



## CHECKLIST FOR PRIVATE SECTOR STAKEHOLDERS:

### A practical tool for identifying the signs of forced labour and trafficking in persons in your day to day work

This self-evaluation checklist for private sector stakeholders was developed by the International Organization for Migration (IOM) – the United Nations Migration Agency – within the framework of the project “Supporting efforts to counteract trafficking in persons in Malta: engagement with the private sector”, implemented in partnership with the Ministry for Home Affairs and National Security (MHAS), in Malta between November 2018 and January 2019.<sup>1</sup>

This practical tool is intended to support you all as private sector in taking stock of your compliance with relevant legislation and ethical recruitment standards, in particular when employing migrant workers in an easy and timely manner. In view of Malta’s economic growth which is projected to continue, this checklist is aimed at reinforcing good practices and identifying areas of improvement. It is thus expected to contribute to promoting ethical recruitment principles and fair treatment practices in the Maltese context, thereby also benefitting the private sector by enabling companies to ensure legal compliance, enhance reputation, and strengthen corporate social responsibility.

#### Labour Exploitation Definition

According to the ILO’s **Article 2.1 of the Forced Labour Convention No. 29**, forced labour “shall mean *all work or service* which is exacted from *any person* under the *menace of any penalty* and for which the said person has not offered himself voluntarily”.

As employers completing the below Initial Assessment checklist, you should provide brief yet complete answers to assess the compliance of your internal practices with relevant standards, as well as national legislation.

Two annexes: (i) Recommended measures and strategies and (ii) Setting up of remediation measures, are intended to offer guidance in terms of appropriate actions to be taken, should you identify potential signs of labour exploitation, after the completion of the Initial Assessment. It is recommended that the company Board or official responsible for the implementation of proposed measures should be trained in the field of countering trafficking in persons, in particular, for labour exploitation.

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<sup>1</sup> The project aimed at continuing to support the Government of Malta and relevant national actors in the ongoing efforts to counteract trafficking in persons, through raising awareness among private sector stakeholders on trafficking in persons and on ways of eliminating exploitation from their operations and supply chains.



## Initial Assessment

1. What is the procedure your company follows to recruit workers, in particular, migrant workers? (i.e. recruitment agency, internal referrals, etc.)		
2. Are workers free to enter employment? Is workers' consent obtained? If so, how?	YES	NO
3. If you use intermediaries (such as recruitment agencies), to recruit workers, especially migrant workers, do you assess them to make sure that they are trustworthy? If so, how?	YES	NO
4. Have workers, especially migrant workers, been required to pay a fee to you or to an intermediary to get the job or to maintain employment?	YES	NO
5. Do all your workers have employment contracts?	YES	NO
5.1. What type of contracts do they normally have (written, verbal) and what are the reasons for this?		
5.2. In the case of migrant workers, are they presented with employment contracts prior to arrival in Malta?	YES	NO
5.3. In which language are the contracts issued?		
5.4. If the contract is not issued in the native language of the employee, how do you ensure he/she fully understands it?		



<b>6.</b> Do workers have the freedom to terminate employment at any time without a penalty?	YES	NO
<b>6.1.</b> If so, what are the conditions that workers have to fulfil to terminate employment?		
<b>6.2.</b> If no, what kind of sanctions are imposed and on what legal basis?		
<b>7.</b> Do you have any measures in place to ensure that there is no use or threat of physical or sexual violence, harassment or intimidation against workers, their families or close associates? If so, please specify.	YES	NO
<b>8.</b> Is there any evidence that migrant workers or their family members have been threatened with denunciation to the authorities to coerce them into entering or maintaining employment?	YES	NO
<b>9.</b> Are your workers paid minimum wage, as established in the Wage Regulation Orders? <sup>2</sup> (this includes workers who work on a piece-rate or performance basis).	YES	NO
<b>9.1.</b> Are wages paid at regular intervals?	YES	NO
<b>9.2.</b> What is the method of payment for migrant workers? (i.e. bank transfers, cheques, cash, in-kind payments, etc.)		
<b>9.3.</b> If your employees work on a piece-rate or performance related basis, what is the standard adhered to?		
<b>9.4.</b> Are workers required to lodge deposits or are any forms of deductions from wages made? If so, please explain for what reasons and in which circumstances.	YES	NO

<sup>2</sup> For more information, please visit: <https://dier.gov.mt/en/Legislation/Pages/Wage-Regualtion-Orders.aspx>



<b>10.</b> Do wage advances or loans provided to workers comply with national legislation? <sup>3</sup>	YES	NO
<b>10.1.</b> Are workers requested to work in order to repay an actually incurred or inherited debt?	YES	NO
<b>11.</b> What are the normal working hours per week that workers are expected to work? Are these in line with the national legislation?	YES	NO
<b>11.1.</b> Are workers requested to work or deliver services beyond normal working hours? If so, are they requested to work more overtime hours than allowed by national legislation?	YES	NO
<b>11.2.</b> How is workers' consent to work overtime obtained?		
<b>11.3.</b> How is overtime compensated?		
<b>11.4.</b> Are workers entitled to public holidays, days of rest, sick leave, annual leave, parental leave and other leave, as mandated by the national legislation? <sup>4</sup>	YES	NO
<b>11.5.</b> Is there flexibility for workers, especially migrant workers, to request for changing shifts or taking leave?	YES	NO
<b>12.</b> Do you offer housing to your workers, in particular, migrant workers? If so, please specify what type of housing and under which conditions.	YES	NO

<sup>3</sup> For more information on applicable national legislation, please visit: <https://dier.gov.mt/en/Legislation/Pages/Main-Legislation.aspx> and <https://dier.gov.mt/en/Legislation/Pages/Legal-Notices.aspx>

<sup>4</sup> For more information, please visit: <https://dier.gov.mt/en/Legislation/Pages/Legal-Notices.aspx>



<b>13.</b> Are workers allowed to move and communicate freely?	YES	NO
<b>14.</b> Are migrant workers treated fairly and do they benefit from conditions of work that are no less favourable than those available to locally-recruited workers?	YES	NO
<b>15.</b> What type of personal documents have migrant workers submitted to you? (i.e. birth certificates, passports, work permits, residence permits and/or identity cards)		
<b>15.1.</b> Are you keeping any of them, and, if so, for what reason?	YES	NO
<b>15.2.</b> Have you been requested by your employees to retain personal documents for security or other reasons? If so, do employees have access to these at any time upon request?	YES	NO
<b>16.</b> Do you normally employ young people? If so, what is their age?	YES	NO
<b>16.1.</b> What type of jobs are the youth usually employed in?		
<b>16.2.</b> Do you comply with all the relevant standards for employing youth? (working time, minimum wage, consent, etc.)	YES	NO



## Annex I.

# Recommended measures and strategies

Please use the below table to identify the strategies and measures in place in your business by ticking the boxes.

1. Give responsibility for addressing labour exploitation to a Board level or equivalent Director and senior managers and form a cross-functional strategic working group.	
2. Engage internally, communicating the labour exploitation prevention strategy, vision and objectives.	
3. Develop an implementation plan, allocating roles, responsibilities and resources, clarifying tasks and setting clear expectations and timetables.	
4. Update all policy and procedural documents, so that they contain clauses related to tackling labour exploitation (i.e. company vision, values and principles, code of conduct, procurement documents, labour providers contracts, recruitment principles, supplier ethical audit procedures).	
5. Update contracts, service level agreements, tender documents, guidance documents and policies.	
6. Undertake a gap analysis on existing policies, contracts and procedures. Do they: A. Make clear the business's commitment to tackle labour exploitation; B. Oblige all suppliers and labour providers to guarantee workers have freedom of movement and freedom to enter and terminate employment; C. Oblige all suppliers and labour providers to inform workers of their rights and obligations in the workplace; D. Establish formal relationships with suppliers and labour providers; E. Establish a clear procedure for auditing suppliers and labour providers; F. Demonstrate a commitment to the Employer Pays Principle – eliminating all recruitment fees charged to workers in the business's supply chain; G. Require suppliers to have a clear victim-centred process for reporting forced labour and access grievance mechanisms; H. Ensure that effective and appropriate sanctions are in place for suppliers and labour providers who hold workers in a forced labour situation.	



<p>7. Train human resource, compliance officers, auditors and other relevant staff in how to implement your policies and identify the signs of forced labour and trafficking in persons.</p>	
<p>8. Communicate the Employer Pays Principle commitment publicly.</p>	
<p>9. Map your supply chains from raw materials to finished product including any organizations that provide labour into your own business or into your suppliers, in order to ensure compliance with your internal policies and national legislation and international standards.</p>	
<p>10. Conduct a high-level risk assessment of all levels of your supply chain including direct and indirect suppliers, labour providers, contractors.</p>	
<p>11. Ensure your policy framework addresses the salient risks you have identified and engage with relevant stakeholders (i.e. workers, government and civil society organizations).</p>	
<p>12. Take action to prevent or mitigate the impact caused by the identified risk-factors. Actions may include:</p> <ul style="list-style-type: none"><li>A. Supplier engagement, training and awareness raising, strengthening supplier HR expertise, formalizing relationships with labour providers;</li><li>B. Review supplier recruitment practices, working hours, health and safety and discrimination and provide support where there are gaps;</li><li>C. Review of progress in implementing the Employer Pays Principle into regular meetings with suppliers;</li><li>D. Strengthening internal policies, procedures and accountability, training and awareness raising;</li><li>E. Assessing whether prices paid to suppliers enable provision of decent wages and safe working conditions;</li><li>F. Formalizing labour provider relationships along the supply chain;</li><li>G. Advocating for changes to legislation or investment in specific projects.</li></ul>	
<p>13. Identify other companies sourcing from the same suppliers and identify opportunities to collaborate – especially where there are high risks or incidences of workers’ rights abuses.</p>	
<p>14. Identify opportunities for collaboration to tackle more systemic issues with peers, business partners, industry groups, civil society, public bodies.</p>	
<p>15. Identify and manage any instances where the resources and commitment required to tackle labour exploitation (human and financial) might create tensions with other business objectives.</p>	



## Annex II.

# Setting up of remediation measures

<p>1. Ensure the business includes a requirement for site-level grievance mechanisms in the business's Ethical Trade Code of Conduct.</p>
<p>2. Monitor suppliers and labour providers to ensure that they have grievance mechanisms in place.</p>
<p>3. Establish a company process for responding to complaints or reported violations which should include:</p> <ul style="list-style-type: none"><li>A. Conducting an initial assessment of the allegations;</li><li>B. Ascertaining if suppliers are implicated in the violation;</li><li>C. Protecting and supporting at risk individuals and protecting their identities;</li><li>D. Reporting violations to relevant authorities;</li><li>E. Gathering information from those affected on what it would take to remedy;</li><li>F. Correcting the situation for the victim(s) which may involve restitution, compensation, rehabilitation or satisfaction;</li><li>G. Contributing to programmes and projects to assist victims through vocational training and other appropriate measures;</li><li>H. Working with local governments and/or competent local organizations to verify progress.</li></ul>
<p>4. Consider the root causes of exploitation and include learnings into future strategy.</p>
<p>5. Establish a mix of quantitative and qualitative indicators for measuring your efforts to reduce, prevent and remedy the negative impact of risk factors (i.e. commitment to prohibit the charging of recruitment fees and related costs to workers, irrespective of where or how they are recruited; measures ensuring compliance of the terms and conditions of employment offered with relevant laws and standards; personal documents of workers are not withheld without their informed written consent; provision of employment contracts to migrant workers prior to their arrival in Malta; participation in and development of effective operational-level grievance mechanisms which are accessible to all workers).</p>
<p>6. Establish a method to independently verify whether mitigation and remediation actions have benefitted affected workers.</p>