸ Now, under article 182 of the Criminal Code (SR 311), the maximum penalty for THB is 20 years. A victim’s consent is irrelevant if the perpetrators exploit the economic plight in the country of origin and the person thus becomes a victim of human trafficking. Despite the fact that the irrelevance of the victim’s consent to exploitation is not stipulated in Art. 182 CC, the Federal Gazette clarifies that consent does not automatically prevent Art. 182 CC from applying.⁹ Hence, in accordance with the Civil Code, consent is irrelevant if the victim is a minor in cases falling under Art. 182 CC. The Federal Court has established human trafficking in the case of foreign young women working in the sex work sector and the consent has been considered irrelevant as it is considered to be motivated by situations of economic hardship.¹⁰ On 1 January 2014, the Ordinance on Measures to Prevent Criminal Offences in Connection with Human Trafficking (SR 311.039.3) came into force. The Ordinance allows the federal authorities to become more involved in combating human trafficking by providing financial support for preventive measures. In addition, the legal basis for countering sexual exploitation is the *Prostitutionsverordnung* (Prostitution Act 2012).¹¹ Switzerland does not have a law that specifically targets the demand-side of THB or one that would facilitate the prosecution of end users of goods and services provided by VoTs.

3.1.3 The United Kingdom

An analysis of the United Kingdom’s policy and legislative structure was earlier conducted in the framework of the DemandAT study and can be found in the paper by Deegan and Van Doorninck (2014b). This paper concentrates on adjustments to legislation and structure since March 2015 due to the passing of the UK Modern Slavery Act (MSA).

In the legislation of England, section 14 of the Policing and Crime Act 2009 (PCA) and section 71 of the Coroners and Justice Act 2009 (CJA), both have the element of addressing the ultimate end user of trafficking. It is stated that the end user commits an offence if s/he is, or ought to be, aware that the trafficker has engaged in exploitative conduct and similarly if s/he knows, or ought to know, that the victim is performing forced labour. (Deegan & van Doorninck 2014b: 19.)

However, both at the police practitioner level and at the court level, this legislation is seldom implemented for three reasons, per interviewees in the UK: 1) lack of awareness of the details, 2) insufficient resources to pursue and 3) difficulty in prosecuting such a circumstance because the person is not seen as committing a direct crime. Hence, the priority to deal with this is extremely low.

Both the PCA and the CJA have been incorporated into the MSA, which now combines all legislation on human trafficking. The MSA makes it clear that involvement in the use of

⁸ Federal Gazette No. 17 of 3 May 2005, FF 2005 2639, p. 2667.

⁹ Ibid.

¹⁰ ATF 6B_81/2010 (E.4.1) and ATF 6B_128/2013 (E1.2).

¹¹ According to this regulation, sex workers are required to have both a permit and health insurance as well as pay a fee. Furthermore, brothels need a license, and street prostitution is very strictly confined to particular areas.

victims of trafficking is a severe crime which can hold life-imprisonment as the ultimate penalty.

As the MSA has only recently come into force (26 March 2015), the effects of combining the legislation and the increase in severity of the penalty, either as a deterrent for criminals or as an enabler for the security sector to pursue legally, are yet to be ascertained.

In theory, the combination of anti-trafficking legislation may aid the security sector in amalgamating the laws, hence giving one reference point and in doing so, strengthening and raising awareness of THB. This can assist the security sector in addressing the demand-side of THB for prostitution, begging and criminal exploitation, if also combined with the current review of the National Referral Mechanism (NRM). The review is said to aim to shift the burden of proof away from victim testimony and to other areas of the criminal act of THB, such as proof of the act of THB from forensic evidence¹² gathered on traffickers or end users. (UK Interviewee D)

The MSA now addresses some demand-side measures relevant to the security sector, such that it criminalises preparatory conduct of THB, or facilitation (e.g. making a visa application with the aim of bringing someone to the UK on a trafficked basis). It introduces slavery and trafficking prevention orders (STPOs) and slavery and trafficking risk orders (STROs) which can be used by police to 'restrict the activity of those who pose a risk of causing harm'. An order is a notice on a person who has been convicted of a crime and the courts judge that this person may need to be monitored or be restricted from certain financial, property or business dealings as per the Serious Crime Act (SCA).¹³

These orders in theory will help to address the facilitator and end user demand-side of THB. (UK Interviewee D)

As the STPOs and STROs have only been in force for a year, a conclusion of the effects is not yet possible to assess. However, security sector actors say that such tools enable them to put in place preventive measures against perpetrators, which could include end users of the THB demand chain. Additionally, human trafficking is categorised as a *criminal lifestyle offence* for the purposes of the Proceeds of Crime Act 2002 (POCA). This permits the court to assume that all the assets that the defendant (i.e. the trafficker) has, or has had in the last six years, are the proceeds of crime. This means that the court can potentially confiscate all the defendant's assets, rather than just those acquired through the crime in question. (Home Office 2014).

Both the MSA and the SCA will amend POCA so that the criminal lifestyle offence will now cover slavery, servitude and forced or compulsory labour. Previously, legislation only covered seizure of assets under a conviction of trafficking, which has been difficult to prove and resulted in fewer convictions.

¹² For example, DNA tests, samples from the crime scene, mobile phone data or financial tracking.

¹³ These can include prohibitions or restrictions on or requirements in relation to financial, property or business dealings, working arrangements, with whom a person associates or communicates and the means used to do so, the premises s/he is allowed to use and for what purpose, and the use of any item and travel both within UK and abroad.

This strengthening will, in theory, assist in convictions of traffickers where there is proof of slavery or forced labour if a trafficking conviction is not possible. However, some note that this will still depend on what proof is required. (UK Interviewee A) Prior to the MSA, forced labour was principally covered under CJA within the Gangmasters Licensing Authority's (GLA) jurisdiction and limited to the agricultural and food processing sector (see e.g. Deegan & van Doorninck 2014b).

On 1 October 2016, the GLA became the Gangmasters and Labour Abuse Authority (GLAA) and its remit was adjusted to cover exploitation across the entire UK labour market. The MSA also names the GLAA as an organisation to which it is a statutory requirement to report potential victims of slavery, servitude and forced or compulsory labour, and to ensure that it receives the support it requires.

The United Kingdom stands as an example of directly addressing demand of the end user: the Home Office recommended criminalising sex buyers as a strict liability offence to aid prosecution and remove any ambiguity from possible offenders' minds about the potential consequences of sex with a trafficked or exploited woman (2008).

3.1.4 The Netherlands

In the Netherlands – widely known for its easy-to-access legal prostitution – brothels and sex clubs are subject to a licensing system and meeting certain standards concerning city planning, hygiene, fire safety and management (e.g. no drinking obligations, no unsafe sex, no minors and no undocumented workers). Failure can lead to closing down the location. This measure has proved more effective and easier to apply than criminal law. LEAs can respond to clients using services of a sex worker without enquiring whether s/he is listed in the national register and can also arrest them on criminal charges. Persons can also work as a self-employed sex worker. (Deegan & van Doorninck 2014a: 20-21, see also BNRM 2015, 2013a, 2013b, Meld Misdaad Anoniem 2013)

Before 2005, the Dutch Penal Code (Act of 3 March 1881, amended 1994) only criminalised THB for sexual exploitation in the Netherlands. In 2005, article 273f of the Penal Code entered in force and criminalised THB for sexual exploitation, forced or compulsory labour or services, forced begging, slavery or practices comparable to slavery or servitude, forced criminality and the removal of organs. The Netherlands has one of the highest conviction rates of crimes under the said Article, which could be related to the relatively easy application compared with other countries, or due to strong efforts to increase its use and the protection of the rights of the victims. (NL Interviewee G) The Council of Europe's Group of Experts on trafficking in human beings (GRETA) quoted Dutch authorities stating that 'the range of situations covered by article 273f is a strength that facilitates the prosecution of traffickers' (2014: 21). However, there are concerns about the complexity of the article, and in particular as often other clauses are still used to charge for offences related to human trafficking, such as for fraud or for people smuggling. (NL Interviewee B; see also BNRM 2013d)

Two new bills have been introduced, which are related to addressing the demand-side of trafficking for sexual exploitation. The first, a bill proposed in 2009 on prostitution aimed at providing a more comprehensive administrative framework for the sex industry to address abuses; provision for better protection of sex workers and increased support to combat trafficking, prostitution by minors and forced prostitution.

This bill, in practice, would have meant, among other aspects, a prohibition to operate sex businesses without a license. Among the minimum licensing requirements for sex business operations was that the sex worker must be registered nationally and to be at a minimum 21 years of age. (Deegan & van Doorninck 2014a: 21) In March 2014, after strong debates in the Senate and criticism of the requirement of registration of sex workers (and the duty of clients to check that registration), it was proposed to drop the registration requirements. A bill proposing only to raise the minimum age for sex work to 21 years was created.¹⁴ Both bills were later adopted.

Second, a bill proposed in October 2014 on the criminalisation of clients of sexual services provided by victims of THB when the client can reasonably be presumed to have known of the abuse. The bill is an instrument to raise awareness and responsibility on the demand-side of THB for sexual exploitation with a focus on the educative effect of the provision. (Deegan & van Doorninck 2014a: 22) It is worthy to note that the (then) on-going debate and diverging opinions on the effectiveness and feasibility of the latter proposed bill was also reflected among the interviewees. While some interviewees from the security sector seemed to defend the bill and suggested examples of how to implement it, interviewees from the NGO sector tended to think that the bill is either not feasible or sends the wrong signal. This bill was in 2016 adopted by the Dutch Parliament, and is now under review with the Dutch Senate.

In summary, the bill and partial sex-purchase bans are seen as a demand-side measure with the potential to influence demand for THB for sexual exploitation. The security sector has an important role in applying and enforcing such a ban. A conclusion on how this ban works in practice and whether it is enforceable in the Dutch context can of course only be drawn after the bill has been adopted and implemented for a period of time.

In the context of organ trafficking, in the Netherlands a person openly offering to pay a fee for receipt of an organ is liable for prosecution. According to the Organ Donation Act of 1998, no payment can be procured from the removal of the organ. Furthermore, it is a criminal offence to 'deliberately cause or encourage a person to provide permission to remove an organ [...] in return for a financial payment that amounts to more than the costs incurred by the donors as a direct result of the organ removal operation.' (BNRM 2012: 5) In addition, legal amendments were made in 2010, stating that Dutch health insurance does not cover the costs of transplants conducted outside the EU unless it can be proven that the organ is donated by a spouse, registered partner or blood relative. (Aronowitz & Istman 2013)

Regarding trafficking for forced criminality or begging, demand-side measures are related directly to the trafficker or facilitator. The Dutch Prosecution Service is the only body authorised to prosecute suspects of THB when sufficient evidence is available to support the case in court.

A commission (a board including several prosecutors) decides whether a case is to be criminally investigated. Only if they unanimously agree that there is sufficient grounds for an investigation can a case be criminally investigated. (NL Interviewee B)

¹⁴ Additional information provided by staff of Netherlands Interviewee G.

3.1.5 The Czech Republic

The offence of trafficking in persons has existed in the Czech Republic since 2002. The Criminal Code was amended first in 2004 to include trafficking for forced labour as well as other forced services. The new Criminal Code (Act No.40/2009 Coll.) entered into force on 1 January 2010. The amended definition of THB in Section 168 of the Criminal Code (Act. 40/2009 Coll.) provides a greater compliance with the international definition of human trafficking. It also expanded the definition of trafficking in human beings to also include other forms of exploitation such as trafficking for the removal of organs, and forcing somebody into the production of pornography or service in armed forces. One of the changes was also the introduction of a new offence: prostitution endangering the moral development of children.

The amended Code also foresees a provision on unauthorised employment of foreign nationals under Section 342, which can serve as a preventive measure for labour exploitation of employers.

Prostitution is generally allowed in the Czech Republic, but prostitution endangering the moral development of children is a criminal offence under section 190 of the Criminal Code, and there are municipality decrees prohibiting prostitution in public areas. Pimping is a criminal offense and thus owners of brothels might be charged, but the purchase of sex services is not punished. Regarding the end users of THB, i.e. clients of VoTs for sexual exploitation, the client is committing a criminal offence when intentionally abusing a victim of trafficking. It is necessary to prove that the offender had a direct intention or at least an indirect intention to commit any criminal wrongdoing.

Among new legislation of particular importance is the Act on the Criminal Liability of Legal Entities and Proceedings against Them (Act No 418/2011 Coll.), adopted in 2011. This act foresees the criminal liability of legal entities and makes it possible to punish cases of trafficking in human beings organised by a legal entity. As a consequence, in December 2014, the Czech Republic could ratify the UN Convention against Transnational Organised Crime and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children.¹⁵ The adoption of the Act No. 45/2013 Coll., on Victims of Crime in 2013 was of utmost importance and allowed granting the victims of THB *ex lege* status of 'particularly vulnerable victims of crime'.

Aiming to ensure continuity of actions on THB, the Czech Republic has evaluated the results and the outcomes of the previous strategies. As a result, a new four-year strategy that sets priorities and establishes tasks according to the four priorities of addressing THB was adopted in May 2016.

¹⁵ The ratification of the Convention and its Protocols was not possible before 2014, due to the non-definition of criminal liability of entities in the Criminal Code.

3.2 General institutional policies, structures and priorities

3.2.1 Introduction

Security sector structures differ greatly from country to country, in particular when it comes to the jurisdiction of countering THB. There is currently a European-wide acknowledgement and effort to harmonise actors working to counter human trafficking and to coordinate with other national and international agencies to enable better implementation of demand-side measures in CTHB.

Prioritizing resources and financing has shown to be a major problem in countering THB, from any perspective, including the end-user. Some interviewees were of the opinion that greater resources mean better distribution of tasks and or case investigations and reporting, as well as police intelligence on the streets and one-on-one, face-to-face status reports and interviews with detainees and victims. More resources also mean more detailed and extended operations with joint investigations, which then lead to better convictions of the heads of trafficking crimes, rather than smaller perpetrators.

It should be noted that of the four case study countries, the Netherlands and the United Kingdom seem to have taken the clearest direct demand-side measures against THB, but they are mostly related to trafficking in human beings for labour exploitation (THBLE), such as targeting owners of companies or farms.¹⁶ They also implement to a lesser extent direct demand-side measures against clients of sexually exploited minors.

The increase in migratory labour with a spectrum of exploitation has made borders a key intervention point. Yet, it is challenging for border officials to address human trafficking amidst the large volume of movement. Even if people enter a country within highly suspicious circumstances, there is little the border agencies can do to detain them without further investigation.

The border security sector has a prime – and isolated – opportunity to detain the suspects during the crossing and communicate with plainclothes police further inland to ‘meet and greet’ the suspected trafficker/end user waiting. Constant communication with other agencies is crucial as *modi operandi* of perpetrators change quickly.

All research and interviewees indicated that funds for specialised CTHB training are not sufficient. The burden of crimes strains the security sector’s resources, and organised crime, in which category the crime of THB typically falls, is one of the most burdensome in terms of resource requirements, including resources for: investigation, specialised interviewers/social workers/interpreters; liaison with social and health workers; and cooperation with other agencies depending on the type of THB. This then stretches the resources of the security sector in its demand-side efforts against THB.

One interviewee noted the need for more governmental support for awareness raising and felt that governments should equally spend money and emphasis on prevention of human trafficking, as for example prevention of smoking. In addition, human trafficking often also

¹⁶ These are covered in a separate ICMPD working paper.

requires investigation and prosecution cooperation with other countries, both EU and non-EU, which is also resource intensive.

3.2.2 Switzerland

Switzerland is a federal state composed of 26 cantons that retain all powers and competencies not delegated by the Swiss Constitution to the Confederation. The 26 cantons and the various municipalities have broad competencies in comparison to the federal level. The Swiss Criminal Code (CC) applies, however, throughout the country. Trafficking in human beings is criminalised in Article 182 CC of the federal law on THB, which is not under federal jurisdiction unless the case concerns a serious organised crime. Thus, it is up to the different cantons (and in some instances to municipalities where municipal police forces exist) to fight human trafficking.

The Swiss Federal Office of Police (fedpol) has very limited competencies in fighting THB and is mainly responsible for exchanges of police intelligence at the national level, including between cantons, and the international level. It also supports the police authorities where necessary and ensures coordination between criminal procedures in cases involving several cantons or other countries. The Swiss Coordination Unit against Trafficking in Persons and Smuggling of Migrants (KSMM) under fedpol aims to provide the necessary structures and networks for effectively fighting and preventing human trafficking and migrant smuggling in throughout the country. It has a coordinating role between the cantons and establishes the action plans and recommendation on combating THB. Since victims' identification, assistance and residence permits as well as the prosecution of traffickers fall within the cantons' competence, KSMM has requested that the cantons establish cantonal roundtables to fight trafficking. Such roundtables gather stakeholders at least once a year from a large variety of institutions, such as police, social services, NGOs, labour inspectors, the judiciary, and other actors.

The City of Zurich has had for many years a mandate to fight human trafficking from a criminal perspective. A specialised unit in human trafficking for sexual exploitation called *Vorermittlungen und Besondere Verfahren* has been established and conducts regular controls in places where prostitution takes place, deals with THB suspects and with victims. Its mandate concerns exclusively trafficking for sexual exploitation as well as for begging. Forced labour and other forms of THB remain entirely under the mandate of the Cantonal Police. The canton of Zurich has reinforced his mandate and created a new counter-trafficking unit in November 2014. This Unit should focus on fighting all forms of THB and migrant smuggling, as well as promotion of prostitution (article 195 of the Swiss Criminal Code) within the territory of the Canton. However, at the moment the focus of the unit is on human trafficking for sexual exploitation and labour exploitation within the territory of the Canton. They do officially cooperate with the Zurich City Police's anti-trafficking unit, meet regularly, coordinate cases and exchange information.

In terms of investigations, there is a unit with civilian staff working in the red-light district (*Milieuaufklärung*) in Zurich in close contact with sex workers and potential victims. Their job is to mark a constant presence in the red-light district and to create trust amongst the sex workers.

Most victims that are referred to the police come via this unit. It is a very successful 'tool' to gain trust amongst the sex workers as well as to investigate trafficking through unconventional means. In the past, the *Milieuauklärung* has tried to reach out to clients to raise their awareness about human trafficking and their contacts with possible victims.

The Canton of Zurich is very active in the fight against trafficking. The Zurich Cantonal Police and Zurich City Police are two police departments that have different mandates and different legislation in the city and the canton. However, their anti-trafficking units cooperate closely, exchange information and coordinate the cases.

None of the units have taken any other measures to tackle demand, besides the Zurich Cantonal Police's recently commenced analysis of the applicability of the Dutch barrier model in Switzerland.

In the Geneva Canton, squads covering the prostitution sector operate within the police and focus on the detection of potential victims of forced prostitution. For Geneva, the free movement of people in the Schengen area makes it challenging for LEAs to disrupt this form of criminality, and the investigation of such criminals and organised criminal groups (OCGs) is further complicated by the fact that two jurisdictions are involved.

For this reason, a specialised cross-border unit was established with the objective to facilitate the exchange of information between Geneva and France. However, various interviewees stated that the results from this unit are very limited, and the exchange of information is very slow. The social services have established a specialised unit that focuses on interacting with the community. They have very detailed knowledge of the communities (where they live, who they are etc.) and interact personally with them. The police closely collaborate with this unit.

In 2013, a common criminal policy (*politique criminelle commune*) was put in place in Geneva, which establishes cooperation between the Chief of Security and the General Prosecutor. Human trafficking forms a part of this policy and three prosecutors specialising in THB were designated under it. The policy has already shown results; however, there is an issue of high personnel turnover, which results in loss of experience and competence.

In efforts to remedy this, Geneva has designated an independent THB coordinator who does not have to report to any higher authority and thus allows substantial flexibility and freedom of action. The above-mentioned brigades regularly report to the coordinator on interventions made in Geneva related to trafficking in human beings. Some believe that the most important aspect in the fight against trafficking is the personal networking between officers and staff. (CH Interviewee J)

In 2010, a Swiss-Romanian working group to combat human trafficking was established. For example, police cooperation between Switzerland and Romania has been developed since 2012 through workshops, conferences and study visits both of Romanian police to Switzerland and Swiss police to Romania. The fact that police officers speak Romanian and know the Romanian culture increases trust with victims. (CH Interviewee B)

As it is stated in the Recommended Principles and Guidelines on Human Rights and Human Trafficking, strategies aimed at preventing THB shall address demand as a root cause of trafficking.¹⁷

Switzerland has taken some legislative actions addressing situations where there are risks of labour exploitation. In regard to the demand side of trafficking for sexual exploitation and to the possible criminalisation of the purchase of sexual services, in June 2015 the Swiss government submitted a report to the parliament on the legislative framework governing prostitution and on measures aiming to strengthen the protection of sex workers and to fight THB.

3.2.3 The United Kingdom

The United Kingdom's efforts, such as the Human Trafficking Centre (UKHTC), the first Independent Anti-Slavery Commissioner and the Modern Slavery Human Trafficking Unit (MSHTU), set up under the MSA, are being monitored for their efforts to create a multi-tasking and coordinated system which covers the regional jurisdictions across UK and to work with other agencies nationally and internationally.

Law enforcement in the United Kingdom is organised separately in each of the legal systems of England, Wales, Northern Ireland and Scotland – each of which contains regional forces within them. These regional forces are complemented by UK-wide agencies, such as the National Crime Agency (NCA). The NCA is the UK's lead agency against organised crime, such as human trafficking. The UKHTC is part of the Organised Crime Command in the NCA and its work to combat human trafficking involves a wide range of partners and stakeholders. The UKHTC's partners include police forces, the Home Office, the UK Border Force, the GLAA, international agencies, NGOs as well as charitable and voluntary expert groups. (Gravett 2015)

The creation of an Independent Anti-Slavery Commissioner is one of the main provisions of the UK's Modern Slavery Act 2015. The Commissioner is tasked to ensure that modern slavery is tackled in a coordinated and effective manner, including strong international collaboration, and the publication of annual reports. (Gravett 2015)

Up until the MSA, UKHTC served since 2005 as a multi-agency point of coordination under the Home Office for data gathering (see e.g. Deegan & van Doorninck 2014b). From a security sector perspective, UKHTC is not a national organisation or agency set up to fight trafficking per se, as staff mainly deal with advice limited to tactical aspects to other agencies that give traction to an investigation. From 2015 onwards, the staff was also mandated to give advice to agencies 24/7 to help them support victims. Also, the UKHTC provides direct support to victims in reception centres (e.g. provide medical and psychological support while making use of opportunities to gather evidence against the offenders).

The staff of UKHTC is limited to four police officers. Obviously, this is insufficient to cover THB in England, let alone the whole of UK. For example, in a case involving 38 victims of trafficking it would have been too demanding to follow up, investigate and analyse the

¹⁷ Addendum to the Report of the United Nations High Commissioner on Human Rights (E/2002/68/Add.), <http://www.ohchr.org/Documents/Publications/Traffickingen.pdf>

demand side. Four staff is woefully inadequate to coordinate and cope with the needed multi-agency approach and evidence gathering. (UK Interviewee D)

Most experts and interviewees advocate a regional approach, where each of the nine regions has a counter-THB centre with dedicated staff. Another critique of the NCA is the continuing re-structuring where police and other LEAs must be continually updated as to who does what and under which remit. (UK Interviewee H)

Awareness-raising through community policing or information campaigns is one direct measure that the security sector can utilize. For example, law enforcement in Northern Ireland is trying to reduce demand for OCGs through continuous interventions, stakeholder engagement and a sustained investment to change mind-sets across the whole of society. The objective of this approach is defined as follows:

To harness the support and involvement of the public and opinion formers to reduce the demand for products and services supplied by organised crime groups and to report suspicions, thereby reducing harm and criminality. (Organised Crime Task Force 2012)

The cuts and changes of 2010, where police buildings were sold, administration staff cut and police forces decreased (on advice from a government spending review) affected police effectiveness. Under POCA, assets seized from THB cases are proportionally delegated to support the victim of the crime, CTHB departments and to other actors under POCA. It is expected that the guidance on the redistribution will be determined by the Anti-Slavery Commissioner in the future. (UK Interviewee D)

3.2.4 The Netherlands

Institutions dealing with THB in the Netherlands' security sector include the national and local police, the Public Prosecution Service, the Immigration and Naturalisation Service (IND), the Royal Marshals¹⁸ (*Koninklijke Marechaussee*), the Social Intelligence and Investigation Department (SIOD, in so far as they deal with criminal investigations of THB for labour exploitation), the Expertise Centre on Human Trafficking and People Smuggling (EMM) and the Courts (see e.g. Deegan & van Doorninck 2014a, BNRM 2013c).

An important feature of the Dutch response and enforcement system related to trafficking is based on their unique programmatic approach to prevent and respond to organised crime known as the 'barrier model' (adopted in 2007).

Based on the idea that criminal investigation and prosecution alone cannot effectively combat organised crime, the aim of the system is to implement a combined effort of preventive, administrative and penal measures at local, regional, national and international levels. The barrier model allows the involvement of different non-security sector actors and in turn enables a more effective response to THB. (NL Interviewee A, Government of the Netherlands 2011)

For CTHB, this means increasing information exchange between prosecution services and the police, involving administrative bodies, as well as to setting up structures to exchange information on trafficking (such as the EMM). (Heemskerk & Rijken 2011) The main objective

¹⁸ A type of gendarmerie.

of the model is to establish structural barriers against THB at all levels and entry-points and thus remove the basic conditions of human trafficking. The five barriers are:

- 1) entrance into the Netherlands (smuggling, border crossing),
- 2) housing (prostitution circuit, illegal housing),
- 3) identity (false documents, false social security numbers, fake marriage),
- 4) labour (pimps, exploiters, violence, exploitation), and
- 5) financial flows (money laundering). (Deegan & van Doorninck 2014a)

Within this framework, a high-level task force on THB was established in 2008, consisting of various involved parties, including representatives of national and local government as well as of relevant agencies and services, such as the national police, the prosecution services, several ministries and the NGO CoMensha/La Strada Netherlands.

Each Dutch THB investigation includes a financial report on illegal assets linked to trafficking. (GRETA 2014: 54) For example, in a case of THB for sexual exploitation in Chinese massage parlours, addresses of other involved massage parlours were traced through the money trail. Financial investigations are also used to confiscate money that can then be used to compensate victims.

Considering the important role Dutch prosecutors play in deciding whether a case is investigated or not, as well as their early involvement in investigations together with the police, much depends on the prosecutors' awareness of THB. Approaches by different prosecutors can vary quite considerably and the whole process of a commission deciding jointly on cases can be quite bureaucratic. (NL Interviewee B) To counter the diversity of approaches by individual prosecutors, results of cases are published on internally shared websites. (NL Interviewee A) To illustrate this in the Dutch context, in a case where a grandfather exploited his 10-year old granddaughter to shoplift, the perpetrator was not only charged for shoplifting, but also of THB under article 273f of the Dutch Penal Code and was sentenced to an eight-month imprisonment. (UNODC 2013)

Several interviewees recommended an increased use of social media and online investigations in gathering evidence. For example, information provided in online chats could be used more to discover signs of THB on websites and to track end users. (NL Interviewee D & E) The Expertise Centre on Human Trafficking and People Smuggling (EMM) is planning to implement a project on the use of social media and IT technology for trafficking THB cases. (NL Interviewee E)

3.2.5 The Czech Republic

Regarding the legal framework, in December 2014, the Czech Republic ratified the UN Convention against Transnational Organised Crime and the Palermo Protocol. The Council of Europe Convention on Action against Trafficking in Human Beings was also signed on 2 May 2016, and the ratification process is ongoing. Furthermore, the National Strategy to Combat Trafficking in Human Beings for the period 2016– 2019 has been approved by the Government on 27 April 2016.

In the Czech Republic, anti-trafficking activities at the inter-ministerial level are coordinated by the Ministry of Interior. The coordination role is ensured by the Security Policy and Crime Prevention Department (SPD) – responsible for the drafting of all strategic documents and

development of partnership at the international level. SPD acts also as a National Rapporteur for THB (e.g. reporting, data collection, mapping of the phenomenon and exchange of information).

The Czech Republic is very active in building partnerships with different actors, including NGOs and international organisations. The coordination of anti-trafficking activities has been institutionalized through the Inter-ministerial Co-ordination Group for Combatting Trafficking in Human Beings (IMCG), established in 2008, based on the Government Resolution and led by the Minister of the Interior.

The SPD serves as its secretariat and is composed of representatives from different institutions and NGOs. The ICG meets twice a year and serves as a unique platform that enables the communication across different stakeholders, through a strong cooperative spirit. There are also other forums focused on anti-trafficking activities, such as the Analytical Centre for Protection of State Borders under the Department on Asylum and Migration Policy (DAMP). This forum focuses more on labour law infringements by employers or recruitment agencies regarding foreign workers, but is also responsible for the implementation of different prevention policies on THB. (CZ Interviewee G) The cooperation has been also strengthened with immigration authorities and labour inspectorates to react to emerging trends and forms of trafficking in human beings. The National Rapporteur conducts the monitoring and evaluation of anti-trafficking efforts in the county, which is under the Ministry of the Interior.

3.3 Limitations and challenges in addressing the demand-side of THB

3.3.1 Introduction

With the extended legal scope of human trafficking, and the detection of various forms of human trafficking and the increase in mobility and migration, other policies and laws, related to migration, human rights protection, and development are more in play than before and involving other regulatory authorities (such as labour, education, welfare, social benefits, family and health authorities), due to which the counter trafficking field has changed. They are challenged by the changing *modi operandi* of traffickers, the changing forms of THB and now with addressing exploitation and human trafficking via the issue of demand.

From the questionnaire results, limitations in addressing demand for the judiciary include the lack of legislation for prosecuting end users. Also, the complexity of THB as a crime translates to a low number of prosecuted and convicted traffickers and a focus on minor players in the trafficking organised criminal networks (OCNs) and demand chain. This leads to low-level penalties for convicted traffickers by courts, and the penalties are perceived as inadequate by both the security sector and the public. In judicial processes, begging is still seen either as a public nuisance or a crime and not a potential situation of THB. There also remains a lack of adequate or well-established procedural identification of victims.

The questionnaire also revealed that challenges for police services include the complicated international nature of the crime as well as the grey areas between different forms THB and THB versus smuggling of migrants. Difficulties in keeping track of rapid criminal movements (for example in sexual exploitation) also create obstacles. When clearing the case for prosecution, inhibitive issues include the requirement for victim statements and a lack of

resources for special investigation methods. This creates frustration in particular on the police side. Finally, respondents noted a general lack of focus on the financial nature of THB and there remains a lack of established cooperation practices.

Most questionnaire respondents reported that there are no demand-side measures to counter human trafficking because of a lack of specialised prosecutors on THB and a lack of knowledge in applying legislation related to THB. This is exacerbated by different approaches taken by police, prosecutors and judges domestically and internationally. Additionally, the need to rely on evidence collected abroad contributes to the general lack of evidence. Further challenges are created by changes of testimony from the VoT which can be related to a lack of victim protection or a compensation system.

Prosecuting cases of exploitation under a THB clause in the penal or criminal code often leads to more severe punishment of the traffickers in comparison with other serious crimes and can therefore be seen as a crucial legal tool to ensure deterrence against human trafficking. Recent legislative changes in many countries have increased the penalties – sometimes up to life – hence the status of convictions as a deterrent and disruption measure is considered powerful.

3.3.2 Switzerland

Apart from cases of THB for sexual exploitation, security sector actors seem to struggle to agree on whether certain cases can be considered human trafficking, given that the victim often also has a certain economic benefit and self-interest that brought - and sometimes kept - the VoT in the exploitative situation. Even though both prosecutors and law enforcement actors are aware that they need to be wary of alleged consent that the victim claims to have given, in practice it is very hard to prove otherwise under the current legislative framework. (CH Interviewee D)

One interviewee noted there should not be too much 'publicity' of minors being trafficked, as otherwise they must deal with many minor offenders claiming that they are trafficked as an excuse to avoid criminal or irregular migrant charges. (CH Interviewee C) There were a few cases in Zurich in which young girls, between the ages of 14 to 17, conducted burglaries. It was suspected that they did not do it voluntarily and that there could be traffickers involved. However, the authorities have not yet been able to gather sufficient information to establish a specific case. (CH Interviewee A)

The *Tribunal des mineurs*, a judiciary focusing on minors, established an effective tool to identify whether children are on their own or live with their parents in neighbouring France, as is usually claimed. A minor on his/her own, away from the parents, could be an indication of trafficking as well as an indication for many other issues. Thus, whenever staff is confronted with such cases, it is important that they meet the parents. If necessary, they will denounce the parents, even if it is difficult to impose the sentences on them given that they reside in France. Usually, parents immediately appear at the *Tribunal* when they find out that their child is there. (CH Interviewee C)

There is a discrepancy between how authorities in Geneva and Zurich view such an increase in supply. There is no legislation or regulation that can stop or deter low pricing for sexual services. In Zurich, interviewees see a clear risk for exploitation when prices are pushed so low – increasing the pressure by potential victims to accept any conditions in order to make

their gains. (CH Interviewee B) Whereas in Geneva, interviewees see the increased concurrence as a self-regulating factor, with some interviewees stating that sex workers regularly denounce irregularities of their fellow sex workers. If exploitation was to occur, the other sex workers would denounce it to the police, but whether they would denounce clients is another question. (CH Interviewees E, H & J) Other interviewees note that due to the prostitution's legality, there is still a lack of vigour within the security sector to root out THB. (CH Interviewee F)

Neither of the interviewed cantons in Switzerland has ever had a prosecution of an adult in trafficking for forced criminality. Some interviewed actors in Zurich did not know whether indeed persons were trafficked for forced criminality. In Geneva, many actors suspect that this could be the case; however, too little is known about it and LEAs do not have the necessary laws or tools to effectively act in this domain.

From a legal perspective, it seems that law enforcement authorities have a similar challenge in identifying victims involved in forced criminality, as in the case of drug mules, in that police have a reactive rather than a proactive mandate. It is very difficult to prove and draw the line as to whether a person is a victim of trafficking within a criminal act in Switzerland. In addition, the authorities' opinion is that there is the risk that criminals use the excuse of being a victim in order to escape charges and to gain residency. *The necessary tools to identify victims of THB for forced criminality as well as knowledge of the situation are clearly missing in Switzerland.*

Zurich is not a border canton and is less affected by the begging phenomenon. Usually the police (*Frontpolizei*) intervene with beggars by informing them of the illegality of their activities and checking their IDs. Once the check is done, the beggars are supposed leave the country. (CH Interviewee A) Thus, the CTHB unit will be unlikely to interact with them and see behind the façade to investigate possible cases of exploitation. The CTHB unit is built on a very different model in that its mandate is proactive instead of reactive and it aims to build trust with potential victims.

However, cases of begging are relatively rare in Zurich, and begging is encountered mostly in the city rather than the canton. The fact that law enforcement actors in both cantons handle begging similarly (by only following the basic protocol of fining and suppressing begging by moving the perpetrators) suggests that the above-mentioned particularities (the presence of a large variety of different cultures and the proximity of a border) might indicate the demand for begging. None of the analysed cantons have had security sector policies addressing the demand that fosters trafficking for begging.

Switzerland has a relatively high demand for domestic labour through diplomatic and expat circles. Security sector actors in Switzerland are well aware that there is considerable exploitation in the domestic sector; however, the identification of such cases remains an elusive skill. In order to conduct checks and intervene, the police either need a warrant or a denunciation. In Geneva, a few cases of THB for domestic servitude could be identified, but not prosecuted. There is a high concentration of diplomats enjoying immunity, which poses a barrier to the prosecution of those that traffic or are end users of exploited domestic servants.

Domestic workers usually enter Switzerland initially either with a student visa or a false passport with the employer wrongly stated as their family member. (CH Interviewee F) Often, these victims are fleeing their home to escape forced marriage.

Many diplomats bring their domestic workers with them from their home country where they had already been employed by the diplomat. Domestic workers of diplomatic personnel are exempt of the usual residency and visa regulation for foreigners. All interviewed actors agree that THB in the Swiss domestic sector happens on a 'low scale' and there is no presence of a large organised criminal network (OCN).

Abusive employers normally hire their employees on an individual level, rather than via an OCN. In one instance, the manager of a five-star hotel denounced a client abusing his/her domestic servant. (CH Interviewee F) This case suggests that an increased collaboration between law enforcement actors and the private sector could be a measure to address this particular demand side of THB.

Neither Geneva nor Zurich has had any cases of human trafficking for selling drugs. In this field, there is a conflict of interest from a law enforcement perspective, as a potential victim is at the same time a perpetrator. (CH Interviewees A & D) Presently, too little seems to be known about the phenomenon, but there are some suspicions of the presence of trafficking related to the illicit drugs trade. (CH Interviewee E & D) For instance, among the large number of young people delivering drugs to addicts (called *ouvriers d'héroïne*), there is a certain element of THB. (CH Interviewee E) The victims, however, do not denounce the traffickers and state that they do it out of their own will.

Legislation to identify victims of THB for forced drug trafficking remains extremely weak. Traffickers who send mules on flights know that any intercepted drug mule will not be identified as a victim, but charged for drug trafficking. *Thus, current legislation does not pose any risk for traffickers and in turn increases the demand for exploiting people as drug mules.*

Some interviewees from Geneva (CH Interviewees D & E) stated that Article 182 of the Swiss Criminal Code is difficult to apply as there are too many conditions. What is difficult in terms of trafficking cases is that it is the word of the victim against the word of the trafficker. Most of the time there are only a very few concrete elements to work with. Thus, especially with begging cases, they prefer to issue ordinances that allow a maximum of 6 months' imprisonment under Article 182. With the ordinances, there is no need to prove the facts in front of the court. Very often there would not be enough solid evidence (with the available elements) that would stand in court. Furthermore, some interviewees stated, that in practice sentences are often based on either an administrative charge or other criminal articles that are easier to prove than THB articles. (CH Interviewee E & J)

From an investigatory perspective, the canton of Zurich seems to be a pioneer in criminal asset recovery (*Vermögensabschöpfung*). Police as well as prosecutors can recover assets from traffickers or other perpetrators, independent of the charges, and independent of whether those assets have been when acquired legally or not. This can act as a very powerful deterrent effect, in particular for cases of forced criminality, in that the traffickers not only risk a sentence, but also losing their personal assets - the reason for which they have become involved in criminal activities in the first place.

3.3.3 The United Kingdom

In the United Kingdom, being one of the most common entry points for international and intra-EU trafficking, English airports (and especially low-cost airline airports such as Gatwick, Manchester, Stanstead and Luton) have had to develop ad-hoc methods with limited

resources to proactively address and investigate potential situations of THB. Although the UK does not have explicit demand-side policy measures for borders, such as in the Dutch barrier model, being outside Schengen, its border controls are an opportunity to emphasise prevention of THB where feasible. This can be done through detection of false identification documentation, interviewing migrants to ascertain potential THB signs, and monitoring on whom potential VoT are 'meeting' on arrival.

Sexual exploitation in the United Kingdom is often a 'cottage industry' meaning that family members are often the trafficker and the victim – and they also know the end user. (UK Interviewee B) There is a built-in low-risk factor for the traffickers to this structure, as the risk of 'snitching' is unlikely. The internet is rife with sexual exploitation and child abuse images and with online sexual exploitation of children. Specialised police units have been established to investigate online crimes and to try and trace the end user.

However, NGOs as well as the security sector acknowledge that LEAs are overwhelmed with tackling this area of crime due to lack of resources and the exponential growth of social media and web sites that link to pornography. Even if a case did come up, resources to investigate the complexity of online links are limited. Some police regions are experimenting with social media campaigns to raise awareness of online abuse and potential THB for sexual exploitation. (UK Interviewees A, B, C & D) As mentioned in the section on legislation, there is a potential in the UK to use the law to address the demand-side, i.e. the clients of sex workers or pornography.

Another angle is the question of who in the security sector is responsible for investigating not the surface crime, but the act of trafficking (a situation of a double crime). One interviewee notes that the police are used to working in silos of crimes, hence to deal with a spectrum of crimes is a new challenge in structuring and working. (UK Interviewee B) For example, in the United Kingdom, a criminal family network can profile their family to deploy them across different forms of THB, such as babies for begging for mothers, petty theft and shoplifting for young children, burglary for teenagers, prostitution for pretty teens and young women, and crimes requiring strength or driving for men.

As an example, if an investigation team is focusing on a drug ring, but discover acts of THB for begging, forced criminality and prostitution, the principal investigator (who will lead the prosecution) will most likely concentrate on the 'principal' crime of drugs. The investigation takes the least use of resources and will concentrate on evidence for the 'principal' crime or the most convenient approach.

This can restrict efficient and effective investigations, particularly as the increased use of mobile phones and social media for criminal logistics requires excessive resources and equipment to enable tracking of the traffickers and end users. With a limited forensic capacity to analyse data or devices, shortfalls might appear when the time of bail is short (for example, in the UK it is 28 days and 3 months before court appearance) and forensics can take longer (for example, in the UK, up to 6 months) to conduct or require international investigation.

Even if the investigation lead is within a CTHB unit, gathering evidence for prosecuting THB is notoriously difficult, particularly when relying on the victim's testimony. *Hence, the pragmatic approach for the security sector is to find alternative evidence (often more convenient) of another crime in order to convict the trafficker.* This is based on the adage that

a trafficker in prison is better than being free, even if convicted of a different crime. Hence the perpetrator or end user of human trafficking may fall through a loophole and not be prosecuted nor convicted of THB, thus allowing the low-risk nature of trafficking to continue. (UK Interviewee B)

In the United Kingdom, law enforcement agents of England cannot enter or search private residences without a warrant. In addition, cultural diversity in the UK brings to bear different attitudes and practices regarding child labour, especially in homes. Where families have long histories or networks outside the UK in countries where children are expected to work, family 'lending' of children for domestic servitude or sending them to 'work for auntie' – in the name of giving the child a better life and a chance at education – can lead to very hidden THB. (UK Interviewee C) *It is difficult for the security sector to address the demand-side factors (i.e. the family) in these situations as it is almost impossible to define when a child helping around the house becomes forced labour and when it is a matter of culture/tradition.* Add to this the inability of the child to self-identify as a victim.

The United Kingdom has been aware of the phenomenon of sham marriages for a while, but from a perspective of immigration violation. As such, the UK published a brief on changes in immigration law to address the situation, that can be seen a manner of addressing "demand". (Home Office 2013) In Manchester, trafficking for sham marriages is a large business where the most profits are made by the facilitator and not necessarily by the trafficker. The Manchester Border Agency undertook Operation Joust to investigate an OCN facilitating sham marriages. Sham marriages in the region were found to involve several components where the end users of the marriage were non-UK nationals (whom entered into marriage with an EU citizen in order to claim an EU passport). The victims were the EU nationals, typically females from eastern EU countries that were either voluntary or deceived or coerced into the scheme with some possibly further trafficked into prostitution.¹⁹

The non-UK nationals in this OCN were typically young Pakistani men that had entered the UK on real student visas and enrolled in fake higher education institutions. Some of these young men were genuinely deceived and thought they were enrolled in a real educational institution. Criminally-owned accommodation housed both the students and the fake brides. Uncovering the landlord link was one of the first breakthroughs in disrupting the THB network. (UK Interviewee F)

Here, the student is the end user for a sham marriage (to gain EU citizenship) and the girl is the victim of a sham marriage and possibly then sexually exploited. This is in actuality a trend of multi-faceted trafficking currently occurring in North West England. The students are moving with genuine visas – hence migration control agents do not have a reason to pursue the student or the issuer of the visa. But the educational institution is actually false. Here lies the dilemma and complexity of the case for the security sector and LEAs, in that the end user of the VoT and the beginning of the causal demand chain – the student – has not performed a crime. The amount of investigation and resources utilized to discover that the institution connected with the visas was false and used fraudulently by the traffickers is extraordinary. Add to the mix identification of coercion of the female EU victims, as they may have agreed to be paid for the sham marriage, but they might have found themselves further trafficked into

¹⁹ Operation Retriever in nearby Rochdale revealed an OCN prostituting a group of women from eastern EU when one went to a local hospital for an abortion.

sexual exploitation. Hence the line of voluntary versus trafficked is grey as well as difficult to follow and prove.

Thus, the security sector has to make a link between the trafficker, the creator of the fraudulent institution, the females legitimately entering the UK for a sham-marriage, and the end user student. *Rather a spider web than a logical cycle.* If the female has accepted payment, even if she is coerced or threatened, creates a definitional problem on proving whether this constitutes a case of trafficking. Would the end user student be liable for a charge for using the victims (and should they have known that this is trafficking)? Or would the charge be lessened to one of false marriage to gain a visa. If it is discovered that the victims were further trafficked into sexual exploitation, it is a clearer situation of THB for the security sector to disrupt.

It is generally not the mandate of the security sector to investigate a fake educational institution if criminal activity is not suspected to be involved. Depending on the legislation and context, investigating a fake educational institution might be a pure administrative procedure for an education department if nothing in the case ties it to the criminal code or LEA legislation.

In this situation, the security sector would need to find out quickly under which department identifying fraud in registration of an educational institution belongs. It is likely that police or migration officers would not know every single department in the UK and how they all function, nor should they have to. This supports the argument for a centralised unit or hub with regional leads that can act as a contact point with the knowledge and ability to connect the dots.

3.3.4 The Netherlands

A challenge in the Netherlands relates to the protection of child victims – once they are removed from trafficking. Placing them in detention homes for their protection has been criticised by many NGOs as being against their interests. At the same time this form of protection has not been proven as very effective to counter the risks of re-trafficking. For example, in one investigated case of children stealing at the Amsterdam main train station, there were two arrests and a juvenile judge decided on detention in a children's home. Even in this setting, the children are controlled through regular visits of the so-called 'parents' and traffickers exploit the children's vulnerability.

The new bill that raised the minimum age of sex workers can be interpreted as a demand-side measure, since a customer who performs sexual acts with a sex worker under the age of 21 years risks a prison sentence of up to one year. This would give responsibility to sex clients to make sure that they buy sexual services from a person over the age of 21 years. The sensitivity of such a measure targeting sex clients can be illustrated by a recent case (prosecution still on-going at the time) that was mentioned several times during the interviews.

A 'lover boy' (pimp) sexually exploited a 16-year-old girl in a hotel in the Netherlands. During a raid of the room, the police gathered phone numbers of the girl's clients. Several of them were then contacted by the police at their homes and asked to stand trial and provide DNA tests. (See also BNRM 2013d.)

In the Netherlands, THB for criminal exploitation was inducted into the Dutch Penal Code article 273f in 2013. The response to this form of trafficking seems to be more frequently addressed by the Dutch security sector. Cases investigated include forced drug smuggling, benefits fraud, shoplifting, cannabis cultivation and pickpocketing. One of the challenges in tackling trafficking for the exploitation of criminal activities is the fact that there are no complaints or reports of abuses by the victims themselves because they fear to be penalised for their committed crimes or for their irregular migration status. (NL Interviewee E)

This fear may in fact not be misplaced since there is a considerable risk of the security sector focusing on the crime committed itself, as is their classical mandate, and overlook possible coercion and exploitation of the victims. *Considering the lack of trust towards law enforcement authorities by presumed victims, collaboration with NGOs and other services is extremely important as they have a better access to certain communities.*

As an example of this collaboration, an interviewed NGO was approached by the police and asked to obtain information from the Vietnamese community in the Netherlands regarding THB for criminal activities (since it is very difficult for the police to infiltrate those communities). (NL Interviewee C) Of course, this also places NGOs in a sensitive situation because they are supposed to be independent of the government.

THB for forced begging was just recently visualized as a problem by the public and the security sector. Begging is included in article 273f as a form of forced services. Likewise, the Dutch National Rapporteur clearly indicates that forced begging should be seen as being part of providing these forced services instead of regular work. (BNRM 2013c: 118) However, the distinction between trafficking in human beings for labour exploitation (THBLE) and forced begging is not always so clear.

Begging was inserted into the Penal Code in 2013, so there are only a few investigations and convictions for forced begging in the Netherlands so far. *Interviewees mentioned that it is difficult to target THB for forced begging because there is not enough awareness among street police officers on signs of possible THB.*

Judges need to be convinced to convict traffickers for forced begging. Concerning child begging specifically, the current legal framework does not sufficiently offer appropriate programmes and homes for the concerned children. (NL Interviewee E) Regarding measures reducing forced begging, some experts argue that a ban on begging would have a positive impact since the security sector would have more tools to intervene and trace VoTs and traffickers. In the Netherlands, municipalities decide on this matter and some are considering a ban on begging or have already done so (mostly to prevent public nuisance and not to directly target THB for forced begging). If begging is solely viewed as a public disturbance, chances are high that the victims are not recognised as such and do not receive the necessary assistance. The Dutch National Rapporteur thus recommends strongly that municipality officers responsible for enforcing a ban on begging must also receive training to recognise signs of exploitation. (BNRM 2013c: 118) Those trainings are currently organised by the immigration services. (NL Interviewee G)

3.3.5 The Czech Republic

In the Czech Republic, there is no common definition of begging and nor are there specific measures to counter the demand side of this form of trafficking. Municipalities regulate

begging issues under their competencies foreseen in municipality decrees and decide independently if begging is tolerated. The authorities have noted an increase of child trafficking for sexual exploitation. Furthermore, cases of trafficking for forced criminality such as credit fraud and social benefits, by using victim's identity in the United Kingdom, have been reported by NGOs and recorded by the police. Traffickers have trafficked victims from the Czech Republic and acquired their victims' identities to commit fraud in the UK. This shows that methods used by traffickers continue to evolve, as does the understanding of this crime among law enforcement actors. The detection of these cases is a challenge, since traffickers have changed their modus operandi by moving victims to different location within the Czech Republic and the EU. However, interviewees from the Ministry of Interior pointed out that some measures have been taken to sensitize different actors in the field about the trafficking in human beings for begging or forced criminality. In view of this, joint investigation teams between countries of origin and destinations for trafficking of forced labour and forced criminality have been also established.

The security sector is not involved in investigating domestic servitude within diplomatic households as it remains within the jurisdiction of the Ministry of Foreign Affairs. The Ministry has taken different measures aiming to prevent the exploitation of domestic workers.

There is still a debate regarding the link between illegal activities in the context of drug trafficking and trafficking in human beings. Police interviewees explained that these cases fall under drug trafficking, except when it combines the production of drugs and elements of forced labour that would qualify for THB.

The interviewees mentioned only one case regarding the marriage of a Czech woman forced into prostitution in the UK. Perpetrators were punished according to criminal law. Otherwise, there are no specific measures addressing this type of THB.

The Supreme Prosecutor's Office is responsible for supervising the High Offices of Prosecution at the regional and district level. Moreover, the Supreme Prosecutor's Office is in charge of drafting expert opinions and recommendations that might be used in interpretation of legal provisions. The cooperation at the Supreme Prosecutor's Office works very well. Specialised prosecutors prepare notices on case law, and the Academy of Justice provides regular trainings on how to investigate THB cases. Public prosecutors try to influence the jurisprudence through appeals.

The application of legislation suffers from an overlap between the constitutive elements of the crimes of procuring and of trafficking in human beings. The crime of procuring (Article 189 of the Criminal Code) and the crime of trafficking (Article 168 of the Criminal Code) have both been reformulated in order to avoid this overlap. After a reform in 2010, the jurisdiction of the crimes was amended. The crime of THB came under the jurisdiction of regional courts (when previously it had been under the district courts) while the crime of procuring remained under the district courts. This amendment was not facilitating the definition of the prosecutors' competencies, especially since the criteria between trafficking for sexual exploitation and procuring for sexual exploitation is not very clear.

The Criminal Procedure Code (Act 141/1961 Coll.) provides relevant instruments for detecting criminal proceeds. However, interviewees mentioned that it is difficult to find these proceeds due to the conduct and behaviour of offenders.

The vast majority of offenders use cash instead of bank wire transfers and/or other banking services. Nevertheless, cash is detected and confiscated during house searches.

4 Conclusions

The objective of the paper was to study what role the security sector plays in addressing demand and demand-side measures of human trafficking. In addition, it was to explore four sub-questions:

1. How does the security sector perceive the 'demand-side'?
2. What are the limitations and challenges of the security sector in its capacity to address the demand-side of human trafficking?
3. How can demand-side measures be integrated into anti-trafficking legislation to assist relevant security sector actors?

In providing a coherent answer to the principal objective, we have distilled three main pertinent findings of the study as they are presented below.

1. Absence of the term 'demand'

The research determined, first of all, that the term 'demand' is not routinely used by security sector actors and LEAs. The most likely explanation for this is the absence of the term 'demand' and demand-side measures in the security sector legal framework, such as criminal or penal codes, public order acts, criminal investigation laws, ordinances, regulates, mandates and strategies, among others.

For the security sector actors, the end user/exploiter is the trafficker or those intentionally involved in criminal activities, e.g. those purchasing products or services that are not legally allowed. If services or labour are legal, such as soliciting, where begging is not criminalised, or products and goods are not forbidden, then it is difficult for law enforcement to investigate beyond the law, in particular when there is no legislation criminalising buyers of such services or goods.

It is an essential element of law enforcement legislation that it is constrictive and interpreted narrowly – to not overstep the democratic control of extraordinary powers, such as apprehension, confiscation and conviction. Thus, if addressing 'demand' is not mandated to the security sector, they will by default not try to address it. Moreover, in practice, they therefore see anything they do to stop human trafficking and its perpetrators as addressing demand.

2. Legislation is fundamentally important to promote demand-oriented approaches

The security sector role to address demand is very much tied to its legislation, i.e. mandates and jurisdictions. Generally, the main focus is on combatting criminal activities. If a demand-side action or activity is not defined as criminality in their respective laws (i.e. public order act, criminal code, or criminal investigation law), then it usually falls out of the scope of the

security sector. Take, for example, the case of forced begging. If donating to beggars is legal, the security sector actors have very limited chances to use their inherent powers, such as investigation, apprehension, confiscation, prosecution etc. to address the demand-side that fosters trafficking in human beings. The same applies for sexual exploitation: if soliciting sexual services is legal in a country, interviews with representatives of security sector actors showed that they don't see a role for themselves engaging with clients. Thus, if addressing 'demand' is not mandated to security sector actors, they will by default not try to address it.

This is not to say that there are other ways of addressing demand, such as community policing and awareness-raising. The security sector has a potential value in channelling information from their viewpoint and especially to communities that other sectors cannot reach.

3. Reactive instead of proactive

Criminals remain adept and flexible in changing their *modi operandi* in THB, especially in exploiting gaps and vulnerabilities. Meanwhile, security sector actors often find themselves forced to act with supply-side measures, which may not allow for the most expedient responses.

Similarly, case work, analysis and intelligence to reveal, investigate and prosecute one type of THB organised criminal network uses a significant amount of resources. While crime networks can switch their demand quickly, the resources, legislation, funding and policies of the security sector are not so nimble.

Thus, even if the security sector and LEAs try to strike at the first points of the demand chain (as close to the end user/exploiter as possible) and deter demand, organised crime will most likely find a way to avoid it and utilize new loopholes. The perception of the representatives of the security sector actors is that they are therefore limited in contributing to meeting the obligation of 'addressing demand'.

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About the author

Dr. Stela Haxhi is the Head of Asylum, Migration and counter-Trafficking in Human Beings (THB) Programme at the Geneva Centre for the Democratic Control of Armed Forces (DCAF) since November 2015. Her expertise is on migration governance, counter-THB, Security Sector Reform and the Rule of Law. Stela is a lawyer by background and holds a PhD in Public International Law & Constitutional Law and a Master Degree on nation state concept and minority rights, from the University of Fribourg/Switzerland. She has also studied at Hague Academy of International Law, University of Bern and College of Bruges.

Addressing demand in anti-trafficking efforts and policies (DemandAT)

COORDINATOR: International Centre for Migration Policy Development
Vienna, Austria,

CONSORTIUM:

University of Bremen – Arbeitsbereich Interkulturelle Bildung
Bremen, Germany

University of Edinburgh – School of Social and Political Science
Edinburgh, United Kingdom

La Strada International
Amsterdam, The Netherlands

Lund University – Department of Social Anthropology
Lund, Sweden

University of Durham – Department of Geography
Durham, United Kingdom

European University Institute – Robert Schuman Centre for Advanced
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Florence, Italy

Geneva Centre for the Democratic Control of Armed Forces
Geneva, Switzerland

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