

stronger together

**Tackling forced labour in businesses:
A toolkit for Spanish agri-businesses**

stronger2gether.org

April 2020

in partnership with

 **BHR**
BUSINESS &
HUMAN RIGHTS



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3. Practical monitoring and evaluation instruments.
4. A platform for businesses to publicly demonstrate their commitment to tackle hidden labour exploitation and share good practices.

Stronger Together takes a collaborative approach to developing new strategies to support business in addressing modern slavery risks based on the corporate responsibility to respect human rights advanced in the UN Guiding Principles on Business and Human Rights.

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LIST OF ACRONYMS USED

CBA	Collective Bargaining Agreement	ETT	Empresa de Trabajo Temporal
EU	European Union	ILO	International Labour Organisation
UNGP	United Nations Guiding Principles on Business and Human Rights	CeO	Recruitment of Migrants in Origin

INTRODUCTION

With financial support from the Co-op, Innocent Drinks, Marks and Spencer, Ocado and Waitrose and Partners, Stronger Together has developed this toolkit in partnership with BHR Spain to support Spanish growers with the knowledge, skills and tools to detect, deter and deal with forced labour, labour trafficking and other hidden forms of labour exploitation in their business and supply chains.

WHO IS STRONGER TOGETHER?

Stronger Together is a not-for-profit, business-led, multi-stakeholder collaborative initiative that brings together companies, labour providers, industry associations, NGOs and other key parties to address and help businesses to tackle forced labour, labour trafficking and other hidden forms of labour exploitation within their business and supply chains.

Stronger Together produces clear guidance and resources to support employers and labour providers in at-risk sectors to deter, detect and deal with forced labour, labour trafficking and other hidden labour exploitation.

Through www.stronger2gether.org, Stronger Together offers:

1. Free-to-download good practice guidance and resources including toolkits, awareness raising and training videos, checklists, templates, worker posters and leaflets (see Appendices and www.stronger2gether.org/resources/).
2. A range of training and capacity-building solutions for tackling modern slavery in businesses and global supply chains, including open workshops, online training modules and bespoke in-house training.
3. Practical monitoring and evaluating tools.
4. A platform for businesses to publicly demonstrate their commitment to tackling hidden labour exploitation and sharing best practice.

Stronger Together takes a collaborative approach to developing new strategies to support businesses to tackle modern slavery based on the corporate responsibility to respect human rights within the UN Guiding Principles on Business and Human Rights.

Contact Stronger Together at info@stronger2gether.org or +44 (0) 1276 919090

**The objective of Stronger Together
is to reduce modern slavery in
supply chains.**



WHO IS BHR?

Business and Human Rights (BHR) is a Spanish consultancy firm with more than 20 years of expertise working with global companies, governments, multilateral entities, civil society organisations and communities, as well as other strategic business and human rights frameworks and tools on a worldwide scale. BHR was the technical assistant to the Spanish Government for the consultation and drafting of the Spanish National Action Plan on Business and Human Rights. BHR is based in Barcelona (Spain), and has presence in Madrid (Spain), Bogotá D.C. (Colombia), Washington D.C. (United States) and Paris (France).

METHODOLOGY

This toolkit is based on Stronger Together's toolkits and guidance which are being used extensively and successfully by agri-, food and other businesses in a range of countries including the UK and South Africa, and contextualised for the Spanish fresh produce sector needs and context by:

- Desk research including national surveys, relevant laws, government initiatives and reports on forced labour and trafficking from local NGOs, international organisations and other relevant stakeholders.
- Expert consultations within the sector.
- Information and case studies resulting from audit exercises and focus group discussions undertaken in previous research projects and modern slavery risk assessments.

SCOPE

The toolkit is based on research and engagement developed in the regions of Huelva, Almeria and Murcia, therefore it is primarily relevant to these regions. However, it may serve as a useful guide to other Spanish agricultural regions that may experience similar risks and socio-economic realities.

ACKNOWLEDGMENTS

Stronger Together and BHR wish to thank all the organisations listed below, who helped with the research and provided insight, expertise, information and fundamental materials that greatly assisted the elaboration of this toolkit: Co-op, Innocent Drinks, Marks and Spencer, Ocado, Waitrose and Partners, Conexion Social, Primafruit, Bakkavor, G's Spain, Residencia Tariquejo, Adecco, C.C.O.O. Almería, Sindicato Redes and the Spanish Ministry of Labour, Migrations and Social Security (Ministerio de Trabajo, Migraciones y Seguridad Social).

A special recognition to The Ethical Trade Forums, for the space given during the forums.

PURPOSE OF THIS TOOLKIT



This toolkit aims to equip Spanish agri-businesses to better understand and address forced labour risks within their sector and operations by:

- Creating a better understanding of what forced labour and trafficking for labour exploitation might look like in the Spanish agricultural sector.
- Identifying labour management practices that could potentially, and often unintentionally, put agri-businesses and workers at risk of forced labour.
- Supporting agri-businesses with the implementation of responsible labour management systems that shall allow businesses to meet their responsibility to deter, prevent and address forced labour.
- Supporting agri-businesses to provide remedy to victims of forced labour.
- Providing practical tools that shall enable businesses to meet ethical trade market standards and build a competitive advantage.

The toolkit aims to be used as a practical reference guide and consists of three sections:

- **Section A** highlights the scale of forced labour globally as well as in Spain, provides context on the role of supply chains in tackling forced labour and describes the business case for addressing these issues.
- **Section B** describes practical steps for agri-businesses to address forced labour:
 - Step 1: **Spot** the signs of forced labour
 - Step 2: **Prevent** forced labour
 - Step 3: **Respond** to potential cases of forced labour.
- **Section C** provides useful templates to support agri-businesses in enhancing or updating their labour management systems to meet the best practice examples.

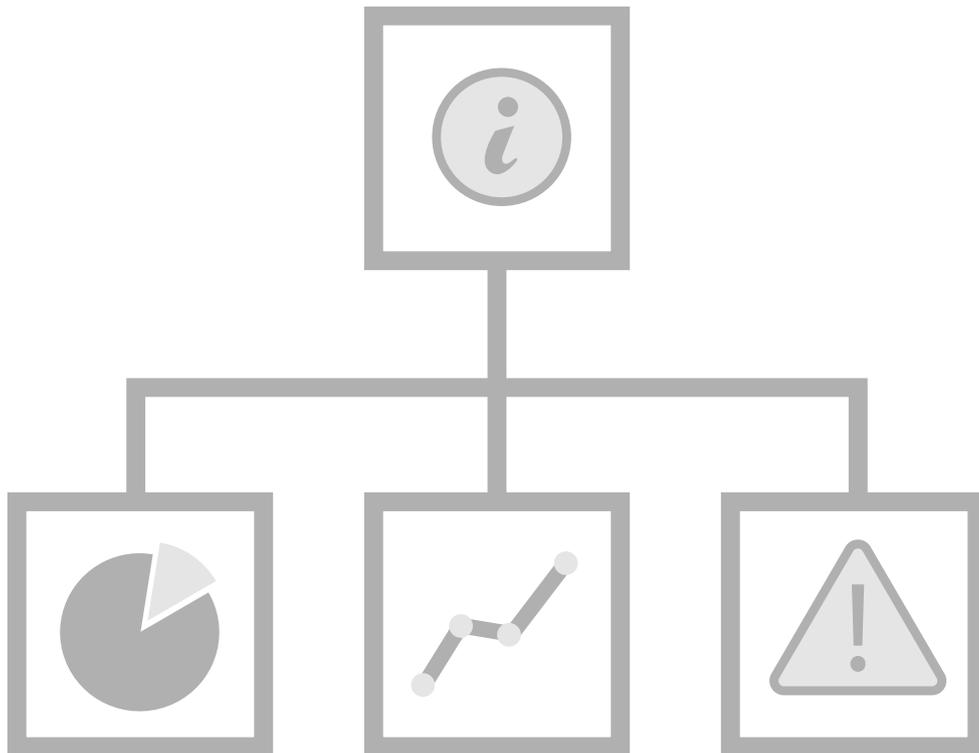
Users should not feel bound to read the toolkit from cover to cover. Businesses are encouraged to refer to relevant sections based on their needs and level of awareness, and to use the toolkit as a handbook during their journey to implementing good practice to tackle forced labour.

Tackling forced labour requires engagement from businesses across supply chains including employers, labour providers, clients, cooperatives and other stakeholders including industry associations, labour inspectors, security bodies, government and, most importantly, collaboration. Stronger Together aims to work with the Spanish horticultural sector to support collaborative solutions to tackle forced labour.

The toolkit will be subject to continuous improvement based on learnings and experience. We therefore encourage any feedback that can contribute to the improvement of its content to be sent to info@stronger2gether.org and encourage users to visit www.stronger2gether.org to download new or updated toolkits, guidance documents, templates and checklists.

SECTION A

CONTEXT – DEFINITIONS, RISKS AND BUSINESS IMPACTS



DEFINITIONS

MODERN SLAVERY

Modern slavery is a broad term used to describe extreme forms of labour exploitation such as forced labour, bonded labour, slavery, servitude and human trafficking.

FORCED LABOUR

According to the International Labour Organization (ILO), forced labour can be understood as

“work that is performed involuntarily under the menace of any penalty. It refers to situations in which persons are coerced to work through the use of violence or intimidation, or by more subtle means such as manipulated debt, retention of identity papers or threats of denunciation”

The forced labour definition encompasses “traditional practices of forced labour and various forms of debt bondage, as well as new forms of forced labour that have emerged in recent decades, such as human trafficking.”

BONDED LABOUR

Debt bondage is the most common form of forced labour, while the least known¹. It occurs when a worker is demanded to work as a means of repayment of debt (e.g. a loan or recruitment fee). The worker is exploited through the debt, deepening its dependency from the employer, being forced to remain in the employment or to work for wages under legal or CBA minimums. Debts may at times also be passed onto the family members back home.

HUMAN TRAFFICKING FOR LABOUR EXPLOITATION

Trafficking involves the ACT of recruitment, harbouring or transporting people into a situation of exploitation by MEANS of violence, deception or coercion and forced to work against their will, with the PURPOSE of exploitation. In other words, trafficking is a process of enslaving people, coercing them into a situation with no way out, and exploiting them. Trafficking can take place within a country and beyond borders. Trafficking involves deceiving the worker under false promises of jobs for the purpose of exploitation.

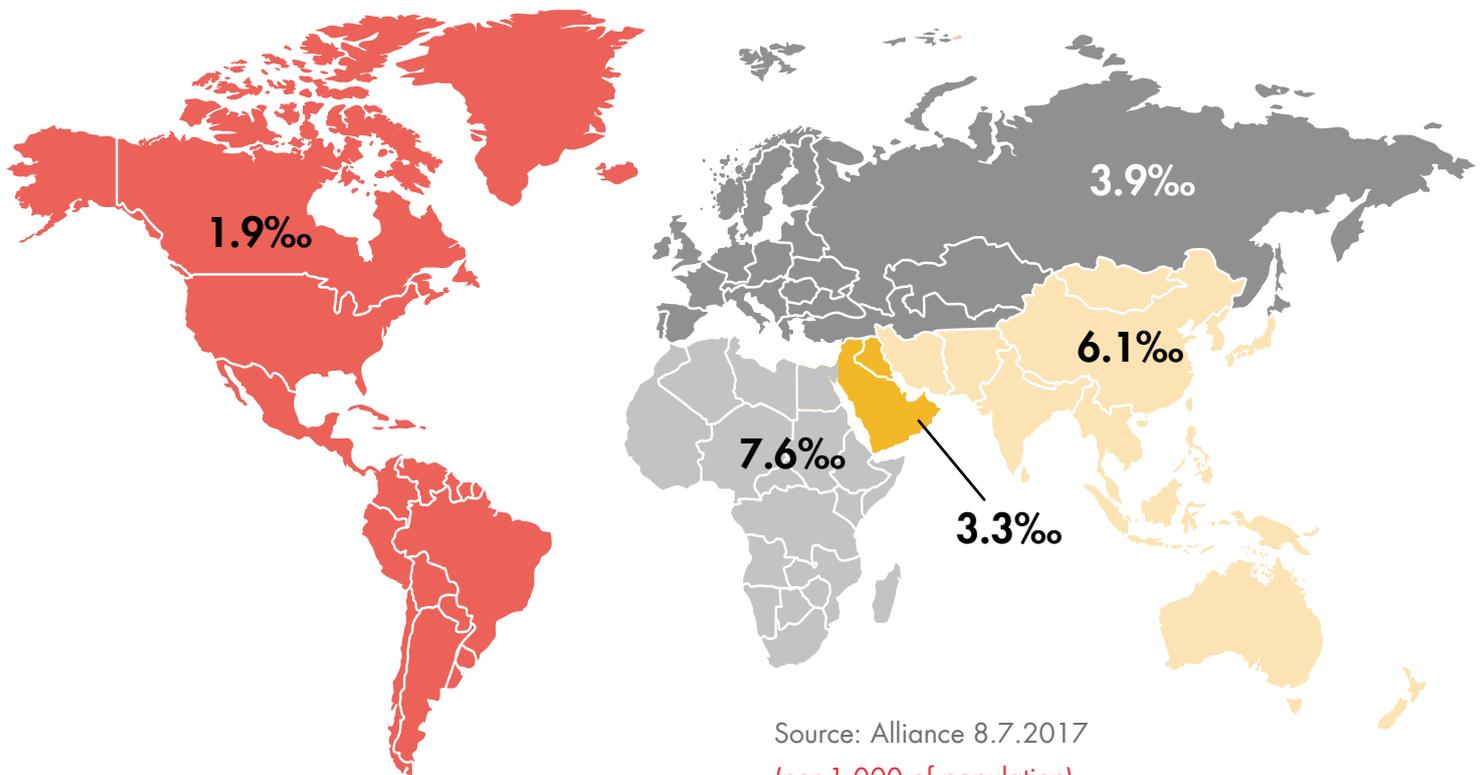


1. AntiSlavery “What is bonded labour?”, available at <https://www.antislavery.org/slavery-today/bonded-labour>. Accessed on 24 April 2019.

THE GLOBAL SCALE

OF FORCED LABOUR, MODERN SLAVERY AND HUMAN TRAFFICKING

The ILO estimates that at any given time in 2016, an estimated 40.3 million people were in modern slavery, including 24.9 million in forced labour. Agriculture is one of the high-risk sectors into which workers are trafficked for the purpose of forced labour. Out of the people trapped in forced labour, 16 million people were exploited in the private sector such as construction or agriculture².



KEY	Americas	Africa	Asia and the Pacific	Europe and Central Asia	Arab States
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². ILO Forced labour, modern slavery and human trafficking, available at <https://www.ilo.org/global/topics/forced-labour/lang-en/index.htm>. Accessed 30 June 2019.

FORCED LABOUR

A SPANISH PERSPECTIVE

All forms of forced labour are by nature hidden, therefore they may seem like a distant concept that does not relate to you or your business or that cannot take place in Spain or Europe, whereas it is a risk to any business, in particular in agriculture, including your business. This risk should be addressed.

Due to the hidden nature of the issue, and as only limited research has been conducted, only estimates of the scale of the issue are available. The Global Slavery Index estimates that 105,000 people in Spain are living in modern slavery³. No data is available specific to forced labour in the agricultural sector. The estimate could be just the tip of the iceberg.

WHAT MAKES THE SPANISH AGRICULTURAL SECTOR VULNERABLE TO FORCED LABOUR AND TRAFFICKING?

A number of risk factors that are present in the Spanish agricultural sector can make agribusinesses and workers vulnerable to forced labour and trafficking, and hidden labour exploitation, such as hard working conditions, high levels of informality, scarce labour enforcement mechanisms, especially in jobs related to fruit and vegetable growing and harvesting⁴, or the issue of irregular or undeclared work⁵ (which affects approximately 26.5% of the seasonal workers). Acknowledging the differences between the three regions of Almería, Huelva and Murcia, and within different businesses, a 2019 report points to **50% of the seasonal workers to receive all or part of their wages in "black"** (Unreported employment, working under the table, off the books, cash-in-hand, illicit work, it is illegal employment that is not reported to the government) and irregular migrants being more likely to work informally⁶.

» Migration flows

In the last years, increasing numbers of men, women and (unaccompanied) children who are refugees, asylum-seekers and vulnerable migrant workers have arrived in southern Spain by sea via Morocco. They are vulnerable to trafficking and forced labour.

» Lack of collaboration

The information exchange between businesses and authorities (e.g. regarding patterns, real cases etc.) has been largely absent. This, added to a lack of awareness, has led to very few cases being reported, despite agriculture being a high-risk sector. **This does not mean that the risk does not exist, but that it remains highly hidden.**

» Limited action by stakeholders

- There is currently no national plan against trafficking for labour exploitation, and resources are limited. However, it is anticipated that the government shall elaborate a new National Action Plan in the near future.
- Trade unions have only got limited involvement in combating human trafficking⁷.

3. Global Slavery Index (2019), available at: <https://www.globalslaveryindex.org/2018/data/country-data/spain/>, accessed 6 August 2019.

4. Social Fieldwork Research (FRANET) "Severe forms of Labour Exploitation, Supporting victims of severe forms of labour exploitation in having access to justice in EU Member States", Spain, 2014.

5. OECD (2012), *Settling In: OECD Indicators of Immigrant Integration 2012*, OECD Publishing, Paris, available at <https://doi.org/10.1787/9789264171534-en>. Accessed 16 March 2019.

6. Caritas "Vulneraciones de derechos laborales en el sector agrícola, la hostelería y los empleos del hogar", 2018. Available at <https://www.caritas.es/producto/vulneraciones-de-derechos-laborales-en-el-sector-agricola-la-hosteleria-y-los-empleos-del-hogar>. Accessed 16 April 2019.

7. Report on the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Spain. *Ut Supra*.

» Knowledge gaps

Although a number of Spanish growers have put processes in place to assess labour risks, such as social audits or self-assessments, many are also either unaware of risks or reluctant to address what is perceived as a foreign (and costly) demand by retailers, on issues which are beyond their control (e.g. organised crime). Yet, forced labour and trafficking exist in Spanish agriculture, under different forms and in different degrees. For instance, victims may be recruited and/or employed at a farm or packhouse in Spain by a subcontractor or labour provider, without the growers' knowledge.

» High reliance on third-party labour providers

The Spanish horticultural sector relies heavily on labour providers. According to Spanish ETT legislation, ETT workers have the same rights as the company workers (in terms of salary, overtime etc.), for which businesses are responsible. The use of intermediaries, in practice, puts the workers at greater risk of forced labour, facilitating situations where the workers depend on them for a job.

» Tolerance of minor breaches

Minor forms of abuse, including "minor sexual harassment" towards women workers, are endemic and, to a certain extent, tolerated, increasing workers' vulnerability to forced labour.

» Low level of victim identification

Although forced labour and trafficking for labour exploitation are on the rise in Europe⁸, many victims and traffickers remain undetected and are not included in official figures. In particular, as regards trafficking, the identification of victims is challenging as:

- There is no national plan to fight trafficking for labour exploitation, and resources are limited⁹ (institutional and from civil society).
- Collection of data is recent and scarce: in 2015, Spain collected data on victims for the first time. These figures remain very low and may not reflect the real scale in agriculture¹⁰.
- Victim identification remains exclusively the role of law enforcement agencies, limiting the identification from other relevant actors, like the labour inspectorate (although collaboration between these is increasing).
- Victims are largely in rural areas, where institutional access is limited.
- Although migrants coming into Spain are an at-risk group, victim identification in key places like Almería, Málaga, Motril or Cádiz is almost nonexistent¹¹.

8. Reuters "Labor trafficking rises across Europe as laws fall short: watchdog" available at <https://www.reuters.com/article/us-europe-trafficking-labour/labor-trafficking-rises-across-europe-as-laws-fall-short-watchdog-idUSKCN1HA28M>. Accessed 3 July 2019.

9. Una campaña del ministerio del interior (Guardia Civil) en 2018, #forcedlabour, para sensibilizar sobre la trata, resalta la vulnerabilidad de los inmigrantes que vienen a España con la promesa de un trabajo y son explotados por empleadores sin escrúpulos. Se ponen también a disposición una línea de teléfono (062) y una dirección de email (trata@guardiacivil.es). Se puede consultar además un video en <https://www.elindependiente.com/desarrollo-sostenible/2019/02/02/la-esclavitud-moderna-sigue-creciendo/>.

10. Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Spain. Ut Supra.

11. Comisión Española de Ayuda al Refugiado (CEAR) "Refugiados y migrantes en España: Los muros invisibles tras la frontera sur", 2017.

THE BUSINESS CASE FOR ADDRESSING FORCED LABOUR

National and international media reporting on poor treatment of workers on farms and in packhouses has put a focus on Spanish agriculture. By proactively addressing forced labour risks, Spanish agri-businesses can obtain immense benefits:

COMPLYING WITH SPANISH LEGISLATION

First of all, compliance with the applicable law. Forced labour and trafficking are complex issues, requiring responses from various legal fields – most importantly human rights, criminal justice, labour law and migration law. The following frameworks are relevant in Spain.

Criminal law

Forced labour is a criminal offence. The criminal code punishes the act of forcing workers into harmful working conditions or detrimental Social Security terms (article 311). It also punishes the recruitment in adverse conditions of migrants, who do not hold valid work permits (article 312.2), and the recruitment of migrants with a view to having them perform services under conditions that lessen, suppress, or diminish their Statutory rights, or rights to which they may be entitled, in accordance with the CBA or their employment contract.

Article 177 punishes **human trafficking** (trata), forced labour, slavery or other practices similar to slavery in, from or into Spanish territory.

HUMAN TRAFFICKING FOR THE PURPOSE OF EXPLOITATION IN THE SPANISH LEGISLATION		
ACTION	MEANS	PURPOSE
Recruitment	Violence	Forced labour or services
Transportation	Intimidation	Slavery
Transfer	Deception	Practices similar to slavery
Harbouring	Abuse of superiority	Servitude
Receipt	Payment or receipt of sums or benefits	

Source: Herramienta práctica para la detección de víctimas de trata¹².

12. Euro TrafGulD, Herramienta práctica para la detección de víctimas de trata con fines de explotación laboral, 2013, available at http://www.proyectoesperanza.org/wp-content/uploads/2010/05/131003_LABOUR-ESP.pdf. Accessed 4 May 2019.

Labour law framework

Spain has strong labour laws. Responding to forced labour and trafficking requires understanding of the regulations and possible gaps that can lead to situations of vulnerability. The rights and obligations regarding labour relations are regulated by national-level provisions and by Collective Bargaining Agreements (CBAs). A labour reform passed in 2012¹³ gave greater role to company bargaining, allowing for company CBAs to have precedence irrespective of those in sector/industry-level CBAs, including in key areas (wages, hours etc.). Afterwards, more companies are entering into company-level agreements, which may result in lowering certain labour standards recognised in higher-level CBAs. Agri-businesses should pay particular attention to any company-level CBA that may downgrade labour conditions and could increase the risk of putting the workers and the business at risk of forced labour.

Migration framework¹⁴

This is also relevant, given the high number of migrant workers employed in the agricultural sector in Spain, and notably the link between legal status and work.

In practice

Despite a robust legal framework, the enforcement of the law in the agriculture sector remains weak, as serious implementation gaps exist. The labour inspection is limited on its mandate and resources, which, added to practical obstacles like the farms' dispersion or the high number of smallholdings, translates into an insufficient monitoring capacity.

Additionally, differences between the CBAs in matters like the conditions to access a fixed contract may enhance the indicators of risk, due to an increased temporariness and worker rotation. For instance, in Murcia, the Proexport CBA allows for the conversion after 60 worked days in 3 consecutive years, 180 days in 2 consecutive years or 12 months of temporary contracts, while the Almería field CBA requires 180 worked days in each of 2 consecutive years or 3 non-consecutive.

With regards specifically to trafficking for labour exploitation, the Council of Europe has urged Spain to intensify their efforts to prevent trafficking for labour exploitation, in particular in sectors at high risk, notably agriculture¹⁵. As a consequence of the entry into force in 2018 in Spain of the ILO Protocol to the Forced Labour Convention, the government is elaborating a national plan against trafficking for labour exploitation.

In addition to Spanish law, Spain is a party to several ILO instruments that guarantee a number of fundamental labour rights, including instruments to combat forced labour. Please refer to Appendix 1 for extended information on legislation and applicable CBAs. .

MEETING GLOBAL MARKET REQUIREMENTS

Several recent European legislative initiatives evidence a growing trend towards regulating due diligence to tackle forced labour. Major retailers, including from key export countries for Spanish agri-businesses like the UK or France, have specified labour requirements for suppliers, require third-party audits and perform due diligence through their own supply chains. These requirements are critical to secure market access for Spanish suppliers and, to a certain extent, have become a licence to trade.

13. Ley 3/2012, de 6 de julio, de medidas urgentes para la reforma del mercado laboral.

14. Mainly, the Organic Law 4/2000 on the Rights and Freedoms of Foreigners in Spain and Their Social Integration, known as Ley de Extranjería, and the Royal Decree 577/2011, 20 April, which contains the procedure for protection of victims of trafficking.

15. Report on the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Spain. *Ut Supra*.

ENHANCING THE REPUTATION OF THE AGRI-BUSINESS AND THE SECTOR

The reputational damage of being linked to cases of forced labour and criminal networks can lead clients (i.e. supermarkets and exporters) to pull out and look for alternative sourcing. Responsible labour practices make real financial sense for Spanish agri-businesses, at all stages of the supply chain, as supermarkets cannot risk their reputations by being associated with cases of forced labour.

The UK Modern Slavery Act (2015)

The UK Modern Slavery Act (2015) requires UK businesses and international businesses that carry on a business or part of a business in the UK, with a global annual turnover of GBP36 million or more, to disclose steps taken during the financial year to ensure that their business and global supply chains are free from modern slavery abuses.

The French Duty of Vigilance Act (2017)

This Act requires French companies with a certain number of workers to establish mechanisms to prevent human rights violations throughout their chain of production, including for their subsidiaries and companies under their control. These mechanisms must be reported on each year as part of a "vigilance plan."

Similar legislation has been introduced in other countries in recent years, including the Modern Slavery Act in Australia and the California Transparency in Supply Chains Act, and more similar legislation is being discussed and developed across the world. Germany and Switzerland are taking steps towards the possible introduction of compulsory due diligence.



INCREASING LABOUR PRODUCTIVITY, CONTRIBUTING TO A HEALTHIER WORK ENVIRONMENT AND TO WORKER RETENTION

Upholding clear labour standards, from respecting labour rights to combating forced labour, will help to create a healthier and more productive work environment, generating trust and labour security within the workers, reducing the numbers of workers who leave the job, and thus helping **worker retention** (and repetition over the years and seasons), alleviating the worker shortage.

Spanish agri-businesses are part of the solution. They have demonstrated that they are able to bring about positive changes in labour conditions, whilst many are already taking decisive steps to end forced labour. A number of good practices at company or cooperative levels can be highlighted. They are the best-placed to contribute to strategies that will help to eliminate forced labour, through a reflection that comes from within the sector, building on already existing initiatives, experiences and available resources, whilst ensuring collaboration with the workers and other actors.

Good practices

The **Ethical Trade Forum** is a locally-driven, interactive and engaging space in which growers meet around a focused agenda to get to the core of the key issues surrounding their supply chains, the obstacles they face to achieve progress and discuss ideas to implement socially responsible and ethical practices. The forums are currently developing tools to support growers acting responsibly, avoiding violating human rights and protecting the rights of the workers. They provide an opportunity to learn, building on best practices that are starting to emerge and on the positive dynamics that have been created by the working groups. See more information on the website <https://www.foroscomercioetico.com>.

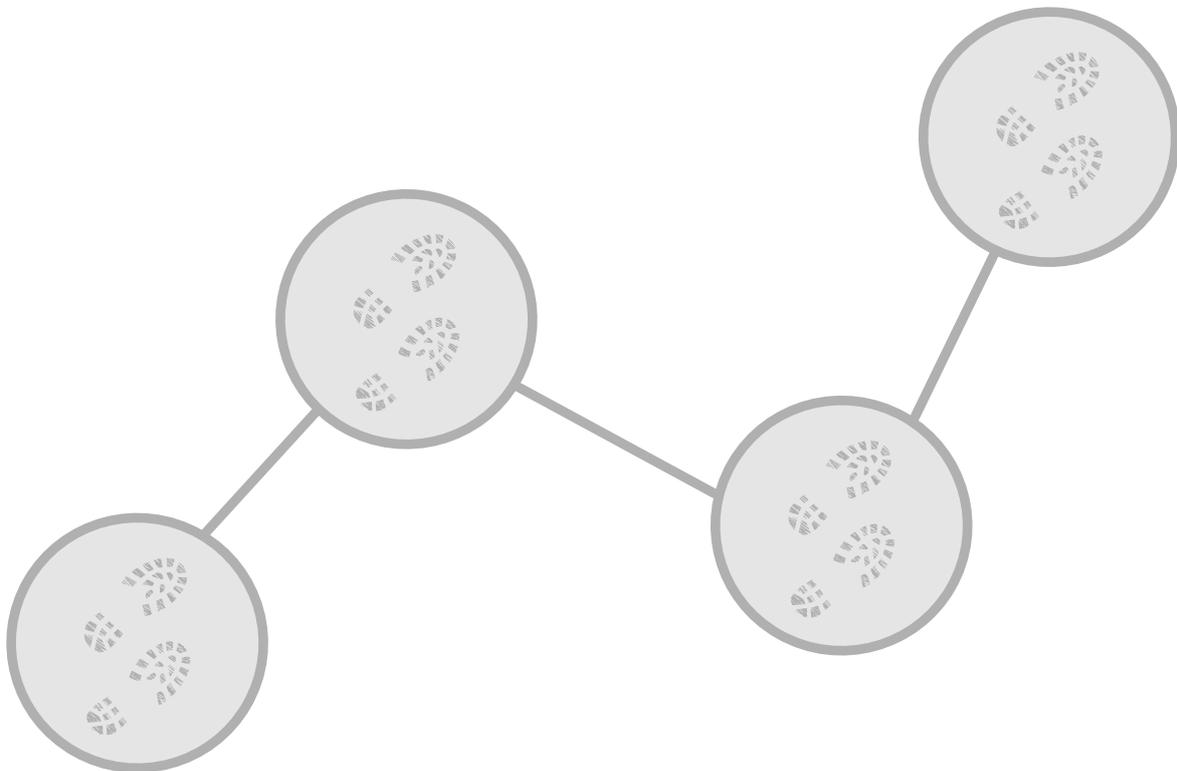
In Huelva, many companies are implementing **integration plans and plans to assist temporary workers** that help to provide for their needs (labour and social training, providing regular transport to villages, Wi-Fi in all premises, up-front payments so that the workers can cover their initial needs, as well as providing mediating agents and technicians who build trust and support the workers. Some are developed in collaboration with social entities (e.g NGOs like Caritas, ATIME and The Tariquejo Residence and Government entities like EDATI, and other type of organisations). These initiatives can be replicated by other companies that can build on the experiences that already exist.

SECTION B

PRACTICAL STEPS FOR AGRI-BUSINESSES

This section describes 3 steps that agri-businesses can take to address forced labour within their businesses and to conduct a forced labour risk and impact assessment:

- **Spot** the signs of forced labour risks and vulnerabilities.
- **Prevent** exploitation by proactively taking measures that address forced labour risks and vulnerabilities to forced labour
- **Respond** to situations where there is suspicion of, or actual, forced labour.

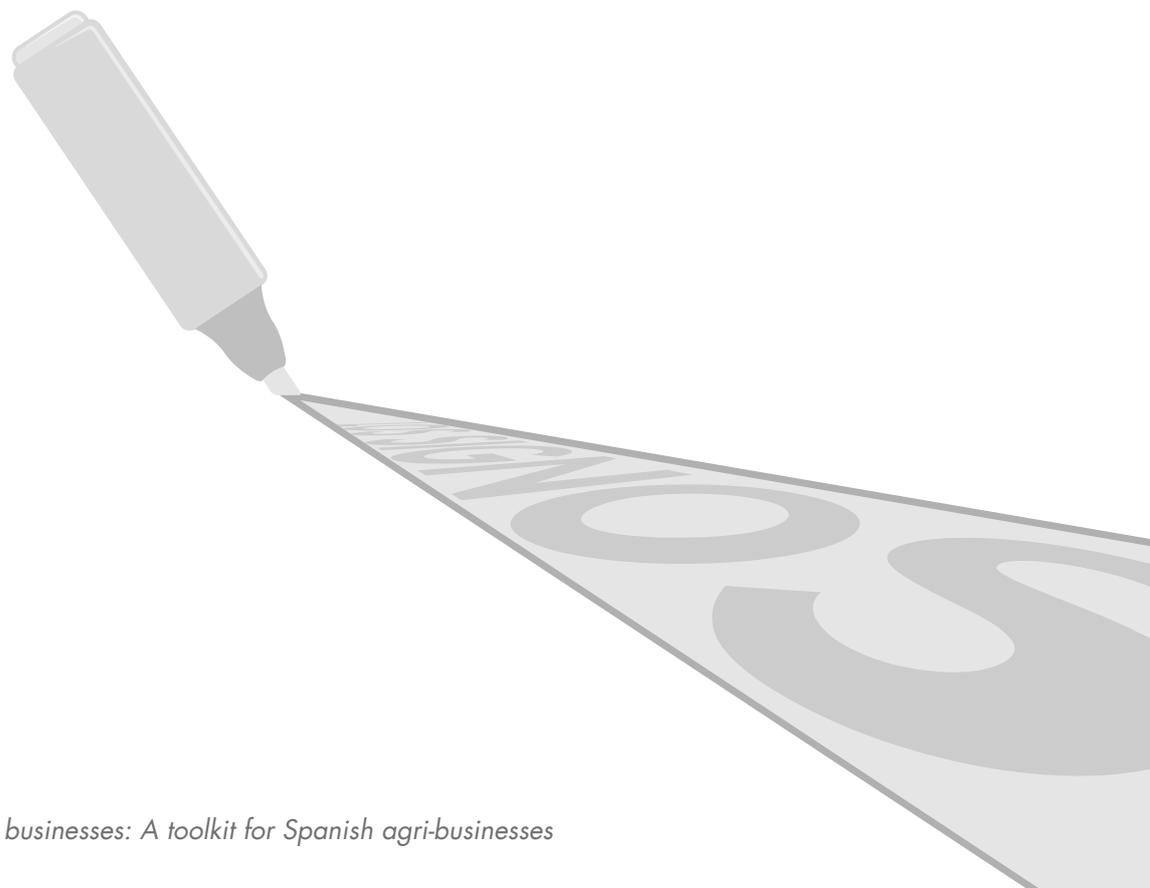


STEP 1

SPOT THE SIGNS OF FORCED LABOUR

This section aims to support businesses in spotting the signs of forced labour by explaining:

- Types of exploiters
- Vulnerable people and groups
- Signs of exploitation in victims
- Indicators of forced labour in Spanish agricultural context
- Step-by-step guidance on how to conduct a risk assessment to identify and prevent forced labour in farms and packhouses.



CONDUCT A RISK AND IMPACT ASSESSMENT

As explained in Section A, agriculture in Spain is an at-risk sector for forced labour. Agri-businesses should be aware of the contextual factors and known issues, including those inherent to the regional agriculture, the workforce demographics and their own management processes, to understand the level of risk they are exposed to and the steps they can take to mitigate those risks.

Agri-businesses can use different methodologies and practical actions to assess and identify the risk of and cases of forced labour or trafficking for labour exploitation, for example by performing their own self assessments through internal issue mapping, or through or in combination with independent experts (e.g. audits) or other relevant stakeholders. A risk assessment should include:

- Mapping your business operations to allow you to get a clear idea of:
 - the operations performed at the different sites, farms and packhouses;
 - the key business partners or organisations you work with, including notably labour providers and other sub-suppliers.
- Assessing the level of risk in each of them, e.g. region-specific-risks, potential vulnerable workers etc., reviewing how the specific risks mentioned above can affect your business (e.g. whether your workers are migrant, low or unskilled, temporary, or hired through ETTs and labour providers, which will mean greater vulnerability).
- Determining which parts of your operations are at high, medium and low risk.
- Determining for each of the identified medium and high risks what steps you can take to decrease and manage that risk.
- Monitoring and ensuring that you are continuously adapting and improving to new operations/sites/products that may bring in new risks

There is no “one-size fits all” for conducting a risk assessment, and it is not an end in itself. This shall only prove useful if follow-up measures are undertaken in respect of the issues identified (see section “Who is at Risk?”).

Stronger Together has developed a Template Risk Screening Tool, which can help Spanish agri-businesses to assess their risks based on their region, workforce etc., to be used as a step-by-step guide to mapping risk by small, medium and large agri businesses. It can be found at www.stronger2gether.org.



TYPES OF EXPLOITERS

EXAMPLES OF ENTITIES THAT SUBJECT WORKERS TO MODERN SLAVERY

A number of hidden labour exploitations, risks and vulnerabilities exist within worker sourcing, recruitment and employment practices. Entities responsible for these practices, intentionally or unintentionally, include employers (i.e. producers) and third party labour providers such as ETTs, manijeros and supervisors employed on farms and in packhouses. By understanding the risks and vulnerabilities, businesses can start addressing them, one step at a time.

RECRUITMENT INTERMEDIARIES (THIRD-PARTY)

- ETTs, informal agents or other individuals who supply workers to an end user employer, if they apply certain conditions to workers such as charging recruitment fees, debt bondage or retention of wages and penalties, which provoke a forced labour situation.
- In this situation, the end user employer may be complicit, negligent, naïve or genuinely duped by convincing and manipulative individuals.

EMPLOYERS

Producers who directly employ workers may be complicit to forced labour when they:

- Knowingly hold workers in a forced labour situation.
- Apply certain conditions to workers such as debt bondage, retention of wages, penalties, exceptionally low wages and excessive hours, which have the effect of creating a forced labour situation for workers.
- Outsource their work to illegal or uncontrolled sub-contractors at a price which can only be achieved through worker exploitation.
- Use labour sourcing and recruitment practices or third-party labour providers that lead or provoke forced labour.

SUPERVISORS, CONSULTANTS AND WORKERS

Rogue supervisors, consultants and workers, even within ethical employers and labour providers, may source and recruit workers for the producers or labour providers they work for. They could either be exploitative individuals or part of organised criminal gangs. Exploitative practices in this regard can include:

- Deceptive recruitment practices.
- Coercion through intimidation and threats of violence.
- Instances where supervisors require sexual favours, cash bribes or kickbacks from workers in exchange for employment, overtime or promotions.
- Retaining identity documents from workers to ensure that they cannot leave their employment before a specified time.

In focus – types of labour providers

- Formal intermediaries, notably ETTs, who work within a legal framework and recruit and place workers on demand for peak needs in a flexible way. ETTs are increasingly specialised and are most widely used in Murcia.
- Service companies, subject to fewer legal guarantees and less inspection control.
- Informal agents or foremen, including networks, manijeros, capataces, jefes de cuadrilla and gangmaster-style labour providers. These recruit groups of workers on a smaller scale, persons they know or from nearby villages or even settlements. The number of informal agents is increasing, notably in Andalusia. Due to the intense competition and the lesser control, these intermediaries often undercut basic labour provisions to remain competitive. Sometimes they transport and control workers at work, and they often enjoy a certain level of power over them.

The term Manijero, very common in Sevilla and Huelva, refers to those who “manage workers” who may be a) directly employed by the farm owners and/or b) working as independent informal recruiters/group leaders. They can assume different roles, such as: leading a team, taking workers to and from work, procuring food, water, blankets etc, including the organisation of all the phases of harvesting and the workers schedules (these would be those that more often work hand in hand with organised criminal groups).

The group leader normally has the capacity to organise work teams. Generally with a rural profile, many contacts and limited social awareness, they work in areas with reduced visibility. Many companies depend on them, notably in Murcia, due to the long distances from the workers’ residencies to the farms.

Source: Italian union CGIL, report 2015 and interviews in Murcia (2019) and Huelva (2017).

In focus – informal labour recruitment may lead to hidden forced labour

While some businesses, notably in Murcia, are looking into ETT practices and monitoring them, informal labour providers who are used in all the regions remain largely uncontrolled and opaque. They are a key part of the trafficking picture, partly possible due to the undermined transparency over their recruitment chain

Analysis

Informal labour providers are not subject to regulations or administrative permits. Their use makes workers more vulnerable to forced labour and could hide exploitation, such as:

- Deception in recruitment practices. Labour providers may be the only source of employment information available to migrants. This makes it easy for them to lie about the working conditions.
- Coercion through intimidation, psychological pressure or threats. Workers might suffer harsh treatment and be threatened and pressured directly or indirectly (with threats of not calling them to work as a form of punishment, and go without salary). Physical and sexual violence are less common but do happen.
- Requirement of favours, including sexual, cash bribes or kickbacks from workers in exchange for employment, overtime etc. This can be done in practice by dubious recruiters and also by supervisors of groups of workers.
- Retaining of ID documents (see section below).
- Under legal or CBA salaries or late payment, unfair or unclear deductions lead workers to enter a situation of debt bondage even before they set foot at the company.

WHO IS AT RISK?

SEASONAL WORKERS

The Spanish agricultural sector is highly dependent on employing large numbers of seasonal workers to meet production and collection peaks, who constitute the majority of the workforce on farms and, to a lesser extent, in packhouses and may:

- Be unskilled and therefore have limited employment options.
- Not be aware of their rights.
- Not belong to a union and therefore do not have strong legal union representation to bargain collectively and address labour-related issues.
- Often rely on third-party labour providers for employment.

WORKERS RECRUITED THROUGH LABOUR PROVIDERS

The traceability and transparency of the working conditions are undermined. Without robust systems, the business has limited insight into any risk of potential abuses committed by the labour provider (in the recruitment and contracting process). Also, the company is responsible for ensuring that the working conditions comply with the law and CBAs.

MIGRANT WORKERS

According to the International Organization for Migration¹⁶, the number of migrants reaching Spanish coasts through the West Mediterranean route reached record numbers in 2018, compared to 2017 (154% increase). Sometimes migrants are lured with promises of work, or have taken loans to pay smugglers or traffickers (unions point to €1,500/person for a boat seat). Once in Spain, they do not have money, papers or a place to stay, and are threatened with abuse or deportation. Also, the following elements make them further vulnerable to exploitation:

- **Language barriers and misinformation.** Workers who are unaware of their rights, do not understand payslips, safety and security rules, or the role of trade unions, are less likely to claim their labour rights and therefore are more likely to suffer abuse.
- **Cultural barriers:** Cultural factors may be key to exacerbating certain vulnerabilities, including women having been sexually abused; they would not report it for fear of family repudiation. The linguistic and cultural gap of some of the workers increases isolation and barriers, undermining their capacity to understand and claim their rights.

16. Europa Press "2018: año récord de llegadas de migrantes en patera a España". Available at <https://www.europapress.es/epsocial/migracion/noticia-2018-ano-record-llegadas-migrantes-patera-espana-20181017181938.html>. Accessed 22 March 2019.

Migrant workers find added difficulties in reporting exploiters or accessing justice, as they can:

- Be less or not at all aware of their rights and of support services that can help them, or organisations like trade unions; they may misunderstand them or believe that proceedings are too bureaucratic and costly.
- Fear retaliation against them or against family at home from those exploiting them.
- Think that, as in their origin countries, speaking to authorities is not safe.
- Suffer from feelings of shame or feel that being jobless is worse than working in exploitative conditions¹⁷.
- Not speak Spanish well, despite long stays in Spain.

PEOPLE WITH LOW SKILLS OR LOW EDUCATION JOBS

Workers sometimes sign contracts or payslips that they do not understand, in particular with regard to the breakdown of days and hours of work, overtime, wages and Social Security contributions.

WOMEN

Certain elements of Spanish agriculture would render women particularly vulnerable:

- Deep gender roles, a high segmentation and masculinisation of the sector¹⁸.
- A predominance in temporary and black work (Unreported employment, working under the table, off the books, cash-in-hand, illicit work, it is illegal employment that is not reported to the government)
- A reluctance to call attention due to the fear of losing employment, and within certain migrant women, due to cultural reasons, and social and physical exclusion.
- Lower participation¹⁹ in unions, sector organisations and cooperatives.

Despite a lack of statistics or limited evidence, different actors acknowledge that there is a significant risk of sexual abuse by supervisors and growers²⁰ against women, notably in cases of higher dependency on employers.

firma aquí.....

17. Supporting victims of severe forms of labour exploitation in having access to justice in EU Member States. Spain, 2014", *Ut Supra*.

18. *Plan de Igualdad de Oportunidades entre Mujeres y Hombres en la Actividad Agroalimentaria y Pesquera* 2017. *Ut Supra*.

19. In Murcia almost half of the contracts entered into by women in 2017 took place in the agriculture sector both at farms and packing houses. See "Informe del Mercado de Trabajo de 2018". *Ut Supra*.

20. COAG "Guía de novedades y buenas prácticas en las Relaciones Laborales del Sector Agrario", 2018.

SIGNS OF EXPLOITATION IN VICTIMS

There is no set number of signs that will indicate that a person is a victim of trafficking or subject to forced labour²¹. Some may be more prevalent than others and each case should be considered on an individual basis.

The following are indicators of exploitation and should be considered within the context of the other evidence. In determining what action to take on spotting such signs in vulnerable and exploited persons, you should refer to the later section in this toolkit: "Action plan on discovering potential serious worker exploitation in your business".

PHYSICAL APPEARANCE

Exploited applicants and workers may show signs of physical or psychological abuse and/or appear:

- Malnourished.
- Dirty.
- Frightened, withdrawn and confused.
- They may also have injuries that seem to be the result of an assault.

FEW OR NO PERSONAL EFFECTS

Exploited workers may:

- Have no money.
- Have no personal items e.g. purse, wallet, jewellery.
- With limited or no money to buy clothes, wear the same items all the time, or wear clothes that are unsuitable for work.
- They may also have little or no food.

ISOLATION AND CONTROL

Exploited workers are rarely left on their own and may seem under the control and influence of others, for example:

- Others present their identification documents and speak for them at recruitment.
- Others try to book them onto shifts or speak on their behalf when answering calls, whether they are available to work or not.
- One person speaks on behalf of a number of workers and the victims look to them for support or permission.
- They are taken to work and back, e.g. a driver may drop them off and collect them.

RELUCTANT TO SEEK HELP

Exploited workers may be reluctant to seek help and may:

- Avoid eye contact and appear frightened.
- Be afraid to talk and reject help when offered - this is often because they do not know who to trust or fear retribution.

If you identify one or more signs or are suspicious that someone is at risk, refer to Step 3: Respond to potential forced labour.

21. See also Gangmasters and Labour Abuse Authority "Labour Exploitation - Spotting the signs" <https://www.gla.gov.uk/media/1573/human-trafficking-spotting-the-signs-v5-all-amends.pdf>

20. Tackling forced labour in businesses: A toolkit for Spanish agri-businesses

INDICATORS OF FORCED LABOUR AND HIDDEN LABOUR EXPLOITATION IN SPANISH AGRICULTURE

FORCED LABOUR: ELEMENTS

Forced labour incorporates any situations of exploitation where a person works involuntarily and cannot refuse or leave work because of threats, violence, coercion, abuse of power or deception.

INDICATORS OF FORCED LABOUR

1. Abuse of vulnerability of workers
2. Deception
3. Restriction of movement of workers at work and/or accommodation.
4. Isolation
5. Physical and sexual violence
6. Intimidation and threats
7. Retention of identity documents
8. Withholding of wages
9. Debt bondage
10. Abusive working and living conditions
11. Excessive overtime

Source: ILO.

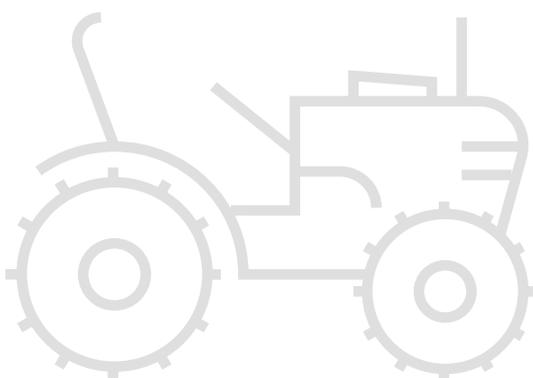
In Spain, certain common labour practices could lead to workers becoming victims of forced labour and cause businesses to become entangled in the practice.



Cases have been reported of migrants crossing the border from Morocco to Spain with fraudulent ID documents, including fake bought Spanish passports. Once in Spain, they are exploited while traffickers leverage their fear of being reported to the authorities²². Businesses may find themselves involved in these situations when they employ these migrant workers.

Forced labour is a complex issue that lies at one extreme end of a continuum of exploitation. Thus, it can be difficult to differentiate between substandard conditions, serious abuses and cases of forced labour. Moreover, the phenomenon of trafficking for labour exploitation is hidden, and continues to be largely underestimated or unknown to many stakeholders in Spanish agriculture²³.

The presence of a single indicator in a given situation may in some cases imply the existence of forced labour. However, in other cases you may need to look for several indicators which, taken together, point to a forced labour case. Therefore, it is key to understand what forced labour and trafficking entail, and how they appear within the Spanish agricultural sector, sometimes without the business being aware. Each situation should be assessed on a case-by-case basis and support from experts sought in case of suspicions.



22. United Nations Office on Drugs and Crime, *Global Report on Trafficking in Persons 2016*. Available at http://www.unodc.org/documents/data-and-analysis/glotip/2016_Global_Report_on_Trafficking_in_Persons.pdf. Accessed 6 April 2019.

23. Proyecto Esperanza, available at <https://www.proyectoesperanza.org>. Accessed 6 April 2019.

Below are explanations of each of the indicators and examples that can serve to understand how the indicators of forced labour appear in Spanish agriculture.

ABUSE OF VULNERABILITY

Abuse of a position of vulnerability can take many forms and varies from one place/region/working site/product or commercialisation system to another. For instance, seasonal workers are in most cases only paid for the actual work they do. Rainy days can result in days without work or wage, leaving the worker vulnerable due to the lack of or very low wages. When workers have little alternative livelihood options or depend on employers not only for their job, but also for housing, food or legal status, they can easily be exploited to work excessive hours, for low wages or to work without the necessary protection.

CASE STUDY:

WORKER ACCOMMODATION OFFERED AS A MECHANISM OF CONTROL

An interviewed worker in Almeria was offered by his employer to live in an empty construction attached to the farm, which also benefited the employer for security reasons. The worker complained about being asked to perform cleaning duties at the farm owner's household after the normal working hours were terminated and that these tasks were unremunerated. The worker was scared of complaining due to fear of losing the job and the housing, as he had no alternative place to stay and he could not afford a location because the wages earned were too low.

Indicators of forced labour and analysis

What started as a kind offer can lead to forced labour. With low wages and little work alternatives, workers are pushed into a position of vulnerability. The free offering of housing can actually create a state of multiple dependency on the employer, who may abuse the workers' vulnerability and fear of losing the accommodation and the job. The extra work that is asked from the worker may constitute forced labour if performed involuntarily, under the fear of being dismissed or evicted and the worker has no choice but to perform it.



The grower/site owner could be causing a forced labour situation

Source: interview with a worker in Almeria in 2016.



DECEPTION

Deception relates to the failure to deliver what has been promised to the worker, either verbally or in writing. Victims of forced labour are often recruited with promises of decent, well-paid jobs, but once they begin working, the promised conditions of work do not materialise, and they find themselves trapped in abusive conditions without the ability to escape²⁴. Deception is the most common means of “recruitment” when it comes to forced labour²⁵.

Agri-business could, for instance, cause forced labour through deception when businesses sign a contract of CeO with migrant workers that differs from the conditions that are offered once the workers arrive in Spain. An agri-business can contribute or be linked to a case of forced labour when it recruits workers through intermediaries that deceive the workers to recruit them.

RESTRICTION OF MOVEMENT

According to the ILO, if workers are not free to enter and exit the work premises, subject to certain unreasonable restrictions, then this represents a strong indicator of forced labour²⁶.

ISOLATION

Victims of forced labour are often isolated, and denied contact with the outside world²⁷.

IN FOCUS: RESTRICTION TO LEAVE ACCOMMODATION

Under CeO schemes the workers are often housed in the farms. These are typically located in remote rural areas with little or no transport system available, leading the workers, in practice, to not being able to leave the farms freely. The workers may find themselves restricted on their movements, and become dependent on the employer, for food and goods through transport to shops for instance.

Indicators of forced labour and analysis

The isolation and the restriction of movement may act as an indicator of forced labour.

Possible actions

Agri-business recruiting workers through CeO schemes, and that offer the workers accommodation, should pay particular attention to whether the workers know where they are or how to access transportation, whether public transportation is available, if they can reach shops to buy essential goods etc.

Agri-business should list all the farms/sites in which workers are accommodated and develop an assessment of the level of isolation, whether the workers are allowed/and have access to freely contact friends and relatives, go to the neighbouring populations or the level of dependency of workers on their employers. As in other cases, the indicators of forced labour are complex and cannot be viewed in isolation.

24. ILO, indicators on forced labour, available at https://www.ilo.org/wcmsp5/groups/public/-ed_norm/-declaration/documents/publication/wcms_203832.pdf. Accessed 18 June 2019.

25. ILO Deceptive recruitment and coercion, available at <https://www.ilo.org/infostories/en-GB/Stories/Forced-Labour/Deceptive-Recruitment-and-Coercion#the-recruitment-process>. Accessed 18 June 2019.

26. ILO, indicators on forced labour, *Ut Supra*.

27. *Ibid*.

PHYSICAL AND SEXUAL VIOLENCE

A limited number of cases of sexual harassment have been reported in the sector, most notably in Huelva during the berry season.

INTIMIDATION AND THREATS

Forced labour exists when the workers are coerced to work through violence or intimidation.

Irregular migrants fear denunciation to the immigration authorities. As their employment is illegal, it tends to be hidden and closely linked to work in the underground economy, where the risk of forced labour is higher. This makes them vulnerable to forced labour, as they are often more prone to exploitation under the threat of denunciation or lack of renewal of the contract, which will impact in the initiation of the expulsion process. These threats can lead workers to accept degrading conditions and to be forced to work.

RETENTION OF IDENTITY PAPERS SUCH AS ID DOCUMENTS, WORK PERMITS AND PASSPORTS



The retention by the employer of identity documents or other valuable personal possessions can be an element of forced labour if workers are unable to access these items on demand and if they feel that they cannot leave the job without risking their loss²⁸.

There have been reports of employers retaining passports during the migrant workers' stay in Spain, notably within the CeO scheme²⁹. In Huelva, where CeO is more common, the end of the berry season often coincides with other harvesting (stone fruit) and the beginning of the tourism season, leading to workforce shortages as workers move to ensure longer periods of employment. Retaining ID documents is used by certain employers to deter workers from leaving the production sites.

28. ILO Indicators of forced labour. Ut Supra.

29. FIDH "Importing workers, exporting strawberries", January 2012. Available at <https://www.fidh.org/en/region/europe-central-asia/spain/Importing-workers-exporting>. Accessed 24 April 2019.

CASE STUDY: RETENTION OF IDENTITY DOCUMENTS

Having made a financial investment for the CeO Scheme, businesses have on occasion admitted that they felt “obliged” to confiscate the workers’ passports to prevent them from abandoning the job and thus losing the investment, as the berry peak collection season is short and requires a just-in-time, flexible and available workforce.

Indicators of forced labour and analysis

The retention of ID documents to prevent workers from leaving is a strong indicator of forced labour.

Analysis

The retention of documents prevents workers from leaving a job, which can be a strong indicator of forced labour, especially for migrant workers. Without documents, they may not be able to obtain other jobs or access essential services. However, only a few Spanish agri-businesses seem to be aware that the retention of ID documents is indicative of forced labour.



Depending on the circumstances, the business may be causing forced labour

WITHHOLDING OF WAGES

When wages are systematically withheld as a means to compel a worker to remain, this points to forced labour³⁰. Workers have the right to be paid at least every month, as well as to advance payments for the work performed. Workers may be obliged to remain with an employer while waiting for the wages that are owed to them.

Exploiters may systematically and deliberately pay wages under CBA minimums, withhold them or purposefully delay the payment as a means to control the workers and to prevent them from leaving. Workers might also be subjected to excessive or illegal deductions for items such as transport, food or working clothes. Wage deductions need to be made according to the limits set out in the applicable CBAs (e.g. the Huelva farm-level CBA prohibits deductions for housing when it is offered to workers) and clearly communicated (e.g. on payslips).



³⁰ ILO indicators of forced labour. *Ut Supra*.

CASE STUDY: ABUSE OF VULNERABILITY BY WITHHOLDING OF WAGES

Workers interviewed in Almeria complained about being made to pay the Social Security contributions that businesses are legally required to pay according to the Social Security legislation. Businesses would provide a 1-year contract (necessary to obtain legal status in Spain) in exchange for the workers agreeing to pay all the Social Security costs. This could amount to €4,000 for 1 year of contributions, depending on the hours of work. In practice, the payment was made through withholding of wages (reflecting lower hours in the payslips). The abuse would be more frequent during the first 5 years of stay in Spain, where migrants are more dependent on their job for legal status.

Indicators of forced labour and analysis

Beyond being an exploitative practice, this case shows the following indicators of forced labour: abuse of vulnerability, intimidation (due to loss of employment) and withholding of wages. The employer abuses the workers' position of vulnerability, as he/she depends on the employer to obtain legal status in Spain. Workers would not only pay the Social Security contributions, but feel coerced to stay in the job in order to obtain legal status.

In this case, the agri-businesses may be causing a situation of forced labour due to the threat of losing/not obtaining legal status to stay in Spain; that acts as a pressure and pushes the workers to remain in the work involuntarily.

Possible actions:

- Make sure that the Social Security contributions are paid according to the law and reflected clearly and accurately in the workers' payslips.
- Make sure the that workers understand and sign the payslips.
- When possible, pay the wages through bank transfer.

ABUSIVE WORKING AND LIVING CONDITIONS

Abusive working and living conditions are an indicator of forced labour, as the work may be performed under conditions that are degrading or hazardous, without the necessary training and/or protection and in severe breach of labour laws. Forced labour victims are likely to endure living and working conditions that workers would never freely accept³¹.

31. Ibid.

CASE STUDY:

DEGRADING WORK THAT COULD AMOUNT TO FORCED LABOUR



Control of toilet breaks

Packhouse women workers have reported being controlled on their toilet breaks, through different means, such as being obliged to record and report the duration of the break or wear degrading visual elements in front of the workforce while walking towards the toilet rooms. Others reported having a maximum time for their toilet breaks (3 minutes), after which they would be punished with a compulsory and unpaid break of 30 minutes.

Source – interview with focus groups in Almeria in 2018 and conversation with union in Murcia in 2019.



Supervisors' pressure

Farm and packhouse workers report mistreatment by supervisors, who would exercise extreme pressure to meet production targets, yell at workers for going to the bathroom too often or scream warnings at them such as “I will fire you” or “you will not be called again”.

Source – interview with focus groups in Murcia and Almeria in 2018.



Hazardous work

Workers' interviews show that often workers are made to handle pesticides and other substances without adequate personal protective equipment (PPE), are made to work while pesticides are being spread and even made to have lunch in the same areas.

Source – interview with focus groups in Murcia in 2018.

Analysis

Abusive conditions represent an alert to the possible existence of coercion that is preventing the workers from leaving the job, accepting degrading conditions or living in substandard conditions or overcrowded premises. Although abusive conditions do not automatically entail forced labour, they are an “alert” of risk of forced labour.

Possible actions

Agri-businesses should always ensure that working and living conditions are adequate, decent and comply with the provisions of the CBAs.

EXCESSIVE OVERTIME

Overtime is applicable whenever a worker works longer than the hours expressed in the applicable CBA and must be compensated by an equivalent rest period or be remunerated, depending on the provisions of the CBA. High piece-rate quotas, added to the variable climatic conditions, seasonality, last minute orders etc. lead to unpredictable, hyperflexible and long working hours, particularly during harvesting. This reality is acknowledged and regulated accordingly by the different CBAs.

CASE STUDY: OVERTIME AND FORCED LABOUR

Women workers employed in a packhouse in Murcia reported working shifts of 12 to 15 hours, starting at 7, 8 or 9 am but not knowing when the day shall be completed, exceeding CBA limits and the minimum rest periods of 12 hours between work days according to labour laws. They reported being allowed 2 daily breaks of 20 minutes, which would go unpaid. The work was from Monday to Saturday, including bank holidays, only being allowed to rest on Sundays. The excessive overtime and the working conditions would have led to different illnesses. As a result, the company had sent letters to the workers asking who wanted to work 8 hours. Those who signed were dismissed, alleging different reasons such as lack of productivity. However, the workers reported that the company was hiring new workers.

Indicators of forced labour and analysis

Forced overtime is an indicator of forced labour; overtime goes beyond the legal and CBA limits and there is an element of exploitation of the workers' vulnerability, such as a fear of dismissal or the need to work overtime to earn a living wage.

Source – Information provided by trade union worker representatives in Murcia.

CASE STUDY: OVERTIME

A group of seasonal workers declined the offer to work on Sunday, as they had been working all week. When they showed up to work on Monday, the farm owner denied them access to the farm as a punishment for not being willing to perform the proposed overtime on Sunday.

Analysis

- Overtime is entirely voluntary or by agreement, except in certain circumstances set out in the CBAs. If overtime is made compulsory by threats of a penalty, effectively deterring workers from declining to work overtime and irrespective of the reasons for the overtime, it can amount to forced labour.
- Workers have the right to a weekly break, cumulated for periods of 14 days, of a day and a half (uninterrupted). It cannot be waived and is remunerated.
- The labour law allows for a maximum of 80 hours of overtime per worker/year.
- The refusal to perform overtime cannot entail retaliation or penalty against the workers.
- Workers could work on Sunday for fear of dismissal, threat of penalty or of not being called to work, therefore the key element of coercion (i.e. forcing people to work when they do not freely consent), may be present, resulting in a situation of forced labour.
- Additionally, there can be situation in which the workers are forced to work more overtime hours than the weekly or monthly limits allowed by the CBA, then resulting in forced labour.

DEBT BONDAGE

Debt bondage is both an indicator and the most common form of forced labour. Seasonal workers, especially migrants, may find difficulties accessing basic health services in the regions they move to temporarily, and may have to take advances to cover for emergency expenses, such as medical costs, or routine expenses, such as transport costs or daily living. Workers who need to pay off an incurred debt may end up in debt bondage and become trapped and bound to the employer for an unspecified period of time³², until the debt is repaid. Sometimes the workers are still indebted when the season or their contract finishes.

COMPANY PRACTICES THAT COULD LEAD TO DEBT BONDAGE

Agri-business can cause, contribute or be linked to a debt bondage, notably if the following practices are not managed responsibly:

Payment terms and payment policies

The workers' freedom to dispose of their wages cannot be limited in any manner. Payment terms can put a worker at risk of bonded labour. Wage payments being delayed or paid "in kind" (e.g. accommodation) could force a worker to stay employed until receiving payment. Similarly, if wages are not paid to workers directly, they could be forced to work by the person who has been paid on their behalf.

CASE STUDY: PAYMENT TERMS THAT COULD LEAD TO DEBT BONDAGE

A worker in Almeria reported not being paid for months due to the company's "adverse economic situation". The worker was informally employed and dependent on the business for employment and legal status, not being free to leave and feeling trapped to the job. Finally, the worker had no option but to leave without pay after several months.

Source – Interview with focus groups in Almeria in 2018.

32. OIT, indicadores de trabajo forzoso. *Ut Supra*.

IN FOCUS – PAYMENT TERMS AS A MECHANISM FOR EXERTING CONTROL OVER WORKERS

Delaying the payment of wages until the product has been sold at the end of the season is a way to exert control over the workers who, with little or no alternative work once the season has begun, are unable to leave the job, sometimes for months³³. It is also a way to add obscurity to the relationship between the number of days and hours of work (ordinary/overtime), wages and contributions to Social Security, as the payments are not done immediately (nor the payslips delivered), being more difficult to obtain evidence and collect proof.

Source – Conversations with trade unions in Almeria

Analysis

Workers must be paid their wages in full and on time. Coercion leading to forced labour can include withholding, delay or non-payment of wages, trapping workers in a situation of being free to leave a job. Delaying wage payments can point to forced labour where it is used to coerce workers to stay or create a dependency, or where workers are not free to leave because they have not been paid their wages. Pay periods should never be longer than 1 month, and wages should be fully paid at the agreed place and date and according to the local uses, delivering an individual receipt of payment.



33. Spanish Workers' Statute foresees a direct process to claim due wages and other pending monetary payments after 3 months of non-payment. Below that threshold, the process is burdensome and costly, notably when contracts are precarious or worse, informal. This means that some unscrupulous employers do not pay wages for 2 months, knowing the scant possibilities of a legal claim by the workers. .

LOAN POLICIES

Workers unable to repay a loan could result in them continuously taking out loans for repayment of an initial loan. Eventually, the worker is unable to pay his/her way out of debt and forced to remain employed until the loan is repaid.

CASE STUDY - LOANS GIVEN TO WORKERS TO ENABLE THEM TO LIVE

During the start of the berry harvest in Huelva, it is not uncommon for workers to arrive on site en masse. Sometimes businesses try to get workers on site in one go, in order to ensure that they have enough people to pick the fruit during the collection peak season and to plan for any absences. Inevitably, there is not enough work to go round for all the workers. As the production is low, it may be that workers are only able to work 10-15 hours a week, instead of their expected 40-60 hours a week, resulting in workers unable to work enough hours to earn a living, including covering the costs of getting to Spain. They often turn to whomever will lend it to them (often a manager or site owner), even if they are charged interest.

Analysis

- When there are not enough hours for all the workers, it is necessary to share them in the best way possible and without discrimination.
- In the context of sectorial low wages, lending money can push workers into debt bondage. If the season is low for just two weeks, the likelihood is that the worker could end up owing a substantial amount of money and that he/she is not able to repay the loan back before the end of the harvest, which lasts for approximately 2 months. This could put them at risk of forced labour, if the worker has to stay on site for a prolonged period, but is still unable to earn enough money to pay the loan back.
- Workers become frustrated that they were misled on working hours and fear they will not make enough money. This can lead to workers wanting to leave the site on short notice at the beginning and at the end of the harvest when there are not enough hours to go round.
- Women can be at risk of sexual exploitation, if they are required to exchange favours for money loaned.

Good practice

A company in Huelva advances 50 euros on arrival at the site, so that workers can cover their common expenses (such as first groceries).

The business may be contributing to a case of debt bondage



Source - Spanish Ethical Trade Forums - Huelva 2018

ACCOMMODATION AND FOOD

Seasonal workers are at times accommodated at the farms. Although in the majority of the cases workers bring their sandwiches and lunch boxes, sometimes businesses also offer food. If workers are required to pay fees for accommodation and food, a business can place the workers in and cause a situation of debt bondage, if the workers end up working for no wages or wages below the CBA minimums as a result of deductions for accommodation and food. Any deductions must be made according to the applicable CBAs, and taking into account that regulations differ within regions. For instance, the Almería farm CBA stipulates that the company and the worker may agree to payment in kind. When accommodation is provided by the employer, in kind salary cannot exceed a maximum of 15%. The aggregation of all concepts paid in kind shall not exceed 20% of the workers' wage. According to the Huelva farm CBA, when the employers provide accommodation, it must be without charge.



TRAINING, WORK CLOTHES

Deductions for concepts such as training or cost of working tools and protective equipment required for the job could also put a worker at risk of debt bondage, when the deductions are high and the workers end up trapped into working for little pay or coerced through debt.

Businesses should not require deposits or wage deductions for working clothes that the employer insists must be worn, equipment required by law to safely perform the jobs or for training. In any case, they must ensure that deductions for work clothes are only made according to the CBAs, and that the workers are free to leave the jobs and are not trapped into debt to pay the cost of equipment, clothes or other.

For instance, the Huelva farm CBA obliges businesses to provide adequate clothes and the tools necessary for the job, or, if the worker provides them, he/she shall be entitled to a daily compensation. If the worker is in contact with toxic substances, the company shall provide a mask and gloves. The necessary PPE shall be provided to the workers and the cost deducted on the first day of salary. Such cost shall be amortised and repaid to the workers over the first month of employment.

CASE STUDY: DEDUCTIONS

Workers interviewed in the 3 regions complained about being obliged to pay the cost for PPE. The cost of the working tools would be deducted.

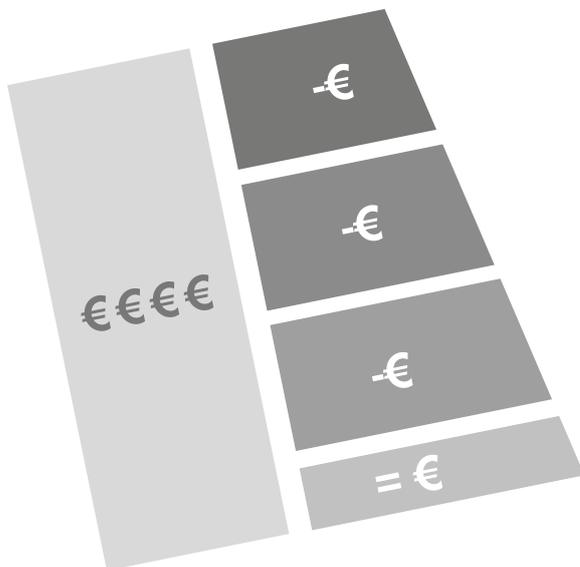
Analysis

- Arbitrary deductions for working tools or PPE may result in lower wages, an increase of debt and the perpetuation of exploitative situations.
- Withholding part of a worker's wage as a deposit may constitute a pressure, leading the worker to stay until they receive full payment.
- The requirement of a deposit also constitutes a restriction which may prevent the workers from leaving and could be considered as evidence of forced labour.
- A deposit which is not returned when the worker leaves is not a deposit, but a requirement that the worker pay for his/her uniform or equipment³⁴.

The concrete factors must be taken into account and the analysis must include the ways in which external factors act as coercive mechanisms and whether the workers are trapped into debt bondage.

Depending on the circumstances, the agri-business may be causing a situation of debt bondage

Source - interviews with workers in Murcia in 2017 and 2018.



34. ILO: Q&As on Business and Forced Labour, available at https://www.ilo.org/empent/areas/business-helpdesk/faqs/WCMS_DOC_ENT_HLP_FL_FAQ_EN/lang-en/index.htm#Q4ILO. Accessed 4 June 2019.

RECRUITMENT FEES

Despite the high unemployment, the scarcity of workers is one of the biggest concerns of agri-businesses at a national level. In Huelva, for instance, growers complain about worker shortage, and are increasingly searching for workers in other countries (notably from Africa and Eastern Europe), through intermediaries, CeO and other forms. In Murcia, worker shortage is also a common issue.

Recruiting workers from outside Spain or through labour providers entails more costs (for transportation, accommodation or intermediaries' fees). It is illegal to require workers to pay any fees, which are a business cost and can never be a cost for the worker. By requiring workers to pay recruitment fees, a business can place the workers in and cause a situation of debt bondage, if the workers are required to work to repay the recruitment fees, trapping the workers into working for little or no pay until the fees are paid.

WHAT ARE RECRUITMENT FEES?

Recruitment fees include all costs associated with recruitment, such as costs incurred to process applications, conduct interviews, prepare worker documentation through agencies (gestorías), placement, accommodation, transportation to the country of work and training. They are a key indicator of the existence of forced labour and trafficking, as well as of the existence of criminal organisations.

Temporary employment agencies (ETTs) or informal intermediaries often require recruitment fees. These fees must be assumed by the company and never by the workers. The wages cannot be unfairly reduced to charge workers with the fees. Also, workers should be paid as company workers for the same work. In regions where there is high competence between labour providers, like in Murcia, where ETT numbers and reach are ever increasing, this can be problematic. Unscrupulous ETTs or other newer agents such as so-called "service companies" (empresas de servicio) may pay meagre wages to the workers in order to remain competitive. Vulnerable workers may assume the recruitment fees for the promise of a job. Workers may even be expected to pay these fees up front and at short notice, resulting in them borrowing money from family, local moneylenders, the recruitment agent, or the employer, and even charged with interest. Ultimately, this can leave workers in situations of debt bondage where they are essentially trapped in their job in order to pay off the loan, not being free to leave the job until the loans are repaid.

Alert

A sign of forced labour when workers are hired through labour providers could be the fact that the recruitment fees to be paid to the labour provider appear extremely low or cheaper than the average. Also, businesses should pay attention to indications of debt bondage that can be present, like workers asking frequently for wage advances (which can be related to repayment of illegally-charged recruitment fees in their home countries).

TRAFFICKING FOR LABOUR EXPLOITATION

Interviews with most of the actors point to a lack of awareness of the risk of migrants being trafficked into the agricultural sector. A number of NGOs³⁵ and the press have reported cases of Eastern European gangs trafficking migrants for labour exploitation in the agriculture sector. The risk of hidden trafficking in agriculture is higher in the lowest tiers of the chain, on remote farms, when the work is performed informally or when labour providers are used for recruitment.

In 2018, the Spanish police corps (Guardia Civil) launched a campaign under the hashtag #TrabajoForzoso, to raise awareness of human trafficking for labour exploitation³⁶.

The lack of data, as well as very low levels of awareness and cooperation between agri-businesses and authorities, make it difficult to determine where, when or how human trafficking occurs. Therefore, agri-business should pay particular attention to the signs that could hide a situation of trafficking for labour exploitation and take the necessary measures to avoid being involved in them. Agri-businesses face potential liabilities if trafficking is taking place anywhere in their business (including 5-8 years of prison).

The main exposure to trafficking risk is through recruitment. Entities responsible for recruitment, intentionally or unintentionally, include employers (i.e. agri-business) and labour providers such as ETTs and informal brokers, or supervisors employed on farms and packhouses. By understanding the risks and vulnerabilities, agri-businesses can start addressing them, one step at a time.

EXAMPLE: TRAFFICKING FOR LABOUR EXPLOITATION THROUGH THE USE OF LABOUR PROVIDERS

A business recruits workers for fruit collection in peak days through a Romanian manijero that the site owner knows through references, who recruits compatriots. The manijero tells the business that he knows the workers from his village and that they are all trustworthy and hard workers. The workers, already in Spain, had been recruited by a friend in Romania under the false promise of decent work in Spain, minimum wage, food and accommodation. However, upon arrival, they found that they did not have a fixed job, and that they depended on the manijero for the days of work. The workers were subjected to exploitative treatment by the manijero, who also acted as a supervisor while at work, controlled their hours of work and received and distributed the payments. The manijero put great pressure and constantly yelled at the workers in order to collect more boxes, as he also had to respond to the site manager. Some days, the workers went without pay because they had to pay the manijero for accommodation, transportation to the farms and recruitment fees for job finding. The workers were unable to leave the manijero due to their inability to speak Spanish or to pay back the debt incurred for transport from Romania and accommodation in Spain. Also, they did not understand the role of the trade unions, did not know who their representatives were or did not trust them, perceiving them as some sort of figure close to the authorities.

35. Accem "La trata de personas con fines de explotación laboral. Un estudio de aproximación a la realidad de España", 2006, available at <https://www.accem.es/wp-content/uploads/2017/07/trata.pdf>.

36. Grande-Marlaska presenta la campaña de la Guardia Civil #trabajo forzoso contra la trata de personas para explotación laboral. January 2019, available at <http://www.guardiacivil.es/es/prensa/noticias/6875.html>.

Potential forced labour indicators and analysis:

- **Deception:** the workers had been recruited in Romania with promises of decent, well-paid jobs, and once in Spain, the conditions of work did not materialise.
- **Abuse of vulnerability:** the manijero exploited the workers, creating a situation of control, instilling fear in them and abusing their dependency and insecure state.
- The workers could also be **isolated** to a certain point, as they did not speak Spanish or understand the role of unions.
- The workers were **intimidated** through constant insulting from the manijero, which might have increased their sense of vulnerability and could constitute psychological coercion.
- There could also be an element of **withholding of wages** (deductions for food, accommodation and recruitment fees), as the wages were paid by the grower to the manijero and not directly to the workers, so the growers could not control how the wages were distributed within the group of workers.

Also, importantly, the lack of transparency diminishes the agri-business's capacity to know how the workers were recruited in the first place, and whether the workers may be victims of trafficking for labour exploitation.



This example is a common situation in Huelva. Since trafficking for labour exploitation often involves criminal networks, the agri-business may, even without knowing it, be complicit in or contributing to a situation of trafficking for labour exploitation through the use of labour providers such as manijeros.

Source – own elaboration.

Due to the nature of the work involved in the agricultural sector and the specific characteristics of these regions, agri-businesses need to be aware of forced labour and trafficking risks, and ensure that they are not involved in or contributing to them.



STEP 2

PREVENT FORCED LABOUR

Agri-businesses have a responsibility to prevent forced labour in all its forms, and should develop policies and processes appropriate to their sizes, regional circumstances and commercialisation contexts, to fulfil this responsibility.

Step 2 includes two elements, namely:

- **Show commitment** to proactively address forced labour, and
- **Implement the forced labour policy** within the business's labour management systems to protect the business and workers against forced labour risks and vulnerabilities.

SHOW COMMITMENT

Getting informed and engaged is fundamental to ensuring that a business is well managed and exploitation-free. There is a real danger that not engaging could drive the problem underground, placing workers at even greater risk. For instance, labour providers may benefit from placing workers with less scrupulous businesses that ask fewer questions about malpractices. The first step in engaging to tackle forced labour and trafficking for labour exploitation is to show commitment to proactively address them. This requires that Spanish agri-businesses:

- Appoint a person responsible for addressing forced labour risks and vulnerabilities.
- Define a forced labour policy.

PARTICIPATE IN STRONGER TOGETHER SPAIN		TICK IF DONE
1	Attend the training "Tackling forced labour in the horticultural sector."	
2	Publicly demonstrate the business's commitment to address forced labour risks and vulnerabilities by becoming a Stronger Together Business Partner at www.stronger2gether.org/business-partners .	

APPOINT A MEMBER OF SENIOR MANAGEMENT		TICK IF DONE
1	Appoint, in writing, a senior management representative for each operational site (i.e. farm/packhouse) to assume responsibility for addressing forced labour risks and vulnerabilities.	

DEFINE A FORCED LABOUR POLICY

TICK IF
DONE

- | | | |
|---|---|--|
| 1 | Define and document a policy on forced labour that states the business's firm commitment and approach to developing and adopting labour management practices to deter, detect and address any form of forced or debt bondage and trafficking for labour exploitation on its farms, packhouses and any other facilities. | |
| 2 | Communicate and engage members of the management team on the policy and its implementation (this could entail communicating the policy at a monthly meeting, sharing the policy via email etc.). | |
| 3 | Communicate the policy to the workers in order to empower them through awareness about their rights and obligations: <ul style="list-style-type: none">• Clearly displaying the policy in Spanish and the language/s that the workers understand, depending on the specific origins of the workforce• Including the policy during worker induction training, or, in the case of workers only performing for a few days, prior to entering the job. | |
| 4 | Implement the policy through addressing relevant labour management practices in the business's labour management system. | |
| 5 | Review the policy on an annual basis and update if required. | |

IMPLEMENT THE FORCED LABOUR POLICY

The forced labour policy shall be supported by a labour management system that allows companies to act responsibly. In order to help agri-businesses strengthen their own risk assessments and to establish a proactive approach, the following section also includes:

- Guidelines on responsible labour practices covering all aspects of employment conditions; and
- Tools to identify and speak with vulnerable workers and to help affected ones.

WHAT IS A LABOUR MANAGEMENT SYSTEM?

A business can ensure legal and responsible labour practices through the implementation of an effective labour management system. A labour management system enables a business to operate with responsibility and accountability, be more effective, protect workers and improve labour productivity and retention. It also creates credibility and serves as a form of proof that the business meets labour law and market requirements. In short, a labour management system allows a business to “Say what you do. Do what you say. Prove that you have done it!”

A labour management system does not have to be costly and shall be able to meet the specific company circumstances. It consists of the following key components:

- **Policies:** these are written statements that define a business’s commitment and approach to its management practices. Policies should be clear and available in Spanish and a language understood by the workers or used by a majority of the workforce, depending on its demographics. It should also indicate:
 - To which business sites (farms/packhouses/offices) it applies
 - The person who assumes responsibility for the policy and its implementation
 - Reference to the applicable labour legislation and CBAs.
- **Procedures:** they describe ‘how’ the policies will be implemented including processes, roles and responsibilities.
- **Records:** these provide written evidence that the business is meeting the requirements stipulated in the policies and procedures.
- **Communication and training:** the management, including senior and middle, and the workers, must be aware and understand the policies and procedures. As such, the relevant policies and procedures must form part of training and awareness sessions and/or be visibly displayed and in a language/s that can be understood by the workers.
- **Monitoring:** policies and procedures should be reviewed regularly. This can take the form of self-assessments or checklists that can be completed on a regular basis, as well as by third-party assessments.

In view of the ever-adjusting methods used by exploiters, and the low awareness of the risk of forced labour and in particular of trafficking for labour exploitation within the different actors present in Spanish agriculture, it is important to provide focused training for all personnel who may come in contact with potential victims, so that they recognise signs and know how and where to report. Also, it is important to provide training for staff members who have a responsibility regarding the development and implementation of strategy related to tackling modern slavery, to build awareness and capacity at all levels (in particular middle management, who are likely to have more contact with the workers).

There are several company routines and common labour management practices, that, if not managed responsibly through an adequate labour management system, could potentially increase or enhance the risk of forced labour and can actually increase the vulnerability of workers to exploitation, for example, the recruitment of workers (directly or through agents) or the distribution of hours of work, payment terms etc.). It is important to understand what drives these practices and how they can be avoided.

The checklists included hereafter will help you to:

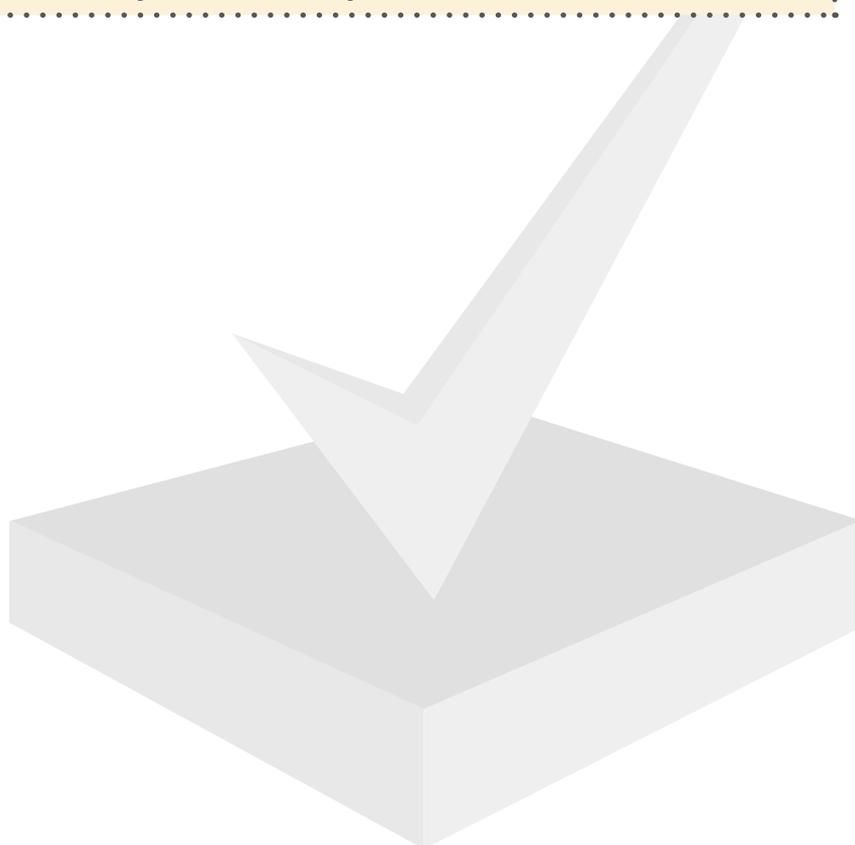
- Assess if your business's existing labour management system meets best practices as stipulated in this toolkit and online resources available at www.stronger2gether.org/spain.
- Update the existing labour management system if it does not meet the toolkit requirements yet.

Good practice

Following reports by Moroccan workers of sexual harassment and labour exploitation employed in Huelva in 2018, the new Huelva farm CBA incorporates social contents that are unique in the sector, including provisions on equal gender treatment and opportunities as well as prevention of sexual abuse. The CBA creates an equality mediation agent with gender perspective.

The Huelva Ethical Trade Forum working group has elaborated a Protocol against sexual abuse.

The association Interfresa has created an Ethical Labour and Social Responsibility Plan (Prelsi) that, with a proactive approach, seeks to raise awareness within the sector, including through training to middle management and creating the role of integration consultant.



CAPACITY BUILDING AND SUPPORT

TRAINING TO BUILD CAPACITY AND CAPABILITY		TICK IF DONE
The employer will ensure and be able to demonstrate that:		
1	The business's senior managers responsible for leading the organisations' site's "Tackling Forced Labour" programme have attended training in recognising, preventing, mitigating and addressing forced labour.	
2	The business's internal recruiters have undertaken training in recognising, preventing and dealing with forced labour.	
3	The business's supervisors and managers are trained and instructed to whistleblow where they have a concern over another manager, supervisor or labour provider.	
4	The employer's induction programme for all new workers includes a section on how to recognise and report forced labour and trafficking for labour exploitation.	

WORKER ENGAGEMENT GOOD PRACTICE		TICK IF DONE
The employer will ensure and be able to demonstrate that:		
1	Stronger Together posters are displayed in the workplace where they can be viewed by all workers.	
2	Stronger Together leaflets have been delivered to all the workers, including 1-day workers, and notably those recruited through third parties, to raise awareness of how to recognise and report forced labour and trafficking for labour exploitation.	
3	Supervisors, managers and other relevant personnel (human resources, compliance, ethics desk, middle management etc.) are encouraged to regularly talk informally to workers to seek to gently uncover whether there are any issues such as harassment, coercion, control or exploitation etc.	
4	The business collaborates and undertakes dialogue with local NGOs and worker support groups on a regular basis, to identify if there are any worker issues and how to recognise and prevent them.	
5	Regular staff briefings are conducted with the topics of forced labour and trafficking for labour exploitation on the agenda.	

POLICY CONSISTENCY		TICK IF DONE
The employer will ensure and be able to demonstrate that:		
1	The "tackling forced labour" policy has been made public and communicated internally and externally to all personnel, ETTs, other labour providers, business partners and stakeholders.	
2	The policies on forced labour are taken into account by other existing policies on corporate social responsibility, social integration, equal gender treatment or other alternative equivalent, as well as any other policies that could have an impact, such as sourcing policies when the company sources fruits or vegetables from other growers.	
3	There are sufficient and adequate human and financial resources to support the operation and monitoring of processes.	

LABOUR MANAGEMENT POLICIES

Below are checklists of steps that will help to mitigate the risk of forced labour during the recruitment and employment of workers. They should be considered recommendations and should be used as they are deemed most relevant, depending on the size of the company, the product, the demographics of the workforce, the region and the specific circumstances of each agri-business, notably taking into account any recognised signs or red flags which may be indicators of forced labour or trafficking. The steps will incorporate management practices of the following elements:

- Grievance mechanism.
- Workers' representation, including trade unions.
- Recruitment.
- Termination of the contract.
- Overtime.
- Wage payment.
- Deductions.
- Accommodation.
- Freedom of movement.

Grievance Mechanisms

Grievance mechanisms are key elements to deal with complaints and to achieve continuous improvement. They can be early warning systems that can become crucial to performing the risk assessments and helping to identify the risks, even before a situation of risk becomes a real case of forced labour. Grievance mechanisms are also fundamental when implementing a forced labour policy and a response and remediation plan, which necessitate that the company has effective communication channels with the workers to provide feedback on solutions, ideas on what can work, or what is considered suitable and appropriate by affected workers to raise and deal with concerns effectively etc.

Grievance mechanisms are equally important to:

- **identify risks of forced labour.**
- **ensure that forced labour is addressed and remedy provided.**

There is no ideal model or "one size fits all" approach to grievance resolution. Each agri-business should aim at tailoring a Grievance Mechanism that takes account of and carefully considers the specific issues raised in the past by workers: the nationalities/genders/cultural backgrounds of the workers, the existence of possible unequal power relationships, the characteristics of the farm/packhouse, the normal working conditions etc.

Whilst grievance mechanisms can be a very useful tool to communicate with the workers, resolve workplace issues and identify cases of forced labour in all its forms, in practice, grievance mechanisms often struggle to reach the most vulnerable workers, who are also those most likely to be victims of forced labour.

It is key, therefore, to design grievance mechanisms incorporating feedback from the workforce in a way that they are made truly accessible and understandable by the workers, in particular considering the high mobility, which makes workers less familiar with the company processes. Grievance mechanisms need to be effectively communicated and managed, overcoming cultural or language barriers to using them and considering the increasingly different nationalities of the workforce. Grievance mechanisms are particularly important in companies that do not have legal union representatives (delegates or committees), in order to allow genuine worker management communication.

IN FOCUS – EFFECTIVE GRIEVANCE MECHANISMS

A company may have in place, for instance, a suggestion box that is located inside the company's premises, but if the workers do not go inside (because they work outside, are scared of entering because they would be identified while complaining, or do not feel comfortable in the "boss's" areas), in practice, they will not use it. A first step is to interact with workers when designing and reviewing the grievance mechanisms. A good practice would be to develop workshops with a group of workers that represents a qualitative sample of the different types of workers (different nationalities, genders, types of contracts, ways of recruitment etc.) and include workers' representatives to guarantee that workers trust the grievance mechanisms and, therefore, will use them.

CASE STUDY: EFFECTIVENESS OF GRIEVANCE MECHANISMS

An agri-business had developed a new set of different tools aimed at improving communication with the workers and allowing them to communicate grievances. When the workers were interviewed about its effectiveness, several complaints were raised about the lack of clarity, how it functions and the method of the grievance mechanism, making it clear that it was not effective despite the company's efforts to improve it. Workers voiced broader concerns about the lack of consultation when designing the mechanisms. They also raised doubts (they had not been informed of this point) about the language spoken by the personnel assigned to channel the grievances.

Analysis

A grievance mechanism should always be designed considering the composition and demographics of the workforce, the size of the farm/packhouse, and other features. This case offers a valuable lesson on the importance of engaging with the workers when designing grievance mechanisms.

Source – interview with focus groups in Murcia in 2018.

GOOD PRACTICE

Some companies are providing training on leadership, dealing with conflict and complaints³⁷.

37. Spanish Suppliers Ethical Trade Forum "Report 2018. Ethical Recruitment And Good Practices", available at <https://www.foroscomercioetico.com/wp-content/uploads/2019/01/NOV-2018-SPANISH-ETHICAL-TRADE-FORUM.pdf>. Accessed 22 May 2019.

GRIEVANCE MECHANISMS

TICK IF
DONE

The company will ensure and be able to demonstrate that:

1	There is written grievance policy and procedure contained in the labour management policy and a grievance mechanism in place.	
2	The grievance mechanisms take into account the workforce spoken languages, ensuring that migrant workers can submit a grievance. The grievance mechanism meets the criteria set out in the UNGPs, notably being easily accessible and known to all the workers (for instance, not located in Human Resources offices where a highly temporary workforce rarely goes), legitimate, predictable and with clear and known procedures, transparent and non discriminatory.	
3	Orientation training on grievance mechanisms is provided to workers upon commencement of employment.	
4	The ETTs and informal labour providers that the business works with have a grievance mechanism in place, meeting the same criteria. The business procedures should be able to identify ETTs and other labour providers who do not have adequate systems in place.	
5	There is a whistleblowing procedure whereby supervisors, managers and middle managers can confidentially raise issues of concern to a member of the senior team without fear of retribution.	
6	The grievance mechanism seeks feedback from the workers and their legitimate representatives, notably unions, as to what additional action may be needed for improvement.	
7	There is a clear procedure for management follow-up of reported grievances and it is clearly communicated to the workers. Grievances and follow-up actions are properly documented and filed.	
8	The grievance mechanism clearly provides a guarantee to protect workers from reprisal.	
9	The proceedings are properly documented and filed and can be consulted to assess effectiveness and improve the grievance mechanism.	

Allow and encourage workers' /trade union representation

The use of labour providers, the high rotation and workers' limited awareness of the role of trade unions lead to very low union representation, notably at farm level. Labour laws allow workers to have their representatives through delegates (businesses with fewer than 50 workers) or committees (businesses with more than 50 workers). Although this a right of all workers, the business attitude is key: if it is not hindered, or more, if the representative elections are encouraged and promoted, the workers feel more comfortable to exercise this right. Encouraging and allowing union representation and collective bargaining can be particularly challenging for small and medium-sized businesses. However, companies should make all efforts to promote real union elections and for the presence of workers' representatives both at farms and packhouses. Further, union representatives can be of great help to perform a forced risk assessment and to prevent and solve labour-related disputes and elaborate on remediation policies.

In cases of suspected forced labour, it might be challenging to find hard evidence of abuses, for example when excessive deductions are made or charges are imposed to the workers, because they will not be specified in contracts or pay slips. Talking to the workers and their legitimate representatives shall give the company the opportunity to identify who is at risk and to develop adequate measures in a proactive manner. Companies can take advantage of trade unions' knowledge, which may ensure that workers file their grievances in a secure manner and without fear of retaliation, as well as empowering workers at risk.

Unions can support access to grievance mechanisms, ensuring remedy through better industrial relations. Further, encouraging union representation demonstrates the company's commitment to combating forced labour.

CASE STUDY: THREATS TO DETER WORKERS FROM JOINING UNIONS

A worker interviewed in Almeria reported that he was threatened with dismissal and finally downgraded (transferred from a packhouse to a farm) when the site owner found out that he was willing to present himself to union elections and become a union representative.

Analysis

Intimidation and retaliation implicate a breach of the right to form and join a trade union and to bargain collectively. Agri-businesses must not treat workers unfairly (dismissal, subjecting to a detriment etc.) on the grounds that they have taken part in the activities of a union and should guarantee the workers the freedom to organise without threats or retaliation. By not allowing fair union representation, a company may be more exposed to forced labour. Additionally, businesses have an interest in engaging in collective bargaining, a key element to ensuring that workers have a voice. Unions can be early warning systems and spot red flags and forced labour risks. They can also play a key role concerning awareness raising and capacity building, informing and training workers on forced labour issues and policies, putting the company in a better position to address forced labour risks. Furthermore, they can play a key role in raising awareness and building capacities at all levels.

Source – interview with focus groups in Almeria in 2018.

ALLOW AND ENCOURAGE TRADE UNION REPRESENTATION

TICK IF
DONE

The company will ensure and be able to demonstrate that:

1	There is a written policy regarding trade unions and the protection of trade unions' members and workers using the services of the trade unions.	
2	It allows and encourages the holding of real union elections.	
3	It has communicated to the workers, managers, middle managers and labour providers the expectation that the presence of union representatives is allowed on all company sites.	
4	Initial training for workers includes training on the role of unions and the names of the unions and workers' representatives.	
5	There are measures in place to ensure that no retaliation is practised against union representatives and workers expressing their intention to become union representatives or who are affiliated to a union.	
6	Managers, middle managers and line supervisors are trained in the need to respect union representatives' roles and activities.	
7	It engages with local unions to find the best way to allow for the presence of union representatives in small farms (where the only way to allow for workers' organisation is often through individual affiliation, as the presence of a union is not a legal requirement, being more difficult).	
8	It engages with the cooperatives and the local associations and peers to go beyond window dressing and limited statements in favour of the workers' organisation, to find solutions and effectively promote the presence of union representatives on small farms.	

Good practice

The Almeria Working Group of the Ethical Trade Forums is working on an Ethical and Good Practice Guide for small producers' management.

Responsible recruitment

Businesses working in the Spanish agriculture sector can contribute a great deal to the prevention of forced labour and trafficking for labour exploitation in their role as recruiters and employers, and more specifically when using labour providers. By implementing legal recruitment practices that seek to improve working conditions (e.g. stability), they can also end distort competition and establish a fair playing field among the sector. To ensure that workers are not exposed to forced labour through recruitment practices, businesses need to implement procedures that ensure that:

- Knowledge of the risks of forced labour and trafficking for labour exploitation is built.
- There is a strategy to screen, manage and mitigate such risks.
- Recruitment practices are not misleading or deceptive.
- Recruitment practices protect vulnerable groups.
- Workers are not coerced into employment through any form of bond or intimidation.

Recruitment practices have been largely out of the scope of social audits, the most important social compliance tool used by Spanish agri-business to detect possible labour rights abuses, with auditors often not recognising forced labour and trafficking. A key chapter of a labour management system is precisely putting in place a responsible recruitment policy that addresses the red flags that could be indicative of forced labour and trafficking for labour exploitation, and that enables the business to demonstrate a practical response to risks.

RESPONSIBLE RECRUITMENT OF WORKERS POLICY		TICK IF DONE
1	Clearly define and document the business's policy on recruitment of workers that states the business's firm commitment and approach to responsible recruitment practices and to protect workers against all forms of forced labour	
2	Communicate the policy to managers and middle managers (at monthly meetings, via email etc.).	
3	Communicate the policy to workers through <ul style="list-style-type: none"> • Clearly displaying the policy in a language/s that the workers understand • Including the policy during worker induction training • Facilitating the policy to trade union representatives. 	
4	Train human resources, managers and middle managers, compliance personnel, staff responsible for site visits and supervisors' personnel, so that they can identify good and bad practice in: <ul style="list-style-type: none"> • The business's policy on recruitment, so that they are able to identify good and bad practice • Signs of forced labour and trafficking for labour exploitation. 	
5	Have a balanced recruitment structure that is free of conflict of interest (e.g. it is key that the recruiter does not have the capacity to distribute job positions or that a farm worker does not have a mandate to recruit workers or to intervene in any matter related to the improvement of the working conditions or the termination of the contract).	
6	Ensure transparency of services and related costs of recruitment, adopt and inform workers about the "no recruitment fee" policy.	
7	Review the policy on an annual basis and update if required.	
8	Map all the recruitment channels and identify all agents and their roles.	

The employer will ensure and demonstrate that:**TICK IF
DONE**

- | | | |
|---|--|--|
| 1 | Its recruiting and human resources staff, as well as other usual informal recruiters (other workers, agents), middle management and staff supervisors are trained in the organisation's processes to recognise, prevent and report forced labour. | |
| 2 | During the worker selection process the recruiter asks and records: <ul style="list-style-type: none"> • How the worker found out about the work • Whether the worker has paid, or will have to pay to obtain the work • Whether the worker has paid anyone to get into Spain if a newly arrived migrant. | |
| 3 | The employment contract includes information about wages and payment terms, working hours, overtime, occupational health and safety and availability and accessibility of grievance mechanisms, and it is provided to the worker in written format, in a language that he/she understands and a copy of the contract is provided to the worker in advance. | |
| 4 | The original document of the worker's identity card has been requested, in order to avoid the use of false identities. | |

LABOUR RECRUITMENT PRACTICES ARE NOT MISLEADING**TICK IF
DONE****The employer will ensure and demonstrate that:**

- | | | |
|---|---|--|
| 1 | The terms and conditions of employment agreed upon at the time of recruitment are similar to those contained in the employment contract. This can be of particular relevance when workers are recruited in origin. | |
| 2 | If changes to the terms and conditions of employment were made between the time of recruitment and the time of employment, they were made with the knowledge and consent of the worker. | |
| 3 | The terms and conditions of employment indicated in the employment contract are similar to the actual employment conditions at the place of work. | |
| 4 | The terms and conditions of employment are documented and made available in a language understood by the worker. | |
| 5 | The terms and conditions of employment are communicated to the workers before the commencement of the employment (this is also relevant when using other workers, informal recruiters and supervisors when recruiting workers). | |
| 6 | Workers are free to leave their employment within the terms of the applicable law. | |

LABOUR RECRUITMENT PRACTICES MUST PROTECT VULNERABLE GROUPS**TICK IF
DONE****The employer will ensure and demonstrate that:**

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|---|---|--|
| 1 | Migrants are only employed if they have a legal work permit to work in Spain. | |
| 2 | In instances where job applicants do not have a working permit, there is a process to regularise the applicants' situation prior to starting the job, through the "arraigo social". | |
| 3 | Seasonal workers, in particular migrant workers, benefit from the same conditions of work than permanent workers as stipulated in the applicable CBA. | |
| 4 | When recruiting workers from other regions or countries (such as under CeO or through informal agents), they will not be expected to pay the costs to return when leaving the employment before the end of their contracted term. | |

The employer will ensure and demonstrate that:

TICK IF
DONE

- | | | |
|---|--|--|
| 1 | Workers are not required to pay recruitment fees. | |
| 2 | Workers are not required to pay any form of deposit on entering employment. | |
| 3 | Workers' identity documents or other valuable documents are not retained. | |
| 4 | If workers request that the business retains ID documents for safekeeping, refer to section "Retention of identity papers such as ID documents" above. | |
| 5 | Workers enter employment out of their own free will without any form of threat, violence or intimidation. | |

ETTS AND OTHER LABOUR PROVIDERS

The use of labour providers makes the risk of forced labour and trafficking for labour exploitation in the recruitment chain greater, as they could, for instance, charge the workers for the recruitment services. For example, labour exploitation by Eastern European organisations has an appearance of legality which may not be such in reality. The first step is to avoid informal agents, and only work with formal agencies that can provide more guarantees of visibility into the process and reduce the risk of forced labour.

Dependency on labour agents has been identified as an issue of concern³⁸. Businesses should seek, as much as possible, to programme their production, worker requests and needs in advance, in order to reduce such dependency and give preference to direct recruitment of the workers and their stability, thereby reducing their risks and exposure to forced labour.

Businesses using agents need to incorporate practices and management processes that ensure that these do not put workers at risk of forced labour, and that strengthen their monitoring. **Further, according to ETT legislation, the user company shall be responsible in certain cases of breach by the ETT of its obligations (such as those related to wage and Social Security payments not satisfied by the ETT). Additionally, the user company is obliged to provide the labour risk assessment to the ETT. Therefore, the business shall work in coordination with the ETT to avoid abuse and engage its own liability.**

ETT selection

Selecting and negotiating the terms with the ETT is key. A business shall be aware of possible signs of risk, such as the price being lower than the other ETTs: the ETT provides a service and needs to be compensated for it. A low price can indicate that the workers are not being paid CBA wages or that deductions are being made, or, if workers come from another country, that they are being charged with transportation costs. Other signs can be if the ETT does not ask the company for a signed copy of the work contract, or if the ETT has an organisation and sufficient structure that allows for the fulfilment of its obligations in relation to the number of workers provided etc.

GOOD PRACTICE

The Ethical Trade Forums have paid particular attention in 2018 to recruitment and management practices. Simultaneously, a number of business are already implementing good practices on responsible recruitment, ethical management of ETTs and monitoring mechanisms.

38. Foros de comercio ético, enero 2019. Disponible en <https://www.foroscomercioetico.com/la-dependencia-de-las-etta-debate-en-el-foro-de-murcia/> Fecha de consulta 22 de mayo de 2019.

The employer will:

- | | | |
|---|--|--|
| 1 | <p>Define and document criteria for selecting and monitoring ETTs that ensure that:</p> <ul style="list-style-type: none"> • The ETT has the legally required administrative licence to operate as such and presents guarantees and a structure adequate to the number of workers provided. • The ETT takes the necessary measures to ensure that all the workers have the legal status to be employed in Spain and to avoid the use of false identities (whose use is increasing³⁹). • The ETT is aware of, and provides workers with access to the relevant labour and ETT legislation. • The ETT incorporates responsible labour management practices. • The ETT evaluates the risk of forced labour and trafficking for labour exploitation in its operations and implements appropriate control systems. • The ETT follows and communicates the “employers pay” principle and assumes the cost of recruitment, and does not charge fees for recruitment to the workers, directly or indirectly through deductions. • The ETT pays the CBA wages within the deadlines set out in the CBA applicable to the user company. The ETT shall be able to guarantee and demonstrate that minimum CBA wages are paid when workers have agreed to a piece rate remuneration system. • The ETT respects the workers’ right to freedom of association and collective bargaining within the ETT and the user company. • The ETT protects workers’ health and safety, provides the necessary health and safety training to the workers and the risk assessment to the user company. • The ETT undertakes the legal medical tests. • The ETT meets the applicable laws and CBAs in terms of wages, rest within assignment periods, benefits and other terms of employment and ensures that the working hours comply with the limitations contained in the CBA applicable to the user company and are paid accordingly, as well as the contributions to the Social Security with regards to effective working hours. • The ETT ensures the good condition and appropriateness of the transportation and accommodation, should it be provided to the workers, and that any deductions shall be made according to the law and the CBA applicable to the user company. • The ETT collaborates to identify, prevent and mitigate forced labour risks. • The ETT has a policy in place with the corresponding monitoring body/person and documented Response Plan and has trained personnel in charge of recruitment on forced labour and trafficking for labour exploitation risks, indicators and signs of alert. | |
| 2 | Communicate the procedure to Human Resources personnel and other personnel responsible for recruiting of workers through ETTs. | |
| 3 | Review the procedure on an annual basis and update if required. | |
| 4 | Require from the ETT data disclosure that will be needed in order to assess if the risk of forced labour is prevalent. | |
| 5 | Engage with the ETT with regards to the prevention of the risks of forced labour and trafficking for labour exploitation (through capacity building, bilateral exchange of information, other forms of support etc.), requiring the ETT to perform its own risk assessment and implement the necessary measures. | |

39. Diego Martínez, Murcia Labour Inspectorate Chief, Presentation during the Ethical Trade Forums on 31 October 2019.

- 6 Engage potential ETTs on the selection criteria (i.e. personal consultation, sharing criteria with them via email or hard copy) and provide good practices in the due diligence checks carried out in the selection of ETT.
- 7 Undertake initial pre-audit prior to entering into a business relationship with an ETT, as well as ongoing due diligence in order to assess, identify and manage the risk of forced labour.
- 8 Set goals in terms of strengthening business relationships with ETTs in order to reach stable and long-term relationships that enable a serious implementation of the criteria to avoid forced labour.
- 9 Document and sign a service agreement with the ETTs that the company uses, clearly setting out who assumes the cost of additional services such as transportations, clothes or working tools, PPE etc.
- 10 Always ask the ETT for the assignation contract (contrato de puesta a disposición), the copy (copia básica) of the contract with the workers subscribed by the Social Security, and other documentation that proves registration with the Social Security (e.g. TC1, TC2, TA2 etc.).
- 11 Agree on prices that allow the ETT to fulfil its obligations and have a reasonable and legitimate benefit.
- 12 Discuss and agree the labour recruiting methods and channels used by the ETT and require transparency about the labour sourcing supply chain. Discuss and agree the ETT's recruitment selection criteria.
- 13 Monitor and evaluate the ETT's compliance to the criteria through collecting data as proof of compliance in a systematic way and update it regularly. Ensure that the ETT workers form part of the group interviewed during labour inspections or third-party ethical audits and interview the ETT workers.
- 14 Undertake on-the-ground assessments, including surprise farm visits, also on Sundays and bank holidays, where the labour inspection is not active, and which may be used to hire irregular migrants or to allow irregular practices.
- 15 Engage the ETT on criteria that are not being met and require that the ETT implements improvements and provides proof of corrective actions.
- 16 Review the criteria annually and update if required.
- 17 Implement the Response Plan should there be suspicion of/or forced labour sourced and recruited through ETTs.
- 18 Ensure that the workers recruited through labour providers know about and are able to use the company grievance mechanisms.
- 19 Ensure that the workers recruited through labour providers know about the role of trade unions and the names of the workers' representatives, and can access them.
- 20 Work with trade union representatives to understand the practical and specific risks resulting from recruitment through labour providers and how to approach them.
- 21 Maintain the monitoring and control over the workers, not accepting manijeros, supervisors or others who exercise as organisers within the ETT workers' group.
- 22 Have in place a plan to convert the workers hired through ETTs into company workers.

USING INFORMAL INTERMEDIARIES

TICK IF
DONE

The employer will:

- 1 Establish internal policies aimed at avoiding or limiting the recourse to informal labour providers to a minimum. Give preference to formal, licensed labour providers and those worth of trust.

- 2 : Screen and pre-select the labour providers and only work with those who comply with the law and the highest standard of ethics.
- 3 : Privilege long-term relationships and reduce the number of intermediaries.
- 4 : Seek to plan in advance the number of workers that will be needed.
- 5 : Avoid working with sub-agents or others that are not known directly.
- 6 : Support and reward positive performance by the informal labour providers.
- 7 : Require that the labour providers submit a list of the workers and any relevant information, such as payroll, hourly registers (both ordinary and overtime), transport and accommodation conditions, amongst others.
- 8 : Interview the new workers recruited through informal labour providers to assess their living, working and recruitment conditions.
- 9 : Ensure that the workers recruited through labour providers know about and are able to use the company grievance mechanisms.
- 10 : Ensure that the workers recruited through labour providers know about the role of trade unions and the names of the workers' representatives and can access them.
- 11 : Work with trade union representatives to understand the practical and specific risks resulting from recruitment through labour providers and how to approach them.
- 12 : Review the internal policies' language to explicitly address the risks of forced labour and trafficking in recruitment by informal agents, and in particular those risks faced by migrant workers.
- 13 : Take measures to ensure that labour providers follow and communicate the "employers pay" principle (e.g. inform the workers, ask them about this etc.).
- 14 : Pay the workers directly to avoid risks of underpayment or delayed payment, lack of delivery of payslips, deductions etc.
- 15 : Interview the newly hired workers on whether they have paid any expenses prior to arrival and during the recruitment process (e.g. for transportation, documents etc.) and to whom; on being provided accommodation and on housing conditions (such as space, number of workers sharing the premises etc.), including how much is charged etc.

Assessing the workers' vulnerability requires understanding the purpose, legality and methods of levy for the payments and/or deductions. Use independent translators for interviews if necessary and avoid other workers from the same group, the labour provider or supervisor themselves. The information gathered from interviews must remain anonymous and confidential.
- 16 : Undertake on-the-ground assessments, including surprise farm visits, also on Sundays and bank holidays, where the labour inspection is not active, and which may be used to hire irregular migrants or to allow irregular practices.
- 17 : Engage the informal labour provider on the criteria that are not being met and require them to implement improvements and provide proof of corrective actions.
- 18 : Implement the Response Plan should there be suspicion of/or forced labour affecting workers recruited through the intermediary.
- 19 : Support efforts for the progressive professionalisation and formalisation of the informal labour providers through collaboration with other companies and relevant actors, and coordination across the sector through industry programs to harmonise approaches.
- 20 : Seek to get information from different sources and channels, like reviewing wage records and cross-referencing data with other relevant actors, such as trade unions, NGOs or other businesses. Given the sensitive nature of these issues, it is possible that the workers would not be able or feel free to answer direct questions.

Termination of employment

Workers must be free to leave their employment within the terms of their contract and the labour laws. Repeated firing of workers may be a method to escape certain labour costs (e.g. arising from seniority, conversion into fixed contracts etc.); more experienced workers, who can be aware of their rights, may be perceived as being more problematic and reluctant to accept poor working conditions. The fear of being fired or considered problematic within employers' networks may explain why the workers do not report cases of forced labour, as complaining may result in job loss and earning the reputation of being problematic within the employers' networks. Also, unions report that workers frequently complain about monetary termination payments routinely going unpaid, and when requested by the workers, employers would threaten with not calling them again⁴⁰.

TERMINATION OF SERVICE		TICK IF DONE
The employer will:		
1	<p>Define and include the termination policy in the terms of workers' contracts i.e.:</p> <ul style="list-style-type: none"> • The minimum notice periods as stipulated in the applicable CBA. • Payment of all outstanding monies owed to the worker at termination of employment including: <ul style="list-style-type: none"> * Any wages that have not been paid according to the applicable CBA * Any payment owing to the workers, including in respect of: <ul style="list-style-type: none"> » Overtime, transportation or other concepts (such as food) set out in the applicable CBA » Any paid and not taken time off that the worker is entitled to » Redundancy compensation, as applicable. 	
2	Communicate the termination policy to workers prior to entering the contract.	
3	<p>Issue the legal Certificate for the workers leaving the company within 10 days (certificado de empresa - REAS). This is a legal obligation and a model is available from the Ministry of Work and Social Affairs. It should include:</p> <ul style="list-style-type: none"> • The name of the company and its address • The full name of the worker and his/her ID number • Contributions to the Social Security for all concepts (cotizaciones por contingencias comunes y de desempleo) • The period of employment • The type of employment (profesion, categoria profesional) • Reason for termination of employment • The signatures of the worker and employer. 	
4	Ensure that workers are paid all outstanding monies.	
5	Ensure that on termination of employment, the final payment package is put in writing, understood and signed by the worker and kept on record.	
6	Workers are not restricted to terminating their employment through means such as requiring deposits, withholding of documentation, threats or use of violence, debts, imposing financial penalties, requiring payment of recruitment or training fees.	

40. Diario de Almería: El campo almeriense defrauda a la Seguridad Social más de 50 millones anuales en jornales, December, 2018. Available at https://www.diariodealmeria.es/finanzas/agricultura/campo-almeriense-defrauda-Seguridad-Social_0_1306669529.html. Accessed 11 June 2019.

Overtime

Due to the seasonality and other features of agricultural work, it is common that workers work overtime. This is acknowledged by the CBAs that stipulate the ordinary hours of work and allow for irregular distribution. For instance, the Almería packhouse CBA sets the weekly ordinary working time at 40 hours, within an annual maximum of 1,826 hours. In any case, a worker cannot be obliged to work more than 9 hours a day and 48 hours a week. Apart from the legal and exceptional cases of compulsory overtime (e.g. force majeure, production peaks or special circumstances), in order to ensure that overtime is not exploitative or perceived as a form of forced labour, it is recommended that the labour management system ensures that:

- Overtime is compliant with the limitations and requirements of the applicable CBA.
- There is a system in place that allows controlling the effective hours of work, as well as differentiating between ordinary hours and overtime. It is also important to note that, since May 2019, all Spanish businesses are obliged to have a daily hour control system in place. Implementing this control in the agriculture sector may appear challenging, due to the inherent flexibility of the working time or the existence of various sites, greenhouses or farms in which the workers are actually working. On the other side, the system will have an impact in the payment of overtime. It is recommended that the system is designed and implemented in collaboration with trade unions and industrial associations, cooperative governing bodies etc.
- Overtime is duly recorded in the monthly payslips and compensated for at the legal CBA surcharge.
- It defines the company's policy on overtime.
- It implements procedures to ensure that overtime is voluntary and compensated for.
- It avoids misuse of the "irregular distribution hours", limited to 10% of the work day (approximately 150 yearly, depending on the CBA).

DEFINE THE COMPANY'S POLICY ON OVERTIME

TICK IF
DONE

The employer commits to and will act to ensure that:

- 1 It includes the policy on overtime in the employment contracts, including:
 - That overtime could be required.
 - That overtime is totally voluntary except in the cases set out in the applicable CBA (for example, the Almería farm CBA sets the voluntariness of overtime except in cases of force majeure) and that the workers are free to refuse overtime.
 - That when an excessive number of workers are willing to perform overtime, it is allocated without discrimination.
 - Overtime does not exceed the yearly time limits set in the applicable CBAs.
 - The rate of pay for overtime should be stipulated by the applicable CBAs (for example the Almería field CBA charges overtime on Sundays and bank holidays with a 100% increase of the hourly wage).
 - When piece rate is agreed as a form of payment, the workers are not made to work overtime in order to reach the agreed productivity.

2 Where overtime is required:

- Workers receive as much advance notice as possible by placing a notice on a notice board, or informing workers verbally or through other appropriate and efficient means, such as telephone SMS, WhatsApp etc.
- Workers indicate in writing that they are willing to work overtime.
- Overtime is recorded through timesheets or a clocking system daily or weekly, reflecting the overtime performed during that period (day, week), that can be traced and verified, and, if possible, digitalised, to avoid manipulation or falsification and that the workers can actually verify the hour records.
- Compensation for overtime is differentiated and indicated on workers' payslips, and contributions to the Social Security are done accordingly.

IN FOCUS: CONTROLLING OVERTIME

Since May 2019⁴¹, Spanish companies are obliged to maintain records of the hours worked. Its implementation within the agriculture sector may appear difficult, due to the inherent flexibility of the sector or the existence of different farms or sites within which workers may move. The system shall likely have an impact on the payment of overtime. The labour inspection is receiving increased numbers of complaints in this regard.

Although some agri-businesses already had in place systems to control and register the hours and days worked, often these consisted of sheets that were handwritten and signed by the workers, with no possibility to track the real working time. These systems are inadequate as they allow for manipulation and falsification of the hour records. It shall prove useful to design them in collaboration with trade unions, business associations, cooperatives, governing bodies etc. and through agreement with the workers' legal and union representatives, in order to guarantee that these can effectively control the real hours and days of work. The registry should be:

- Available for immediate consultation upon request of the workers or their legal and union representatives (even if the worker is no longer employed in the company).
- Located on the work site, allowing for the registration of the entry and exit hours.
- Kept for 4 years.
- Developed by the user company in respect of the ETT and agency workers.

41. Real Decreto-ley 8/2019, de 8 de marzo, de medidas urgentes de protección social y de lucha contra la precariedad laboral en la jornada de trabajo.

Wage payments

Wage payments that do not meet legislative requirements can potentially put a business and workers at risk of debt bondage.

IN FOCUS: INDICATORS OF FRAUD

Even when an agri-business meets the legislative requirements regarding wage payments, some indicators, such as cash payments rather than by bank transfer, may be indicative of irregularities. The undermined traceability and the lack of records on the transactions allow for grey practices that could increase the risk of forced labour. It is important that agri-businesses can show evidence of the payment of wages.

DEFINE THE COMPANY'S POLICY ON WAGES

TICK IF
DONE

The employer commits to and will act to ensure that:

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|---|---|--|
| 1 | Wages are paid directly to the workers. | |
| 2 | "In kind" payments and payment in the form of vouchers, coupons or promissory notes are prohibited. | |
| 3 | Pay intervals of one month maximum are respected and wage payments are not delayed. | |
| 4 | Workers are given a payslip that clearly reflects the following information: <ul style="list-style-type: none"> • Seniority. • Extraordinary wages (gratificaciones extraordinarias) if applicable. • Any applicable pluses, for example, for transportation. • Number of ordinary, overtime Sunday or public holiday hours worked, clearly outlining the corresponding surcharges. • Any other item set out in the applicable CBA⁴². | |
| 5 | Payslips are explained to the workers during induction training or when delivered, in order to ensure that they understand the content and are able to sign them. Special attention and support should be paid to migrant workers who do not understand Spanish or Spanish law. | |
| 6 | Wages meet minimum wage set out by the law and the applicable CBAs. | |
| 7 | The workers who have agreed to earn wages calculated on a performance related scale or piece-rate earn the CBA wages. The different concepts (base wages and production extras) shall be clearly differentiated in the payslip. | |
| 8 | When possible, workers are paid through bank transfer. Should it not be possible, workers should be paid by means that allow the traceability of the payment. | |

42. "Guía laboral para el sector del manipulado almeriense". Ut Supra.

Wage deductions and debt bondage

Deductions from workers' wages are only allowed if it is a requirement by law, except under certain circumstances (refer to below checklist), where certain non-statutory deductions are allowed. The CBAs contain regulations on maximum wage percentages for deductions, and the concepts that allow for them (e.g. accommodation). Other arbitrary deductions, such as for poor performance, or excessive deductions that do not respect CBA limitations (such as excessive accommodation fees), may place the workers in a situation of debt bondage if they are forced to work to pay concepts such as housing, making it impossible to leave the job and making workers work for wages under the CBA minimum.

DEDUCTIONS		TICK IF DONE
The employer will ensure and be able to demonstrate that:		
1	Deductions shall only be made as required by law to pay the Social Security contribution or tax retentions according to the law ⁴³ .	
2	Non-statutory deductions (for example loans or legal deductions for company provided housing) shall only be made if: <ul style="list-style-type: none"> Workers provide written consent through a signed agreement, in which the conditions are clearly communicated in a way that allows the worker to understand them. Workers receive a copy of this agreement. They comply with CBA limits. 	
3	Wage deductions may not be made for: <ul style="list-style-type: none"> Fines as disciplinary measures or for poor performance. Recruitment fees. Training, common charges (e.g. electricity at accommodation), worker clothes and equipment, PPE etc. that the employer must deliver according to the applicable CBA. 	

LOANS		TICK IF DONE
The employer will ensure and be able to demonstrate that:		
1	The company has a consistent loan policy that: <ul style="list-style-type: none"> Determines the circumstances where loans will be allowed. Clarifies that wage advances and loans shall never be used as a means to bind workers to the employment. Clearly states the repayment terms. Ensures that the payment terms allow the loans to be repaid swiftly. Is applied consistently i.e. there is no 'favouritism' or discrimination. 	
2	The terms and conditions on loans are communicated to the workers prior to arriving on site.	
3	There is a written repayment agreement between the company and the worker that states, in a language and manner that is understood by the worker: <ul style="list-style-type: none"> The amount that has been loaned. The interest rate. The monthly repayments and how many payments must be made. 	

43. IRPF tax is deducted from the wage and paid to the relevant authority (Hacienda Pública) by the employer, as well as the Social Security quotas that are legally assumed by the workers. Social Security contributions are paid according to the quotas stated in the Social Security legislation (Ley General de la Seguridad Social, Real Decreto Legislativo 8/2015, de 30 de octubre).

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|---|--|--|
| 4 | Deductions made for loans are clearly indicated on workers' payslips and the employer makes sure that these are well understood by the worker. | |
| 5 | All PPE (boots, aprons, hats, gloves, fleece linings or polar jackets etc.) is provided free of charge. | |
| 6 | All the workers are legally registered with Social Security so that they have access to medical care free of charge, or, in case of workers recruited through labour providers, verify that such registration has been done and ask for Social Security records. | |

The employer will commit to and seek to:

- | | | |
|----|---|--|
| 7 | Reduce the number of workers recruited at low season (i.e. at the beginning and the end of harvests), so that anyone arriving will have enough hours of work and be able to earn a living wage, not needing to ask for loans. | |
| 8 | Subsidise the cost of food, accommodation and transport for all workers on site so that expenses are kept to a minimum. | |
| 9 | Provide all equipment needed for sleeping and eating (bedding, cooking pans, glasses, plates and cutlery) free of charge. | |
| 10 | Provide free of charge communication tools for workers, IT facilities with Skype, Spanish phones with WhatsApp, so that workers are able to call home regularly. | |

DEDUCTIONS FOR FOOD AND ACCOMMODATION

TICK IF DONE

The employer will ensure and be able to demonstrate that:

- | | | |
|---|--|--|
| 1 | Deductions for accommodation may only be made: <ul style="list-style-type: none"> • According to the limits set out in the applicable CBA. • If the amount deducted is not more than the cost to the employer. | |
| 2 | Deductions are clearly indicated on workers' payslips in a language that the workers understand. | |

On-farm accommodation

There is a range of different types of workers' accommodation and of varied quality – from relatively normal accommodation provided by the business (in Huelva, workers are typically lodged in the farms, at least the CeO workers) to sheds, structures close to the greenhouses or even settlements with the poorest living standards in Huelva and Almería. Trade unions report that sometimes the employer makes the workers pay a rent, the common charges or trades the housing for hours of work.

A number of human rights can be impacted by inadequate respect of housing rights, such as the right to privacy (for example where accommodation is overcrowded or has inadequate access to sanitation facilities), rights of minorities (for instance, where workers are not provided with culturally appropriate food or spaces like a room to pray), right to health (resulting from accommodation with poor access to adequate sanitation, ventilation) among others.

Tool – Guidelines on accommodation and transport of the workers

The Huelva Ethical Trade Forum working group has created a guideline on the accommodation and transport of the workers, focusing on CeO workers⁴⁴.

44. Spanish Suppliers Ethical Trade Forum "Report 2018. Ethical Recruitment and Good Practices". *Ut Supra*.

Workers or their families may be subjected to forced labour if they are coerced into working on the farm due to fear of eviction. The provision of accommodation as a payment for work is prohibited. The checklist below provides guidance on best practices to avoid the scenario where on-farm accommodation leads to a form of forced labour:

ON-FARM ACCOMMODATION		TICK IF DONE
El empleador asegurará y será capaz de demostrar que:		
1	The accommodation meets minimum adequate housing standards set out in the applicable CBAs. For instance, the Huelva CBA refers to the conditions established by the Ministry of Public Works. Also, there are several guidelines on the specifications in respect of the standard of the accommodation when housing is provided to workers ⁴⁵ .	
2	Family members of farm workers who share on-farm accommodation are not forced to work on the farm as terms of their residency.	
3	The provision of accommodation is only used as form of payment according to the limitations set out in the applicable CBAs.	

IN FOCUS – COMMON CHARGES

Currently, the Labour Inspectorate considers that common charges (e.g. electricity) can only be charged to the workers if it has been agreed in the contract. Further:

- Such amounts shall not be deducted from the payslips, and should be claimed to the workers, and are considered payment in kind.
- The correspondent Social Security contributions shall be made by the company.

Freedom of movement

The labour management system must ensure that there is no unreasonable restriction on leaving or re-entering work premises or accommodation. Workers must be free to leave the workplace and the accommodation facilities and/or move freely at the end of their shift. Whilst cases of workers being locked up in their workplaces seem very rare, there are other subtler means of control to restrict the free movement of workers, like providing accommodation in isolated areas with little chances of exit (no public transportation available), depending on the employer to go out even to buy basic needs and, in practice, isolating them from society. Other situations may affect the freedom of movement.

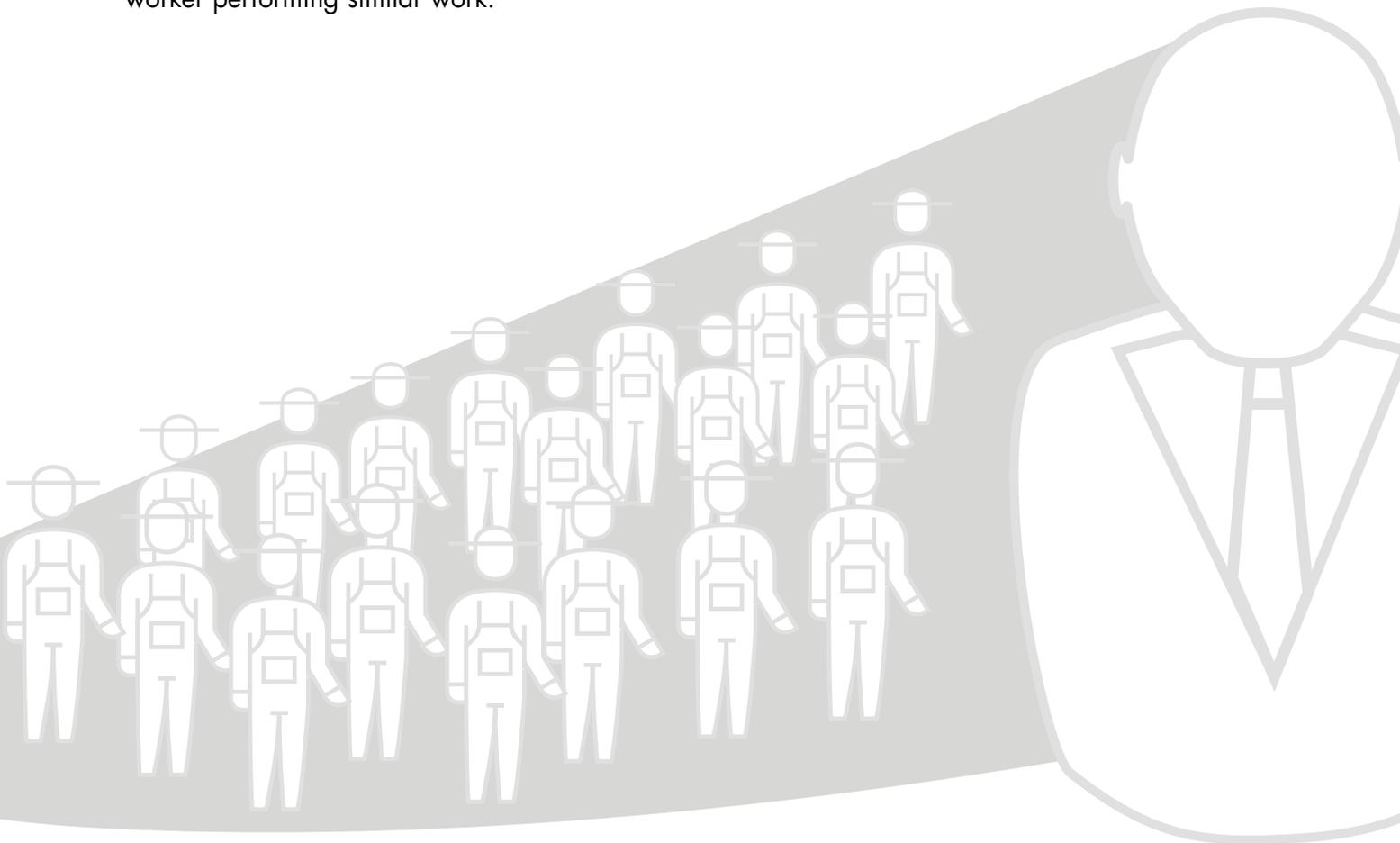
FREEDOM OF MOVEMENT		TICK IF DONE
The employer will ensure and be able to demonstrate that:		
1	Workers are free to leave the workplace and accommodation.	
2	The labour management policy states a “zero tolerance” approach to confinement at the farms, packhouses or accommodation, not even for the purpose of securing the properties, for which alternative means should be explored.	

45. Accommodation provided to workers shall meet the minimum habitability conditions set out by the Dirección General de Migraciones (Orden ESS/1708/2012 de 20 de Julio), in the relevant CBAs, and in a protocol subscribed by Ministry of Labour, the growers associations and the unions CCOO and UGT, among others.

Other abusive working conditions

Although the following issues do not constitute per se situations of forced labour, the presence of one or more, depending on the severity, repetition and circumstances, can lead to a further and generalised undermining of working conditions and to an increase of vulnerability, and enable more extreme abuses to flourish, potentially putting a business and workers at risk of forced labour. No red line separates substandard conditions from forced labour. Often the terms “slavery” and “exploitation” are used indistinctly, whilst workers’ realities are not static and evolve gradually (typically depending on migration status). Although the term “modern slavery” may appear exaggerated, in practice, there exist certain situations that are not far from it⁴⁶. The responses, interventions and remedies shall vary in each case, from the legal perspective (labour, criminal laws) as well as for a company. To determine whether there is forced labour, the following should be considered:

- The individual reality and underlying problems that may exist.
- Whether the abuses can be leading to an extreme situation.
- The level of compliance with basic labour rights, e.g. CBA wages, working hours etc.
- Presence of forced labour indicators.
- Whether the labour conditions of a particular worker differ from those of another worker performing similar work.



⁴⁶. Presentation by Diego Martínez Rafecas. Ut Supra.

ISSUE	THE EMPLOYER WILL ENSURE AND BE ABLE TO DEMONSTRATE THAT:	TICK IF DONE
<p>1 Under-reporting of hours and days worked to the Social Security is systemic, where the majority of companies do not have formal, traceable systems to control hours and pay: 40% of the work days in Almería are not registered⁴⁷.</p> <p>Working hours are not accurately recorded and workers are provided payslips with falsified hourly records that they are made to sign, not accurately reflecting the hours or the nature of the work, making it appear that workers are being paid a fair and legal hourly rate. Where workers have little to no alternative means of making a living, underpayment, including under-reporting of hours and days, increases their vulnerability to forced labour.</p> <p>While some companies provide digitalised systems (such as facial recognition) to control the hours of work, these are typically used for permanent workers or those with longer contracts, while the hours of those seasonal/short-term workers are usually controlled by supervisors in writing, with no means for the workers to verify the records, which can lead to abuse and increases their vulnerability.</p>	<ul style="list-style-type: none"> • There is a digital system in place in all sites (farms and packhouses) that allows the workers to record the days/hours of work in an effective and trustable way. Should the system be manual, the workers (including ETT workers) should sign on a daily basis. The legal and union representatives are allowed to monitor the functioning of the system to avoid fraud. • The wage payments and the Social Security contributions are made on the basis of the days/hours recorded by the system in compliance with CBAs. • The payslips clearly reflect the hours and days worked, differentiating between regular time and overtime and are provided to the workers in a language that they can understand (or supported to understand them by adequate means). 	
<p>2 Temporariness: 91% of the farm contracts in Almería are temporary (the national agriculture average is 26.3%). The Almería packhouse CBA requires that 60% of the workforce is permanent.</p>	<ul style="list-style-type: none"> • There is a plan to allow the conversion of the contracts into fixed (fijo discontinuos) and to increase the number of permanent workers. • Compliance with CBA regulations on temporary/ permanent workers. 	
<p>3 Health and safety at work is not always guaranteed. Workers have repeatedly complained about being exposed to pesticides or working without the necessary equipment. Agriculture is one of the sectors with the highest increase in labour-related accidents, experimenting a 33% increase in 2019 in respect of the same period in 2018⁴⁸.</p>	<ul style="list-style-type: none"> • The necessary health and safety measures are adopted, such as providing sufficient and adequate water, adequate lunch areas or toilets or providing adequate clothes (fleece linings for low temperatures in packhouses). • Workers are not exposed to pesticides or other hazardous substances. 	

47. Campo almeriense defrauda a la seguridad social. Ut Supra.

48. Abogados de Víctimas "La siniestralidad laboral en Andalucía sigue en aumento", available at <https://abogadosdevictimas.es/la-siniestralidad-laboral-en-andalucia-sigue-en-aumento>. Accessed 6 June 2019.

SEVEN

STEP 3

RESPOND TO POTENTIAL ABUSES

This section provides best practice examples of developing and implementing a response plan to address suspicion of/or forced labour abuses.

Stronger Together Spain supports Spanish agri-businesses to respond to potential exploitation and forced labour. As such, the program engages with enforcement agencies, victim support organisations (such as Cruz Roja, Cepaim or Red Acoge, and other relevant stakeholders within the agricultural sector as well as experts) to develop a sector response plan. Agri-businesses are therefore encouraged to visit www.stronger2gether.org on a regular basis to download new or updated toolkits, guidance, templates and checklists, as well as the contact details of enforcement agencies and victim support organisations.

Suspicion of exploitation and/or trafficking for labour exploitation can be reported at the (free of charge) Spanish hotlines (062 or 900105090) or by email to trata@guardiacivil.es and trata@policia.es. In addition, a specialised unit from the national police (Unidad Central de Redes de Inmigración Ilegal y Falsedades Documentales - UCRIF), is very active in matters of trafficking for the purpose of labour exploitation.



COMPANY RESPONSE PLAN

If a case of forced labour or trafficking for labour exploitation is identified (for example as a result of a social audit or the business's own risk assessment), it is essential to respond rapidly and unequivocally, through a clear identification of the workers affected and a full understanding of the nature, extent and form of the forced labour problem.

Businesses should have an adequate response plan in place, as part of their forced labour policy, to address suspicion of/ or forced labour cases, as well as remediation plans that encourage workers to come forward. It is key to take immediate action in cases of suspected forced labour, as ignoring such situations allows exploitation to flourish or to remain hidden and prevents future identification, potentially increasing the control of, and threats to, workers. In all situations it should be borne in mind that workers may be in real and serious danger from exploitative individuals or organised criminal gangs. The protection of individuals at risk is paramount in order to end the situation of forced labour, and reduce or reverse the harm.

The action to take will depend on the nature of the abuse discovered, but should follow the business's "Response Plan", which should be prepared and published. It should detail, in accordance with recommended best practice in the relevant region(s), how managers, supervisors and workers should handle, report and record suspected cases of forced labour and trafficking for labour exploitation. There is no "one size fits all" solution to reverse the abuses. It may imply workers being paid back wages, reimbursing recruitment fees or returning passports, depending on the nature of the abuse. To conclude, a response plan should protect the victim from further harm or greater vulnerability, contribute to address the underlying causes allowing for forced labour and incorporate ways to prevent further abuses. Therefore, it should be approved by other relevant stakeholders such as industrial associations, NGOs or trade unions.

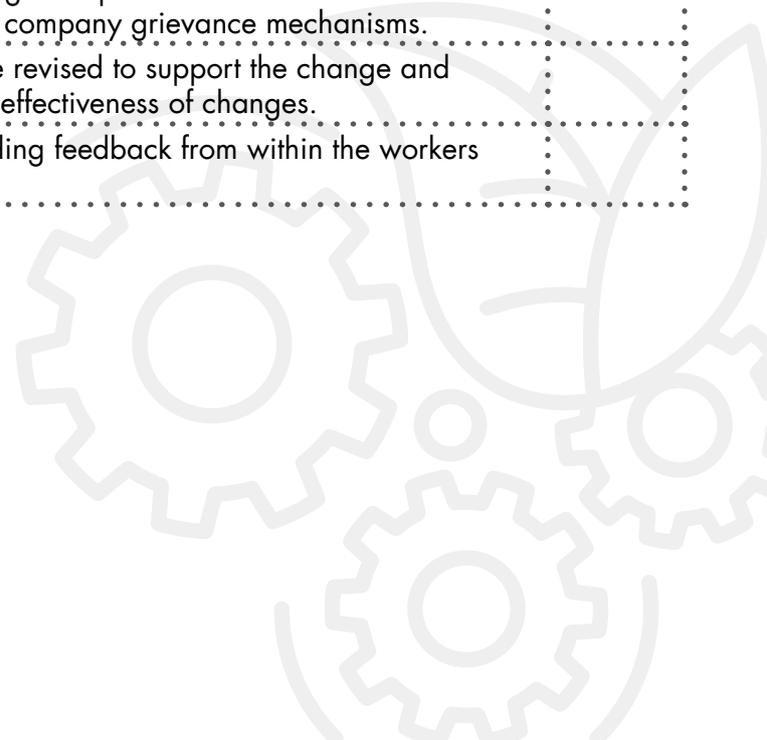
Given the scarce details on the remedy methods and correction plans implemented so far by Spanish agri-businesses, this section does not include any case studies or practical examples. It would be useful to share response plans and solutions, encountered obstacles, good practice etc. with colleagues and other Spanish agri businesses. Businesses cannot solve the issues of forced labour by working alone. The first step in defining a response plan is to identify and select the most appropriate enforcement agencies as well as victim support organisations that have the strengths and capacities to assist potential victims in accordance with Spanish law.

DEFINE A RESPONSE PLAN

DEFINE A RESPONSE PLAN		TICK IF DONE
1	<p>Define and document a response plan that states:</p> <ul style="list-style-type: none"> • The persons in the company who are responsible. • The process for reporting suspicion of/or forced labour abuses that includes: <ul style="list-style-type: none"> * The different on-site channels to report potential forced labour, i.e. worker representatives, management, anonymously through a suggestion box, through Human Resources teams, grievance mechanisms etc. * The procedure to follow to protect and support at-risk individuals. * The procedure to follow to ensure that the victims have access to services that they need and access to employment opportunities, whether on the same company/site or elsewhere (depending on what is appropriate, i.e. they may be at risk by staying in the same place). * External authorities and victim support organisations to be contacted and their contact details. * A formal written process for supervisors, workers and other staff on how to record suspected cases, capture and protect evidence. * The procedure to follow to ensure prevention of abuses. 	
2	The "Response Plan" should be risk-based and encourage victims to come forward.	
3	Communicate the "Response Plan" to managers, supervisors, union representatives and workers across the business (all sites, including farms, packhouses, administrative premises), so that they know how to handle, report and record suspected cases. Make sure to communicate the "Response Plan" to heads of groups or other ethnic or national association leaders.	
4	Clearly display the Response Plan in places that the workers use, so that they can see it and become familiar with it (i.e. farm entry, working areas, toilets, lunch areas, parking areas, offices etc.).	
5	Share the Response Plan with the ETTs, other informal labour providers, any companies providing services (cleaning, catering, security etc.) and sub suppliers of fruits and vegetables.	
6	Seek feedback and engagement regarding the Response Plan from workers and their legal and union representatives.	
7	Design, in collaboration with workers and their legitimate representatives, and implement a "Remediation Policy" for corrective action.	
8	Review, in collaboration with workers and their legitimate representatives the Response Plan and its appropriate use on a regular basis and (if required) update it and/or reinforce communication or training.	

Businesses should also define a remediation policy that guides effective remediation in line with the UN Guiding Principles on Business and Human Rights:

DEFINE A REMEDIATION POLICY		TICK IF DONE
The "Remediation Policy" should:		
1	<p>Systematically analyse the findings of audits, self-assessments or other forms of risk assessment performed in farms or packhouses, in order to:</p> <ul style="list-style-type: none"> Identify the key gaps or problems that need to be addressed and find the causes that may be producing or contributing to them in the sites. Analyse the identified problems or gaps in order to tackle the underlying root causes and design improvement actions that allow effective change. 	
2	<p>Be built through a process to gather information from those affected on what it would take to remedy the wrongs. Businesses should engage with workers and their legitimate representatives, in particular trade union representatives, to agree on solutions for the identified root cause/s.</p>	
3	<p>Be able to correct the situation for the victim(s), which may involve different measures, including different level action:</p> <ul style="list-style-type: none"> Apologies or compensation to the workers. Ceasing to work with certain labour providers. Changing recruitment policies. Providing workers with a lockable safety deposit box where they can keep their passports and other important documents. Conducting worker satisfaction surveys. Benchmarking practices of other businesses. Improve worker communication and grievance mechanisms, including through training on grievance mechanisms. Statements clearly acknowledging victims' rights to pursue other forms of remedial action, at any stage in the process, beyond company grievance mechanisms. 	
4	<p>Identify whether any of the policies need to be revised to support the change and define performance indicators to measure the effectiveness of changes.</p>	
5	<p>Be reviewed internally at least annually, including feedback from within the workers and from third parties.</p>	



IDENTIFY ENFORCEMENT AGENCIES AS WELL AS VICTIM SUPPORT ORGANISATIONS

IDENTIFY ENFORCEMENT AGENCIES AS WELL AS VICTIM SUPPORT ORGANISATIONS		TICK IF DONE
1	Identify local enforcement agencies to report forced labour abuses (such as the Guardia Civil team to support migrants (Equipo de Atención al Trabajador Inmigrante (EDATI) or the local police). The labour inspectorate does not have competence to assist victims of labour exploitation. It is worth noting that the Spanish National Police, the local police or the Guardia Civil have different mandates and provide different degrees of victims' protection.	
2	Select the most appropriate enforcement agency(s) based on their location, the type of services and availability (i.e. 24-hour hotlines/contact details).	
3	Identify victim support organisations to support and protect victims of forced labour, such as local Social Services (for example in Vicar, Almería, the Servicios Sociales Comunitarios) or NGOs.	

Several NGOs have been involved and are specialised in cases of trafficking for labour exploitation and/or work closely with migrants. Some potential partners to support and protect victims of forced labour could include:

- Asociación Comisión Católica de Migración – ACCEM.
- Comisión Española de Ayuda al Refugiado (CEAR).
- Cruz Roja Española.
- Fundación CEPAIM.
- Acoge network, with offices in Almería, Huelva, Sevilla etc.
- Fundación Cruz Blanca.
- Cáritas.

Also, trade unions are increasingly starting to look into the issue of trafficking. The trade union UGT has elaborated useful materials that can be consulted at <https://www.ugt.es/trata-de-seres-humanos>.

IDENTIFY MULTI-STAKEHOLDER INITIATIVES OR EXTERNAL PARTNERSHIPS

In order to identify and bring about solutions and remedy for workers affected by forced labour, Spanish agri-businesses should engage with multi-stakeholder initiatives or external partnerships. Sectoral collaboration and combining efforts and resources with peers to improve supplier capabilities shall be helpful to undertake forced labour risk assessments and address complex identified risks.

Spanish agri-businesses may join the Ethical Trade Forums, as well as exploring other forms of collaboration with other companies and/or stakeholders to gather information and conduct risk assessments, which shall prove particularly useful for cases when the companies are not directly causing or contributing to forced labour impacts, but are linked to these business relationships, for instance, through informal labour providers.

WORK WITH BUSINESS MANAGEMENT AND SUPPORT AGENCIES TO PREVENT FURTHER EXPLOITATION

It is useful to identify the extent to which your activities have caused forced labour or whether you have contributed to forced labour indirectly through a business partner.

The Stronger Together Spanish programme aims to strengthen businesses' capacity to prevent, respond to and monitor forced labour and severe exploitation. When a case is suspected or discovered, it is not only important to assist the victim but also for the business's management to assess and understand how this case has occurred and which steps can be taken to prevent it from happening again. This could include:

- Improving communication and trust between the management and the workers, notably temporary workers, to ensure that they can safely report concerns to a trusted manager/worker representative or anonymously. Therefore, it is key to improve communication.
- Working with external agencies, multi-stakeholder initiatives, trade unions, NGOs or others to improve the management's capacity to develop and implement policies and procedures that protect workers, effectively mitigate risks and improve practices in the long term.

COMMUNICATE CLEARLY TO MANAGERS, SUPERVISORS AND THOSE WORKING ON YOUR BUSINESS'S BEHALF

"Response Plan" should be clearly communicated to:

- Managers, internal and external worker supervisors and workers, in the relevant local and workers' languages, so they know how to handle, report and record suspected cases.
- Those working on their behalf or in any of their operating sites, including their own suppliers, cooperatives, ETTs, informal labour providers etc. so that it can be adopted and implemented in line with the business's policy.

PROCESS TO PROTECT AND SUPPORT AT-RISK INDIVIDUALS AND FOR REPORTING SUSPICIONS

PROTECT AND SUPPORT

The business's primary responsibility when dealing with a potential victim of forced labour or trafficking for labour exploitation is to ensure his/her safety and welfare. While detecting and assisting a victim, you will help to combat organised crime. Detecting victims may help other potential victims, as often perpetrators and traffickers may abuse various victims⁴⁹.

Where criminal exploitation is believed to be involved and/or the worker is in real and immediate danger, the role of the business shall be to identify the signs, provide initial protection and notify the authorities and/or social entities that are able to provide support care, proceed to formal identification and assist the victims. The victim needs to be protected from the exploiter or the person that is harming or threatening him/her. Be aware that irregular migrants may be placed in a migrant intern centre if not recognised as such. The action to be taken will depend upon the circumstances. However, it is important to explain to the victim that he/she needs to be identified as a victim. Once a victim has been identified, he/she will be delivered to the competent authority that will provide short-term assistance and protection.

REPORT

Victims rarely report their circumstances to outsiders or contact the support agencies or the authorities themselves. If you have any suspicion regarding the potential presence of forced labour and/or trafficking for labour exploitation, you should contact the police or other identified enforcement organisations immediately. To continue thereafter without informing the authorities is to run the risk of undermining any necessary criminal investigation. It is preferable to report concerns that do not meet the threshold for a person to be considered a victim of forced labour than miss an opportunity to do so.

Businesses should pay attention to possible symptoms, prioritising the identification of victims amongst irregular migrants and paying attention to situations of control. For example, when an agent retains identity documents, the victims are accompanied to medical visits or administrative arrangements, or seem under constant vigilance.

CAPTURING AND PROTECTING EVIDENCE

The specific circumstances need to be investigated and evidence needs to be obtained by law enforcement agencies where appropriate. This will include establishing the circumstances around the identification that someone may be a potential victim of trafficking and forced labour, and the steps taken at that point. Each business should have an internal lead manager who will direct matters relating to trafficking and forced labour when they are suspected within a business. This should be a competent trusted manager who:

- Is knowledgeable about internal procedures.
- Understands indicators of forced labour and trafficking for labour exploitation.
- Knows how and when to refer matters to the appropriate authorities.

49. Herramienta práctica para la detección de víctimas de trata con fines de explotación laboral, Ut Supra

All supervisors, and particularly those managers who undertake grievance or disciplinary hearing investigations, should:

- Have knowledge of the indicators of forced labour and trafficking for labour exploitation.
- Know to halt the internal investigation and the procedure to follow when they identify such indicators.
- Understand that incorrectly deciding to continue with an internal investigation can undermine the ability to secure a criminal investigation and prosecution outcome.
- Understand that they may become a witness in any criminal investigation.
- Be able to ensure appropriate confidentiality to ensure that the exploiters are not alerted that their activities have been identified.
- Be able to ensure appropriate measures are implemented to protect the identity of any job applicants or workers who may be victims.

If it is suspected that there is a case of trafficking, forced labour or hidden exploitation, interviews with potential victims should be conducted by someone from the police or another relevant organisation that has the requisite skills and powers/authority. It is therefore essential to:

- Keep a file with all documents and records of all the conversations relevant to the enquiry. This is particularly important when a case is considered for legal proceedings.
- Engage as soon as possible with the police where you have a suspicion. Any material obtained at early stages is likely to be of significant value further down the process.
- If in any doubt, seek advice from law enforcement or other expert organisations.
- Share information and collaborate with the ETTs, informal recruiters and agents etc.
- Respect confidentiality, identify indicators of potential exploitation and complete a “Record of Potential Third-Party Exploitation” (template available at www.stronger2gether.org). This will help to organise the information and prepare it for referral to the relevant law enforcement agency.



SECTION C

APPENDICES



APPENDIX 1

RELEVANT SPANISH AND INTERNATIONAL LEGISLATION

Forced labour and trafficking for labour exploitation are complex phenomena requiring responses from various legal fields – most importantly human rights, criminal justice, labour and migration law. The following frameworks are relevant in Spain.

INTERNATIONAL LAW

International labour standards, especially those of the ILO, guarantee a number of fundamental rights for workers, as well as specifically for agricultural and migrant workers. Spain is a party to the ILO Forced Labour Convention (No. 29), the Abolition of Forced Labour Convention, 1957 (No. 105) and to the ILO Convention 129 concerning Labour Inspection in Agriculture.

It is also a party to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (the “Palermo Protocol”), and has recently ratified the ILO Protocol (P029) to the Forced Labour Convention, which came into force in 2018. According to the Protocol, states should take measures to support due diligence by the private sector to respond to the risk of forced labour and to protect workers, in particular migrant workers, from fraudulent recruitment practices. Therefore, it is likely that Spanish legislation shall be soon amended in this regard.

However, Spain has not ratified the International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families, which prescribes for equality in wages and working conditions for both authorised and unauthorised migrant workers.

At EU level, there is a series of instruments that are relevant to the fight against trafficking forced labour and trafficking for labour exploitation:

- The 2014 European Directive on seasonal workers⁵⁰ regulates working conditions aiming to prevent exploitation of migrant seasonal workers. This Directive is of particular importance to the Spanish agriculture sector.
- Also of crucial importance for the prevention of forced labour situations resulting from the use of recruitment agents is the Directive on Temporary Agency Work⁵¹, which affirms the principle of equal treatment with respect to basic working and employment conditions between temporary agency workers and workers directly recruited by the user company.
- Directive 2011/36/EU on Preventing and Combating Trafficking in Human Beings and Protecting its Victims establishes provisions on victims’ protection, assistance and support, but also on prevention and prosecution of the crime. The EU Anti-Trafficking Coordinator, M. Vassiliadou, is responsible for improving coordination and coherence among EU institutions, EU agencies, Member States and international actors, and developing existing and new EU policies to address trafficking in human beings.

50. Directive 2014/36/EU of the European Parliament and of the Council on the conditions of entry and stay of third-country nationals for the purpose of employment as seasonal workers.

51. EU Directive 2008/104/EC on Temporary Agency Work.

- The EU Strategy towards the Eradication of Trafficking in Human Beings for the period 2012-2016 provided a basis for the EU policy in the area and a series of key actions, including the publication of guidelines, studies and reports. A 2017 Communication on Reporting on the follow-up to the EU Strategy builds upon the existing policy and legislation, and proposes further action to step up prevention, notably in light of the current migratory challenge.
- Ultimately, Spain is also bound by the Convention No. 197 of the Council of Europe on Action against Trafficking in Human Beings, on which the Group of Experts on Action against Trafficking in Human Beings (GRETA) publishes periodic reports on progress. Spain has also ratified the Council of Europe Convention on action against trafficking in human beings.

NATIONAL FRAMEWORK

LIST OF APPLICABLE COLLECTIVE BARGAINING AGREEMENTS

ALMERIA

Convenio Colectivo Provincial de Almería trabajo en el campo para los años 2012 – 2015.

Convenio Colectivo de Trabajo del sector Manipulado y envasado de frutas, hortalizas y flores de Almería, 2015 – 2018.

HUELVA

Convenio Colectivo del Campo de la Provincia de Huelva 2018 – 2020.

MURCIA

The most relevant CBAs are (by their Spanish titles):

Convenio Colectivo de Trabajo Agrícola, Forestal y Pecuario de Murcia, 2016 – 2018.

Convenio Colectivo de Cosecheras y Productoras de Tomates de Murcia 2016 - 2019.

Convenio Colectivo de Recolectores de Cítricos 2012 - 2020.

Convenio Colectivo de Manipulado y Envasado de fruta fresca y hortalizas de Murcia, 2016 – 2020.

Convenio Colectivo de Tomate Fresco (Manipulado y Envasado) de Murcia, 2018 – 2020.

Convenio Colectivo de Empresas Cosecheras y Productoras de Tomate, Lechuga y otros productos agrícolas y sus Trabajadores de la Región de Murcia.

Convenio Colectivo de Manipulado y Exportación de Frutos Secos de la Región de Murcia.

Convenio Colectivo de Empresas Cosecheras y Productores de Frutas, Uva de Mesa y otros Productos Agrícolas y sus Trabajadores de la Región de Murcia.

Convenio Colectivo de Preparado y Empaquetado de Especies Naturales, Condimentos y Herboristería de Murcia.

Convenio Colectivo del Sector Agrios (Manipulado y Envasado) de la Región de Murcia.

APPENDIX 2

INDICATORS OF TRAFFICKING FOR LABOUR EXPLOITATION

The indicators are classified and include new indicators of perpetrators of trafficking that can be useful for growers when recognising cases of trafficking for labour exploitation.

INDICATORS OF TRAFFICKING FOR LABOUR EXPLOITATION

Purpose: do you see any of the following signs that the person is a victim of labour exploitation?

- The working conditions are in gross violation of the applicable CBAs.
- The worker is denied breaks, days off and free time, or works on call.
- The employer cannot show employment contracts, Social Security contributions, payslips or other labour records for the victims. This can be the case where an employer repeatedly refuses to show documentation alleging, for example, that it is in the possession of paperwork agencies (gestorias), which can be indicative of irregularities, lack of traceability or the actual lack of such documentation.
- The worker does not know how much he/she earns or is not able to calculate his/her real salary due to deductions, complicated or opaque wage formulas (such as piece work) etc.

Spanish police refer to the following indicators as being potential signs of a situation of control that deserve further attention, or even a case of trafficking for labour exploitation

Recruitment

- The victim did not know where he/she was going to work.
- The victim paid excessive fees for recruitment.
- The victim has no employment contract, the terms and conditions are poorly defined or the employment contract is written in Spanish, while he/she cannot understand it.
- The victim has been repeatedly hired through temporary contracts.

Transportation, Transfer

- The victim did not organise his/her transport or does not know the travel route from the place of origin to destination.
- The victim shows signs of fear of the men or women who present him/her to work (intermediary).
- Workers, having travelled in a group, do not appear to know each other.

Harbouring, Receipt

- The victim lives and sleeps at work. The sleeping areas are over-crowded, unhealthy and there are no basic hygiene facilities, with limited privacy or no right to privacy.
- The victim has limited freedom to move in his/her place.

Means: do you see any of the following signs?

Use of Force

- The victim presents visible injuries (cuts, mouth injury, burns etc.) that appear to be the result of the application of control measures or the result of an assault.
- The victim presents signs of anxiety or fear (sweat, difficulties answering questions directly, avoiding direct eye contact etc.).
- They allow others to speak for them when addressed directly.
- They act as if they were instructed by someone else.

Restricted Freedom

- The person works and lives in the same place.
- There exist control mechanisms in the workplace (video surveillance, inaccessible windows, locked doors etc.).
- The person is not in possession of identity papers, visa, passports or other personal belongings such as return tickets.
- The person is not in possession or does not have access to their identity documents (passport, identity card, visa, work or residency permit) or other personal goods of value (return ticket).

Isolation

- Victims may be unfamiliar with Spanish language and their rights under Spanish law.
- Victims may be distrustful of the authorities.
- Victims may be distrustful of trade unions or workers' representatives at the work place.
- Victims may only interact with closed circles in and outside the work place.
- The person does not know his or her location or address.
- The workplace is in a remote location which is difficult to reach by public or private transportation.
- The worker has limited or no access to means of communication (e.g. phone, mail, internet).
- Someone (the recruiter, the employer etc.) insists on answering questions on behalf of the person and/or on translating all conversations.
- ID documents appear false.
- Other workers are in the same situation.

Retention of documents

- The person does not possess or have access to his/her ID documents (passport, ID card, visa, work or residence permit) or other valuable personal effects (return ticket) and cannot access them on request.
- Other workers are in the same situation, with no access to their ID Documents.
- ID documents seem to be forged.

Retention of wages

- The employer cannot show an employment contract or proof that wages have been paid, or employment documents and wage records have been altered.
- Payments are irregular and/or frequently delayed.
- The person does not understand how wages or deductions are calculated or know how much he/she is earning.

Deception

- The actual terms and conditions of work differ from those that were promised verbally.
- The person signed a new employment contract upon arrival at work.

Abuse of vulnerability

- The person is in an irregular administrative situation and does not hold residence or work permits.
- The person belongs to a group that has been discriminated against or does not have equal rights in society (e.g. based on sex, origin etc.).
- The victim has limited education and/or is illiterate or does not speak Spanish.
- The victim is in a situation where he/she is dependent in multiple ways (e.g. reliant on the employer for accommodation, food, and relatives' jobs or other benefits).
- The victim refers to religious or cultural beliefs with fear.

Debt Bondage

- The person must pay excessive fees for recruitment, transportation, accommodation, food, tools or safety equipment that are deducted directly from the worker's wages.
- Repayment terms for wage advances are unclear or manipulated. Interest rates for wage advances are unreasonable and may exceed legal limits.

Spanish police point to the following psychological indicators that could point to a situation deserving further investigation: victims of trafficking for labour exploitation can be reluctant to talk, lie or make contradictory statements. They may suffer from psychological alterations that, depending on the circumstances, may result in disorder, stress, serious psychological disorder, anxiety, post-traumatic stress, phobias, panic attacks or depression. Indicators of these disorders range from personality disorder, addiction to drugs or alcohol, to physical symptoms such as head or stomach aches, hand shaking, confusion, loss of interest, suicidal thoughts, generalised fatigue, low self-esteem, crying, difficulty sleeping or problems eating and drinking⁵².

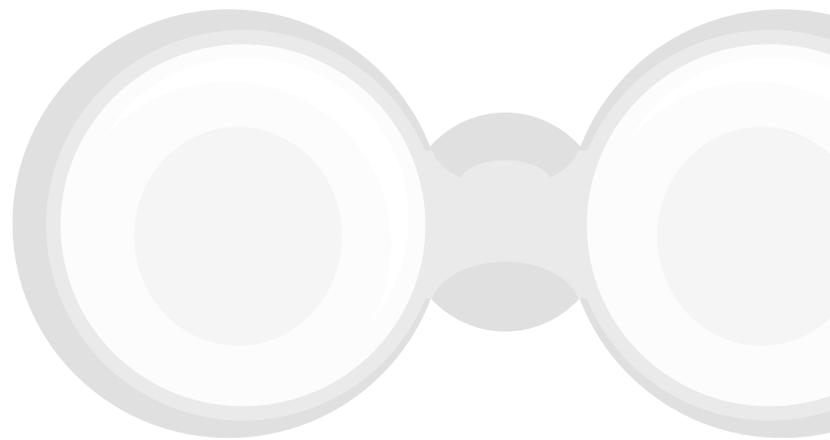
52. Policía nacional, *Trata de seres humanos*, available at https://www.policia.es/trata/trata_general.html. Accessed 6 May 2019.

APPENDIX 3

PRACTICAL STEPS FOR THE IDENTIFICATION OF VICTIMS OF FORCED LABOUR

Identification is a complex process. Some practical steps may include the following:⁵³:

- Take a people-centred approach.
- Guarantee security and basic needs, ensuring a safe situation for you and the potential victim. If not possible (for instance, because someone is threatening you), leave the place and call the police. Offer shelter, food, rest and provide for immediate needs.
- Evaluate whether the potential victim is a minor (under 18), in order to refer to the specialised authorities. Consider that the victim will probably lie about his/her age. It is key to make the victim feel safe.
- Make sure that there is mutual understanding, necessary to go beyond preliminary communication. Otherwise, find an interpreter that is acceptable for you and the potential victim. Avoid supervisors and recruiters such as group leaders who may have recruited the victim, as well as acquaintances, other workers who speak the same language or others closely linked to the victim who could be linked to the perpetrator.
- Build trust, facilitate basic information and ask for the victim's consent to initiate a conversation, reassuring them that he/she can interrupt at any time and ask questions, and that confidentiality is guaranteed. Offer support and reassurance, recognising that these individuals may be psychologically traumatised.
- The role of an employer is to observe the situation, listen, ask questions and record any concerns and information which may be useful at a later stage, should an investigation be appropriate. You should be familiar with the signs of workers who are potential victims of trafficking or forced labour abuses. If you reach the conclusion that the worker may be a victim, you should refer him/her to competent authorities or NGOs that will provide short and possible long-term assistance.



53. Herramienta práctica para la detección de víctimas de trata con fines de explotación laboral, Ut Supra

APPENDIX 4

TEMPLATE POLICY – “PREVENTING AND ADDRESSING THE RISKS OF FORCED LABOUR AND HIDDEN LABOUR EXPLOITATION”

POLICY STATEMENT

[Company] commits to developing and adopting a proactive approach to prevent, respond to and remediate the risks of forced and debt-bonded labour, human trafficking with labour exploitation purpose and hidden exploitation within its workplaces.

Modern slavery is a broad term used to encompass offences that involve one person depriving another person of their liberty, in order to exploit them for personal or commercial gain.

Forced labour is all work or service that is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.

Debt-bonded labour is where a person’s labour is demanded as a means of repayment for a loan or service.

Human Trafficking is the recruitment and transportation of persons by threat, force, coercion or other abuse of power or vulnerability to achieve the consent of a person having control over another person for the purpose of exploitation.

Hidden labour exploitation is action up to and including modern slavery that involves the exploitation of workers and job applicants by internal or external individuals without the sanction or explicit knowledge of the employer or labour provider.

SCOPE

To which site(s) does this policy apply?.

RESPONSIBILITY

Who has overall responsibility for this policy?

POLICY COMMITMENTS *(Refer to the detail in the Good Practice Implementation Checklists, Response and Remediation sections in this toolkit in developing your specific commitments)*

A) COMMITMENT to tackle forced labour risks within your business

1. Define all roles and responsibilities for tackling modern slavery risks within your business
2. Detail the training that your business undertakes to build capacity and capability to prevent and address forced labour risks.
3. Refer to the management systems your business has developed and implemented to prevent and address forced labour risks at your site including: Anti-Bribery and Corruption Policy; Responsible Recruitment Policy; Recruiter Compliance Principles; Serious Workforce Incident Procedure; Workplace Incident Investigation Checklist; Workplace Critical Issues Report; Worker Questionnaire; Worker interview questions and others as required.

B) ASSESSMENT of forced labour risks within your business

1. Outline your methodology and process to map, understand and prioritise forced labour risks within your business with regards to direct workers, agency workers and on-site contractors.

C) ACTION to prevent and deal with identified risks of forced labour within your business

1. Outline your actions to ensure ongoing Workforce Awareness Raising and Engagement to prevent and deal with identified risks of forced labour.
2. Outline your actions to ensure ongoing Supervisor/Team Leader/Support Staff Engagement to prevent and deal with identified risks of forced labour.
3. Outline your good practice in the recruitment of directly employed workers to prevent risks of forced labour.
4. Outline how you proactively analyse worker records for forced labour "Alert Flags".
5. Outline your good practice in your engagement with labour providers with regards to the recruitment and use of agency workers on your site to prevent risks of forced labour.
6. Outline your good practice in your engagement with contracting companies with regards to the recruitment and use of contractors on your site to prevent risks of forced labour.
7. Outline the systems your site has in place to effectively enable reporting of potential indicators of Forced labour.

D) RESPOND to protect and provide remedy for victims of forced labour within your business

1. Refer to your "Response Plan" that details how your business will ensure that it responds effectively to potential indicators of forced labour to safeguard and provide appropriate support to victims.
2. Refer to your "Remediation Policy" that details how your business will enable victims to receive relevant information, access to justice and reparation for harm suffered with the objective of restoring individuals to the situation they would have been in had the impact not occurred.

E) MONITOR progress to prevent, respond to and remediate the risks of forced labour within your business

1. Outline your processes to monitor the progress made to prevent, respond to and remediate the risks of forced labour within your business with regards to direct workers, agency workers and on-site contractors.
2. Specify your process for ongoing continuous improvement and to formally review all procedures and arrangements at least on an annual basis.

F) COMMUNICATE the steps that you have implemented to prevent, respond to and remediate the risks of forced labour within your business

1. Detail how your business communicates its efforts to prevent, respond to and remediate forced labour risks and the effectiveness of these to relevant stakeholders.
2. Where your business produces a forced labour statement, detail your commitment to be open and transparent and to report in line with recognised good practice.

APPENDIX 5

TEMPLATE RECRUITER AND LABOUR PROVIDER COMPLIANCE PRINCIPLES

N.B. This is a template to be modified as required. This document is for use by labour providers and employers for each recruiting individual to sign before interviewing any applicants and to be stored in personnel files.

Recruiter Name: **Location:**

I confirm that I will:

1. Only interview applicants in an approved location.s.
2. Not allow job applicants to complete registration documents on behalf of others.
3. Not accept money, favours or any gifts at all from job applicants or workers.
4. Not loan any personal money to temporary workers.
5. Notify a manager when informed by a job applicant or worker that they have paid money to be introduced to the Company.
6. Not allow unauthorised agents or individuals to introduce job applicants to the Company, including friends, family or "local contacts" to source workers to satisfy urgent demand.
7. Notify a manager when suspecting an individual of introducing job applicants to the Company for personal gain.
8. Not act as a landlord or be in involved in the provision of accommodation, transport or other paid-for services to workers.
9. Not allow anyone other than a person authorised by management to choose which workers are selected for work shifts.
10. Not force or coerce temporary workers to work against their will.
11. Not threaten or subject workers to physical or mental mistreatment.
12. Treat applicants and workers with dignity and respect.
13. Raise any knowledge or suspicions of illegal or dubious activities regarding agents, temporary workers or colleagues to a manager immediately.

I confirm that I understand and will comply with the above principles.

Recruiter's Signature: **Date:**

I have checked and confirm that the Recruiter understands the above principles

Manager's Signature: **Date:**

Manager's Name: **Date:**

APPENDIX 6

WORKPLACE INCIDENT INVESTIGATION CHECKLIST

Investigator Name: Job Title:

Investigation Title:

Investigation Description:

ACTIONS	✓	INITIALS
Prior to commencement of investigation		
1 The investigating manager confirms that s/he has the knowledge and skills required to carry out the investigation in a timely, professional and unbiased manner.		
2 Appropriate business policies and procedures e.g. Health and Safety, Responsible Recruitment, Disciplinary, Grievance, Staff Handbooks etc. have been reviewed to determine whether they offer guidance or direction to the investigation. Consult with HR specialist if required.		
3 Identify what evidence might need to be gathered and how to get it, e.g. CCTV footage or recordings, emails or other documents and witness statements.		
4 Identify the "Deciding Manager" who will receive the Investigation Report and who will determine the outcome and remediation based upon the findings.		
5 Identify all witnesses and others (such as technical experts, NGOs and union staff who are not directly involved but can add insights) who will need to be interviewed and in which order, and prepare an outline of questions to ask each individual.		
6 Map out a timetable for the investigation and report writing to ensure that the process is conducted in a timely manner that best serves the particular circumstances of the matter.		
7 If a worker is under investigation, inform them of the issue they are under investigation for, the date on which the investigatory meeting will take place, their right to be accompanied and ensure that they have a copy of the relevant procedures.		
Handling an investigation meeting		
8 Arrange interpretation to support communication, where necessary. Any interpreter should have the knowledge and skills and/or have received training to provide accurate interpretation (relay only what has been said by each party) and remain independent (in no way influence the conversation).		
9 Invite HR/staff member, or other manager to the meeting to take notes and assist with investigation.		
10 Prepare a set of questions based on evidence and information available.		
11 Interview individuals in a location free from interruptions, e.g. phone calls, where the interview will be kept confidential and where individuals feel comfortable.		
12 Introduce those present and outline their roles.		

- 13 Inform the interviewee of the incident under investigation for which the investigation is necessary.
- 14 Confirm that copies of the statement and/or notes will be issued to the other parties involved in the case.
- 15 Where appropriate, offer the witness the opportunity to write a statement of events (or write on their behalf). Ensure completion is in ink, that amendments are initialled (do not use correction fluid), draw a line through unused parts of the form and ensure that each page is signed and dated.
- 16 Where a statement of events is not appropriate, conduct the meeting asking relevant questions and noting answers.
- 17 If necessary, adjourn the meeting. Review the evidence highlighting any issues that are vague or incomplete. Update the prepared list of questions and reconvene the meeting. Repeat this step until you are satisfied that you have all the relevant information from the interviewee.
- 18 Ask any final questions and allow the interviewee to add any other comments to the investigation.
- 19 Summarise the discussion, gain agreement to this and conclude the investigation meeting.
- 20 Prepare the witness statement/notes and ensure that they are read and signed by the interviewee to signify that they are accurate. Ensure that the interviewee has a copy.

Concluding the Investigation

- 21 Collect and review witness statements and interview records.
- 22 Collect and review any relevant written records and documents, e.g. timesheets, meeting notes, maintenance records, accident reports.
- 23 Collect and review any relevant and lawfully gained physical evidence such as CCTV, telephone and transport records or results of searches.
- 24 Consider what the evidence reveals. Determine whether there is a need to gather further evidence, conduct additional interviews or whether the investigation can be concluded.

Writing an investigation report

- 25 Determine whether the report is to be written only to present the investigation evidence and findings or whether it will also include recommendation on proposed outcomes, actions and remediation.
- 26 Collate all the evidence collected into a structured report. Findings and conclusions should be evidence-based and balanced, showing all sides of the arguments.
- 27 Recommendations should be proportionate and consistent and in accordance with the established procedures. Specify in making decisions based on evidence whether the burden of proof is "on the balance of probabilities" or "beyond reasonable doubt". Explain how the evidence leads to the recommendations and any mitigating circumstances that have been taken into account.
- 28 Decide on your recommendation (action) based upon the evidence. This could be no action necessary, changes to policies or procedure, staff training (or retraining), communication (or re communication) of requirements, further investigation, disciplinary action. Decide on your remediation (i.e. putting right the wrongs for any victims or individuals adversely affected) such as an apology or compensation. Determine actions to prevent a reoccurrence.

Acting on the investigation report

- 29 On receiving and reviewing the Investigation Report, the Deciding Manager will decide whether to accept the report, to ask further questions of the Investigating Manager, to require the Investigating Manager to conduct further interviews and evidence collection and submit the additional findings or to reject the Investigation Report and require a new Investigating Officer to be appointed to conduct a fresh investigation.

30	Having accepted the Investigation Report as concluded, the Deciding Manager will decide whether to accept the recommendations (action), the remediation and actions to prevent a reoccurrence or to modify or add to them.		
31	The Deciding Manager will inform all relevant parties of the recommendations (action), the remediation and actions to prevent a reoccurrence.		
32	On request, the Investigation Report and all evidence should be made available to the complainants who may determine that they wish to appeal the decision or propose additional or alternative actions, remediation and steps to prevent a reoccurrence.		
33	If appealed, the appellant should be given opportunity to present their case to a new and unbiased Deciding Manager. The new Deciding Manager will determine whether further investigation, interviews and evidence gathering are required. The new Deciding Manager will decide whether to uphold the original decision and recommendations (action) or the remediation and actions to prevent a reoccurrence or to reverse them, modify or add to them. The new Deciding Manager will inform all relevant parties as required.		
34	Internal procedures will determine whether there is a further right of appeal.		

INVESTIGATION STATEMENT/NOTES FORM

DESCRIPTION OF CASE UNDER INVESTIGATION:			
INTERVIEWEE'S NAME:	INCIDENT DATE AND TIME:	MEETING DATE:	MEETING TIME:
OTHERS PRESENT AT THE MEETING:			

If making a statement of events, please relate the incident step by step and state in your own words what happened and what you saw and heard, including names of any people who were there. Include dates and times.

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APPENDIX 7

WORKPLACE CRITICAL ISSUES REPORT

FOR INDICATORS OF POTENTIAL FORCED LABOUR, HIDDEN EXPLOITATION/ MISTREATMENT AND SUSPICIOUS TRADING ACTIVITY

This form is a summary record for when it is suspected that an applicant or job holder is a victim of trafficking, forced labour or other third-party work-related exploitation. Any notes made will supplement this record.

Business Name: **Site name (if different):**

Organisation owner: **Address:**

Auditor Name: **Organisation**

Mobile No: **Email:**

INDICATORS OF POTENTIAL FORCED LABOUR	EVIDENCE	NO EVIDENCE	DETAILS/REFERENCE
Debt Bondage/Recruitment			
Worker(s) was deceived about the nature of the job, location or employer	<input type="checkbox"/>	<input type="checkbox"/>	
Worker(s) has paid someone during recruitment for the job or work	<input type="checkbox"/>	<input type="checkbox"/>	
Worker(s) cannot leave the job without repaying money owed, or other penalty	<input type="checkbox"/>	<input type="checkbox"/>	
Worker(s) is controlled by a landlord, or cannot leave accommodation due to financial or other penalty	<input type="checkbox"/>	<input type="checkbox"/>	
Control			
Another person is in control of worker(s) passport/ID/personal documents	<input type="checkbox"/>	<input type="checkbox"/>	
Another person is in control of worker(s) bank account	<input type="checkbox"/>	<input type="checkbox"/>	
Another person is in control of worker(s) mobile phone	<input type="checkbox"/>	<input type="checkbox"/>	
Worker(s) acts as if, or states that they are, instructed or controlled by another	<input type="checkbox"/>	<input type="checkbox"/>	
An individual is talking/acting on worker's(s') behalf in a way to cause concern	<input type="checkbox"/>	<input type="checkbox"/>	
Reports/evidence that worker(s) colludes in benefit fraud to supplement wages	<input type="checkbox"/>	<input type="checkbox"/>	

Isolation			
Worker(s) movement during or at end of shift is restricted/controlled	<input type="checkbox"/>	<input type="checkbox"/>	
Worker(s) cannot leave their accommodation of their own free will	<input type="checkbox"/>	<input type="checkbox"/>	
Worker(s) does not possess their own accommodation keys	<input type="checkbox"/>	<input type="checkbox"/>	
Worker(s) is not in control of their own travel to work arrangements	<input type="checkbox"/>	<input type="checkbox"/>	
Worker(s) is unable to speak to family/friends	<input type="checkbox"/>	<input type="checkbox"/>	

Physical signs of violence/intimidation			
Worker(s) reports actual or threats of physical/psychological/sexual violence or intimidation	<input type="checkbox"/>	<input type="checkbox"/>	
There are visible physical expressions of psychological trauma, fear or anxiety	<input type="checkbox"/>	<input type="checkbox"/>	
Worker(s) reports actual violence or threats made to family/friends/others	<input type="checkbox"/>	<input type="checkbox"/>	
Visible injuries potentially as a result of assault or controlling measures	<input type="checkbox"/>	<input type="checkbox"/>	
Worker(s) appears malnourished, dishevelled, dirty, unsuitably clothed	<input type="checkbox"/>	<input type="checkbox"/>	

Excessive Working			
Worker(s) reports that they are expected, coerced or forced to work excessive hours/overtime/days off against wishes	<input type="checkbox"/>	<input type="checkbox"/>	
Worker(s) reports that they are threatened, bullied or coerced to do unreasonable work against their wishes	<input type="checkbox"/>	<input type="checkbox"/>	

Personal Records			
Bank accounts identify that unrelated workers paid into one account	<input type="checkbox"/>	<input type="checkbox"/>	
High occupancy addresses or common workers' landlord; shared or sequential mobile phones; same next of kin/emergency contact numbers; same place of origin/location in home country; other concerning recruitment/employment data	<input type="checkbox"/>	<input type="checkbox"/>	

INDICATORS OF WORKPLACE EXPLOITATION/MISTREATMENT	EVIDENCE	NO EVIDENCE	DETAILS/REFERENCE
Worker(s) reports other criminal human rights violations (e.g. sexual assault or exploitation, workplace bribery, hate crime)	<input type="checkbox"/>	<input type="checkbox"/>	
Workers are paid by cash rather than into a bank account	<input type="checkbox"/>	<input type="checkbox"/>	
There is no clear time worked recording system and/or pay calculation	<input type="checkbox"/>	<input type="checkbox"/>	
There is insufficient evidence that the national minimum wage is paid	<input type="checkbox"/>	<input type="checkbox"/>	
Evidence of use of worker(s) without legal authority to work in Spain	<input type="checkbox"/>	<input type="checkbox"/>	
Evidence of child work and/or child labour	<input type="checkbox"/>	<input type="checkbox"/>	
Access to remedy notices are removed/workers instructed not to inform	<input type="checkbox"/>	<input type="checkbox"/>	
Evidence or indicators of systemic non-payment of holiday pay	<input type="checkbox"/>	<input type="checkbox"/>	
Evidence or indicators of systemic non-payment of statutory benefits	<input type="checkbox"/>	<input type="checkbox"/>	

INDICATORS OF CRIMINAL/SUSPICIOUS TRADING ACTIVITY	EVIDENCE	NO EVIDENCE	DETAILS/REFERENCE
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Evidence that work is deceptively subcontracted	<input type="checkbox"/>	<input type="checkbox"/>	
Suspicious activity related to Company Directors	<input type="checkbox"/>	<input type="checkbox"/>	
Suspicious activity related to Company's trading history	<input type="checkbox"/>	<input type="checkbox"/>	
Suspicious activity related to payment/reporting of taxes (employee and VAT)	<input type="checkbox"/>	<input type="checkbox"/>	

Additional details regarding Potential Critical Issues

Supporting information providing background on how the information was gathered:

Where a worker(s) has reported issues, have they consented to provide you with their contact details?
 Yes No

If yes, have they consented for their details to be shared with the retailers sourcing from the site?
 Yes No If Yes, complete the following details:

Contact name:

Safe contact details – Personal mobile number: Personal email:

Spanish current address

Please detail the safe means of contacting the individual:

Nationality: Spanish spoken: Good / Basic / Minimal / None

Interpreter needed: Yes No If Yes, details of individual/service used

ACTION TAKEN BY AUDITOR

Advice given to any worker(s) reporting issues (e.g. Police, Guardia civil, immigrants' support organisations):

Authority/Body informed: Yes <input type="checkbox"/> No <input type="checkbox"/>	Date	Time	Ref.
By who:			
National or local Police (062 or trata@policia.es)			
Guardia Civil (900105090 or trata@guardiacivil.es)			
Auditor : Signature:	Name:		

RESPONSE DECISION AND ACTION (TO BE COMPLETED BY THE BRAND)

Monitoring and evaluation of correction plans and repetition of the audit

Details:

Call business owner to formal meeting

Detalles:

Recommend ending supply relationship

Detalles:

Notify Police/Guardia Civil

Detalles:

Decision/Rationale/Other Actions/Comments:

Internal Notification Dates:

Fechas:

Media Team

Buyers

Legal

Authorising Manager Name

Job title:

Signature:

APPENDIX 8

TEMPLATE WORKER QUESTIONNAIRE

[This is a sample questionnaire for modification as required to be issued confidentially and with the option to respond anonymously by workers]

We want you to have a positive experience working with us. We do not want you to feel harassed, discriminated against, bullied or coerced. At no time should you be asked for gifts or money for work with us.

This confidential questionnaire will help us to monitor your experience and take action where necessary. You may complete the questionnaire anonymously or you can enter your personal details, this is your choice. You should return the questionnaire in the stamped addressed envelope provided. Any matters raised will be dealt with confidentially.

Your name (optional): Your place of work (optional):

Your telephone no. (optional): Your email (optional): :

RECRUITMENT	YES/NO	COMMENTS
Did you have to pay anyone in the labour provider to get a job?		
Did you have to pay anyone at the sites you work at to get a job?		
Did you have to pay anyone else to help you get a job with the labour provider?		
Do you have to pay anyone in the labour provider to get regular work?		
Do you have to pay anyone at the sites where you work to get regular work?		
Do you have to pay anyone else to get regular work?		
Are you required to occupy, or pay for, specific accommodation, in order to get regular work?		
Are you required to pay for any other services or provide favours in order to get work or access to particular shifts?		
Have your original ID papers (e.g. passport, visa or travel documents) been withheld by anyone in the labour provider?		
Do you feel that you can leave the labour provider of your own free will without suffering any penalty or detriment?		

TREATMENT AT WORK	YES/NO	COMMENTS
Have you been subject to verbal or physical abuse by anyone in the labour provider? By this we mean things like being shouted or sworn at, being pushed, kicked or having things thrown at you?		
Have you been bullied or harassed by anyone in the labour provider?		
Have you been subject to verbal or physical abuse, threats, sexual or other harassment by anyone at the sites where you work?		

Have you been treated unfairly because of your race, colour, religion, nationality, sex, pregnancy, disability or age?		
Have you been bullied by anyone at the sites where you work?		
Has anyone in the labour provider threatened you? For example limiting the amount of work they give you or not offering you any more work?		
Have you ever been forced to work long hours, overtime or on any days when you didn't want to by anyone in the labour provider?		
Have you ever been forced to work long hours, overtime or on any days when you didn't want to by the sites where you work?		
Have you ever been forced to work when you didn't want to by anyone in the labour provider?		
Do you feel free to refuse overtime?		
Are you able to take the legal minimum rest between shifts if you wish to?		
Are you able to take the legal minimum rest days if you wish to?		
Are you able to book and take holidays in accordance with any reasonable rules in place?		
Have you been asked to undertake hazardous work, or other work, without appropriate safety training or equipment? (e.g. handling pesticides and other hazardous substances without proper clothing and personal protective equipment (PPE) or working while fumigating), or without the necessary training ?		
Have you been prevented from joining a trade union or been penalised for doing so?		
¿Le han impedido unirse a un sindicato o le han penalizado por hacerlo o por querer desempeñar funciones sindicales en la empresa?		

PAY	YES/NO	COMMENTS
Do you owe money to anyone in the labour provider such that you feel you cannot leave of your own free will?		
Has anyone in the labour provider loaned you money that you have to repay?		
Has anyone in our client loaned you money that you have to repay?		
Have you been withheld pay for work you have performed (e.g. at the end of the season or when product is sold)?		
Are you paid correctly for the hours you work, including the social security according to the law?		
Are you paid correctly the holidays according to the CBA?		
Have you had any money unfairly deducted from your wages?		
Are you free to open and be paid into the bank account of your choice?		
Are you in control of your own bank account and able to deposit and take out money as you wish?		

ACCOMMODATION AND TRAVEL	YES/NO	COMMENTS
Do you rent your accommodation from anyone who works for or who is linked to the labour provider? If so, are you asked to do additional work in exchange for accommodation?		
Do you rent your accommodation from anyone who works for or who is linked to our client? If so, do you understand and consider that in compliance to the CBA?		
Are you threatened by your landlord for unpaid rent?		
Is your accommodation safe and well maintained? Do you share the accommodation with other workers? If so, do all of you come from the same town or region? Is there enough space for all? Do all of you work for the same labour provider or the same agent?		
Are you or have you been threatened with immediate eviction?		
Can you leave your accommodation if you wish with reasonable notice and no financial penalty?		
Are you free and able to return home to your country of origin when you wish?		
Are you free to buy and prepare food of your choice?		
Are you free to travel to and from work using the transport method of your choice?		
¿Es libre de, y puede efectivamente, ir hacia y desde el trabajo utilizando el método de transporte que elija?		

RAISING PROBLEMS	YES/NO	COMMENTS
Would you raise a complaint to the labour provider? If not, why?		
Do you feel your complaints are dealt with properly?		
Do you know how to raise a confidential complaint? Have you raised a complaint in the past?		

Most complaints can be resolved verbally with your [Employer/the labour provider] Representative. If your complaint has not been resolved to your satisfaction, then put it in writing to your Contract Manager. If you are still not satisfied or your matter is sensitive or confidential, contact the [Employer/the labour provider]

Helpline on:

by emailing

or by writing to [Employer/the labour provider] Helpline at

APPENDIX 9

SAMPLE WORKER INTERVIEW QUESTIONS

[Below is a range of sample questions as a basis for use by the investigating manager in face-to-face interviews with workers]

RECRUITMENT

- How well do you speak Spanish?
- What agencies/employers do you work for?
- How did you find out about the work?
- Were you promised a job?
- How was the job described to you?
- Was the job how it turned out to be, e.g. pay rate, number of hours?
- Did you have to pay a fee for the job?
- What have you paid to get this job?
- Did you have to pay any money for other services such as translation or travel?
- How did you travel to Spain?
- Who arranged and paid for the travel?
- How much did the journey cost?
- Where in Spain did you travel to?
- Who met you?
- Where were you taken?
- Where is your ID?
- Is your ID usually held by someone else? Who?

PAY

- Do you owe anyone any money? (If the answer is yes then ask who and how much and what they have to pay back and how)
- Does anyone owe you any money?
- How much were you paid last week? How many hours had you worked?
- Was the pay correct? (working hours, salary based on CBA and Social Security)
- Do you receive a payslip? If the answer is yes, is it clear and do you understand it?
- What deductions are made from your wages?
- Have you been withheld pay for work you have performed?
- Have you had any money unfairly deducted from your wages? If the answer is yes, what kind of deductions are those? Are those based on the CBA? Do you understand the breakdown of those deductions?
- Do you receive the salary directly from the business you work for or from the labour provider who helped you to get the job?
- Are you free to open and be paid into the bank account of your choice?
- How many bank accounts have you opened?
- What are the names of the banks?
- Have you got the bank card and PIN? (If the answer is no, ask where they are)

When you opened that bank account, who went with you?

Who told you to go to this bank (or these banks)?

Examine the bank card if in possession (is the PIN written on the rear? If it is, it may be an indication of forced labour so ask the question: What is this number on the rear of the card?)

Does anyone else use your bank account?

TREATMENT AT WORK

Since you have been working here, how have you been treated?

What do you like about working for the labour provider/labour user?

What do you not like about working for the labour provider/labour user?

Have you been subject to verbal or physical abuse by anyone in the labour provider/labour user? By this we mean things like being shouted or sworn at, being pushed, kicked or having things thrown at you.

What hours do you normally work?

How are the hours allocated amongst workers?

How are the hours allocated amongst female workers?

Are you happy with the hours that you are asked to work?

If you didn't want to work the hours allocated, what would happen?

Have you ever been forced to work long hours, overtime or on any days when you didn't want to by anyone in the labour provider/labour user?

What breaks do you take when you are working?

How many days do you have off each week?

How do you book holiday leave?

Have you taken any holiday?

Were you paid?

Have you taken any sick leave?

If you had to take sick leave would you be paid?

What training was provided?

Did you have to take a test after the training?

What help was given to you during the test?

What risks are there in your work?

Have you been provided with PPE? (May need explaining)

How much did this cost you?

If you lose the equipment or damage it, what will happen?

Do you know what a trade union is? Do you know who the representatives of the company are and how they can help?

Have you been prevented from joining a trade union or been penalised for doing so?

ACCOMMODATION AND FOOD

What address did you provide to the agency?

How did you find your accommodation?

Who is the landlord?

How much rent do you pay?

What happens if you can't pay the rent?

Who collects the money?

If you wanted to leave the house, can you?

How many people live in the house?

- How many people share your room?
- Are the other people related to you?
- Which family members are you here with?
- Do you have a written agreement with the landlord?
- If you wanted to leave the house, what notice do you have to give to the landlord?
- Do you rent your accommodation from anyone who works for or who is linked to the labour provider/labour user?
- If you left the house, would you lose your job?
- If you left your job, would you have to leave the house?
- What is the condition of the house like?
- Is your accommodation safe and well maintained?
- How many smoke alarms are in the house?
- Does the heating work?
- How many bathrooms are there?
- What is the condition of the house like?
- What are the rules of the house?
- Are you threatened by your landlord for unpaid rent?
- Are you or have you been threatened with immediate eviction?
- Are you free to buy and prepare food of your choice?
- Who provides your food?
- If provided with food, ask: What did you eat yesterday? Is this normally what you would eat?
- If purchase own food: Where do you shop for food?
- Do you have enough money to buy food? (If the answer is no, explore what they do for food – some may go into drop-in centres)
- Do you have enough money for other expenses like transport, basic services like personal cleaning products, minutes to call family or to send money abroad?
- If the answer is no, explore how they pay for medical services. If money is sent abroad, who do they borrow money from?

TRAVEL

- Are you free and able to return home to your country of origin when you wish?
- Have you been in contact with your friends and family since you came to Spain?
- When was the last time you spoke with them?
- Are you free to travel to and from work using the transport method of your choice?
- How do you travel to work?
- How much does this cost you?
- Do you have to use this transport? (If answer is yes, ask why)

RAISING PROBLEMS

- If there was a problem at work, what would you do about it?
- Do you feel your complaints are dealt with properly?
- Have you made any complaints about work? If yes ask: How did you feel about the way it was dealt with?
- How have you been treated since making the complaint?
- If you wanted to report an issue but did not want anyone to know it was you reporting, how would you report it?

APPENDIX 10

REMEDATION RECORD

CASE INFORMATION	CASE-SPECIFIC RESPONSE
: Location of abuse	
: Date/s of abuse	
: Nature of human rights abuse	
: Individuals or organisations responsible for human rights abuses	
: Investigation undertaken into the violations	
: Date/s of investigation	
: Findings of investigation	
PROCESS	
: Remediation Policy and Procedure used	
: Involvement of suppliers in remedy	
: Involvement of local groups/NGOs/charities in remedy	
: Involvement of victim's family in remedy	
: Involvement of local or national government in remedy	
REMEDATION OFFERED	
: Access to justice offered to victim of abuse	
: Remedy requested by victim of abuse	
: Proposed remedy offered to victim of abuse	
: Actual remedial steps implemented	
: Steps taken to rehabilitate the victim	
: Steps taken to compensate the victim for the abuses that took place	
: Steps taken to satisfy the victim that the abuses will not reoccur	
: Steps taken to restore the victim to their original situation before the abuses took place	
: Timeframe for remedy	
: Other comments	

APPENDIX 11

STRAIGHTFORWARD GUIDANCE FOR SMALLER AGRICULTURAL BUSINESSES ON PREVENTING FORCED LABOUR

More and more cases of human trafficking and hidden labour exploitation are being discovered in Spain, including in the agricultural sector. The increasing number of immigrants, together with the invisibility of these situations and other factors such as the action of criminal organisations, make the risk of situations of hidden exploitation (also called forced labour or modern slavery) real, and may exist on farms and warehouses.

However, despite being a common risk in agricultural supply chains, it is rarely detected by audits or other instruments of social control. It is not easy to detect these situations and your company may be at risk of contributing to them. You can protect your company by adhering to the following simple and clear steps, which will also help you understand the possible contexts in which forced labour may appear:

- **Ensure your workers did not have to pay to get work**
Workers may have been forced to pay to secure a job at your site. This is against the law. Agency and job-finding fees are a business cost and should not be inflicted onto workers. This situation is more likely with informal agents who recruit or bring family, friends, acquaintances from their country etc.
- **Ensure workers are not abused and are treated well**
Keep a close eye on behaviour - ensure that workers are free from intimidation from supervisors, other workers or suspicious individuals who may deliver and take them home. Ask workers how they are being treated.
- **Make sure the wages you pay go to the workers**
Avoid cash in hand and cheque arrangements. Ask your agency why, if they will not pay into bank accounts. Be aware that workers may be forced into debt and have bank accounts controlled by exploiters. Ask some of the workers whether they know of this happening on your site.
- **Ask if the workers are free to leave of their own free will**
Is there any penalty for leaving? Have they had passports/ID taken away from them?
- **Ask about their accommodation and travel**
Is it safe and clean? Are they threatened with immediate eviction or for unpaid rent? Are they free to travel to work by their own means? Workers should have accommodation and rental agreements that meet legal standards. They should be free to travel and eat how they wish.
- **If you are in food or agriculture, ensure that anyone supplying you with permanent or temporary labour, even if just for a day, is licensed and complies with the legal conditions established for labour providers.**

For access to a range of free guidance, including toolkits, a video for workers on avoiding forced labour, workplace posters, induction materials and details of workshops, visit www.stronger2gether.org.

If you have any suspicions about potential human trafficking, forced labour or any other hidden labour exploitation, please call the Spanish toll-free lines (062 or 900105090) or send an email (trata@guardiacivil.es and trata@policia.es), or communicate your suspicions to the Central Unit of Illegal Immigration Networks.

APPENDIX 12

BUSINESSES GOOD PRACTICE IMPLEMENTATION CHECKLIST

N.B. Download this checklist as an interactive PDF form at www.stronger2gether.org/resources/

This checklist outlines the key due diligence steps for labour providers to put in place in their business to better prevent, detect and respond to potential cases of forced labour. It serves as a gap analysis checklist for labour providers to assess how prepared they are, and as an action plan for steps still required to be put in place.

Company Name: Site:

Completer Name: Email: Date:

SCORING SYSTEM

0	if not implemented/don't know	1	if partially implemented
2	if fully implemented	N/A	if not applicable

A. COMMIT TO TACKLE FORCED LABOUR RISKS IN YOUR BUSINESS		SCORE
Team appointment and role definition		
1	Has a member of the most senior management team within your business been made explicitly accountable for ensuring that ethical labour standards are applied and for protecting the human rights of direct and agency workers including for preventing and addressing forced labour risks?	
2	Has a senior manager been appointed as the Forced Labour Lead to lead the implementation of operational due diligence steps to reduce and address the risks of forced labour throughout your business?	
3	Has a multi-departmental team been appointed to co-ordinate and oversee the implementation of operational due diligence steps to reduce and address the risks of forced labour throughout your business?	
4	Have managers been appointed to lead the implementation of operational due diligence steps to reduce and address the risks of forced labour at each branch and site where agency workers are deployed?	
5	Has a Workforce Incident Management Team been appointed that is ready to respond to serious workforce issues during any hours agency workers are deployed?	
6	Have the individual roles and responsibilities in reducing and addressing the risks of forced labour (of HR and payroll team, Department/Functional Heads, Workforce Incident Management Team members, Workplace Incident Investigating Managers, Trades Union/Employee Reps and Welfare Officers) been explicitly defined and communicated to them?	
7	Have the roles and responsibilities of recruiters and consultants in spotting the signs of potential hidden worker exploitation and how to handle and report suspected cases been explicitly defined and communicated to them?	

Training to build capacity and capability to prevent and address forced labour		SCORE
8	Has your senior management team attended an awareness session to enable them to understand their accountabilities for preventing and addressing forced labour risks to direct and agency workers?	
9	Has each labour provider-appointed operational Site Lead and branch/site management team attended appropriate training to be competent and capable of implementing steps to reduce and address the risks of forced labour?	
10	Have the HR and payroll team, Department Heads, Workforce Incident Management Team members, Trade Union/Employee Reps and Welfare Officers received appropriate training to enable them to understand and properly fulfil their roles to reduce and address the risks of forced labour?	
11	Have Investigating Managers responsible for investigating serious workforce incidents received appropriate procedural and investigative interviewing skills training to support them to conduct such interviews professionally and in line with natural justice and to be alert to indicators of forced labour?	
12	Have recruiters and consultants, who may be immediately faced with potential victims of forced labour, received appropriate training so that they are clear how to spot the signs of potential forced labour, how to immediately handle and properly report suspected cases and how to adopt a "People Centred Safeguarding" approach when faced with serious workforce issues or potential indicators of hidden worker exploitation?	
Establishing Management Systems to prevent and address forced labour risks		SCORE
13	Does your business have an overarching written, complete, agreed and published "Preventing and Addressing the Risks of Forced Labour, and Hidden Exploitation" policy and procedure (see Appendix 4)?	
14	Does your business have an overarching written, complete, agreed and published Code of Practice for the Responsible Sourcing and Supply of Workers (see Responsible Recruitment Toolkit)?	
15	Can your business demonstrate that its anti-bribery and corruption policies are agreed, applied and complied with?	
16	Can your business demonstrate that it has issued its managers, supervisors and recruiters with written notification that accepting bribes or inducements to recruit or favour workers or to commit any form of physical or mental worker mistreatment, coercion, bullying or harassment is prohibited and will be investigated as a potential gross misconduct offence ?	
17	Has your business agreed with your clients the appropriate documentation that will apply to agency workers, including Contractual Terms of Business Social Security worker subscription (e.g. TC1, TC2, TA2)?	
18	Can your business demonstrate to clients that it applies appropriate due diligence, including where appropriate audit and certification, consultancy with third parties like NGOs or trade unions?	
19	Does your business charge clients a sufficient rate to cover statutory wage factors, overhead costs, account servicing costs plus a sustainable net margin that allows your business to meet its obligations with regards to achieving ethical labour standards practices and for reducing and addressing forced labour and hidden worker exploitation risks?	
20	Has your business developed and implemented a Serious Workforce Incident Procedure to ensure proper handling of serious issues at work such as violence, abusive behaviour, bullying, bribery, corruption, discrimination, harassment, victimisation etc., and has this been extended to include identifying potential indicators of forced labour?	
21	Does your business have in place a Serious Workforce Incident Response Team with trained Investigating Managers able to respond to such issues during all hours that agency workers are deployed?	
22	Do Investigating Managers conduct workforce investigations using an Investigation Checklist, use the sample Stronger Together Worker Interview Questions to guide their actions and understand and adopt good practice in recording and protecting evidence? Are these built into your procedures and are relevant managers trained and required to use them?	

23	Does your business have in place an established system to be able to rapidly undertake background worker HR and payroll records analysis checks when faced with serious workforce issues or potential indicators of forced labour?	
24	Has your business adapted the Stronger Together Template Worker Questionnaire (Appendix 8) to its own needs and developed a procedure for how and when it may be appropriate to use it?	
25	Does your business have in place a "Workplace Critical Issues Report" that it assesses against when faced with serious workforce issues or potential indicators of hidden worker exploitation?	
26	Does your business have in place a process for using trusted translators, a telephone translating line or digital translation devices for when it is necessary, without notice, to have conversations with workers who speak little Spanish?	
27	Has your business developed its "Response Plan" which details how managers and consultants will respond immediately on being alerted to potential indicators that an individual or group of workers may be subject to hidden labour exploitation?	
28	Does your business: have established relationships with the Guardia Civil, Police; know which forced labour charities, victim support organisations (e.g. Cruz Roja, Cepaim or Red Acoge) are in your area; understand their role with regards to victim protection and support and how you will interact with these should you uncover suspected hidden labour exploitation or forced labour?	

B. ASSESS -UNDERSTAND FORCED LABOUR RISKS WITHIN YOUR BUSINESS – MAP AND PRIORITISE RISKS

SCORE

29	Has your business listed all the offices, branches, on-site operations and client sites to which agency workers are deployed?	
30	For each of these sites, have you mapped and identified the risks in your labour recruitment process? How are workers sourced? Are second-tier labour providers used? Are labour sourcing agents used? Do other workers introduce job applicants? How safe are these processes? Where are the risks?	
31	Does your business use any contracting companies e.g. construction, transport, catering, cleaning, security, facilities or waste processing? Have you identified the types of workers that these businesses engage and place onto your sites? How are workers sourced? Where are the risks? Have you got the organisational details and key management contacts for each of these?	
32	If your business uses second-tier labour providers or labour sourcing agents, have you listed the names, organisational details and key management contacts of all of these businesses? Have you categorised these by risk depending on the types and vulnerabilities of workers supplied?	

C. ACT – TAKE ACTION TO PREVENT AND DEAL WITH IDENTIFIED RISKS

ACT - ongoing workforce awareness raising and engagement

SCORE

33	Has your business issued all current agency workers with a "Stronger Together" multi-language leaflet to raise awareness of how to recognise and report hidden exploitation?	
34	Does your business display the "Stronger Together" posters on noticeboards and other places where they may be viewed by all agency workers?	
35	Is induction training for new agency workers paid, and does it include a section on how to recognise and report indicators of forced labour and hidden worker exploitation?	
36	Have all existing agency workers been trained on how to recognise and report indicators of forced labour and hidden worker exploitation?	
37	Does your business issue occasional confidential questionnaires to a sample of its agency workers through a variety of means (i.e. email, online, post, group completion) to identify potential worker exploitation? Is this process conducted in a controlled environment to prevent any outside influence?	
38	Where formal worker representation arrangements exist, does your business engage with worker representatives (and where these do not formally exist, speak with groups of workers) to work collaboratively to determine if there may be any hidden exploitation such as harassment, coercion, bullying or control, and to discuss whether there are any ways in which the business can improve its processes or better engage with workers in its activities to address these risks?	

39	Does your site have forced labour and hidden labour exploitation as an agenda item during its regular progress/health and safety meetings with trade union and/or employee representatives to collaboratively review and improve your informal and formal approaches to identifying, deterring and reporting this issue?	
40	Does your business conduct regular briefings and a variety of engagement activities with your agency workforce to ensure that the risks and responses to hidden labour exploitation and forced labour are kept current and live?	
41	Has your business appointed trusted "Worker Welfare Officers" or "Integration Officers" who speak in the workers' first languages to gain the trust of fellow workers to encourage them to come forward with information of workers experiencing difficulties?	
42	Does your site engage with local NGOs, migrant worker support groups or other worker welfare organisations to speak to workers in their native language in a supportive manner to identify if there are any issues?	

ACT - ongoing recruiter/consultant/support staff engagement	SCORE
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43	Does your business/site Forced Labour Lead(s) engage with recruiters and consultants to ensure that: they are confident in identifying, deterring and reporting forced labour and hidden labour exploitation; they are trained and instructed to whistleblow where they have a concern over another manager, colleague or client supervisor; and to facilitate two-way collaborative discussions about how arrangements and activities to address forced labour risks may be improved?	
44	Can it be demonstrated that your recruiters and consultants are encouraged to regularly talk informally to workers to seek to gently uncover whether any of them are experiencing issues such as harassment, coercion, bullying, control or exploitation?	
45	Are recruiters and consultants instructed and a system implemented to monitor, record and report where workers are delivered and collected from work, if such transport and the drivers raise cause for suspicion, such as the type of vehicle or the demeanour of the drivers and passengers?	
46	Are recruiters and consultants trained and instructed to monitor, record and report unusual and abnormal behaviour or incidents, and where agency and direct workers appear frightened, agitated, secretive, act as if they are instructed by another and/or look to another to speak on their behalf or reject help and support when offered?	
47	Are recruiters and consultants trained and instructed to monitor, record and report where agency and direct workers' physical appearance may show signs of injury and malnourishment, their general appearance may be unkempt with inappropriate clothing or they may have few or no personal effects or little or no money for food?	
48	Are recruiters and consultants trained and instructed to report if a group of workers (who may live, work and/or travel together) stop working suddenly for no particular reason?	
49	Are areas where workers disembark from transport to work monitored by CCTV, and is this reviewed to identify any potential suspicious activity?	

ACT – labour sourcing good practice	SCORE
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50	Is your business clear about its labour sourcing supply chain? Has it notified and agreed the labour sourcing methods, channels, labour sourcing agents and second-tier labour providers used with its clients?	
51	Can your business demonstrate that it has implemented an effective system to prevent the unauthorised appointment of second-tier labour providers or labour sourcing agents throughout all of your operating sites?	
52	Can your business demonstrate that it has implemented an effective system in your direct recruitment and throughout your labour supply chain to ensure that no fee or cost for recruitment will be charged to workers, directly or indirectly, in whole or in part (see Guide to Eliminating Worker Paid Recruitment Fees and Related Costs)?	
53	Does your business require labour sourcing agents and second-tier labour providers' relevant staff to attend the Stronger Together Tackling Forced Labour in Business training workshop and to work collaboratively to ensure that they implement relevant steps contained within this Checklist?	
54	Does your business hold progress updates with labour sourcing agents and second-tier labour providers where you jointly review their completion of this Checklist and use this as a basis for collaboratively identifying and addressing risks of forced labour and hidden labour exploitation?	

ACT – agency worker recruitment good practice		SCORE
55	Can your business demonstrate that its recruiters have been trained and instructed to report and record where job applicants are introduced by a “representative”, often of the same nationality with good Spanish language skills? This individual may claim he/she is a friend, relative, uncle, cousin etc., or just “helping out”, but speaks for the other individuals and controls the conversation and waits whilst the individuals are being interviewed.	
56	Can your business demonstrate that worker application documents may not be removed from the recruiting office, but must be completed in sight of the recruiter? If the applicant is unable to complete this on their own, then the recruiter will help them, and by doing so establish their language capability.	
57	Can your business demonstrate that recruiters are trained and instructed to report and record where registration documents appear to have been removed and completed externally, and/or have been brought in by one individual on behalf of his “friends or family”, and/or are in a better standard of Spanish than the job applicant possesses, and/or have all been completed in the same handwriting?	
58	Does your recruitment process ask, record and investigate alerts around: how the worker found out about the work; whether the worker has paid anyone or will have to pay anyone to obtain the work in question; and whether the worker has paid anyone to get to Spain if a newly arrived migrant?	
59	Does your recruitment process have the means to ensure; that the person presenting is the person in the identity documents; that the person arriving for work is the person recruited; and that applicants have control over their own identity documents?	
60	Does your recruitment process establish the mobile phone number of the job applicant, check that they have their mobile phone with them at interview, test the number provided and check that this is their genuine mobile phone and not a burner phone provided for the interview only?	
61	Does your recruitment/induction process establish that next of kin/emergency contact details provided are genuine and can be contacted?	
62	Does your recruitment/induction process record the name of the worker's landlord and verify their address by asking to see a rent book or contract? Are recruiters trained and instructed to report and record where a job applicant states that they rent from a landlord who works for the labour provider, or that their landlord is the labour provider?	
63	Does your business have processes in place to prevent individuals, however seemingly well intentioned, to introduce significant numbers of workers for work (accepting that occasional word of mouth “Refer a Friend” introductions to close friends and family are likely to be harmless)?	
64	Can your business demonstrate that any literacy, numeracy or other testing is conducted in a controlled environment to prevent manipulation with a format that is regularly changed to prevent coaching of individuals?	
65	Can your business demonstrate that increases in labour demands from clients such as during seasonal peak periods do not impact on the delivery of good practice during recruitment as described in this document?	
ACT - analysis of worker records for “Alert Flags”		SCORE
66	Does your business systematically check addresses of its workers and job applicants for high occupancy of particular addresses, and act accordingly on the information?	
67	Does your business work in partnership with its clients to check addresses to identify shared high occupancy of particular houses between the labour provider and client workers, and act accordingly on the information?	
68	Does your business systematically check bank accounts to identify unrelated workers paid into one account, and act accordingly on the information?	
69	Does your business systematically check mobile phone numbers to identify seemingly unrelated workers who are contactable through one or sequential numbers, and act accordingly on the information?	
70	Does your business systematically check documents for the same next of kin name and/or contact details, and act accordingly on the information?	

71	Does your business systematically check documents for the same emergency contact name and/or contact details, and act accordingly on the information?	
72	Does your business systematically check documents for workers from the same town/region in their home country, and act accordingly on the information?	
73	Does your business systematically cross reference direct employees' and agency workers' addresses and check workers' landlords' names to determine if any landlords work directly for the labour provider?	
ACT – agency worker allocation good practice		SCORE
74	Can your business demonstrate that it has a written procedure to ensure that the allocation of work on particular shifts/overtime to your pool of agency workers is done in a fair, objective, transparent and non-discriminatory way, and that this is communicated and understood by the agency workers and your clients?	
75	Can your business demonstrate how it ensures that only nominated and suitably trained client managers have the authority to book agency workers, and that this relies on the labour user specifying the number of skills/roles required and not named individuals. It should avoid situations where workers congregate in the hope of work and supervisors pick from this group.	
76	Can your business demonstrate that the responsibility for the selection and allocation of which workers can work on each shift on each day is only undertaken by trained, trusted and supervised consultants and is not delegated to a temporary worker, working with the team, who operates with little control or supervision. Responsibility for the selection and allocation of which workers can work in a particular group of workers is rotated from time to time.	
77	Are your recruiters and consultants trained and instructed to report and record where an individual appears to be answering phone calls on behalf of others, accepting work shifts on behalf of others and/or is requesting work on behalf of others.	
78	Are your recruiters and consultants trained and instructed to report and record where registered workers keep turning up to see if work is available and appear to be accompanied by individual(s) who stay in the background and overlook their behaviour.	
79	Can your business demonstrate that it has agreed with clients the senior manager to whom the labour provider should report and deal confidentially with on matters of potential harassment, discriminatory, unreasonable or suspicious actions by supervisors etc., and where there are indicators of hidden labour exploitation or forced labour?	
80	Can your business demonstrate that it has agreed with clients a fair, transparent, non-discriminatory and merit-based vacancy notification and selection process to enable agency workers to apply for and obtain directly employed roles with your clients?	
ACT – contracting companies good practice		SCORE
81	Can your business demonstrate that it has applied appropriate due diligence to ensure that higher-risk contracting companies adopt and operate in accordance with established ethical labour standards good practice (see the Código Básico de ETI)?	
82	Does your business require managers from contracting companies that have a higher risk of being subject to hidden exploitation and forced labour to attend the Stronger Together Tackling Modern Slavery in Business training workshop?	
83	Does your business require higher-risk contracting companies that have a higher risk of being subject to hidden exploitation and forced labour to maintain their own version of this good practice implementation checklist, and does it work collaboratively with them to implement the steps contained within?	
ACT – contracting companies good practice		SCORE
84	Can your business demonstrate that all agency workers from their first day have received awareness training in the indicators of forced labour and can confidentially and safely report any concerns regarding hidden labour exploitation, and that these concerns will be appropriately responded to?	
85	Can your business demonstrate that it undertakes random checks with agency workers to ensure that they understand hidden exploitation and forced labour risks, how to spot the signs and indicators and how to respond and report these?	

86	Can your business demonstrate that it has implemented and communicated a variety of channels through which issues can be raised confidentially, such as: personally in writing or verbally to trained and trusted "Worker Welfare Officers", nominated employee representatives, supervisors, senior managers or HR; through a sealed "Suggestion Box" checked every day; through worker voice reporting tools; and through an independent specialist multi-language confidential helpline?	
87	Can your business demonstrate that it has published a whistleblowing procedure communicated to the whole workforce, whereby direct and agency workers can confidentially raise issues of concern to a member of the senior team, and issues in the public interest externally, without fear of retribution?	

D. RESPONSE AND REMEDY - TO PROTECT AND PROVIDE REMEDY FOR VICTIMS OF FORCED LABOUR

Response Plan – responding appropriately

SCORE

88	Do relevant managers and consultants who may be faced with potential victims understand how to risk assess and consider their actions very carefully? Are they aware that what they say and do may impact directly on people's lives including their own, potential victims' and other employees' safety?	
89	Are relevant managers and consultants trained on how to act and what to say and do to build trust and rapport with potential victims - to remain calm, listen carefully, be empathic, demonstrate understanding and concern etc. and understand that their key role is to safeguard the health and welfare of the potential victims and others rather than to conduct an interview or investigation?	
90	Are relevant managers and consultants aware that, where potential indicators of forced labour have been identified, they must not engage with the potential exploiters or otherwise act in a way that could damage evidence, alert offenders or undermine a criminal investigation?	
91	Does your business "Response Plan" detail the practical arrangements to be applied to ensure that potential victims are protected, e.g. two colleagues available to be with each individual, suitable rooms are identified to keep multiple individuals separate, interpretation arrangements in place ready to use and arrangements for nights/weekends if applicable?	
92	Have relevant managers and consultants been trained to understand and to explain the options available to potential victims through the Police and Guardia Civil to involve support organisations as appropriate?	
93	Have relevant managers and consultants been trained how to optimise the potential victim's control over their own situation by being transparent and allowing them to understand the options available to them, seeking to establish their views and wishes and being careful to balance the individual's rights, any risks and your responsibility?	
94	Does your business have an established protocol and do relevant managers and consultants understand who, how and when to contact the Police, Guardia Civil and other support organisations, in which situations, when there are potential indicators of forced labour, and how to be best prepared to provide the information required during the call and subsequently?	

E. REMEDIATION

SCORE

95	Does your overarching "Preventing and Addressing the Risks of Forced Labour and Hidden Exploitation" policy contain a Remediation Policy and Procedure developed in accordance with the principles of good remediation practice to provide remedy for a harm done to or suffered by victims?	
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F. MONITOR - MONITOR AND REVIEW PROGRESS

SCORE

96	Does your business maintain an "official" version of this Stronger Together Labour Provider and Recruitment Agents Good Practice Implementation Checklist and use it to review and guide your progress and continuous improvement?	
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97	Has your business developed and conducted Scenario Modelling/Incident Testing exercises to test how effective your "Response Plan" would be in a simulated real-life situation, and implemented improvements from these?	
98	Does your "Preventing and Addressing the Risks of Forced Labour and Hidden Exploitation" procedure contain a process for ongoing continuous improvement and a formal review of all procedures and arrangements at least on an annual basis?	
99	Has your business considered an expert verification assessment of its overall approach to addressing forced labour risks - www.stronger2gether.org/opa/ ?	

G. COMMUNICATE - TELL PEOPLE WHAT YOU HAVE DONE		SCORE
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100	Has your business made a public commitment to addressing the risks of Forced Labour in becoming a Spanish Stronger Together Business Partner by uploading evidence of steps you have taken at https://www.stronger2gether.org/business-partners/ ?	
101	Has your business appointed a person with responsibility for communicating its efforts and effectiveness to prevent and address forced labour risks who has undergone Stronger Together Forced Labour Ambassador training?	
102	Can your business demonstrate that it communicates its efforts to prevent and address forced labour risks and the effectiveness of these in practice to a range of audiences, from affected stakeholders to shareholders and investors, to human rights experts to governments and others who are interested in or concerned about the company's human rights performance?	

$\% \text{ completion} = \text{Score} / (102 - \text{number of "Not Applicable" steps}) \times 2) \times 100$	
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NOTES



stronger together

Stronger Together is a multi-stakeholder initiative that brings together companies, labour providers, industry associations, NGOs and other key parties to address and help businesses tackle modern slavery.

Stronger Together takes a collaborative approach to developing new strategies to support business in addressing modern slavery risks based on the corporate responsibility to respect human rights advanced in the UN Guiding Principles on Business and Human Rights.

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