



HUMAN TRAFFICKING FOR BENEFIT FRAUD AND RELATED FINANCIAL FRAUD:

SECURING A STEADY REVENUE STREAM

by Märta C. Johansson



Thanks to Edi Mujaj, Veikko Mäkelä, Petter Hammarbäck and Thomas Ahlstrand for input and insights.

Published by:

Council of the Baltic Sea States (CBSS)

CBSS — Wollmar Yxkullsgatan 23, 118 50 Stockholm, Sweden

For bibliographic purposes, this document should be cited as:
“Human Trafficking for Benefit Fraud and Related Financial Fraud:
Securing a Steady Revenue Stream (CBSS 2024)”

© Council of the Baltic Sea States (2024)

All rights reserved. Information included in this publication, or extracts thereof, may be reproduced without prior consent, provided that the complete reference of the publication is cited as specified in the citation instructions. This excludes images and graphic elements not owned by the CBSS, which are identified as such.

Cover photo: Adobe Stock

SUMMARY

This pilot study, which forms part of the Council of Baltic Sea States (CBSS) *Project FRAUD: Combatting Human Trafficking for Financial and Benefit Fraud*, aims to examine the connection between benefit fraud, including related financial fraud, on the one hand, and human trafficking, on the other hand. It studies how the two intersect, and to what extent the exploitation of individuals in connection to benefit fraud and related financial fraud can constitute human trafficking as defined in the 2000 Palermo Protocol, the 2005 European Human Trafficking Convention, and the 2011 EU Human Trafficking Directive.

Benefit fraud is distinct from fraud against private actors in that it is a narrower type of fraud that targets the welfare state, illegitimately trying to access various benefits that are primarily meant for vulnerable members of society. Some of the benefits form part of social security; they can also be based on work or can be payments for work provided on behalf of the state. **The state provides a revenue stream, which is fraudulently acquired or diverted to persons other than the ones the payments were intended for.** The stream can be both steady and - if many individuals' benefits are targeted - very profitable.

The material examined leads to the identification of at least four modes of exploitation in benefit fraud schemes:

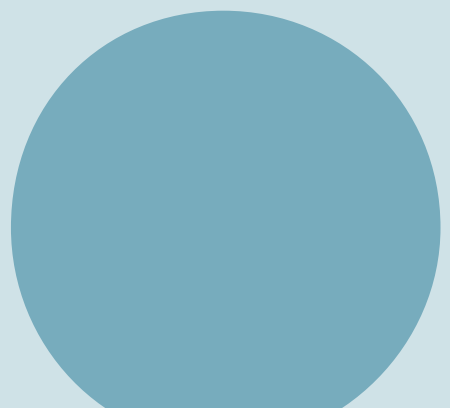
1. "Human trafficking plus": The welfare/social and work benefits of a victim already subjected to other forms of trafficking, such as forced labour, form an additional revenue stream for the traffickers. Cases show that victims' data is often additionally used to commit financial crimes such as money laundering and indebting the victim.
2. "Identity/data exploitation plus": The victim's identity and data constitute the main income generator and are used to receive social and other benefits, commit financial crimes such as money laundering, bank fraud and indebt the victim; the victim's identity can also be made available to someone who lacks legal status in the state.
3. "Cost reduction strategies": When the state is billed for work provided, workers who lack legal status or whose continued status is tied to the employer are exploited in schemes where the employer pays them little or next to nothing and keeps the difference.
4. Benefit theft as the primary aim: A vulnerable individual is brought to or housed in a situation with the primary aim of confiscating their social benefits.

Can the mere exploitation of an individual's identity or data for the purpose of benefit fraud or related financial fraud constitute human trafficking

as internationally defined? For human trafficking to have occurred, the three elements that form part of the crime need to be fulfilled: the exploitation purpose, the means used and the action taken. In relation to the element requiring a purpose of exploitation, cases where an individual's identity or data is exploited for the purpose of fraud could qualify as "exploitation of forced labour or services", if the victim is coerced into taking certain actions to make the fraud possible. More cases could potentially qualify as "exploitation of criminal activities", though the scope of that purpose is not fully defined. The latter is only a specific purpose in one of the examined international instruments – the 2011 EU Human Trafficking Directive – and it is not clear whether the term "exploitation in criminal activities" should be interpreted more broadly than the examples that are given in the Directive's recital. It is also not clear whether criminal culpability of the victim or repeat instances of exploitation are required. There are nevertheless examples of national convictions for human trafficking, such as in Denmark, for the exploitation of persons' identities and data for benefit fraud and related financial fraud.

TABLE OF CONTENTS

1. INTRODUCTION	6
2. The PHENOMENON of BENEFIT FRAUD and INTERSECTION with HUMAN TRAFFICKING	8
2.1. Modes of exploitation in benefit fraud schemes	8
2.1.1. "Human trafficking plus": Benefit fraud as an additional revenue stream	9
2.1.2. "Identity exploitation plus": Identity abused for benefit fraud and other financial exploitation	10
2.1.3. "Cost reduction strategies": Keeping the difference between the revenue and the salary paid	12
2.1.4. Benefit theft as the primary aim	13
2.2. An individual's identity: key to the fraud	14
3. BENEFIT FRAUD and RELATED FINANCIAL EXPLOITATION as HUMAN TRAFFICKING	16
3.1. The three international instruments and definitions	16
3.2. The elements of the crime	18
3.2.1. The actions	18
3.2.2. The means	18
3.2.3. The exploitation purposes	18
3.3. Final remarks	21
List of published sources	22



1. INTRODUCTION

Benefit fraud – applying for or accessing state benefits on the basis of fraudulent information – is of concern to governments as it siphons off state funds generally meant for vulnerable members of society.¹ Benefits commonly targeted for fraud relate to housing, employment and loss of employment, illness, family benefits, dental costs, and carer expenses for disabilities. The fraud against the welfare state varies from small to industrial scale: individual fraud or highly organized scams. The state is not the only victim, as individuals are often exploited within the scams: the more victims, the greater the profits. The abuse can range from their personal data being used for benefit fraud and for other financial crimes, such as money laundering, together with control of their bank accounts and taking their benefits, to labour exploitation in connection with the fraud. In cases where an individual's personal data is used for the fraud, a key question is whether the individual should be viewed as a low-level facilitator of the schemes ('strawmen' or 'money mules'),² as a victim of theft or fraud, or could they in some cases fall within the definition of being a victim of human trafficking?

This pilot study aims to examine the connection between benefit fraud, including related financial fraud, on the one hand, and human trafficking, on the other hand. It studies how the two intersect, and to what extent the exploitation of individuals in connection to benefit fraud and related financial fraud can constitute human trafficking as internationally defined.³

The study forms part of the Council of Baltic Sea States (CBSS) *Fraud Project: Combatting Human Trafficking for Financial and Benefit Fraud*. The project aims to shed light on the nexus between human trafficking and welfare-related crimes, focusing on benefit and financial fraud.

The report is based on the following sources of information on the intersection between benefit and related financial fraud and human trafficking: notes from national workshops in Finland, Latvia and Sweden during 2024 where relevant examples were discussed by partnering institutions and organisations; summaries of cases from Baltic Sea Region states of determined or potential human trafficking; notes from a study trip to the United Kingdom (2024) providing examples of convictions for benefit fraud as part of 'forced criminality'; further examples of European and international cases in which there have been convictions for crimes with a human trafficking – benefit fraud nexus; and intergovernmental and national reports, especially on the connection between benefit and related financial fraud and organized crime.

The report is divided into three chapters. After the introductory chapter, chapter two sets out to identify patterns and sketch out the *modi operandi* of benefit fraud schemes and the forms of exploitation that individuals who are used as part of the fraud are subjected to. The chapter suggests four modes of understanding the intersection and also provides preliminary victim profiles. Chapter three examines the data in light of the international definition of human trafficking in order to identify to what extent the individuals exploited in such financial schemes could fulfil the criteria for being victims of human trafficking. The final remarks include tentative conclusions.

¹ Benefit fraud is here used as an umbrella term for fraudulent access to the various funds that the government gives based on a legal right.

² EUROPOL, SOCTA 2021, *A Corrupting Influence: The Infiltration and Undermining of Europe's Economy and Society by Organised Crime*, p. 21

³ The definitions in three instruments are examined: Article 3 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organised Crime ("the Palermo Protocol"), Article 4 of the 2005 Council of Europe Convention on Action against Trafficking in Human Beings, and Article 2 of Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims, as amended by Directive 2024/1712 of 13 June 2024.

2



2. THE PHENOMENON OF BENEFIT FRAUD AND INTERSECTION WITH HUMAN TRAFFICKING

When approaching benefit fraud and its relation to human trafficking, a distinction first needs to be made between benefit fraud, which is fraud against the state, and other fraud, for example against private persons or companies. Several reports have highlighted the strong connection between fraud, generally, and human trafficking.⁴ One example of non-benefit related fraud is cyber-scam factories where large numbers of victims have been deceived into seeking 'employment' and are then forced into participating in digital fraud internationally, often in romantic and crypto investment scams targeting individuals.⁵

Benefit fraud is distinct in that it is a narrower type of fraud that instead targets the welfare state, illegitimately trying to access various benefits that are primarily meant for vulnerable members of society. Some of the benefits form part of social security, such as parental leave; they can be based on work, such as unemployment benefits or compensation for unpaid salaries if the employer's company is liquidated; they can be payments for work provided on behalf of the state, such as compensation for dental treatment or care provided for the elderly or for disabilities. ***The state provides a revenue stream, which is fraudulently acquired or diverted to persons other than the ones the payments were intended for.*** The stream can be both steady and very profitable. As one study participant noted: "The state always pays."

The focus in relation to benefit fraud and related financial schemes has often been on the state's losses, on individuals who have tried to gain more benefits than they were entitled to, or the organisers behind large-scale benefit and financial scams. The focus in this report is instead on the vulnerable individuals who are exploited as part of the schemes, and who do not share in the schemes' revenue, but instead risk becoming criminally responsible for crimes committed

in their names. These fraud schemes depend on the use of actual persons, as a real person's identity is generally required for benefit applications and payouts. Successful schemes may also be predisposed to involving large numbers of victims, as this decreases costs in the form of administration and increases the revenue.

The following chapter examines common modes of exploitation of individuals in connection with benefit and related financial fraud and presents preliminary victim profiles.

2.1. MODES OF EXPLOITATION IN BENEFIT FRAUD SCHEMES

The available cases, reports and information provided by partner institutions and organisations reveal at a minimum four different modes of exploitation of individuals in relation to benefit fraud and related financial crimes. These are the four modes of exploitation observed:

1. "Human trafficking plus": The welfare/social benefits of a victim already subjected to other forms of trafficking, such as forced labour, form an additional revenue stream for the traffickers.
2. "Identity/data exploitation plus": The victim's identity and data constitute the main income generator and are used to receive social and other benefits, commit financial crimes such as money laundering, and indebt the victim; the victim's identity can also be made available to someone who lacks legal status in the state.
3. "Cost reduction strategies": When the state is billed for work provided, workers who lack legal status or whose continued status is tied to the employer are exploited in schemes where the employer pays them little or next to nothing and keeps the difference.
4. Benefit theft as the primary aim: A vulnerable individual is brought to or housed in a situation with the primary aim of confiscating their social benefits.

As seen in the cases included below, the modes can overlap.

4 See e.g. the US Trafficking in Persons Report (2023) pp. 64-65 and INTERPOL, Interpol Global Financial Fraud Assessment (2024), p. 12. See also Al-Jazeera, [Meet Cambodia's cyber slaves | Longform | Al Jazeera](#) (2022-08-11).

5 See UNODC, [GLOTIP Court Case Summaries \(2022\)](#), cases 222 and 621 at: [Court_Cases_Summaries_GLOTIP_2022_web.pdf \(unodc.org\)](#). See also UN OHCHR (2023), "Online scam operations and trafficking into forced criminality in southeast Asia: Recommendations for a human rights response" [ONLINE-SCAM-OPERATIONS-2582023.pdf \(ohchr.org\)](#).

2.1.1. “Human trafficking plus”: Benefit fraud as an additional revenue stream

Victims of trafficking are often exploited in multiple ways. Reports have shown that the identities of victims of forced labour and other forms of trafficking are also used to e.g. claim various work and social benefits, which are then kept by the traffickers.⁶ Human trafficking investigations seldom include financial investigations, but where these have been done it is common to find that traffickers have enjoyed control over the victims’ bank accounts,⁷ making it possible to divert their benefits and salaries, and use their accounts for money laundering and other financial fraud. Some victims work for employers who pay salaries, that are then diverted by the perpetrators; in other cases, it is the employer who exploits the victim directly.

This is a clear link between human trafficking and benefit fraud: Abuse of the trafficking victim’s identity provides another revenue stream for traffickers in addition to the exploitation in, for example, forced labour or the sex industry. The benefits payment that the trafficker withholds from the victim might have been legitimately or fraudulently claimed.

The trafficking victims can be vulnerable nationals or lawful residents with permanent or temporary status, as approval of a benefits application requires lawful status. Examples are cases of exploitation in the sex industry, or forced labour exploitation of recently immigrated spouses. The victims can also have a work permit and employment in the state where they are exploited, which the trafficker uses to gain access to salaries and further benefits that are based on work. They can also be the lawful employees of direct perpetrators, who for example turn in fraudulent documentation about the extent of an employee’s work; this allows the employee to keep working while certain benefits are collected,

6 Anti-Slavery International, *Trafficking for Forced Criminal Activities and Begging in Europe. Exploratory Study and Good Practice Examples* (2014), p. 14-15; EUROPOL, *Situation Report. Trafficking in human beings in the EU* (2016), pp. 30-31; Jokinen, A. & Ollus, N. (eds), *Shady Business: Uncovering the Business Model of Labour Exploitation* (HEUNI Publ. Ser. 92a, Helsinki, 2019); Modern Slavery Policy Unit, *It Still Happens Here: Fighting UK Slavery in the 2020s* (The Centre for Social Justice, London, 2020), p. 11; GRETA(2020)12, Guidance Note on Preventing and Combating Human Trafficking for the Purpose of Labour Exploitation, p. 3. Internal (unpublished) report (2021-06-09) by the Swedish Social Insurance Agency (Försäkringskassan) referring to cases of prostitution and social security benefits; also information received from the UK Department for Work and Pensions (2024-05-16).

7 UNODC, *Study on Illicit Financial Flows Associated with Smuggling of Migrants and Trafficking in Persons from Glo. Act Partner Countries to Europe* (UNODC, 2023) p. 14. See also FATF Report, *Financial Flows from Human Trafficking* (Financial Action Task Force, Paris, 2018) pp. 25-26.

such as unemployment benefits or state-guaranteed payments if the employer’s company is liquidated and thus cannot pay salaries that are due. The victims’ vulnerability reduces the chance that they will notice or be able to hinder the misuse of their data.



Example:

In 2012, a number of suspects were convicted in Canada for human trafficking in relation to forced labour.⁸ A large family organization had recruited 19 Hungarian men to move to Canada with promises of well-paid jobs. Upon arrival, the victims’ travel documents were taken away and they were forced to work for long days for little or no pay and to live in the suspects’ basements. They were also required to claim social security benefits and to open bank accounts from which the suspects took all the incoming revenue.



Example:

In 2019, eight suspects were convicted in the UK for inter alia human trafficking in connection to forced labour.⁹ Up to 400 Polish nationals had been recruited for work, transported by bus to the UK and upon arrival were taken to job centre appointments and to open bank accounts, which the traffickers took control of. The traffickers also applied for benefits in their names and emptied the accounts of these benefits and the salaries coming in from the workers’ low-paying jobs. The workers were housed in unheated, rat-infested, cramped quarters and received very small sums of money, insufficient even for food. In 2021, three more suspects in the ring were convicted, one of them a recruitment agent who had aided the traffickers.¹⁰

8 For a summary of one of the cases, *R v Domotor, Domotor, and Kolompar*, [2012] OJ No 3630 (Ont SCJ), see *A Handbook for Criminal Justice Practitioners on Trafficking in Persons* (accessed 2024-09-23).

9 *UK slavery network 'had 400 victims'* (bbc.com) (2019-07-05). 92 victims were identified in 'Operation Fort', though police believed many more had been victimized. The investigation took three years (2014-2017) and the scheme was estimated to have generated 2 million pounds between 2012-2017.

10 *Human trafficking ring gang members jailed* (bbc.com) (2021-09-24).

**Example:**

3 In two Finnish cases, spouses were identified as victims of human trafficking for forced labour in domestic work. In both cases, the victims had recently moved to Finland for the purpose of marriage. Their benefits were taken by the spouse, and in the first case, the wife had also taken payday loans and made purchases for the benefit of others in her vulnerable husband's name.

**Example:**

4 In a case reported by the Latvian authorities, vulnerable individuals, generally homeless and with addictions, were recruited with promises of work abroad. Upon arrival in Ireland, the workers were subjected to deplorable working and housing conditions, with little or no pay. They were also requested to make their identities available as directors in fictitious companies set up to launder the proceeds of crime.

In the cases above, the individuals whose benefits and/or salaries were taken, and/or whose bank accounts or data were used for money laundering, already fulfilled the criteria of victims of human trafficking for forced labour. Their financial exploitation can thus be understood as an aggravating circumstance, or as a 'secondary' crime.¹¹ This raises several questions: What if the labour exploitation that a worker is subjected to does not constitute human trafficking on its own? What if a victim used in a money laundering scheme has not been exploited in work or the sex industry at all? Could the identity and financial exploitation on its own constitute a purpose of exploitation as required in the international definition of the human trafficking crime?

2.1.2. "Identity exploitation plus": Identity abused for benefit fraud and other financial exploitation

In a number of benefit fraud cases, individuals are not simultaneously exploited in traditional forms of trafficking, such as forced labour.¹² Instead, it is their identities or data that are the primary target of direct and/or indirect exploitation for financial gain. What

¹¹ OSCE, *Analysing the business model of trafficking in human beings to better prevent the crime* (Vienna, 2010), p. 18.

¹² Their labour could also be exploited, such as through poor working conditions, but it does not fulfil the criteria for forced labour.

forms of identity and financial exploitation are they commonly subjected to?

2.1.2.1. Direct exploitation of identity holder

A person's identity can be used to make claims for various benefits; it can also be used to open bank accounts used for money laundering, to apply for bank loans and to make purchases that benefit the traffickers and indebted the victim.¹³ Victims are sometimes also placed on the board of a company, association or similar that is used for other financial crimes.¹⁴ It is the victims who then are perceived to have committed the financial crimes, such as money laundering ("money mules") and fraud, to be responsible when claims for repayment of loans are made or when the company is liquidated ("straw men").

Victims could be vulnerable nationals or lawful residents with permanent or temporary status in the state where they are exploited, as approval of a benefits application requires a lawful status. They are often vulnerable EU nationals who might have travelled or been transported to another EU state on promises of work, but who remain only for a shorter period of time. The cross-border element and the victims' vulnerability reduces the chance that they will notice or be able to hinder the misuse of their data.

**Example:**

1 Between 2015- 2016, twenty suspects were convicted in Denmark of human trafficking for criminal acts involving between 250-300 Romanian citizens.¹⁵ The traffickers had recruited vulnerable persons with offers of jobs in Denmark. Upon arrival, the victims were taken to government centers where their real identity papers and falsified job contracts were used to apply for a Danish CPR (civil registration number) and NEM-ID (electronic ID). The CPR and NEM-ID made it possible to have

¹³ EUROPOL, *Situation Report. Trafficking in human beings in the EU* (2016), p. 30. As organized crime requires extensive money laundering, there is high demand for bank accounts that can be used for such purposes. EUROPOL, SOCTA 2021, *A Corrupting Influence: The Infiltration and Undermining of Europe's Economy and Society by Organised Crime*, p. 21.

¹⁴ Organised crime groups also use companies extensively as part of the money laundering business model, thus requiring 'straw men'. Ibid.

¹⁵ See the Danish Criminal Code Art. 262 a: "udnyttelse af den pågældende ved ... strafbare handlinger..." ("exploitation of the person concerned in ... criminal acts...").

online contact with banks, money lenders and government authorities, and the traffickers then used the identities for serious fraud at an estimated value of at least 5 million Euro. The victims were housed in squalid conditions in Denmark until they were transported back to Romania, receiving a small payment for their participation. Loans were taken out and vehicles, electronics and clothing were purchased using their identities; they were also named as directors of companies. Their identities were used to commit tax and VAT fraud, and to fraudulently receive parental and social security payments as well as unemployment insurance. All the revenue was kept by the traffickers.¹⁶



Example:

In a recent criminal case in the UK, a number of suspects were convicted of benefit fraud, having made thousands of fraudulent claims for benefits.¹⁷ The businesses attracted clients by claiming to be able to help gain access to a national insurance number and any benefits that they were entitled to. The fraudsters then used the real identities of these persons, as well as hijacked identities, to apply for benefits that the persons were not entitled to, using falsified supporting documentation, such as payslips, letters from landlords and doctors and information about dependents. The payouts were taken out in cash by the fraudsters or laundered in various bank accounts.



Example:

In a case reported by the Latvian authorities, Latvian victims were transported to Germany, where their passports were used to open bank accounts. The passports were then kept by the recruiters while the workers were transported over the border to Denmark and left stranded there without work, any funds or their passports. The police investigation showed that the bank accounts were used to move large amounts of money, indicating money laundering. There were also indications that benefits might have been received into these bank accounts.



Example:

In a Lithuanian case reported by the authorities, a vulnerable person had been recruited for work in another EU state. Upon arrival, his identity documents were first used to open a bank account, then the documents were taken from him. The pre-trial investigation showed that the bank account was used to receive and withdraw various sums of money.

4

The facts and determination of the cases above vary: In the Danish case, the breadth of financial exploitation that the victims were subjected to was judged to fulfil the exploitation purpose of 'criminal acts', thus constituting human trafficking. The victims had been used in VAT-, tax and benefits fraud, as 'straw men', and as 'money mules' in money laundering. In the UK case, the persons whose benefits were fraudulently applied for and taken were not treated as though they had been victims or unwilling participants in criminal acts; the fraudulent actions were only seen as benefit fraud. In the Latvian and Lithuanian examples, the victims had been deceived into going to another state through promises of work. Their identities were used to open bank accounts that seem to have been used for money laundering and possibly benefit fraud; they thus became unwilling participants in criminal acts. They could therefore be seen as victims of forced criminality. Their IDs were also taken from them, and they were left stranded in another state, which shows the callousness of their exploitation and violations of their dignity.

2.1.2.2. Indirect exploitation

The victim's identity can also be indirectly exploited when it is made available for someone else, such as for an individual who lacks legal status in the country. In some cases, EU citizens have been induced to undertake a brief trip to another EU state with their documents to not only open a bank account, but also to complete other legal processes, such as registering residency and work. It is then possible for that status to be used by an irregular migrant or other who lacks the right to reside and work there.

Victims would typically be vulnerable nationals of another EU member state who remain in the state of exploitation only for a short period of time, because the scheme involves gaining access to an identity with lawful status that the victim in reality has no need for. The cross-border element and the victims' vulnerability reduces the chance that they will notice the misuse of their data.

¹⁶ The prosecutions in the three large cases were based on 'Operation Wasp Nest' ('Operation Hvepsebo'). For a brief summary, see [OVERBLIK: Her er sagen om Operation Hvepsebo | BT Krimi - www.bt.dk](https://www.bt.dk/krimi/operation-hvepsebo) (2017-05-29).

¹⁷ [Fraudsters behind £53.9 million benefits scam brought to justice in country's largest benefit fraud case - GOV.UK](https://www.gov.uk/government/news/fraudsters-behind-53.9-million-benefits-scam-brought-to-justice-in-countrys-largest-benefit-fraud-case) (2024-04-10); UK Department for Work and Pensions (2024), *Fighting Fraud in the Welfare System: Going Further*, p. 11.

**Example:**

In an ongoing case reported by the Latvian authorities, a large number of vulnerable persons were recruited to travel to Poland in return for a small amount of money. Their ID documents were used to register their residence in the state, to obtain a work permit and to open a bank account. The vulnerable persons were then swiftly returned to Latvia. The pre-trial investigation showed that their identity documents were also used to register fictitious companies in the other EU state. As there were no jobs provided for the vulnerable persons in Poland, the authorities suspected that the work permits were intended to be used by third country nationals.

In both situations of direct and indirect exploitation, the victim's identity is the primary revenue-generator in a breadth of financial schemes that the victim is usually not fully aware of. Some of the acts involve the victim in criminal activities: money-laundering, VAT-, tax and benefit fraud are clear examples, while taking out loans in the victim's name can indebt the victim and defraud the bank. Some of the acts make the victim responsible for undertakings and also aim to detract attention by the authorities, commonly for criminal activities: being made the formal director of a company is an example. While most of the acts illustrated in the cases above indicate forced criminality, some of the acts are less clear. A key question in these cases is to what extent exploitation of a person's identity and personal data qualifies as one of the forms of exploitation within the human trafficking definition.

2.1.3. "Cost reduction strategies":¹⁸ Keeping the difference between the revenue and the salary paid

In some benefit fraud schemes targeting the state, employers bill the state at a high rate for work provided for the state while the employees are paid at a very low rate. This shares characteristics with labor exploitation

18 The term 'cost reduction strategy' is described as part of the labor exploitation business model. It involves reducing or withholding worker salaries, requiring longer working hours, reduced or no safety measures and non-payment of taxes and social contributions. See Jokinen, A. & Ollus, N. (eds), *Shady Business: Uncovering the Business Model of Labour Exploitation* (HEUNI Publ. Ser. 92a, Helsinki, 2019) p. 16-17; also Aronowitz, A., Theuermann, G. & Tyurykanova, E., *Analysing the Business Model of Trafficking to Better Prevent the Crime* (OSCE, Austria, 2010), pp. 55-56.

schemes.¹⁹ There are at least two *modi operandi*: one involves the use of another person's identity with lawful status; the other involves the exploitation of a vulnerable laborer, typically a non-resident with a temporary work permit.

2.1.3.1. Exploiting the irregular migrants who replace the lawful workers that the state is billed for

In the first situation, the additional potential victims, apart from the state, are irregular migrants who provide the actual service charged to the state instead of the person whose identity is officially given. The persons whose identities are used are often unaware of the extent to which their identities are used; in some cases, however, the individuals participate knowingly in the fraud and are compensated for their role. Examples are schemes where a company charges the state for work provided in the care sector, but the actual work is not done by the lawful resident (citizen or other EU state resident) whose identity is officially given, or at the high rate charged. The work is instead provided by an irregular migrant who is often paid in cash.²⁰

Victims would typically be vulnerable third country nationals without a valid work permit.

**Example:**

A number of studies in Sweden have shown extensive fraud by assistance companies in relation to providing care for the elderly or persons with disabilities.²¹ A number of suspects have also been convicted in criminal cases.²² In one case, the fraud consisted of a care company having many persons formally on the pay-roll, charging the state for more hours per client than were actually provided, while paying persons without work permits to

19 Ibid. (Jokinen & Ollus)

20 Reasons might be to avoid the paper trail as well as that the person might not have been able to open a bank account in the state. Payments in cash also commonly form part of money laundering schemes.

21 SOU 2017:37, *Kvalificerad välfärdsbrottslighet – förebygga, förhindra, upptäcka och beivra*; Delegationen för korrekta utbetalningar från välfärdssystemen, Rapport 6 (2019): *Läckaget i välfärdssystemen, del 2 Omfattningen av felaktiga utbetalningar från välfärdssystemen*, p. 27 ff., Nationellt underrättelsecentrum, *Olle – Strategisk rapport om hur personlig assistans och arbetstillstånd otillbörligt och systematiskt utnyttjas av organiserad brottslighet* (2020).

22 See e.g. Svea Appellate Court judgment (2015-07-23) in criminal case B 5912-14.

do the actual work at a much lower cost. A court trying the case pointed out that those who were to be provided assistance did not get the full extent of the care they were entitled to and thus suffered,²³ but it did not examine the situation of the irregular workers who were exploited.

2.1.3.2. Exploiting workers with temporary work permits

In the second situation, work is provided by individuals who possess a work permit, e.g. carers for the elderly, but their continued status in the country is dependent on the employer and they are therefore vulnerable to pressure. Such employees might therefore feel obliged to accept poor working conditions with reduced or no pay, while the employer keeps the difference between the high rates that the state is charged and the low costs for the worker. Examinations of the bank activities of such workers would typically show that the entire salary or part of it is regularly withdrawn, transferred, or that the bank card is used by others.

Both situations provide the employer with extensive potential to reduce the costs and keep a larger share of the steady revenue stream that the state provides.

Victims would typically be vulnerable third country nationals with a temporary work permit tied to the employer who provides work/services for the government.



Example:

In a Swedish case, a third country carer with a work permit was exploited in round-the-clock work over several years and was periodically locked in. The employer kept the difference between the payments by the state, compensating for a high wage, and the very low wage that the employee was actually paid.²⁴

²³ Ibid., p. 221.

²⁴ Nationellt underrättelsecentrum, *Olle – Strategisk rapport om hur personlig assistans och arbetstillstånd otillbörligt och systematiskt utnyttjas av organiserad brottslighet* (2020), p. 13.

2.1.4. Benefit theft as the primary aim

The fourth link to human trafficking is cases where the primary purpose of bringing a person to a country or of housing them is to use them for benefit fraud, e.g. obtaining child benefits, or taking their legitimate benefits.²⁵ There are indications in reports of cases where children and adults have been exploited for this purpose,²⁶ but no concrete examples were provided by the partner institutions other than that concern was voiced that this practice occurs.²⁷

In the examples provided by the Finnish partner institution, the individuals that took their spouse's benefits also exploited them in forced labour; thus, there are few specific examples provided by the participating institutions where the primary aim of exploitation seems to be gaining access to benefits.²⁸

There are some examples of Swedish cases, described in reports, where persons with physical disabilities have been brought to the country in order to gain the possibility of billing the state for their care.²⁹ The modus operandi has been to apply for a work permit for an adult who gains the right to also bring family members.³⁰ If one of the family members has a disability, they constitute a new client for the care company that is implicated in the scheme. The adult with the work permit can then also be used to provide care for the accompanying family member. Their situation would be vulnerable to abuse in a cost-reduction strategy (see section 2.1.3.2).

²⁵ EUROPOL, *Situation Report. Trafficking in human beings in the EU* (2016), pp. 30-31. See also Thomas, A. & Strickland, H., "Benefits Trafficking: human trafficking of older adults and adults with disabilities", *Frontiers in Rehabilitation Sciences* (2024), DOI 10.3389/fresc.2023.1305926.

For a Spanish example (2019), see [Spain 'house of horrors' care home owners arrested | CNN](#) (2019-03-08). For a US example (2015), see: [Office of Public Affairs | Woman Who Held Disabled Adults Captive in Subhuman Conditions Sentenced to Life Plus 80 Years in Prison | United States Department of Justice](#)

²⁶ EUROPOL, *Situation report. Criminal networks involved in the trafficking and exploitation of underage victims in the European Union* (2018), pp. 33-34.

²⁷ Discussions at both the Swedish workshop (2024-05-24) and the Finnish workshop (2024-06-05).

²⁸ One example given during the Finnish workshop (2024-06-05) concerned two male homeless substance abusers who were taken in by a family that abused them, kept giving them alcohol and drugs, and made them claim benefits that the family kept.

²⁹ Nationella underrättelsecentret, *Myndighetsgemensam lägesbild om organiserad brottslighet 2018-2019*, p. 8.

³⁰ Unpublished Swedish report *Grunden* (Regionalt underrättelsecenter Väst, 2021), p. 6.

2.2. AN INDIVIDUAL'S IDENTITY: KEY TO THE FRAUD

In order to apply for benefits in a scam, a real identity is usually necessary, along with supporting documentation of e.g. employment, residence, income, health status and dependents. In the majority of the cases examined in this study, the identities were real while the supporting documentation was falsified, e.g. employment contracts so that the EU citizen could register a residence and access benefits tied to employment. A few of the cases concerned individual exploitation, but a majority of the cases involved larger schemes where the personal data of individuals was extensively used.

Many of the larger scams involved offering the victims work in another EU state, work that either turned out to be exploitative or did not exist. Some of the individuals were given a small payment for travelling to the other state, registering their residence and opening a bank account, while others were unaware of the use of their data or were not able to hinder the misuse of their information. The common modus shows that personal data – even on its own – is highly valued in criminal enterprise, even though in many cases the victims were exploited both in work and through use of their data for welfare fraud and other criminal activities.³¹

Access to the victims' bank accounts is an important modus component, as it provides both easy access to the incoming revenue (salaries and benefits) as well as the possibility to launder money from other criminal activities. Personal data can also be used to purchase items that the victim becomes responsible for, such as car purchases, which is a common way to launder money and transfer proceeds. Finally, using victims as straw men in companies used for criminal activities, such as in more complex money laundering schemes, is also profitable, especially for larger criminal networks. Thus, a useful business model seems to be to exploit some employees with valid work permits, using their bank accounts to launder money, using them also as straw men for companies used to launder the proceeds of crime, while paying third country laborers in cash as part of that laundering.

31 The explanation might be practical: The labour exploitation might have led to the original investigation that then revealed the identity and financial exploitation. If irregularities in access to benefits and use of data are independently identified by authorities, that might lead to other forms of exploitation being uncovered, such as forced labour.

3



3. BENEFIT FRAUD AND RELATED FINANCIAL EXPLOITATION AS HUMAN TRAFFICKING

This chapter aims to examine to what extent exploiting a person's identity, and other forms of abuse in relation to benefit and connected financial fraud, could constitute human trafficking on its own, not just as a secondary crime providing an additional revenue stream to other exploitation. The definition of human trafficking used for the evaluation is that found in the global UNODC legal instrument and the two European instruments (European Union [EU] and the Council of Europe [COE]) described below.

The crime of human trafficking was first regulated in UNODC's Trafficking (Palermo) Protocol (2000).³² The EU's definition of the crime (2002)³³ followed the Palermo Protocol structure closely, but has since been revised two times (2011³⁴ and 2024³⁵). The COE's definition of human trafficking in its Convention on Action against Trafficking in Human Beings (Human Trafficking Convention) (2005)³⁶ also follows the Palermo Protocol structure.

It is important to note that the definition and the other obligations in the instruments are minimum obligations; states are thus free to adopt stricter rules that include a wider range of actions, means or exploitation purposes than are listed in the three instruments. They may not, however, adopt less strict rules that fail to fulfil the minimum standards.

3.1. THE THREE INTERNATIONAL INSTRUMENTS AND DEFINITIONS

All three (UNODC, EU and COE) definitions include three elements for the crime of human trafficking to be completed: A specific action is taken, by the use of a certain means, for the purpose of a certain type of exploitation. Since the crime is complex, it can be helpful to explain how the elements interrelate.

1. Logically, the perpetrator first has a plan to exploit the victim (has a 'purpose of exploitation').
2. The perpetrator then influences the victim, e.g. by deception (uses a 'means'). The influence has to be of a certain kind, reflecting that the victim did not freely accept what the perpetrator does next.
3. This 'means' that the perpetrator uses now makes it possible to take an 'action' with the victim, such as transporting them (takes an 'action').

This action moves the victim into a situation where the plan is that they can be exploited. The exploitation does not actually need to occur; in this way human trafficking resembles the slave trade more than slavery itself. However, if exploitation has occurred it is encompassed within the crime of human trafficking.

32 Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime (2000) UN Doc. A/53/383 2000 Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, 2237 UNTS 319.

33 Council Framework Decision of 19 July 2002 on combating trafficking in human beings (2002/629/JHA).

34 Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA.

35 Directive (EU) 2024/1712 of the European Parliament and of the Council of 13 June 2024 amending Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims.

36 Council of Europe Convention on Action Against Trafficking in Human Beings (CETS No. 197).



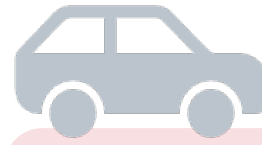
There is a purpose to exploit, e.g.

- + In sexual exploitation or
- + In forced labour



The perpetrator uses a means, e.g.

- + Deception or
- + Abuse of a position of vulnerability



in order to be able to take an action, e.g.

- + Recruit the victim,
- + Transport the victim or
- + Harbour the victim

The Palermo Protocol's definition of the human trafficking crime is found in Article 3(a):

““Trafficking in persons” shall mean 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;”

The COE Human Trafficking Convention's definition is found in Article 4(a):

““Trafficking in human beings” shall mean 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;”

The definition of the crime in EU Directive 2011/36/EU as amended by Directive 2024/1712, is found in Article 2:

“The recruitment, transportation, transfer, harbouring or reception of persons, including the exchange or transfer of control over those 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.
 2. A position of vulnerability means a situation in which the person concerned has no real or acceptable alternative but to submit to the abuse involved.
 3. Exploitation shall include, as a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, including begging, slavery or practices similar to slavery, servitude, or the exploitation of criminal activities, or the removal of organs, or the exploitation of surrogacy, of forced marriage, or of illegal adoption.”

3.2. THE ELEMENTS OF THE CRIME

3.2.1. The actions

The 'actions' in all three international definitions are practically identical. The 'action' element requires that a perpetrator has taken at least one of the following actions in relation to the victim: "*recruitment, transportation, transfer, harbouring or receipt*".

For example, 'recruiting' a victim into e.g. forced labour is sufficient for this action element to be fulfilled. 'Recruiting' them and then 'transporting' and 'harbouring' them involves three actions.

The 'actions' are not further defined in the instruments or the authoritative commentaries.³⁷



Examples:

Recruiting an EU citizen for work or **transporting** them to another state fulfills the 'action' element. **Housing** a third country national spouse with a temporary residence permit also fulfills that element.

At least one of the actions has to be used. If an individual has not accepted an offer, has been passive and is unaware that their identity has been used for criminal purposes, it is less probable that they could be found to have been 'recruited' into that criminal activity.³⁸ In such a case, if they have not either been 'transported', 'transferred', 'housed' or 'received' for the purpose of exploitation, then the crime of human trafficking is not applicable because the element of action is lacking.

3.2.2. The means

The 'means' in the three international definitions are practically identical. The 'means' element requires that the perpetrator must have used at least one of the means listed against the victim in order to ("by means of") be able to e.g. recruit, transport or house them.

The means are: "*the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of*

³⁷ The *Explanatory Report to the Council of Europe Convention on Action Against Human Trafficking* states only that "the definition's reference to recruitment covers recruitment by whatever means (oral, through the press or via the Internet)." CETS 197 - Explanatory Report to the Council of Europe Convention on Action against Trafficking in Human Beings, para. 79.

³⁸ This would seem to follow from the ordinary meaning of 'recruitment'.

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".

A causal relationship between the means and the action is required. If the victim would have accepted to do the work (to be recruited), to be transported or to be harboured, without the means being used against them, the element of means is not fulfilled.



Examples:

In some cases, individuals are paid to make their personal data available. Does that signify that they validly consented to the exploitation of their data? If the individual was deceived about how their information would be used, then the 'means' of deception was used when they were recruited. As soon as one of these 'means' has been used, any 'consent' given by the person whose information has been exploited is void and has no legal effect. Thus their 'consent' lacks legal validity and the payment becomes irrelevant. They might have been told that the bank account would be used for their salary, and not that it would be used for money laundering.



Examples:

If an individual's **vulnerable position was abused** to get them to accept making their information available, then their 'consent' to that recruitment also lacks any legal effect. They might have been homeless in their home state and struggled with addiction, and now been transported to another EU state. There they would have been completely dependent on the fraudster and would have thought that they have little choice but to cooperate. A small payment for making their data available does not negate that a 'means' was used to get them to accept to cooperate with the exploiters.

3.2.3. The exploitation purposes

The third element, the exploitation purposes, differs between the three instruments. The 'purpose' for which the action is taken ("for the purpose of exploitation") needs to be one of the forms of exploitation listed in the instruments.³⁹ There is no given or accepted

³⁹ Note again that states are free to adopt additional exploitation purposes in their national laws.

definition of the term ‘exploitation’ itself,⁴⁰ and it is not required to prove this separately, in addition to the exploitative purpose.

As mentioned, the forms of exploitation listed in the international definitions diverge. All three documents contain the exploitation “forced labour or services”, while only the EU Directive specifically includes the purpose of “exploitation of criminal activities”. It should be noted that states are free to criminalise other exploitation purposes, e.g. ones that could encompass identity and financial exploitation, as the lists in the international instruments are not exhaustive.⁴¹

Could the exploitation purpose of ‘forced labour or services’ encompass personal data being abused for criminal purposes, such as benefit fraud and money laundering?

3.2.3.1. ‘Forced labour or services’

Several states view forced labour or services as encompassing exploitation of criminal activities.⁴²

The Palermo Protocol’s and the COE Human Trafficking Convention’s purpose most closely linked to different forms of identity exploitation is “forced labour or services”. Technically, in order for that form of exploitation to be applicable, the three elements of forced labour as internationally defined need to be shown: that there was “work or service [...] exacted from any person under the menace of any penalty and for which said person has not offered himself voluntarily”.⁴³ Work is involuntary where there is no free and informed consent to it (“not offered himself voluntarily”). However, additional pressure to get them to work despite their lack of consent is also required (“menace of any penalty”), such as a threat to report an irregular migrant to the authorities or the threat or actual withholding of wages already due unless they keep working.⁴⁴

In the context of identity and personal data exploitation, the action of requiring a person to go to the bank to open a bank account, or to make their identity documents available, could qualify as ‘work or service’. If the exploiter’s purpose (when deceiving the victim into

accepting to travel to the other EU state on the basis of promises of work [means of ‘deception’ + action of ‘transport’]) was to exploit their work/service of opening a bank account in order to launder money, then the victim’s work/service was involuntary because they were deceived about the use of the bank account. However, the existence of a ‘menace of a penalty’ is not evident in such a case, unless the victim becomes aware that the account is used for various criminal activities but is coerced into not reporting this to the authorities, nor closing the account. It is thus not clear that a single instance of making one’s personal data available to open a bank account that is then misused by another for money laundering would qualify as ‘forced labour or services’. Instead, it would seem to constitute ordinary fraud. However, if a victim is threatened or otherwise coerced into these actions, then the victim’s actions should be understood to fulfil the definition of forced labour. It should also be noted that States are free to interpret ‘forced labour or services’ less restrictively, as the ILO definition is a minimum standard.

It seems that cases of personal data abuse would qualify as exploitation of forced labour or services where coercion is used, for example to get the victim to take certain actions or hinder them from seeking to stop the abuse of their personal data. It seems less likely that cases where no coercion is used and the victim is unaware of the abuse of their data would qualify as forced labour or services.

3.2.3.2. ‘Exploitation of criminal activities’

Several states have adopted ‘criminal activities’ as a separate exploitation purpose or interpret it as covered by their human trafficking legislation.⁴⁵

The EU Directive 2011/36/EU as amended by Directive 2024/1712 includes ‘exploitation of criminal activities’ as one of the purposes of exploitation.⁴⁶ The definition of this purpose is given in the Recital (para. 11): “The expression ‘exploitation of criminal activities’ should be understood as the exploitation of a person to commit, inter alia, pick-pocketing, shop-lifting, drug

40 UNODC, *Issue Paper: The Concept of ‘Exploitation’ in the Trafficking in Persons Protocol* (Vienna, 2015) p. 24.

41 *Ibid.*, p. 8. All instruments state that “[e]xploitation shall include, at a minimum”, meaning that they must criminalise the purposes mentioned, but they may criminalise additional ones.

42 See Norway (case 311), in: UNODC, *GLOTIP Court Case Summaries* (2022), at: [Court_Cases_Summaries_GLOTIP_2022_web.pdf](#) ([unodc.org](#)). See Portugal in “Human Trafficking for the Purpose of Labour Exploitation”, Thematic Chapter of the 7th General Report on GRETA’s Activities (Council of Europe, 2019) p. 12.

43 ILO Forced Labour Convention, 1930 (No. 29), Article 2.

44 ILO, *Global Estimates of Modern Slavery. Forced Labour and Forced Marriage* (Geneva, 2017), p. 11.

45 The Danish Criminal Code, section 262 a (1) (‘strafbare handler’) and the UK Modern Slavery Act 2015, section 3, subsections 5-6 (“(a) to provide services of any kind, (b) to provide another person with benefits of any kind, or (c) to enable another person to acquire benefits of any kind.”) Exploitation in criminal purposes is the exploitation purpose most commonly reported to the National Referral Mechanism; [Modern Slavery and Human Trafficking - National Crime Agency](#).

46 For an early study of this exploitation purpose, see Anti-Slavery International, *Trafficking for Forced Criminal Activities and Begging in Europe: Exploratory Study and Good Practice Examples* (2014).

trafficking and other similar activities which are subject to penalties and imply financial gain.”

Though the drafters of the explanation seemed to anticipate physical actions and less serious crimes, the definition opens up for “similar activities which are subject to penalties”. The exploitation of personal data in the cases described in the report involved the victims in several forms of benefit fraud, of bank, VAT and tax fraud, and in money laundering, for which they could be found criminally responsible. Those actions are certainly subject to penalties and should, on first impression, be understood to fall within ‘exploitation of criminal activities’.

At least two questions arise in relation to ‘criminal activities’: The first relates to the victims’ actions and intent as part of the crimes committed; the second relates to the breadth of activities included.

i: The culpability of the victim or simply having made the crime possible

In relation to the victims’ actions in the cases examined above, for example, in cooperating with the perpetrators to open a bank account and register a residence in another EU state, these actions did not necessarily constitute crimes – in some cases, the actions only made the crime of fraud or money laundering by others possible. Further action could be needed for the crimes to be completed. The victims were thus a necessary actor in the crime, but their actions did not in themselves constitute crimes in all of the cases. Is the EU Directive’s “exploitation of criminal activities” limited to situations where the victim could become criminally responsible, or does it also cover situations when the victim only made the crime possible for others to complete, and the victim had insufficient intent for criminal responsibility? The definition in the Recital could be interpreted restrictively so that it is required that the victim “commit ... activities which are subject to penalties”. On such a reading, which requires some form of criminal culpability in order to fall within “exploitation in criminal activities”, abuse of a victim’s data or bank account without their knowledge might not qualify.

However, a wider interpretation is certainly possible, where the victim’s data is exploited so that a crime can be committed by others. As seen in two of the cases described in the report, both the United Kingdom and Denmark seem to have taken the latter approach, thus interpreting ‘exploitation in criminal activities’ to include the exploitation of an individual’s personal data for criminal purposes also where the individual seems to be an unaware actor.

The Directive’s definition was not updated in the 2024 amendment, but one paragraph in the Recital to the 2024 amendment could be understood to give support to the argument that the victim need not have committed the crime themselves:

“The existing legal framework in Directive 2011/36/EU already includes, within the scope of the definition of trafficking in human beings, crimes committed with the use of information and communication technologies, for example in the recruitment and exploitation of victims, the organisation of their transport and accommodation, advertising victims online and reaching out to potential clients, controlling victims and communicating between perpetrators, including all related financial transactions. In order to address this modus operandi of traffickers, law enforcement needs to improve its digital capabilities and expertise, and to keep up with technological developments. Furthermore, Member States are invited to consider the use of preventive measures, in particular those with the aim of discouraging demand, that address the issue of abuse of online services for the purpose of trafficking in human beings.”⁴⁷

Though the drafters seem to have had online recruitment methods and various forms of digital sexual exploitation in mind, they emphasise that the original Directive should be understood to encompass inter alia ‘exploitation’ made possible by these newer technologies as well as ‘financial transactions’. That clarifies that the Directive should not be restrictively interpreted in relation to changes in technology and modes of exploitation.

‘Exploitation in criminal activities’ could then be understood to encompass a range of criminal activities, where the victim might be coerced into committing crimes, such as theft or drug trafficking, as well as where they only play a passive part in criminal schemes, such as their personal data and bank account being used by others for money laundering purposes.

It is possible to interpret the exploitation of criminal activities as encompassing also victims whose personal data is used for criminal activities, even where the victims are unaware. It should be noted that this follows inter alia from an object- and purpose-oriented interpretation that takes into account the intention of the drafters that the Directive should be interpreted to include technological developments.

ii: Repeat instances required or sufficient with one instance

The second question relates to the breadth of actions included in ‘criminal activities’. As already mentioned, the Directive provides some examples: “inter alia,

⁴⁷ Directive (EU) 2024/1712 of the European Parliament and of the Council of 13 June 2024 amending Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims, para. 9.

pick-pocketing, shop-lifting, drug trafficking and other similar activities which are subject to penalties and imply financial gain.” The examples given are of non-violent, low-level criminality that is typically repeated. The term ‘criminal activities’ should therefore be able to include fraud for financial gain, but most likely not single instances of exploitation. Encompassing single instances of exploitation could lead to a high number of cases of human trafficking that might otherwise be treated as ordinary fraud.⁴⁸ It is not clear what the EU legislators intended on this point.

It would seem that an interpretation of the term ‘criminal activities’ in line with the ordinary meaning of the terms and the Directive’s object and purpose would limit the term to repeated instances of exploitation, in order not to lead to unreasonable results.

48 During 2023, 1997 individuals were convicted in Swedish first instance (district) courts for money laundering offenses (statistics from the Swedish National Council for Crime Prevention [Brottsförebyggande rådet] for 2023). An absolute majority were given conditional sentences, indicating that they were not repeat offenders. A quick survey of criminal cases from the appellate courts shows that a significant number of those convicted claim to have been coerced or deceived into making their accounts available. In one case, the appellate court accepted the plea of necessity and evidence that the defendant had been coerced into receiving funds from elderly who had been scammed and then had transferred those funds onward. The court thus did not find the defendant criminally responsible for money laundering. Svea Appellate Court judgment (2024-01-09) in case B 11670-23.

3.3. FINAL REMARKS

The pilot study has examined a number of cases and the elements of the human trafficking crime in order to identify the extent to which benefit and related financial fraud fulfill these. Tentatively, it seems that the three element definition could encompass many cases, though not all, of exploiting persons as part of benefit and financial fraud schemes.

The EU Directive seems to encompass most cases through its exploitation purpose ‘criminal activities’. Exploitation of a victim’s data for the purpose of ‘criminal activities’ seems to qualify as an exploitation purpose – one of the elements of the human trafficking crime – if the victim could be criminally culpable, and if there is more than one instance of abuse. It is not clear whether the term ‘exploitation in criminal activities’ should be interpreted more broadly than the examples that are given, and whether criminal culpability of the victim or repeat instances are required.

If the victim is threatened or otherwise coerced into taking actions, such as opening a bank account, this could qualify as the exploitation purpose ‘forced labour or services’, which does not require that the victim be culpable for a crime.

In cases where a ‘means’ has also been used to take one of the ‘actions’, the two remaining elements of the human trafficking crime are fulfilled.



There is a purpose to exploit

- ✦ The victim's personal data in criminal activities



...using the means of

- ✦ Deception by offering a job in another EU state
- ✦ Deception by not saying that the data is used for benefit fraud and financial crime
- ✦ Abuse of a position of vulnerability by offering vulnerable victim money for travel to another EU state to register work



...to be able to

- ✦ Recruit the victim to open a bank account or register residence in another state,
- ✦ Transport the victim to another state
- ✦ Harbour the victim in another state

LIST OF PUBLISHED SOURCES

INTERNATIONAL INSTRUMENTS AND RELATED DOCUMENTS

Council of Europe

- Council of Europe Convention on Action Against Trafficking in Human Beings (CETS No. 197).
- *Explanatory Report to the Council of Europe Convention on Action Against Human Trafficking CETS 197 - Explanatory Report to the Council of Europe Convention on Action against Trafficking in Human Beings.*
- GRETA(2020)12, Guidance Note on Preventing and Combating Human Trafficking for the Purpose of Labour Exploitation.

European Union

- Council Framework Decision of 19 July 2002 on combating trafficking in human beings (2002/629/JHA).
- Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA.
- Directive 2024/1712 of the European Parliament and of the Council of 13 June 2024 amending Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims.

International Labour Organisation

- ILO Forced Labour Convention, 1930 (No. 29).

United Nations Office on Drugs and Crime

- Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime (2000) UN Doc. A/53/383 2000 Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, 2237 UNTS 319.
- 2005 Council of Europe Convention on Action against Trafficking in Human Beings.
- UNODC, *Issue Paper: The Concept of 'Exploitation' in the Trafficking in Persons Protocol* (Vienna, 2015).

REPORTS AND JOURNAL ARTICLES

- Anti-Slavery International, *Trafficking for Forced Criminal Activities and Begging in Europe. Exploratory Study and Good Practice Examples* (2014)
- Aronowitz, A., Theuermann, G. & Tyurykanova, E., *Analysing the Business Model of Trafficking to Better Prevent the Crime* (OSCE, Austria, 2010)
- Canadian government, *A Handbook for Criminal Justice Practitioners on Trafficking in Persons* (accessed 2024-09-23)
- Delegationen för korrekta utbetalningar från välfärdssystemen (The Swedish Delegation for Correct Payments from the Welfare System), *Rapport 6: Läckaget i välfärdssystemen, del 2 Omfattningen av felaktiga utbetalningar från välfärdssystemen* (2019)
- EUROPOL, *Situation Report. Trafficking in human beings in the EU* (2016)
- EUROPOL, *Situation report. Criminal networks involved in the trafficking and exploitation of underage victims in the European Union* (2018)
- EUROPOL, SOCTA 2021, *A Corrupting Influence: The Infiltration and Undermining of Europe's Economy and Society by Organised Crime* (2021)
- FATF Report, *Financial Flows from Human Trafficking* (Financial Action Task Force, Paris, 2018)
- GRETA, *Human Trafficking for the Purpose of Labour Exploitation* in 7th General Report on GRETA's Activities (Council of Europe, 2019)
- ILO, *Global Estimates of Modern Slavery, Forced Labour and Forced Marriage* (Geneva, 2017)
- INTERPOL, *Interpol Global Financial Fraud Assessment* (2024)
- Jokinen, A. & Ollus, N. (eds), *Shady Business: Uncovering the Business Model of Labour Exploitation* (HEUNI Publ. Ser. 92a, Helsinki, 2019)
- Modern Slavery Policy Unit, *It Still Happens Here: Fighting UK Slavery in the 2020s* (The Centre for Social Justice, London, 2020)
- Nationellt underrättelsecentrum (Sweden's National Intelligence Centre), *Myndighetsgemensam lägesbild om organiserad brottslighet 2018-2019* (2017)
- SOU 2017:37 (Swedish government inquiry), *Kvalificerad välfärdsbrottslighet - förebygga, förhindra, upptäcka och beivra* (2017)
- Thomas, A. & Strickland, H., *Benefits Trafficking: human trafficking of older adults and adults with disabilities*, *Frontiers in Rehabilitation Sciences* (2024), DOI 10.3389/fresc.2023.1305926.
- UK Department for Work and Pensions, *Fighting*

- Fraud in the Welfare System: Going Further* (2024)
- UNODC, GLOTIP 2022 Court Case Summaries at: Court_Cases_Summaries_GLOTIP_2022_web.pdf (unodc.org) (2022)
 - UNODC, *Study on Illicit Financial Flows Associated with Smuggling of Migrants and Trafficking in Persons from Glo.Act Partner Countries to Europe* (UNODC, 2023)
 - UN OHCHR, *Online scam operations and trafficking into forced criminality in southeast Asia: Recommendations for a human rights response* ONLINE-SCAM-OPERATIONS-2582023.pdf (ohchr.org) (2023)
 - US Dept. of State, 2023 Trafficking in Persons Report (2023)

ADDITIONAL SOURCES

News outlets

- Al-Jazeera, Meet Cambodia's cyber slaves | Longform | Al Jazeera (2022-08-11)
- BBC, Human trafficking ring gang members jailed (bbc.com) (2021-09-24)
- BBC, UK slavery network 'had 400 victims' (bbc.com) (2019-07-05)
- BT Nyheter, OVERBLIK: Her er sagen om Operation Hvæpsebo | BT Krimi - www.bt.dk (2017-05-29)
- CNN, Spain 'house of horrors' care home owners arrested | CNN (2019-03-08)

Government websites

- UK NCA, Modern Slavery and Human Trafficking - National Crime Agency
- UK gov., Fraudsters behind £53.9 million benefits scam brought to justice in country's largest benefit fraud case - GOV.UK (2024-04-10)
- US Dept. of Justice, Office of Public Affairs | Woman Who Held Disabled Adults Captive in Subhuman Conditions Sentenced to Life Plus 80 Years in Prison | United States Department of Justice (2015-11-05)